

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Oropeza Analyst: Deborah Barrett Bill Number: SB 323  
 Related Bills: See Prior Analysis Telephone: 845-4301 Amended Date: June 1, 2009  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Qualified Tuition Program Deposits/FTB Revise PIT Returns To Allow Taxpayers To Designate Amount In Excess Of Tax Liability To Be Deposited In Taxpayer's Qualified Tuition Program

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  
 April 15, 2009, STILL APPLIES.  
 OTHER – See comments below.

**SUMMARY**

This bill would allow taxpayers to direct an amount in excess of their tax liability to a Qualified Tuition Program (QTP) account.

Provisions impacting the administration of the Scholarshare Investment Board (SIB) do not impact Franchise Tax Board (FTB) and are not discussed in this analysis.

**SUMMARY OF AMENDMENTS**

The June 1, 2009, amendments would add language that the reimbursement to Franchise Tax Board by Scholarshare Investment Board for costs to administer the provisions of this bill are required to be made in the same fiscal year that the costs are incurred. The June 1, 2009, amendments create a new "Implementation Consideration", which is discussed below. The "This Bill" and "Fiscal Impact" discussions have been revised. A "Summary of Suggested Amendments" discussion and suggested language to augment the department's position authority for the bill's provisions have been added. The remainder of the department's analysis of the bill as amended April 15, 2009, still applies.

Board Position:	Asst. Legislative Director	Date
<input type="checkbox"/> S <input type="checkbox"/> NA <input type="checkbox"/> NP <input type="checkbox"/> SA <input type="checkbox"/> O <input type="checkbox"/> NAR <input type="checkbox"/> N <input type="checkbox"/> OUA <input checked="" type="checkbox"/> PENDING	Patrice Gau-Johnson	06/24/09

## POSITION

Pending.

### Summary of Suggested Amendments

Amendment 1 would provide suggested language to authorize the additional position authority needed to implement the provisions of this bill.

## ANALYSIS

### THIS BILL

This bill would allow taxpayers to designate on their personal income tax return an amount in excess of tax liability to be deposited into a QTP account, as defined. The designation is only allowed in full dollar amounts in excess of \$1 and is limited to one QTP account per return.

This bill would require FTB to revise the form of the return to include the amount of the designation and the routing and account numbers of the QTP.

This bill would specify that if the tax payments on a tax return are not enough to cover both the tax liability and the amount designated for the QTP, the tax return will be treated as though the designation had not been made.

This bill would provide that if a taxpayer makes a contribution to a voluntary contribution fund, and designates an amount to a QTP, and the amount in excess of tax liability is less than the total amount designated, the amount in excess of the tax liability shall be allocated among the designees on a pro rata basis.

The bill would require the California Scholarshare Investment Board to reimburse FTB for any costs incurred to implement and maintain the bill's provisions through an interagency agreement. The bill would specify that reimbursement for costs must be made in the same fiscal year the costs were incurred. The Scholarshare Investment Board must approve any reimbursements authorized under the agreement. The total costs reimbursed by the Scholarshare Investment Board shall not exceed \$475,000.

This bill's provisions would remain in effect until December 31, 2014, and as of that date would be repealed unless a later enacted statute would be enacted before December 31, 2014, that would delete or extend that date.\*\*

### IMPLEMENTATION CONSIDERATIONS

This bill would require the department to modify existing tax forms and instruction booklets and make changes to the computer systems, which could be accomplished during normal annual updates but could require additional funding as described below under Fiscal Impact. Additionally, this bill would require FTB to enter into an interagency agreement with the Scholarshare Investment Board. Fiscal impacts are discussed below.

Because reimbursement for costs is required to be implemented through an interagency agreement, the costs to the department would be billed in arrears after the close of the fiscal year. This would make it unfeasible for the Scholarshare Investment Board to make the payment within the same fiscal year, although it could be applied/accrued to the same fiscal year when received after the payment is remitted. It is recommended that the language be amended to allow the payments to be applied to the same fiscal year that the costs are incurred to accommodate the billing process of the interagency agreements.

Additionally, while the bill would provide reimbursement to the department for the costs incurred to implement and maintain its provisions, recent staff layoffs have impacted the department's ability to perform the work that would be needed to implement this bill. Additional position authority is needed to implement the system changes that would be required by this bill without impacting the tax administration workloads the department is charged to administer. Amendment 1 provides suggested language to provide the position authority that would be necessary to complete the work required by this bill's provisions. Failure to add this language through the legislative process would require the department to seek that authority through the normal budgetary process, which would delay the implementation of this bill's provisions until that authority can be secured.

## **FISCAL IMPACT**

Implementation of this bill would require changes to existing tax forms and electronic applications. This bill would also require additional administrative and system programming costs to manage the transfer of funds to entities designated by the taxpayer. The department estimates it would incur one-time costs of approximately \$373,000 with ongoing costs annually of \$51,000 to implement the provisions of this bill.

## **LEGISLATIVE STAFF CONTACT**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO SB 323  
As Amended June 1, 2009

AMENDMENT 1

On page 5, after line 10, insert:

SEC.3 The Franchise Tax Board shall receive position authority of 3.6 limited term positions for the 2009/2010 fiscal year for implementation of the bill's provisions