

SUMMARY ANALYSIS OF AMENDED BILL

Author: Evans/Monning Analyst: Jahna Alvarado Bill Number: AB 94
 Related Bills: See Prior Analyses Telephone: 845-5683 Amended Date: September 1, 2009
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Natural Heritage Preservation Tax Credit

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
 July 13, 2009, STILL APPLIES.
 OTHER – See comments below.

SUMMARY

This bill would do the following:

- Reactivate the natural Heritage Preservation Tax Credit Act within the Public Resources Code (PRC) and reestablish the related tax credits within the Revenue and Taxation Code (R&TC), and
- Allow the Wildlife Conservation Board (WCB) to award the Natural Heritage Preservation (NHP) tax credit without monetary limit, as specified.

This analysis addresses only the amendments in the bill that would impact the Franchise Tax Board (FTB).

SUMMARY OF AMENDMENTS

The September 1, 2009, amendments change the sunset date for the NHP credit. As a result of the amendments, the “Effective/Operative Date” and “This Bill” discussions have been revised. The “Economic Impact” discussion is repeated for convenience. The remainder of the department’s analysis of the bill as amended July 13, 2009, still applies.

| | | |
|---|----------------------------|----------|
| Board Position: | Asst. Legislative Director | Date |
| _____ S | | |
| _____ SA | Brian Putler | 09/08/09 |
| _____ N | for Patrice Gau Johnson | |
| _____ NA | | |
| _____ O | | |
| _____ OUA | | |
| _____ NP | | |
| _____ NAR | | |
| <input checked="" type="checkbox"/> PENDING | | |

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2010, and would apply to qualified contributions made on or after January 1, 2010, and before July 1, 2015.

POSITION

Pending.

ANALYSIS

THIS BILL

This bill would reinstate the NHP tax credit for qualified donations of real property or perpetual interests in real property made on or after January 1, 2010¹, and before July 1, 2015, and would remove the limit on the total NHP tax credit amount the WCB could award.

The award of the NHP tax credit would be contingent on the General Fund being reimbursed by the WCB for lost revenue resulting from the award of NHP tax credits.

ECONOMIC IMPACT

Revenue Estimate

This bill would result in the following revenue impact under the Personal Income Tax and Corporation Tax laws:

| Estimated Revenue Impact of AB 94 Effective For Tax Years Beginning On Or After January 1, 2010 Enactment Assumed After June 30, 2009 (\$ in Millions) | | | |
|---|---------|---------|---------|
| | 2010-11 | 2011-12 | 2012-13 |
| Applied Tax Credits | -\$7 | -\$7 | -\$7 |
| Local Gov't payments | +\$3 | +\$3 | +\$3 |
| WCB transfers | +\$4 | +\$4 | +\$4 |
| Impact to General Fund | \$0 | \$0 | \$0 |

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

¹ Qualifying donations could occur during taxable year 2009 for taxpayers with a fiscal year that ends on or after January 1 and before July 1.

Revenue Discussion

The revenue impact of this bill would depend on the fair market value of land donated for tax credits and the amount of credits that could be applied to reduce tax liabilities.

The WCB reports that \$48.6 million in tax credits were allocated before the credit sunset on June 30, 2008. Actual credits applied on tax returns totaled \$25.8 million for the period of 2001-02 through 2007-08, an average of approximately \$4 million annually.

This bill would allow local governments to bring completed applications to the WCB for approval of the credit. It is anticipated that this change would result in more credits being awarded, approximately \$7 million annually. This bill would be effective for tax years beginning on or after January 1, 2010.

Tax credits applied in 2010 would be reported on tax returns filed in 2011. FTB would not be able to request a fund transfer to cover these credits until after the return is filed. At the earliest, the transfers would be made in April 2011 (in the 2010-11 fiscal year), or October 2011 (in the 2011-12 fiscal year). Therefore, there would be no impact in the 2009-10 fiscal year for credits generated in 2010.

FTB must report to the WCB the tax year for which the NHP tax credit was applied by the taxpayer. Transfers from the WCB fund, based on actual credit usage, would amount to approximately \$4 million in 2010-11 and in 2011-12 on an accrued basis.

Payments by local governments are made "up front," in the same fiscal year as the credit is reported. It is estimated that these payments would be approximately \$3 million each in 2010-11 and 2011-12.

LEGISLATIVE STAFF CONTACT

Legislative Analyst
Jahna Alvarado
(916) 845-5683

Jahna.Alvarado@ftb.ca.gov

Revenue Director
Jay Chamberlain
(916) 845-3375

Jay.Chamberlain@ftb.ca.gov

Asst. Legislative Director
Patrice Gau-Johnson
(916) 845-5521

Patrice.Gau-Johnson@ftb.ca.gov