

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Harman Analyst: Deborah Barrett Bill Number: SB 978  
Related Bills: See Legislative History Telephone: 845-4301 Introduced Date: February 23, 2007  
Attorney: Tommy Leung Sponsor: \_\_\_\_\_

**SUBJECT:** Require Cities To Report City Business Tax Data To FTB

### SUMMARY

This bill would require cities that assess a city business tax or require a city business license to report certain information annually to the Franchise Tax Board (FTB).

### PURPOSE OF THE BILL

According to the author's staff, the purpose of this bill is to level the playing field for California businesses by ensuring that those doing business are complying with their income tax filing requirements.

### EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2008, and operative for cities that assess a tax or require a city business license on or after that date to the extent economically feasible, except that in no event may cities comply any later than December 31, 2008.

### POSITION

Pending.

### ANALYSIS

#### STATE LAW

Under current state law, FTB compiles information from many different sources including employers, financial institutions, and federal and state entities for purposes of assuring compliance with the state's income tax laws. When FTB receives information indicating that a tax return should be filed for a taxable year, but has no record of a return, FTB may contact the individual taxpayer to request that the taxpayer file a return or explain why no return is required. When a taxpayer is required to file a return, but fails to do so, FTB is authorized to assess tax based on estimated income from all available sources.

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA      \_\_\_\_\_ NP  
\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
\_\_\_\_\_ N      \_\_\_\_\_ OUA       X  PENDING

Department Director

Date

Selvi Stanislaus

4/20/07

Existing state law prohibits the disclosure of any taxpayer information, except as specifically authorized by statute. Generally, disclosure is authorized to other state tax agencies, federal tax agencies, other state tax agencies, and the MultiState Tax Commission for tax administration purposes only. Other exceptions are specified in statute, and among other things, include disclosure of tax information for child support enforcement purposes. Unauthorized disclosure of state tax information is a misdemeanor and improper disclosure of federal tax information is a felony.

California law permits FTB to provide specified tax return information to cities for the administration of local city business license requirements. The information provided is limited to only those taxpayers within the city jurisdiction and includes only the following:

- Taxpayer Name,
- Taxpayer Address,
- Taxpayer Social Security Number or Taxpayer Identification Number, and
- Principal Business Activity Code

Information provided to the cities may be used by city employees only for city business tax purposes. FTB is required to execute an agreement with each participating city that, among other things, provides that the annual cost incurred by FTB to provide the city data is reimbursed by the city to FTB.

### THIS BILL

This bill would require cities that assess a city business tax or require a city business license to furnish, on an annual basis, specified information to FTB on the businesses that have been assessed the tax or licensed in the preceding calendar year of that city. The information required to be furnished is information collected in the course of administration of the city's business tax program, limited to the following:

- Name of the business if a corporation, partnership, or limited liability company, or the owner's name if a sole proprietorship
- Business mailing address
- Federal employer identification number, if applicable, or the business owner's social security number
- North American Industry Classification Code (commonly referred to as "NAICS")
- Business start date
- Business cease date
- Status of license
- City number
- Ownership type

This bill would require the specified information to be provided to FTB on magnetic media, such as tapes or compact discs, through a secure electronic process, or in other machine-readable form, according to standards prescribed by regulations issued by FTB. The cities would begin

providing information as soon as feasible, but no later than December 31, 2008. Use of the data is limited to state tax enforcement or as otherwise authorized by law.

### IMPLEMENTATION CONSIDERATIONS

Implementing this bill could be accomplished under normal annual system updates.

### **LEGISLATIVE HISTORY**

AB 63 (Cedillo, Stats 2001, Ch. 915) authorizes the disclosure of tax information to cities provided a contract is executed that requires cities to reimburse FTB for costs incurred.

AB 1105 (Jackson, Stats. 1999, Ch. 67) repealed the requirement that cities maintaining a computerized record-keeping system or that have access to such a system annually furnish FTB with information regarding taxpayers who pay city business license taxes.

### **PROGRAM BACKGROUND**

During fiscal years 1997 through 1999, California law required that each city maintaining a computerized record keeping system or that has access to such a system and that assesses a business license tax or fee annually furnish FTB a list of all businesses subject to tax in the preceding year. In 1999, this statute was repealed.

Acknowledging the historical revenue generating performance of city business tax data, as a part of its Tax Gap Strategies FTB requested and received funding to initiate a program to purchase city business tax 2005 and 2006 tax year data from local government agencies. Fifteen cities contracted with FTB for 2005 data at a cost of \$123,100 to provide lists of businesses in their jurisdictions that were assessed a tax or issued a license. The contract process remains ongoing for the 2006 tax year data, with preliminary numbers of 47 cities providing data at a cost of \$197,462. The department anticipates that approximately \$1 million would be derived from this source of data each year.

### **FISCAL IMPACT**

Implementing this bill may require additional staffing to manage the approximately 478 incorporated city records submitted each year, coordinate the receipt and integration of the city data into existing systems, and to provide customer service support related to the transmission of this data. Department costs will be developed as this bill progresses through the legislative process.

**ECONOMIC IMPACT**

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

Estimated Revenue Impact Of SB 978 Effective On Or After January 1, 2008 Enactment Assumed After June 30, 2007 (\$ in Millions)				
2008-09	2009-10	2010-11	2011-12	2012-13
\$21	\$30	\$33	\$35	\$37

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

**Revenue Discussion:**

Based on historical performance of this data source, and adjusting for changes in data collection and use of technology since the end of the prior mandate, it is assumed that the net impact of this proposal for 2008 would be \$28 million. The \$28 million was grown out at a 6% annual rate for a 2009 tax year impact of approximately \$30 million.

Assuming a 70% compliance rate in 2008-2009, the resulting revenue impact would be \$21 million (30 million x 70% = 21 million). Compliance is expected to increase in subsequent years, resulting in a higher revenue impact.

**POLICY CONSIDERATIONS**

The provisions of this bill could provide an opportunity for cities and FTB to improve efficiencies in data exchanges by streamlining the contract process required under the local government sharing programs to permit FTB to exchange tax data for city business license data for use in the FTB's filing enforcement program

**LEGISLATIVE STAFF CONTACT**

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