

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Correa Analyst: John Pavalasky Bill Number: AB 382

Related Bills: _____ Telephone: 845-4335 Amended Date: June 29, 2004

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Exemption/Interest On Bonds Issued By Federally Recognized Indian Tribal Government Located In This State If Specific Requirements Are Met

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/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 16, 2004, STILL APPLIES.

OTHER - See comments below.

SUMMARY

This bill would expand the list of bonds that are treated as California tax-exempt to include, in conformity with federal income tax laws, certain bonds issued by Indian tribal governments located in California if specific requirements are met.

SUMMARY OF AMENDMENTS

The June 29, 2004, amendments would add requirements limiting the tax-exemption to bonds issued by Indian tribal governments that adopt an environmental ordinance to mitigate off-reservation environmental impacts.

The analysis of the bill as amended June 16, 2004, still applies except for provisions relating to off-reservation environmental impacts. In addition, a new discussion of the current law Indian Gaming Compact and a revised discussion under the heading THIS BILL are provided. The revenue estimate in the analysis of the bill as amended June 16, 2004, has not changed but is restated for convenience.

POSITION

Pending.

Board Position:

_____ S _____ NA _____ NP
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_____ N _____ OUA PENDING

Legislative Director

Date

Brian Putler

7/7/04

Suggested Technical Amendments

Technical amendments relating to the June 29, 2004, amendments are needed as follows: On page 3, lines 28 and 36, strikeout "board" and insert "county board" and on page 4, line 2, strikeout "division" and insert "section". These technical amendments insure that the term "board" used in two places in this section refers to the county board of supervisors and not to the State Board of Equalization that the term under the Revenue and Taxation Code would otherwise mean and corrects one cross-reference.

ANALYSIS

FEDERAL/STATE LAW

Indian Gaming Compact

The current California Tribal-State Gaming Compact provides the rules for Off-Reservation Environmental Impacts in Section 10.8, as follows:

The tribe is required to adopt an environmental ordinance to provide for the preparation, circulation, and consideration by the tribe of environmental impact reports concerning potential off-reservation environmental impact of any project to be commenced.

The tribe is required, prior to commencement of the project, to do all of the following:

- Publish, notice, and inform the public of the planned project.
- Take appropriate actions to determine whether the project will have any significant adverse impacts on the off-reservation environment and submit all environmental impact reports to the State Clearinghouse in the Office of Planning and Research and the county board of supervisors for distribution to the public.
- Consult with the local governments in which the project is located developing site or project-specific terms and conditions.
- Meet with and provide opportunity for comment by members of the public residing off-reservation within the vicinity of the project.

Once the project is started, the tribe is required to keep the local government and the public apprised of the project's progress and to make good faith efforts to mitigate any and all significant adverse off-reservation environmental impacts.

Periodic meetings between the tribe and the state are required to ensure that significant adverse impacts to the off-reservation environment resulting from projects undertaken by the tribe may be avoided or mitigated.

THIS BILL

This bill would provide an exemption from income tax for interest income earned by non-corporate taxpayers that own bonds issued by Indian tribal governments located in California but only to the extent that the interest on the bonds is tax-exempt for federal purposes and only if specific requirements are met, as follows:

This bill would codify the requirements contained in Section 10.8 of the current California Tribal-State Gaming Compact relating to off-reservation environmental Impact including the requirement to adopt an environmental ordinance and additionally require the tribe to:

- Negotiate a written agreement with local governments where the project is located that addresses the mitigation of significant environmental, economic, and social effects directly caused by the project, or stemming from a tribal project financed with tax exempt municipal financing.
- Send a copy of the written agreement to the Director of the office of the American Indian Coordinator or other state body designated by the Governor.

This bill would specifically provide that the proceeds from the bonds may be used only for projects on a tribe's reservation or to pay for any onsite mitigation costs, and mitigation costs for off-reservation environmental impacts of projects funded from the proceeds from the bonds to the extent required by the tribe's gaming compact with this state.

This bill would also expand the list of bonds that the statute specifically exempts from a "private activity" analysis to include those bonds issued by Indian tribal governments located in California.

ECONOMIC IMPACT

Revenue Estimate

This bill would not impact the collection of state income tax revenue. Under current law, federally recognized Indian tribal governments in this state can effectively get tax-exempt bond financing by way of tax-exempt "conduit revenue bonds." So-called conduit bonds are issued by a public entity, such as the California Statewide Communities Development Authority, and the proceeds are lent to the tribe for public benefit projects. The statewide development authority created new policies in 2002 for gaming businesses and tribes looking for tax-exempt bond financing. Approximately 100 federally recognized Indian tribal governments currently exist in California.

LEGISLATIVE STAFF CONTACT

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