

ANALYSIS

THIS MEASURE

This measure would require that revenues in excess of the appropriation limit for a fiscal year be distributed in the following fiscal year as specified in the following formula:

- If the total amount of the state's debt service for the fiscal year is 5 percent or more of the appropriations limit for the fiscal year, 100 percent of the excess would be appropriated for debt reduction.
- If the total amount of the state's debt service for that fiscal year is less than 5 percent of the appropriations limit and the revenue for the fiscal year exceeds the appropriations limit for the fiscal year by:
 - less than \$2 billion, the excess would be allocated equally between a supplement to the school funding guarantee and a transfer to the prudent state reserve fund.
 - \$2 billion or more, the excess would be refunded to taxpayers by reducing tax rates or fees within the next two subsequent fiscal years.

The measure would be required to be liberally construed to promote the measure's objectives and would be controlling if found to be inconsistent with any other constitutional provision.

The validity of any portion of the measure would be unaffected by the determination that any other portion was invalid.

IMPLEMENTATION CONSIDERATIONS

The Revenue and Taxation Code requires the Franchise Tax Board (FTB) to administer and enforce the income and franchise tax laws. This constitutional amendment presumably would require the FTB to participate in tax rate and fee reductions necessary to implement the return of the unanticipated excess revenue by overseeing the reduction of franchise and income tax rates and fees administered by the FTB.

Department staff has identified the following implementation considerations for purposes of a high level discussion; additional concerns may be identified as the measure moves through the legislative process.

In order for the FTB to administer any tax rate change or fee reduction, rules and guidance would have to be provided on which tax rates and fees would be subject to reduction, how the reductions would be calculated, and the taxable year, or other relevant period, the reductions would apply to.

If these concerns, and additional concerns that may be identified, are not clarified in this measure, the department would need implementation language prior to making any tax rate or fee reductions. Without implementation details, the FTB would be unable to implement the reduction of tax rates, fees, or both that this measure would require.

FISCAL IMPACT

Depending on the level of responsibility given to the department, costs could be significant. At a minimum, the department would need to modify forms, instructions, notices, and systems to reflect any fluctuation in tax rates or fees resulting from this measure. In addition, it is likely that the department would receive a significant number of additional contacts from taxpayers regarding the timing of any fluctuation in the tax rate or fee structure.

This measure does not include an appropriation to cover the costs the department could incur to implement this measure. Without an appropriation, the department would be required to redirect resources from revenue producing activities to implement this measure.

ECONOMIC IMPACT

This measure would not impact personal income tax or corporate tax revenues.

SUPPORT/OPPOSITION¹

Support: None identified.

Opposition: None identified.

LEGISLATIVE STAFF CONTACT

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¹ As reported on the Legislative Counsel's website at <http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=sca_10&sess=CUR&house=B&author=strickland> [as of June 6, 2012].