

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: De La Torre Analyst: Janet Jennings Bill Number: AB 1215
Related Bills: See Legislative History Telephone: 845-3495 Amended Date: July 15, 2010
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB, BOE, & Employees In Positions Funded 95 Percent By Sources Other Than General Fund Exempt From Furloughs

SUMMARY

This bill would exempt from furloughs employees of the Franchise Tax Board (FTB), State Board of Equalization (BOE), and employees in positions funded at least 95 percent from sources other than the General Fund.

This analysis addresses only the exemption from furloughs for employees of the FTB.

SUMMARY OF AMENDMENTS

The bill as amended July 15, 2010, added language to exempt from furloughs employees of the FTB, State BOE, and employees in positions funded at least 95 percent from sources other than the General Fund.

This is the department's first analysis of this bill.

PURPOSE OF THE BILL

According to the legislative intent language, the purpose of this bill is to eliminate furloughs that are exacerbating the General Fund deficit by furloughing employees at FTB.

EFFECTIVE/OPERATIVE DATE

If signed by September 30, 2010, the bill would be effective January 1, 2011, and operative as of that date.

POSITION

Pending.

PROGRAM BACKGROUND

Executive Order S-16-08 ordered the Department of Personnel Administration (DPA) to do the following: (1) initiate the layoff process for state civil service employees effective January 1, 2009, through June 30, 2010, and (2) adopt a plan to implement a furlough of two days per month effective February 1, 2009, to June 30, 2010.

Board Position:	Department Director	Date
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Executive Order S-13-09 ordered the DPA, effective July 1, 2009, through June 30, 2010, to adopt an amended plan to implement a furlough of represented state employees for three days per month, regardless of funding source.

All state employees covered by the original and amended furlough plans must use their accrued furlough days prior to using vacation, annual leave, personal holiday, holiday credit, personal leave plan credit, and compensatory time off. Unused furlough hours expire on June 30, 2012.

Several court cases are pending to determine the legality of Executive Orders S-16-08 and S-13-09.

ANALYSIS

THIS BILL

This bill would exempt employees of the FTB from furloughs ordered by any state agency, board, or commission. In addition, this bill would prohibit any state agency, board, or commission from directly or indirectly implementing or assisting in implementing a furlough of FTB employees.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not impact the department's programs and operations.

LEGISLATIVE HISTORY

AB 181 (Bass, 2009/2010) would eliminate a third furlough day for state employees when specified conditions are met. This bill is waiting to be scheduled for its third reading in the Senate.

AB 2008 (Arambula/Solorio, 2009/2010) would exempt from furlough employees of the FTB, Department of Corrections and Rehabilitation, Employment Development Department, and State BOE, unless specifically authorized by the legislature. This bill is waiting to be scheduled for its third reading in the Senate.

SBX8 29 (Steinberg, et al.) is identical to this bill. SBX 8-29 was vetoed on March 24, 2010. The full veto message is can be read in Appendix 1.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

Currently, no furlough days are ordered for FTB; therefore, this bill would not impact the state's income tax revenue. However, a report issued February 12, 2010, by the Senate Office of Oversight and Outcomes compared the effects of furlough savings to the revenue generation at the FTB and the BOE. This report indicates that California has lost \$6.36 for every dollar saved through budget cuts at the BOE and has foregone \$7.15 of revenue for every dollar saved through furloughs at the FTB.

POLICY CONCERNS

To effectuate General Fund savings for departments that did not comply with Executive Orders S-16-08, and S-13-09, such as the BOE, the Attorney General, the Treasurer, the Controller, the Superintendent of Public Instruction, the Lieutenant Governor, the Secretary of State, and the Insurance Commissioner, the Department of Finance reduced their operational budget by the amount of employees' compensation costs that would have been achieved if the three-day furlough had been implemented. Should a future furlough be ordered and subsequently the FTB's operational budget reduced, there would be a risk to daily operations, the department's ability to maintain mandated activities, and a significant revenue impact.

LEGISLATIVE STAFF CONTACT

Legislative Analyst

Janet Jennings

(916) 845-3495

janet.jennings@ftb.ca.gov

Revenue Manager

Monica Trefz

(916) 845-4002

monica.trefz@ftb.ca.gov

Legislative Director

Brian Putler

(916) 845-6333

brian.putler@ftb.ca.gov

Appendix 1

BILL NUMBER: SBX8 29
VETOED DATE: 03/24/2010

To the Members of the California State Senate:

I am returning Senate Bill X8 29 without my signature as it would undermine necessary actions taken to achieve budgetary and cash solutions.

This bill would exempt state civil service employees funded at least 95 percent by sources other than the General Fund, and employees of the Franchise Tax Board and the State Board of Equalization from furloughs. This bill also prohibits state agencies, boards, and commissions from implementing, or assisting with the implementation of, furloughs for such employees.

State employees throughout California are hard-working public servants who play a vital role in providing services to millions of Californians. But the depth and breadth of the state's unprecedented fiscal crisis required the state to achieve immediate budgetary savings in all areas of state government including state payroll. That is why I implemented the furlough program last year as a temporary measure to achieve savings and to also provide the state with an additional cash management tool. It was also intended as a way to achieve savings in employee compensation as an alternative to deeper state employee layoffs. And as I indicated in my budget proposal, the current furlough program will end as scheduled on June 30th. Instead, I have proposed a package of employee compensation savings to be enacted by the Legislature.

It is necessary to apply furloughs across the board, with limited exemptions as needed to protect public health and safety, to effectively manage the workforce, and to avoid inequities and morale problems for state employees. Further, this bill as written would be difficult, if not impossible to implement. Many positions are funded through multiple funding sources and as such it is not always possible to determine if they are funded at least 95 percent by sources other than the General Fund.

Finally, this bill would limit the ability of future Governors to implement furloughs during a fiscal emergency. It is imperative that Governors have maximum flexibility to address such emergencies. As this is a matter presently before the courts, attempts to legislatively limit Governors' furlough authority are premature until a final judgment has been made.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger