# ANALYSIS OF AMENDED BILL

**Franchise Tax Board**

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| Author: | Quirk-Silva | Analyst: | Janet Jennings | Bill Number: | AB 2654 |
| Related Bills: | None | Telephone: | 845-3495 | Amended Date: | April 1, 2014 |
| | | Attorney: | Bruce Langston | Sponsor: | |

**SUBJECT**: FTB Disclose Tax Information to Student Aid Commission/Revise PIT Form for Taxpayer to Authorize Disclosure

## SUMMARY

This bill would allow the Franchise Tax Board (FTB) to disclose personal income tax return information to the Student Aid Commission (Commission) upon taxpayer request.

## RECOMMENDATION

No position.

### Summary of Amendments

The April 1, 2014, amendments removed provisions of the bill related to the definition of a taxpayer, and replaced them with the provisions discussed in this analysis. This is the department's first analysis of the bill. This analysis only addresses the provisions of this bill that impact the department's programs and operations.

## REASON FOR THE BILL

The reason for the bill is to notify parents, guardians, and students of their potential eligibility for financial assistance under the Cal Grant program, the federal Pell Grant program, and the Middle Class Scholarship program.

## EFFECTIVE/OPERATIVE DATE

This bill would become effective and operative January 1, 2015.

## ANALYSIS

STATE LAW

Existing state law prohibits the disclosure of any taxpayer returns or return information, except as specifically authorized by the taxpayer or by statute. Generally, disclosure is authorized to other state tax agencies and federal tax agencies, for tax administration purposes only. Unauthorized disclosure of state tax returns and return information is a misdemeanor.

| Board Position: | | | Executive Officer | Date |
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THIS BILL

This bill would allow the FTB to add to the personal income tax forms a space labeled "Postsecondary Education Financial Assistance Eligibility." This would allow a low- or moderate-income person who is the parent or legal guardian of a pupil between 16 and 18 years of age or a person between 18 and 25 years of age, inclusive, to designate on the tax return that the FTB may disclose to the Commission any tax information pertinent to determining if a person is eligible for the following:

- The Cal-Grant Program.
- The federal Pell Grant Program.
- The Middle Class Scholarship Program.

The return information the FTB may disclose to the Commission would be limited to any information necessary to make the eligibility determination, including wages, withholdings, and identifying information.

The bill would define a low- or moderate-income person as a person or family of low or moderate income, as defined by section 50093 of the Health and Safety Code. In general, under the Health and Safety Code:

- Low income means: persons or families who are eligible for financial assistance specifically provided by a governmental agency for the benefit of occupants of housing financed pursuant to this division.

- Moderate income means: persons and families of low or moderate income whose income exceeds the income limit for lower income households.

The bill would not be construed to supersede the requirements and protections in the California Right to Financial Privacy Act.[1]

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The term "pupil" is undefined. The absence of a definition to clarify this term could lead to disputes with taxpayers and would complicate the administration of this bill.

The bill uses the term "years of age" but fails to define as of what date, the absence of a definition to clarify, as of what date, could lead to disputes with taxpayers and would complicate the administration of this bill.

[1] Chapter 20 (commencing with Section 7460) of Division 7 of Title 1 of the Government Code.

The bill is silent on a method of verifying that a taxpayer requesting disclosure meets the specified age or age and income requirements. This could result in the department releasing taxpayer return information in violation of state disclosure statutes.

All personal income tax returns would be allowed to have a space labeled "Postsecondary Education Financial Assistance Eligibility." This requirement would apply to the department's non-resident and fiduciary income tax returns. If this is not the author's intent, the bill should be amended to limit the requirement.

The bill states it is not constructed to supersede the requirements and protections in the California Right to Financial Privacy Act. It is unclear how the requirements and protections under the California Right to Financial Privacy Act would affect the provisions of this bill. It could be interpreted to require the department to provide a method to revoke the authorization to disclose personal tax return information to the Commission. This would add complexity to the implementation of the bill and increase costs.

TECHNICAL CONSIDERATIONS

Section 19585 as added by this bill would allow disclosure of tax information. For internal harmony within the Revenue and Taxation Code and consistency, this section should be renumbered to 19573, to place it within Article 2 Disclosure of Information, Chapter 7 of Part 10.2.

## OTHER STATES' INFORMATION

Review of *Illinois, Massachusetts, Michigan*, *Minnesota*, and *New York* personal resident income tax returns for tax year 2013 found no comparable authorization to disclose tax return data for postsecondary educational financial assistance information. These states were selected and reviewed due to their similarities to California's economy, business entity types, and tax laws.

## FISCAL IMPACT

This bill would impact the department's printing, processing and programming costs. Disclosure of tax information as provided for by law is covered through an interagency contract that covers the department's data security requirements and requires reimbursement for providing information.

## ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

## SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

## ARGUMENTS

Proponents: Some would argue this bill would expand awareness of and facilitate application for postsecondary education financial assistance.

Opponents: Some would argue that the disclosure of tax return data is not necessary for individuals to seek information on postsecondary education financial assistance.

## LEGISLATIVE STAFF CONTACT


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