

**ANALYSIS OF ORIGINAL BILL**

Author: Garrick, et al. Analyst: Angela Raygoza Bill Number: AB 1843  
 Related Bills: See Legislative History Telephone: 845-7814 Introduced Date: January 28, 2008  
 Attorney: Douglas Powers Sponsor: \_\_\_\_\_

**SUBJECT:** State Agencies Provide Information To Controller Regarding How The State Spends State Tax Revenues

**SUMMARY**

This bill would require a state agency, as defined, to provide the State Controller's Office (SCO) with information concerning state expenditures on programs administered by those agencies.

This analysis will address only the impacts from the bill to the Franchise Tax Board (FTB).

**PURPOSE OF THE BILL**

According to the language of the bill, the purpose of this bill is to provide taxpayers easy access to information regarding how the state spends its revenues on specific programs.

**EFFECTIVE/OPERATIVE DATE**

This bill would be effective on January 1, 2009, and the provisions requiring SCO to develop, operate, and maintain the database on its public website would be expressly operative as of January 1, 2010.

**POSITION**

Pending.

**ANALYSIS**FEDERAL/STATE LAW

Current federal law provides that federal tax return information is confidential and may not be disclosed to federal or state agencies or employees, except for purposes expressly authorized by statute. Agencies statutorily allowed access to federal return information include certain federal and state tax agencies, such as the Franchise Tax Board (FTB). Improper disclosure of federal tax information is a felony.

Board Position:

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

Department Director

Date

Selvi Stanislaus

3/3/08

Current state law prohibits any disclosure of confidential state taxpayer information except as specifically authorized by statute.

Currently state law provides that the following information from a corporate tax return can be publicly disclosed:

- Business entity name, address, and account number
- Date of incorporation or commencement of business in this state
- Account period ending date
- Due date of the return
- Total unpaid taxes
- Name, date, and title of individuals signing the return
- Classification
- Industry code
- FTB or Secretary of State status

#### THIS BILL

As of July 31, 2010, this bill would require state agencies, including the FTB to provide the SCO with information concerning state expenditures on programs administered by the agency and whether the agency achieved the intended results of those programs.

This bill would require state agencies, including FTB, to disclose the following information on corporations, associations, unions, limited liability companies, limited liability partnerships, nonprofit corporations, grantees, contractors, cities, counties, local government entities, and any other legal business entities:

- The name and principal location of each recipient of state funds
- The amount of state funds provided to a recipient
- The state agency that provided state funds to a recipient
- The specific fund or funds from which the state agency received the state funds it provided to the recipient
- The name and description of each program funded by state funds
- The result for past expenditures of state funds to that program, if available
- The State audits or reports relating to the recipient of state funds or a program, including a hyperlink to an audit or a report, if available

The bill would define the following terms:

- “State agency” means a state department, agency, office, board, commission, bureau, or division, or the California State University.
- “State audit or report” includes any audit or report issued by the Controller, State Auditor, a legislative committee, or state executive entity relating to the recipient of state funds.
- “State funds” means state tax revenues, state tax exemptions, or state tax credits.

This bill would require FTB to provide the SCO with the information no later than 30 days after it becomes available. The SCO would be required to maintain the information on the database for a minimum of ten years.

Effective July 31, 2010, and every July 31 thereafter, the SCO would be required to update the database for the prior fiscal year and any new information as it becomes available throughout the fiscal year.

The bill further provides conditions under which the SCO would be considered non-compliant. Those conditions are not discussed in this bill because they do not affect the department.

### 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.

This bill lacks an exception to the general statutory rules that all taxpayer information is confidential. Without an exception, FTB employees would be in violation of existing confidential taxpayer information disclosure laws. If it is the author's intent that confidential taxpayer information be disclosed for this bill, it is recommended that the bill be amended to provide an exception to the general statutory disclosure rules in order for the department to administer this bill.

Because current law prohibits the department from sharing any federal confidential taxpayer information, the department would be prohibited from sharing with SCO any changes made to state tax information based on federal information. For example, if a federal audit resulted in an adjustment to the state information already provided to SCO, FTB would be unable to update the information, which could lead to inaccurate information being reported on SCO's website.

This bill defines "State funds" as state tax revenues, state tax exemptions, or state tax credits. The terms "tax revenues" and "tax exemptions" may broadly be interpreted to also include "tax deductions." Deductions are not currently captured by the department's processing systems. To begin capturing data on deductions would require system and program changes that would result in significant costs to the department. If the author's intention is to exclude deductions, it is recommended that the language be amended to define tax revenues and tax exemptions accordingly.

This bill requires specific information related to state "programs." The term "programs" is undefined. The author may wish to amend the bill to define the term. The absence of a definition could lead to disputes with taxpayers and would complicate the administration of this bill.

### **OTHER STATES' INFORMATION**

*Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York* laws do not have a comparable law to the one proposed by this bill. The laws of these states were reviewed due to their similarities to California's economy, business entity types, and tax laws.

**FISCAL IMPACT**

This bill would not significantly impact the department's costs.

**ECONOMIC IMPACT**

This bill would not impact state income tax revenues.

**LEGISLATIVE STAFF CONTACT**

Analysis prepared by  
Angela Raygoza  
(916) 845-7814  
[angela.raygoza@ftb.ca.gov](mailto:angela.raygoza@ftb.ca.gov)

Revenue Manager  
Rebecca Schlussler  
(916) 845-5986  
[rebecca.schlussler@ftb.ca.gov](mailto:rebecca.schlussler@ftb.ca.gov)

Legislative Director  
Brian Putler  
(916) 845-6333  
[brian.putler@ftb.ca.gov](mailto:brian.putler@ftb.ca.gov)