

SUMMARY ANALYSIS OF AMENDED BILL

Author: Cedillo Analyst: Matthew Cooling Bill Number: SB 1036
 Related Bills: See Prior Analysis Telephone: 845-5983 Amended Date: April 6, 2010
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Disclosure Of Tax Return Information To Cities/Expands To Allow Disclosure By City Officials To Other Agents Designated By City Resolution

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 February 12, 2010.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED FEBRUARY 12, 2010, STILL APPLIES.

OTHER – See comments below.

SUMMARY

This bill would expand an existing program that allows cities to authorize third-parties to view taxpayer information received from the Franchise Tax Board (FTB).

SUMMARY OF AMENDMENTS

The April 6, 2010, amendments would require a resolution made by the city to certify that any agent designated by that resolution must execute a confidentiality statement, as provided by the FTB. The amendments would also make minor changes related to the persons authorized by the resolution to access taxpayer information provided by the FTB.

As a result of the amendments, the “This Bill” and “Implementation Consideration” discussions have been revised. The “Implementation Consideration” discussed in the analysis of the bill as introduced February 12, 2010, remains and has been provided below for convenience. Except for the “This Bill” and “Implementation Consideration” discussions, the remainder of the department’s analysis of the bill as introduced February 12, 2010, still applies.

POSITION

Pending.

Board Position:	Asst. Legislative Director	Date
<input type="checkbox"/> S		
<input type="checkbox"/> SA		
<input type="checkbox"/> N		
<input type="checkbox"/> NA		
<input type="checkbox"/> O		
<input type="checkbox"/> OUA		
<input type="checkbox"/> NP		
<input type="checkbox"/> NAR	Patrice Gau-Johnson	04/12/10
<input checked="" type="checkbox"/> PENDING		

ANALYSIS

THIS BILL

This bill would allow a city with a reciprocal agreement with the FTB to adopt a resolution to enter into a contract with a third-party agent, to process the taxpayer data provided by the FTB. The resolution by any city contracting with a third-party agent would have to certify that the agent designated by the resolution meets all of the following requirements:

- The agent has an existing contract with the city to examine the FTB records,
- The agent is required by the contract to only disclose the information contained in the FTB records to a city employee or agent authorized by the resolution,
- The agent is prohibited from providing consulting services to private industry while engaged in this contract, and
- The agent is prohibited by contract from retaining the information obtained from the FTB after the contract expires.
- The agent has signed a confidentiality statement provided by the FTB that would be kept on file by the city.

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 would allow an agent, designated by a city by resolution, to disclose tax information to a city employee or agent authorized by resolution. It appears this bill would allow a city employee to disclose tax information to another city employee or other third party, which increases the possibility of unlawful or unauthorized disclosure of taxpayer information. To limit the disclosure of taxpayer information, it is recommended that the author amend the language of the bill to specify who would have access to the taxpayer information provided by the FTB.

This bill would require an agent identified by a city resolution to execute a confidentiality statement with the FTB. To clarify that the above concern is satisfied, the author may wish to add the requirement that the resolution specify that each agent named in the resolution be a party to, or independently execute, the confidentiality agreement. Amendment 1 has been provided to clarify this consideration.

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO SB 1036
AS AMENDED APRIL 6, 2010

AMENDMENT 1

On page 2, at the end of line 39, insert:

The confidentiality statement shall be executed by each agent authorized under this paragraph.