Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author:	McClintock	Analyst:	LuAnna Hass	Bill Number:	SCA 16
Related Bills:	See Legislative History	Telephone:	845-7478	Introduced Date:	February 19, 2004
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Expenditure Limitations/Excess Revenues

SUMMARY

This measure would require all excess state revenues to be returned, which would be accomplished by a revision of the tax rates or fee schedules.

This analysis will not address the measure's changes to the other provisions of the California Constitution regarding expenditure limitations and education, as they do not impact the department or state income tax revenue.

PURPOSE OF THE BILL

According to the author's staff, the purpose of this measure is to restore the provisions of the California Constitution to the former provisions enacted in 1979.

EFFECTIVE/OPERATIVE DATE

This measure would take effect July 1, 2004, if approved by the voters in the next general election, which would be in November 2004.

POSITION

Pending.

ANALYSIS

STATE LAW

Under the California Constitution, the voters of the State have the authority to approve or reject any amendments to the State Constitution. Private citizens or groups can initiate amendments or the Legislature may place an amendment on the ballot if the proposal passes each House by a two-thirds vote. The Legislature proposes amendments to the California Constitution by passing a Senate Constitutional Amendment (SCA) or an Assembly Constitutional Amendment (ACA). Neither an SCA nor an ACA require the approval of the Governor. After the Legislature approves an SCA or ACA by two-thirds vote in the Senate and the Assembly, it is assigned a proposition number and placed on a statewide ballot for the voters to approve or reject the proposed change. Any amendment to the Constitution proposed by the Legislature and adopted by a majority vote of the voters takes effect the day after its adoption unless the amendment provides otherwise.

Board Position:			Department Director	Date
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Currently, specific provisions of Article XIIIB of the California Constitution:

1. Prohibit a government entity's annual appropriation from exceeding its annual limit, which is adjusted annually for the cost of living and population changes.
2. Provide that:
    a. 50% of the excess revenues that are received by the State in a fiscal year and in the fiscal year immediately following it, which is in excess of the amount that may be appropriated by the State for those same fiscal years, are transferred to the State School Fund.
    b. The remaining 50% of the excess revenues must be returned by the State by revising tax rates or fee schedules within the next two subsequent fiscal years.
3. Provide that in the event the financial responsibility of providing a service is transferred, in whole or in part, from one entity of government to another, then the appropriations limit of the transferee entity shall be increased by an amount that both entities agree upon. Additionally, the appropriations limit of the transferor entity shall be decreased by an equivalent amount.

THIS BILL

This measure would repeal and replace Article XIIIB of the California Constitution with the provisions of this measure, which are generally similar to the existing provisions of Article XIIIB. However, this measure would change the requirements for the disbursement of excess revenues as discussed above in number 2, under "State Law." Specifically, this measure would require all excess revenues that are received by any entity of government in a fiscal year that is in excess of the amount that was appropriated for that fiscal year to be returned by a revision of the tax rates or fee schedules within the next two fiscal years.

IMPLEMENTATION CONSIDERATIONS

Since this measure only modifies an existing disbursement requirement for excess revenues, this measure would not have an immediate impact on the department.

LEGISLATIVE HISTORY

ACAX(5) 2 (Campbell, 2003/2004) would require FTB to return excess revenues to personal income taxpayers in the form of a nonrefundable tax credit. This bill is with the Assembly Budget Committee.

SCAX(5) 2 (Brulte, 2003/2004) and ACAX(5) 4 (Keene, 2003/2004) would allow excess revenues to be appropriated to the taxpayers of California as a rebate. SCAX(5) 2 is under reconsideration with the Senate Floor, and ACAX(5) 4 is with the Assembly Elections, Redistricting, and Constitutional Amendment Committee.

ACA 6 (Campbell, 2003/2004) generally would require FTB to issue rebates of excess revenues to personal income taxpayers. This measure is with the Assembly Education Committee.

ACA 12 (Leslie, 2003/2004) would amend the California Constitution to remove the requirement that a portion of the excess revenues received by the State in a fiscal year must be returned by revising taxes or fees. This measure is with the Assembly Revenue and Taxation Committee.

SCA 3 (McClintock, 2003/2004) would require FTB and the State Controller to issue rebates of a portion of the revenues received by the state in excess of the amount appropriated by the State during the fiscal year. This measure is with the Senate Revenue and Taxation Committee.

ACA 22 (Campbell, 2001/2002) would have required FTB and the State Controller to issue rebates of a portion of the revenues received by the state in excess of the amount appropriated by the State during the fiscal year. This measure died at the Assembly Desk.

SCA 16 (McClintock, et al., 2001/2002) would have required FTB and the State Controller to issue rebates of any revenues received by the state in excess of the amount appropriated by the State during the fiscal year. This measure failed passage with the Senate Revenue and Taxation Committee.

OTHER STATES' INFORMATION

A review of the state laws and Constitutions of *Florida, Massachusetts, Michigan,* and *Minnesota* found the following:

- *Florida* and *Minnesota* require excess revenues to be refunded to the taxpayers.
- *Massachusetts* allows a credit, called the "excess revenue credit," toward taxpayers' personal income tax liabilities.
- *Michigan* requires excess revenue to be refunded on a pro rata basis that is based on the liability reported on the Michigan income tax and single business tax returns.

A review of *New York* and *Illinois* state laws and Constitutions did not produce any information regarding procedures for excess revenues. The laws of these states were reviewed because of similarities to California income tax laws.

FISCAL IMPACT

This measure would not impact the department's programs and operations.

ECONOMIC IMPACT

This measure would not impact personal income tax and corporate tax revenues.

LEGISLATIVE STAFF CONTACT

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