

SUMMARY ANALYSIS OF AMENDED BILL

Author: Cedillo Analyst: Deborah Barrett Bill Number: SB 1146
 Related Bills: See Prior Analysis Telephone: 845-4301 Amended Date: July 2, 2008
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Disclosure Reciprocal Agreement With City /Delete Repeal Date & Allow Request For Any Other Information By Affidavit/City Provide Business Tax Program Information To FTB

- 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/amended _____.
- FURTHER AMENDMENTS NECESSARY.
- DEPARTMENT POSITION CHANGED TO _____.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED June 5, 2008, STILL APPLIES.
- OTHER – See comments below.

SUMMARY

This bill would require a city that administers a business tax to provide specific data to the Franchise Tax Board (FTB) and would authorize a city to exchange data with FTB in lieu of obtaining mandated cost reimbursement.

SUMMARY OF AMENDMENTS

The July 2, 2008, amendments would establish two methods for the act to be repealed as follows:

1. If the Commission on State Mandates determines that the costs incurred by a city to provide the data exceeds the reimbursement, then the act is repealed 90 days after that determination.
2. Where an appeal by the Department of Finance to a superior or appellate court on a determination by the Commission on Mandates that the costs reimbursed to cities are insufficient, the act would be repealed 90 days after a final determination of the court that the costs exceed the reimbursement provided.

Board Position:	Legislative Director	Date
<input type="checkbox"/> S	Brian Putler	7/8/08
<input type="checkbox"/> SA		
<input type="checkbox"/> N		
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The July 2, 2008 amendments would also make technical, non-substantive changes to the language.

Based on the July 2, 2008, amendment the "This Bill" discussion is revised. The remainder of the department's analysis of the bill as amended June 5, 2008, still applies.

POSITION

Pending.

THIS BILL

This bill would do three things:

1. Enact a requirement for cities that assess a business tax or require a license to furnish specified information on the business or license holder to FTB on an annual basis;
2. Allow a city to enter into a reciprocal agreement to exchange city tax data for state income tax data and each party would absorb their own costs for providing the data in lieu of reimbursement, and
3. Provide annual funding in the Budget Act to reimburse cities for actual costs not to exceed \$1.00 per usable record, adjusted annually for the implicit price deflator and add a repeal provision in the event a determination by the Commission on State Mandates that the reimbursement does not cover a city's costs to provide data to FTB.

1. Enact City Business Tax Mandate

This bill would require a city that assesses a city business tax or requires a city business license to furnish FTB, on an annual basis, information collected in the course of administering the tax or license requirements. The information required would be 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
- Standard Industry Classification Code (SIC) or North American Industry Classification Code (commonly referred to as "NAICS")
- Business start date
- Business cease date
- City number
- Ownership type

Information provided to FTB would be required to be on magnetic media, such as tapes or compact discs, through a secure electronic process, or in other machine-readable form, according to standards prescribed in regulations issued by FTB.

The cities would begin providing information as soon as economically feasible, but no later than December 31, 2009. Use of the data would be limited to state tax enforcement or as otherwise authorized by law.

2. Reciprocal Agreement to Exchange Tax Data

This bill would authorize a city to enter into a reciprocal agreement with FTB to exchange tax data between the city and FTB. The bill would define reciprocal agreement to mean an agreement to exchange information for tax administration purposes between tax officials of a city and FTB. Information provided by FTB to the city would be authorized for use in administration of the city business tax or as otherwise authorized by state or federal law. If a city enters into a reciprocal agreement with FTB, both parties in the agreement would be prohibited from obtaining reimbursement of the costs to provide the data. Each party would bear its own costs.

3. Reimbursement Mechanisms for Cities

Reimbursement to cities for costs mandated by this bill would be provided in the annual Budget Act beginning in the 2009-10 fiscal year for FTB to reimburse a city for the cost of submitting the information prescribed in this bill. The reimbursement rate would be for actual costs incurred not to exceed \$1.00 per usable record submitted to FTB and would be adjusted annually for the implicit price deflator.

If the Commission on State Mandates (Commission) determines that the costs mandated by the requirements of this bill exceed the rate provided for reimbursement, the entire act would be repealed within 90 days following the date on which the Commission's determination becomes final. The repeal would be stayed if the Director of Finance files a written Notice of Intent to Appeal with the Commission within 90 days of the Commission's determination that the costs exceed the rate provided for in this bill. The Notice of Intent to Appeal would consist of a written notice setting forth the intention of the Director of Finance to seek judicial review of the determination of the Commission. If, pursuant to the appeal, a California superior court or California court of appellate jurisdiction determines that the costs mandated by the state exceed the amount of reimbursement, the act would be repealed 90 days after that determination is final.

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