Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Ridley-Thomas	Analyst:	Jane Tolman	Bill Number:	AB 990
Related Bills:	See Legislative History	Telephone:	845-6111	Amended Date:	September 9,2003
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: California Tax Expenditure Accountability Act/Tax Expenditures Report

SUMMARY

This bill would require the Legislative Analyst's Office (LAO) to submit to the Legislature a report on tax expenditures.

SUMMARY OF AMENDMENTS

The September 9, 2003, amendments changed the identity of who will be responsible for submitting the tax expenditure report to the Legislature. The LAO will now be submitting the report, replacing the Governor's Office.

The August 27, 2003, amendments replaced the language relating to job training partnerships for community colleges with language creating the California Tax Expenditure Accountability Act, as discussed in this analysis.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

The author's office stated the purpose of this bill is to evaluate tax expenditures and establish a reporting system.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2005.

POSITION

Pending.

ANALYSIS

STATE LAW

State law requires all state agencies to submit to the governor a complete plan and itemized statement of all proposed expenditures and estimated revenues for the ensuing fiscal year. Included is a comparison, of each item of revenues and expenditures, with the actual revenues and expenditures for the last completed fiscal year. The Governor is required to submit a budget within the first 10 days of the regular session of the Legislature. The Governor's budget is developed using the state agency reports described above.

Board Position:			Department Director	Date
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THIS BILL

This bill would require the LAO to provide to the Legislature a report on tax expenditures under at least the Personal Income Tax Law (PITL), the Corporation Tax Law (CTL), and the Sales and Use Tax Law. The report is required to contain:

- a description of each tax expenditure,
- the statutory or legal authority for each tax expenditure, and
- an estimate of revenue loss for the most recent fiscal year for each tax expenditure.

The Senate Committee on Budget and Fiscal Review and the Assembly Committee on Budget would be required to consider this report in conjunction with each committee's consideration of the annual Budget Act. The committees would evaluate each tax expenditure as compared with all other state expenditures. The committees' evaluation would include the following criteria:

- the original intent of the tax expenditure,
- the number of tax returns or taxpayers affected by the tax expenditure,
- the distribution of each tax expenditure, where feasible, as follows:
  - for expenditures under the CTL, by size of the business or industry, by size of gross receipts, and by type of business or industry, and
  - for expenditures under the PITL, by income tax brackets,
- the state and local revenue loss associated with each tax expenditure,
- the conditions under which the tax expenditure should be viewed as a successful policy tool,
- potential policy alternatives for achieving the policy goals of the tax expenditures, and
- the feasibility of repealing or continuing each tax expenditure.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. It is assumed that the LAO would request the necessary information with respect to tax expenditures under the PITL and the CTL from the Franchise Tax Board (FTB) to compile its report to the Legislature. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

Currently, FTB is required to compile an annual report for the Governor on tax expenditures including some distributional information and policy rationales. It is unclear if this bill would require additional information not contained in this report.

This bill would request expenditures by "income tax bracket." FTB's expenditure reporting is based on adjusted gross income (AGI). Thus to implement this bill, FTB would need to establish income tax brackets based on AGI levels for that report.

It is unclear what is intended by the phrases "size of the business or industry" and "size of gross receipts." Therefore, the department would make assumptions regarding the size of business and gross receipts, which may or may not reflect the author's intent.

FTB's "distributional information" is based on a tax-year basis, but the "revenue impacts" as required by this bill would be on a fiscal-year basis. Therefore, FTB would be required to create an additional report.

LEGISLATIVE HISTORY

SB 1292 (Haynes, 2001-2002) would have required state agencies, boards, commissions, departments, and offices to provide a report regarding financial activities to specific legislative committees for the 2001/2002 fiscal years and for preceding fiscal years. This bill failed to pass out of the house of origin.

OTHER STATES' INFORMATION

The states reviewed were *Illinois, Massachusetts, Michigan, Minnesota, New York*, and *Texas.* These state were selected due to their similarities to California's economy, business entity types, and tax laws*.*

Illinois, Michigan, Minnesota, Texas, and *New York* require a tax expenditure report similar to California's to be submitted by the respective Governor of each state to the General Legislature every year. There was no information available for *Massachusetts*.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

LEGISLATIVE STAFF CONTACT

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