Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Montanez	Analyst:	Raul Guzman	Bill Number:	AB 534
Related Bills:	None	Telephone:	845-4624	Amended Date:	04/14/2005
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: State Agencies With Annual Nonpayroll Budget Exceeding $250,000,000 Shall Conduct Annual Recovery Audit to Identify Improper Payments and Report to Legislature

SUMMARY

This bill would require certain state agencies, including the Franchise Tax Board (FTB), to conduct an annual audit for the purpose of identifying improper payments. The bill would also require an annual report to the Legislature.

SUMMARY OF AMENDMENTS

The April 14, 2005, amendments deleted the requirement that the Controller adopt regulations by July 1, 2006, to implement the audit requirements. It also changed the reference relating to annual “reconciliation” audit to annual “recovery” audit and the date when the first report is due from 2006 to 2007.

As introduced February 16, 2005, this bill would require certain state agencies to conduct an audit of their fiscal programs to identify improper payments. These provisions are discussed further under “This Bill."

This is the department’s first analysis of the bill.

PURPOSE OF THE BILL

According to the author’s staff, the purpose of this bill is to save taxpayer funds by reducing the incidence of erroneous payments by state agencies.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2006.

POSITION

Pending

ANALYSIS

PROGRAM BACKGROUND

The FTB’s non-payroll budget for fiscal years 2002-2003, 2003-2004, and 2004-2005 did not exceed $250 million. The department anticipates that the non-payroll budget will exceed $250 million for fiscal year 2005-2006, mostly due to payments to child support vendors.

Board Position:			Department Director	Date
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FEDERAL/STATE LAW

Existing California law prescribes the duties of the Controller. These duties include overseeing the fiscal concerns of the state, auditing claims against the state, making the proper disbursement of state money, and administering the related law for payments.

FTB manages many programs that operate with non-payroll funds. These programs operate with the utmost fiscal responsibility and have procedures, reviews, and internal controls in place, which minimize improper payments.

In addition, FTB performs operating expenses and equipment (OE&E) audits every other year. These audits are mandated by the Department of Finance through the State Administrative Manual (SAM). The State Administrative Manual is a reference source for statewide policies, procedures, regulations, and information developed and issued by authoring agencies, such as the Governor's Office, Department of General Services, Department of Finance, and Department of Personnel Administration.

THIS BILL

This bill would require each state agency with an annual budget in excess of $250 million, excluding payroll, to conduct a recovery audit. The audit would include the review of all programs and activities that the state agency administers that may be susceptible to significant improper payments.

This bill would also require each state agency to submit to the Legislature by January 1st of the following fiscal year an estimate of the annual amount of improper payments in the prior fiscal year.

Estimated improper payments for any state agency program or activity that exceed $500,000 would include a report on actions the state agency is taking to reduce the improper payments. The report would include:

1. A discussion of causes of the improper payments, corrective actions taken, and results of corrective actions.
2. A statement of whether the state agency has information systems and infrastructure needed to reduce improper payments to minimal cost-effective levels.
3. A description of resources requested by the state agency in its budget submission to obtain the necessary systems and infrastructure.
4. A description of steps taken to ensure state agency managers, including the state agency head, is held accountable for reducing improper payments.

This bill would define “improper payment” as any overpayment or underpayment that:

- Should not have been made;
- Was made in an incorrect amount;
- Was made to an ineligible recipient;
- Was made for an ineligible service;
- Was a duplicate payment;
- Was for services not received; or
- Did not account for credit for applicable discounts.

This bill would define other terms including “state agency” and “payment.”

This bill would require the initial report to include prior fiscal years 2002-2003, 2003-2004, 2004-2005, and 2005-2006. The initial report would be due to the Legislature by January 1, 2007.

This bill would require that all state agencies use the same method of reporting, as determined by the Controller.

IMPLEMENTATION CONSIDERATIONS

The following implementation considerations should be resolved so that the department could implement this bill as intended by the author:

- It is not clear the type of improper payments that would be included as “significant” and how improper payments would be measured whether by department, program, or individual payment.
- It is unclear how “underpayments” would apply and whether partial payments would be considered an “underpayment.”
- Completion of the annual recovery audit would be contingent upon issuance of reporting methodology from the State Controller.

FISCAL IMPACT

If the “improper payments” covered in this bill are limited to OE&E payments, FTB would not anticipate significant additional costs. FTB currently performs this type of audit as part of the Cash Disbursements cycle of the SAM 2000 Audit mandated every other year. If this bill would require FTB to include other payments in the recovery audit such as tax refunds and Home Owner and Renter Assistance claims, this bill could have a substantial impact to the department due to the large number of these type payments.

Due to the considerations discussed above, the department cannot determine specific costs at this time.

ECONOMIC IMPACT

This bill would not impact state income or franchise tax revenues.

LEGISLATIVE STAFF CONTACT

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