

Author: Walters Analyst: Victoria Favorito Bill Number: SB 1244
 Related Bills: None Telephone: 845-3825 Introduced Date: February 19, 2010
 Amended Date: April 5, 2010
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: LLC Employment Taxes and Contribution

- ANALYSIS NOT REQUIRED of this bill – Not within scope of responsibility of this department.
- TECHNICAL BILL – No program or fiscal changes to existing program.
- BILL AS AMENDED NO LONGER WITHIN SCOPE of responsibility or program of the department.
- TECHNICAL AMENDMENT – No change in previously submitted analysis required. Approved position of prior analysis is _____.
- MINOR AMENDMENT – Remainder of previous analysis of the bill as introduced/amended _____ still applies.
- MINOR AMENDMENT – No change in approved position of _____. See Comments below
- OTHER – See comments below.

COMMENTS:

Under the Unemployment Insurance Code, this bill would expand the definition of wages for purposes of unemployment insurance tax as follows:

- The definition of wages would include reasonable compensation paid to the managing member of a Limited Liability Company electing “S” corporation status and filing income tax returns as an “S” corporation.
- The definition of wages would not include remuneration paid, as guaranteed payments¹, to a non-managing member of a limited liability company filing income tax returns as a partnership.

This bill does not change the existing Revenue and Taxation Code section that provides for the income tax treatment of salaries or other compensation for personal services rendered. Thus, this bill would not impact the department’s programs and operations or state income tax revenue.

¹ When a partner performs services for, or advances capital to, his partnership within his capacity as a partner and his payment for such is determined without regard to partnership income, the payments are guaranteed payments.

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| Board Position: | Franchise Tax Board Staff | Date |
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