

SUMMARY ANALYSIS OF AMENDED BILL

Author: Florez Analyst: Gail Hall Bill Number: SB 995
 Related Bills: See Prior Analysis Telephone: 845-6111 Amended Date: May 24, 2005
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Exemption/Interest on Bonds Issued By Federally Recognized Indian Tribal Government

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced on February 22, 2005.
- AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as amended May 3, 2005.
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO _____.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED FEBRUARY 22, 2005, 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 May 24, 2005, amendments:

1. revised the intent language,
2. conformed by reference to the Internal Revenue Code definition of an “essential governmental function,” and
3. resolved the technical consideration discussed in the analysis of the bill as introduced on February 22, 2005.

The implementation consideration discussed in the analysis of the bill as amended on May 3, 2005, was not resolved by the May 24, 2005, amendments. Also, the May 24, 2005, amendments created a technical consideration. These issues are discussed further under the IMPLEMENTATION

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CONSIDERATION and TECHNICAL CONSIDERATION below. The remainder of the previous analysis of the bill as introduced on February 22, 2005, still applies.

The May 3, 2005, amendments added intent language. The April 6, 2005, amendments added a principal coauthor and various coauthors and made some minor technical changes.

POSITION

Pending

IMPLEMENTATION CONSIDERATION

The May 24, 2005, amendments did not resolve the implementation consideration discussed in the analysis of the bill as amended May 3, 2005. The intent language described in the bill may be ambiguous. The language provides that whatever the federal government considers tax-exempt, the state shall accept as the same criteria as tax-exempt. The intent of this bill, however, is to grant exempt status only for bonds issued by tribes located in California and federal law grants exempt status for bonds issued by tribes located in the United States. In addition, this bill establishes other conditions for state tax-exempt status that differ from federal law. The ambiguity in the intent language may cause implementation problems if taxpayers interpret the law differently than the department.

The following amendment is suggested to resolve the implementation consideration:

- On page 4, strikeout lines 13-15, and insert “governments located in this state, the bond must be tax-exempt for federal purposes before it may be tax-exempt for state purposes.”

TECHNICAL CONSIDERATION

1. On page 4, lines 16 and 22, strikeout “issued pursuant to” and insert “described in.”

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