

# ANALYSIS OF ORIGINAL BILL

## Franchise Tax Board

Author: Eng Analyst: Janet Jennings Bill Number: AB 2638  
Related Bills: See Legislative History Telephone: 845-3495 Introduced Date: February 24, 2012  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Report Of Revenue Loss From Tax Expenditures Exceeding \$5 Million

### SUMMARY

This bill would expand the information included in the annual Tax Expenditure Report prepared by the Department of Finance (DOF) by requiring the Franchise Tax Board (FTB) and the Board of Equalization (BOE) to report on the fiscal and tax effect of the tax expenditures.

This analysis addresses provisions of the bill only as they impact the department.

### RECOMMENDATION AND SUPPORTING ARGUMENTS

No position.

### PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to ensure tax expenditure data is available for the state budget deliberations.

### EFFECTIVE/OPERATIVE DATE

As an administrative measure, this bill would be effective January 1, 2013. The bill specifies that the FTB would be required to make its report to the Legislature and the DOF within the first ten days of each calendar year.

### PROGRAM BACKGROUND

The department has published an annual Tax Expenditure Report<sup>1</sup> (Report) since 2003. The Report is published each December and distributed to The DOF, FTB Board Members, the Assembly Revenue and Taxation Committee, the Senate Governance and Finance Committee, and posted for the public on the FTB's internet Web site. The Report describes tax expenditures found in California corporation tax and California personal income tax laws. The Report summarizes the actual and projected costs and the policy goals for current tax expenditures within the California income tax system.

<sup>1</sup> Available on FTB's Web site at [https://www.ftb.ca.gov/aboutftb/Tax\\_Expenditure\\_Report\\_2011.pdf](https://www.ftb.ca.gov/aboutftb/Tax_Expenditure_Report_2011.pdf)  
[as of March 14, 2012]

Board Position:

\_\_\_\_\_ S      \_\_\_\_\_ NA        X   NP  
\_\_\_\_\_ SA      \_\_\_\_\_ O      \_\_\_\_\_ NAR  
\_\_\_\_\_ N      \_\_\_\_\_ OUA

Executive Officer

Date

Selvi Stanislaus

03/22/12

The department currently provides statistical information to the DOF on tax expenditures for use in the DOF's annual report to the Legislature on expenditures exceeding \$5 million.

## **ANALYSIS**

### **STATE LAW**

State law requires the DOF to provide an annual report to the Legislature on tax expenditures, providing details on individual categories of the expenditures and historical information on the enactment and repeal of the expenditures.

State law requires all state agencies to submit to the Governor a complete plan and itemized statement of all proposed expenditures and estimated revenues for the next fiscal year.

The Governor is required to submit a budget within the first ten days of the regular session of the Legislature. The Governor's budget is developed using the state agency reports described above.

### **THIS BILL**

This bill would require the FTB to submit by January 10 of each year, a report to the DOF and the Legislature on the fiscal and tax effect of all tax expenditures including:

- An estimate or range of estimates for the state and local revenue loss for the current and two subsequent fiscal years, and
- The anticipated revenue loss pursuant to the final fiscal committee analysis of the act that established the tax expenditure, adjusted for inflation, if available.

For purposes of this section, the bill would define "tax expenditure" as a credit, deduction, exclusion, exemption, or any other tax benefit as provided for by the state.

As discussed, under Program Background above, this bill would codify the departments current Tax Expenditure Report adding the requirement that the revenue loss is to be computed from the final fiscal committee analysis, if available, adjusted for inflation, rather than actual or extrapolated data.

### **IMPLEMENTATION CONSIDERATIONS**

Implementing this bill would require some changes to the department's existing Tax Expenditure Report, which could be accomplished during the normal annual update.

## **LEGISLATIVE HISTORY**

AB 2641 (Arambula and Solorio, 2009/2010) would have required the Legislature to review all tax expenditures. This bill failed to pass out of the Assembly Committee on Appropriations.

ACA 6 (Calderon, 2009/2010) would have limited new tax expenditures to a seven-year operative period. This bill failed to pass out of the Assembly.

SB 1086 (Florez, 2009/2010) would have required specific information to be included in the California Income Tax Expenditure Report produced by the DOF. This bill was held in the Senate Revenue and Taxation Committee.

AB 1843 (Garrick, 2007/2008) would have required a state agency to provide the State Controller's Office with information concerning state expenditures on programs administered by those agencies. This bill was held on the Senate floor.

AB 831 (Parra, 2007/2008) would have required any legislative measure creating new tax expenditures or extending the operation of existing tax expenditures to include a repeal of the expenditure in a manner that reflects the needs and conditions of the proposed expenditure. This bill failed to pass out of the Senate Revenue and Taxation Committee.

### **FISCAL IMPACT**

This bill would not significantly impact the department's costs.

### **OTHER STATES' INFORMATION**

The states surveyed include *Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

*Illinois, Massachusetts, Michigan, and New York* require a tax expenditure report, similar to the reports proposed by this bill, to be submitted by the respective Governor of each state to the Legislature every year.

*Minnesota* requires the Commissioner of Revenue to prepare a tax expenditure budget report for the state. The report contains the amount of tax revenue foregone for each tax expenditure, the legal authority for each tax expenditure, and the year in which each was enacted. The report is submitted to the Legislature by February 1 of each even-numbered year.

### **ECONOMIC IMPACT**

This bill would not impact state income tax revenues.

### **SUPPORT/OPPOSITION<sup>2</sup>**

Support: None provided.

Opposition: None provided.

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<sup>2</sup> As reported on the Legislative Counsel's Web site at <http://www.leginfo.ca.gov/cgi-bin/postquery> [as of March 14, 2012]

## **ARGUMENTS**

Pro: Some would say that codifying the FTB's tax expenditure report would assist the Legislature in enacting the state budget.

Con: Some would say that the bill is not necessary as the information is already made available.

## **LEGISLATIVE STAFF CONTACT**

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