

# SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Haynes Analyst: Jane Tolman Bill Number: SB 1274

Related Bills: See Prior Analysis Telephone: 845-6111 Amended Date: 04-01-2002

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Attorney, Chiropractor, Optometrist, Physician, Surgeon Service At No Charge for Non-profit Charitable Organization Credit

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced January 15, 2002.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO Neutral, if amended.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED January 15, 2002 STILL APPLIES.

OTHER - See comments below.

## SUMMARY

This bill would allow a credit for voluntary services provided by an attorney or specified medical professionals on behalf of any nonprofit charitable organization located in this state that help the poor.

## SUMMARY OF AMENDMENTS

The April 1, 2002, amendments added chiropractor and optometrist to the list of professionals who would qualify for this credit.

Except for the new revenue estimate and Board position, the remainder of the department's analysis of the bill as introduced January 15, 2002, still applies. The department's implementation considerations still apply and are included below for convenience.

## POSITION

At its March 6, 2002, meeting, the Franchise Tax Board voted 2-0 to take a neutral, if amended position on this bill. The Board's position would be neutral if the implementation considerations discussed in this analysis are resolved.

Board Position:

<u>      </u> S	<u>  X  </u> NA	<u>      </u> NP
<u>      </u> SA	<u>      </u> O	<u>      </u> NAR
<u>      </u> N	<u>      </u> OUA	<u>      </u> PENDING

Legislative Director

Date

Brian Putler

5/1/02

IMPLEMENTATION CONSIDERATIONS

This bill uses terms that are undefined, i.e., “physician,” “chiropractor,” “optometrist,” “surgeon,” “poor,” and “fair market value of services.” The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of the credit.

This bill provides a credit for services for or on behalf of any “nonprofit charitable organization” that provides services to the poor. A definition that clarifies whether the organization receiving the services must be tax exempt under existing state law, preferably with a reference to the section under which it must be exempt, would be helpful.

It would be helpful if the bill imposed a requirement upon the nonprofit charitable organization to provide a receipt to the lawyer or medical professional specifying the number of donated hours, and if the professional would be required to provide the receipt to the department upon request. This requirement would enable the department to verify the amount of the credit claimed.

Revenue Estimate

<b>SB 1274, As Amended April 1, 2002</b> <b>Fiscal Year Cash Flow</b> <b>Taxable Years Beginning After December 31, 2001</b> Enactment Assumed After June 30, 2002 \$ Millions			
	2002-03	2003-04	2004-05
Attorney, Physician & Surgeon (a)	-\$155	-\$220	-\$225
Chiropractors & Optometrists (b)	Minor	Minor	Minor

**Note:** Since fair market values can represent subjective judgments, this proposal could lead to significant abuse and even larger revenue losses.

(a) Estimates have been rounded to the nearest \$5 million.

(b) Less than \$1 million.

This analysis does not consider the possible changes in employment, personal income, or gross state product that could result from this measure.

Revenue Discussion

This amendment differs from the bill as introduced by adding chiropractors and optometrists. The previous analysis for the bill still applies with respect to the revenue estimate for attorneys, physicians, and surgeons. The total impact of adding chiropractors and optometrists to the prior analysis results in less than a \$1 million increase in revenue losses.

The projected tax year impacts were converted to the fiscal year estimates in the table above to allow for the fact that some taxpayers can accelerate the tax benefit by reducing state withholding and/or estimated tax payments during the tax year.

The revenue impact for this bill will be determined by the fair market value of uncompensated services provided by specified professionals and their tax liabilities. This analysis assumes that no compensation whatsoever can be received by these professionals for donated services.

### **Optometrists**

According to the Board of Optometry, there are currently fewer than 5,000 licensed optometrists in California.

For this analysis, it was assumed that the average income tax liability for optometrists who would take the credit would be approximately \$5,000 (average income of \$100,000 x .05 average tax rate). Further, it was assumed that optometrists who participate could greatly reduce or eliminate their tax liability by using this credit, leaving a minimum amount of unused credits to future years.

Based on the incentive effect of allowing a 100% tax credit (despite the loss of compensation), it was assumed that 2.5% of optometrists would reduce or eliminate their state taxes in any given year, generating a revenue loss of \$500,000 annually. Losses were grown by CPI projections and adjusted for deductions that would have otherwise been allowed under current law (i.e. material costs).

### **Chiropractors**

According to the Board of Chiropractic Examiners there are approximately 13,000 active licensed chiropractors in California as of March 3, 2002. A survey was sent out to the members of the California Chiropractic Association to determine how many members provided services at no charge. Per the California Chiropractic Association, out of the 500 members surveyed, only 2 indicated that they provided free services.

For this analysis, it is assumed this ratio (2 out of 500) is reflective of all active licensed chiropractors. It is further assumed that an average income tax liability for chiropractors that would take the credit would be approximately \$3,600 (average income of \$80,000 x .045 average tax rate) and chiropractors who participate could greatly reduce or eliminate their tax liability by using this credit, leaving a minimum amount of unused credits to future years.

Based on the incentive effect of allowing a 100% tax credit (despite the loss of compensation), a negligible revenue loss (\$250,000) is expected for 2002-03 and minor revenue losses (under \$500,000) are expected for 2003-04 and 2004-05. Losses were grown by CPI projections and adjusted for deductions that would have otherwise been allowed under current law (i.e. material costs).

### **LEGISLATIVE STAFF CONTACT**

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