

SUMMARY ANALYSIS OF AMENDED BILL

Author: Corbett Analyst: Victoria Favorito Bill Number: SB 1285
 Related Bills: See Prior Analysis Telephone: 845-3825 Amended Date: August 4, 2008
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Charitable Contributions/FTB Procedures For Calculating Appropriate Value Of Contribution Of Claims By A Seller That Is Over \$5,000 On Conservation Lands Acquired Using State Funds

_____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as 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/amended _____.

_____ FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED

MARCH 24, 2008, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would require the Franchise Tax Board (FTB) to use specified appraisals, appraisal standards, and federal guidelines to determine the amount of charitable contributions claimed by a seller for conservation land acquired using state funds.

SUMMARY OF AMENDMENTS

The August 4, 2008, amendments made the following changes:

- Added a Coauthor,
- Deleted the requirement that FTB use the state-approved appraisal or an appraisal from a member of the Appraisal Foundation that is within 10% of the state-approved appraisal to determine the amount of charitable contribution allowed to the taxpayer,
- Added a provision that would require the Department of General Services (DGS) to convene a workgroup to develop and adopt standards with respect to the acquisition of land, and

Board Position:	Legislative Director	Date
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_____ SA	Patrice Gau-Johnson	08/13/08
_____ N	For Brian Putler	
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- Added the requirements that FTB apply all of the following to determine the amount of charitable contributions allowed to the taxpayer:
 - Use an appraisal conducted by an appraiser appropriately licensed by the Office of Real Estate Appraisers,
 - Meet applicable standards developed by the workgroup created by this bill, and
 - Meet federal guidelines.

The amendments made other modifications that do not impact FTB and will not be discussed in this analysis.

As a result of the amendments, the “This Bill” and “Economic Impact” discussions have been revised and are provided below. Other provisions of the department’s previous analysis of the bill as amended March 24, 2008, still apply.

Summary of Suggested Amendments

Suggested amendments were provided to the author’s office to clarify the obligations of the department and to resolve the implementation concerns addressed in this analysis.

ANALYSIS

THIS BILL

This bill would require DGS to convene a workgroup to develop and adopt standards subject to the approval of the Resources Agency with respect to the acquisition of land.

This bill would require that the workgroup not exceed six members and represent the following agencies:

- One member from the Department of Parks and Recreation,
- One member from the Wildlife Conservation Board,
- One member from the State Coastal Conservancy, and
- One or more member(s) from other state conservancies with land acquisition responsibilities.

This bill would require DGS and the workgroup to develop standards for the appraisal of resource conservation acquisitions, including both direct and state funded grant acquisitions by January 10, 2010.

This bill would require FTB to do all of the following in calculating the amount of charitable contributions allowed to a seller that is claiming more than \$5,000 of charitable contributions for conservation lands acquired using state funds:

- Use an appraisal conducted by an appraiser appropriately licensed by the Office of Real Estate Appraisers,
- Meet applicable standards developed by the working group created in this bill, and,
- Meet federal guidelines.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns and the author's office is working with department staff to resolve these concerns.

This bill would require FTB to calculate the appropriate value of a charitable deduction using an appraisal that is prepared by an appraiser appropriately licensed by the Office of Real Estate Appraisers. It is unclear if the author intends that FTB hire a licensed appraiser if the seller has not provided an appraisal from an appraiser licensed by the Office of Real Estate Appraisers. Thus, the department may incur costs to hire a licensed appraiser to perform the appraisal.

This bill would require FTB to meet applicable standards developed by the workgroup created in this bill; however, applying the yet to be developed standards by the workgroup may conflict with the requirements of the Revenue and Taxation Code and the Internal Revenue Code applicable for charitable deductions of conservation contribution of a particular parcel of land.

This bill is not specific as to what federal guidelines that the FTB would be required to meet. The author may consider specifying that FTB comply with the requirements for appraisal and appraisers applicable under Internal Revenue Code and under Revenue and Taxation Code for purposes of calculating the appropriate charitable contribution allowed to the seller.

Suggested amendments have been provided to the author's office to clarify the obligations of the department and resolve these issues.

ECONOMIC IMPACT

Revenue Estimate

Based on data and assumptions discussed below, the Personal Income Tax (PIT) and Corporation Tax revenue gain/loss from this bill would be as follows:

Estimated Revenue Impact of SB 1285 Effective On Or After January 1, 2009 Enactment Assumed After June 30, 2008 (\$ in Millions)			
Appraisal of	2008-09	2009-10	2010-11
Land Contribution	No impact	No impact	No impact

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

The August 4, 2008, amendments removed the requirement that FTB use the state approved appraisal or an appraisal from a member of the Appraisal Foundation that is within 10% of the state-approved appraisal to determine the amount of charitable contribution allowed to the taxpayer, which would have resulted in a PIT and corporation revenue loss. Thus, this bill would have no revenue impact.

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