

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Coto Analyst: Deborah Barrett Bill Number: AB 2371

Related Bills: See Prior Analysis Telephone: 845-4301 Amended Date: April 2, 2008

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Voter Registration

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 DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced February 21, 2008.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 21, 2008, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would allow an eligible California resident to register to vote through the filing of a state income tax return.

This bill would make changes in the Elections and Motor Vehicle Codes regarding voter registration that do not impact this department and are not discussed in this analysis.

SUMMARY OF AMENDMENTS

The April 2, 2008, amendments would make numerous nonsubstantive changes to the Elections Code and would require Franchise Tax Board (FTB) to work with the Secretary of State to revise tax filing forms to contain additional information relating to voter registration by July 1, 2009.

The amendments did not resolve the "Implementation Considerations" identified in the department's analysis of the bill as introduced on February 21, 2009, and are restated here for convenience. The "This Bill" discussion has been revised and the "Fiscal Impact" discussion is repeated for convenience. The remainder of the department's analysis of the bill as introduced on February 21, 2008, still applies.

Board Position:

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Legislative Director

Date

Brian Putler

4/22/08

POSITION

Pending.

THIS BILL

This bill would allow a qualified person not already registered to vote to register by filing a personal income tax form. This registration method would apply for persons with no party affiliation and would allow persons to decline to be registered. Additionally, if the person filing a tax return is not over 18 years of age, but will be by the next election, he or she would be registered automatically upon his or her birthday.

This bill would require FTB to contain the following on its tax filing forms:

- A method to request information that would establish whether the taxpayer satisfied the requirements to be registered to vote.
- A method by which the taxpayer shall indicate whether he or she is registered to vote.
- A statement that, if the requirements are satisfied, the taxpayer shall be registered to vote unless the taxpayer declines to be registered to vote or has indicated that he or she is already registered to vote.
- A method by which the taxpayer may decline to be registered to vote.
- Any other information required by state or federal law for a person to be registered to vote.

FTB would be required to forward a duplicate of the form that registers a person to vote to the county in which the person named on the form resides, unless the taxpayer declines to be registered or indicates that he or she is already registered to vote.

The county election official would examine the document and if it is determined that the document indicates the person satisfies the requirements to be registered to vote, the document would be treated as a completed affidavit of registration by the county election official. The document must be received by FTB no later than 15 days before the next election to be effective. The document would be effective for purposes of verifying signatures on petitions, initiatives, referendums, absentee voter applications, or other election papers.

The bill would direct FTB to confer with the Secretary of State and develop a Personal Income Tax filing form in compliance with this bill no later than July 1, 2009.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The bill would require “tax filing forms” to be revised to include voter registration related information. Because FTB produces hundreds of forms that could be included in the term “tax filing forms,” it is recommended that the language be changed to refer to “state income tax returns” to make it clear which forms that author intends to be revised.

The bill would require FTB to provide the election officials of each county with a copy of the tax return for tax filers who opt to register to vote on their tax return. Providing confidential taxpayer information to the counties for purposes other than tax administration would be a violation of disclosure laws contained within the Revenue and Taxation Code (R&TC). If the voter registration information collected through the tax return could be placed on a separate schedule, the schedule could be separated from the return and only the relevant voter registration information would be disclosed to the county election officials.

Approximately 60% of California residents now file tax returns electronically and this percentage increases each year. Because electronic returns do not contain signatures that can be used for voter signature verification purposes, it is not clear how the author intends to use the electronically filed income tax return as a practical voter registration alternative.

Although FTB approves the versions of income tax returns used by tax preparation software companies, FTB lacks authority to dictate to software vendors that their software contain options to provide certain information relating to voter registration. Accordingly, FTB cannot ensure that tax preparation software will incorporate the changes to the tax returns this bill would require.

Significant revisions to state income tax returns and tax return filing processes would be required by this bill. FTB would need to collect additional data on the taxpayer and spouse, and any dependents that may be eligible to register to vote. The changes required to the personal income tax return to collect this data would result in a three or more page return, creating significant costs to the department as detailed in the Fiscal Costs discussion below.

This bill would provide that registration is effective if received by FTB 15 days before an election. Ordinary processing time experienced by FTB during peak processing could result in registration information reaching county elections officials more than 15 days after receipt by FTB—and after a scheduled election.

This bill could require FTB to send duplicate copies of more than 15 million returns to 58 different county elections officials. Where the primary taxpayer on a return is registered and has a spouse who would be registered through this process, the primary taxpayer’s confidential tax return information would be subject to disclosure although the county elections officials have no use for that information.

Electronically filed returns are stored in a proprietary electronic format. Providing reproductions of approximately 10 million electronically filed tax returns would require that the stored electronic data be converted into a viewable format and printed to accommodate the varying technology capabilities of all 58 county elections offices.

Voter registration data that would be required to be on a state tax return is not necessary for administering the income tax code. However, a return that lacked voter registration data would be an incomplete return, and would create both significant processing delays for FTB and significant burdens for taxpayers to reconcile the returns that are invalid for reasons not related to the primary purpose of a tax return--namely reporting income and tax owed to the state.

FISCAL IMPACT

Significant processing changes would be required by this bill, including the capturing of data specific to this bill's requirements not already captured, modifying existing systems, and developing secure data exchange processes with 58 different county elections officials.

The present forms have limited space available for additional lines. The additional lines required by this bill would increase the forms from two to three or more pages. The department estimates it could incur costs in excess of \$2 million to revise the forms and instructions, printing, systems changes, processing, and storage. The department is unable to identify the extent of this bill's impact until the implementation concerns identified above are resolved. Actual costs will be developed as the bill moves through the Legislative process.

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