

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Evans/Monning Analyst: Jahna Alvarado Bill Number: AB 94  
 Related Bills: See Prior Analysis Telephone: 845-5683 Amended Date: April 20, 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 INTRODUCED January 6, 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).

Board Position:	Asst. Legislative Director	Date
<input type="checkbox"/> S	Patrice Gau-Johnson	06/02/09
<input type="checkbox"/> NA		
<input type="checkbox"/> SA		
<input type="checkbox"/> N		
<input type="checkbox"/> OUA		
<input type="checkbox"/> NP		
<input type="checkbox"/> NAR		
<input checked="" type="checkbox"/> PENDING		

## **SUMMARY OF AMENDMENTS**

The April 20, 2009, amendments add a coauthor and a sunset date for the NHP tax credit.

As a result of the April 20, 2009, amendments, the “Effective/Operative,” and “This Bill” discussions, as provided in the department’s analysis of the bill as introduced January 6, 2009, have been revised. Additionally, a technical concern has been identified and is discussed below. The “Economic Impact” discussion remains the same and has been included below for convenience.

The remainder of the department’s analysis of the bill as introduced January 6, 2009, still applies.

## **SUGGESTED AMENDMENTS**

Amendments 1 and 2 are provided to suggest clarifying language.

## **PURPOSE OF THE BILL**

According to the author’s office, the purpose of this bill is to save state and local agencies’ funds when they acquire property from donors who are awarded the NHP tax credit.

## **EFFECTIVE/OPERATIVE DATE**

This bill would become effective January 1, 2010, and would apply to taxable years beginning on or after that date, for qualified contributions made in taxable years beginning on or after January 1, 2010, and before July 1, 2019.

## **POSITION**

Pending.

## **ANALYSIS**

### THIS BILL

This bill would reinstate the NHP tax credit for taxable years beginning on or after January 1, 2010, for qualified donations of real property or perpetual interests in real property made in taxable years beginning on or after January 1, 2010, and before July 1, 2019, 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.

**TECHNICAL CONSIDERATION**

The NHP credit was allowed to sunset for contributions made on or after July 1, 2008. This bill would reinstate the credit for contributions made on or after January 1, 2010. Because this bill fails to make the credit retroactive, the credit is unavailable for contributions made between July 1, 2008, and December 31, 2009, inclusive. Amendments 1 and 2 are provided to clarify the dates the NHP credit would be available.

**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.

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 \$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**

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 94  
As Amended April 20, 2009

AMENDMENT 1

On page 13, line 28, after "January 1, 2000," insert:  
and not later than June 30, 2008, and on or after January 1, 2010,

AMENDMENT 2

On page 14, line 19, after "January 1, 2000," insert:  
and not later than June 30, 2008, and on or after January 1, 2010,