

Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author: Harkey Analyst: Janet Jennings Bill Number: AB 833
 Related Bills: See Legislative History Telephone: 845-3495 Amended Date: March 21, 2013
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: BOE, EDD & FTB Collaborate & Focus Information Technology Efforts on Developing Web-Based Portal

SUMMARY

This bill would require the Board of Equalization (BOE), the Employment Development Department (EDD), and the Franchise Tax Board (FTB) to do the following:

- Develop a web-based portal that virtually consolidates the agencies, and
- Consolidate forms, applications, and other documents where feasible.

RECOMMENDATION

No position.

Summary of Amendments

The March 21, 2013, amendments removed provisions of the bill related to legislative intent, 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 this bill is to ease tax reporting burdens, reduce duplicate submission of information, and facilitate tax compliance by providing taxpayers easy and up-to-date access to their tax accounts with the BOE, EDD, and the FTB. In addition, according to the legislative findings contained in the bill, focusing on the taxpayers should be a core element of California's tax administration. Virtually consolidating the BOE, EDD, and the FTB would provide a seamless online experience for taxpayers.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and operative January 1, 2014.

Board Position:	Executive Officer	Date
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ANALYSIS

STATE LAW

Under state law, three separate agencies are involved in the administration of the majority of California tax laws:

- The BOE is a constitutional body that does not report to the Governor. The BOE administers property tax, sales and use tax, and special taxes including fuel tax, excise tax, environmental fees, insurance gross premiums tax, and electronic waste recycling fee. The five-member BOE includes the State Controller and four elected members.¹ The five-member BOE is vested with the authority under the Sales and Use Tax Law to “redetermine,” that is, administratively review, determinations made by the BOE with respect to tax programs it administers. In addition, the five-member BOE is authorized to hear and determine taxpayer appeals of the actions of the FTB on personal income tax, corporation income tax, franchise tax, and home owner’s and renter’s assistance matters.
- The EDD is a department within the Labor and Workforce Development Agency. The EDD’s Tax Branch administers the collection, accounting, and audit functions of California’s payroll tax program. The program consists of Unemployment Insurance and Employment Training Tax, which are employer contributions, and Disability Insurance and Personal Income Tax, which are withheld from employees’ wages.
- The FTB, a department within the State and Consumer Services Agency (Government Operations Agency as of July 1, 2013), administers the Personal Income Tax Law (PITL) and Corporation Tax Law (CTL). The FTB collects taxes under the PITL and CTL through withholding from sources other than wages, generally from withholding a percentage of real estate proceeds and payments to nonresidents. The FTB also receives payment of estimated income taxes and other remittances such as payments made at the time of filing a tax return. If necessary, the FTB also collects delinquent balances due by recording property liens or issuing withholding orders on earnings or bank accounts. The FTB also administers non-income tax related programs including: collections of court-ordered debt, vehicle registration debts, and interagency intercepts; Political Reform Audit (PRA); and the Nonadmitted Insurer Tax program. The three-member FTB is comprised of the State Controller, the Director of the Department of Finance, and the Chair of the BOE.

PROGRAM BACKGROUND

The “California Fed State Partnership,” which consists of the BOE, the EDD, the FTB, and the IRS, works to streamline and improve taxpayer resources and educational programs. One result of the partnership was the development of the California Tax Service Center website, www.taxes.ca.gov. The goal of the website is to provide one-stop tax help to California taxpayers and guide them to the forms and services they need. The website provides information on income, payroll, sales and use tax, as well as other taxes and fees, and provides links to the appropriate forms, information, requirements, and payment options located on the BOE’s, the EDD’s, the FTB’s, and the IRS’s individual websites. However, the website currently does not provide a single logon access to a taxpayer’s BOE, EDD, or FTB records.

¹ For this purpose, the state is divided into four districts. One member is elected from each district.

The BOE, the EDD, and the FTB also have a long history of working cooperatively to increase efficiencies and ease taxpayer burden. For example, to relieve some of the paperwork burden for taxpayers requesting an offer in compromise, the BOE, the EDD, and the FTB developed a single offer in compromise application form for taxpayers to submit to any or all three of the agencies.

In addition, the Governor's proposed budget for fiscal year 2012/2013 included the potential consolidation of the FTB and the EDD's tax administration functions into a Department of Revenue. After an initial study by the two departments, the creation of a Department of Revenue was withdrawn from consideration in the Governor's Reorganization Plan number 2 to allow for more diligent study by the departments to ensure all complexities with such a possible reorganization could be addressed.

THIS BILL

This bill would require the BOE, the EDD, and the FTB to collaborate and focus current and future information technology efforts on developing a single web-based portal that virtually consolidates the agencies.

The web-based portal would be required to enable online, self-service access through a single logon that would allow taxpayers to:

- Electronically submit returns and forms, or other information,
- Pay amounts due,
- Determine account balances and due dates of taxes, and
- Identify the status of any appeal, claim for refund, or penalty and interest waiver request.

In addition, this bill specifies that upon a joint determination by the BOE, the EDD, and the FTB, that wherever operationally feasible, forms, applications, and other documents would be consolidated to reduce or eliminate the need for a taxpayer to submit the same information to multiple agencies.

IMPLEMENTATION CONSIDERATIONS

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

Implementing this bill in the near term could add complexities and pose risks to current revenue generating information technology efforts. Because this bill would require the BOE, the EDD, and the FTB to collaborate and virtually consolidate the agencies, the scope, roles, and duties of each agency must be determined before a complete analysis of this bill's impact to the FTB can be ascertained. As this bill moves through the legislative process, the BOE, the EDD, and the FTB would need to develop an implementation plan that establishes the scope of the virtual consolidation and each agency's roles and duties.

LEGISLATIVE HISTORY

For at least the last 15 years there have been numerous proposals that would have consolidated or transferred the duties of the BOE, the EDD, and the FTB. The most recent legislation is listed below.

SB 582 (Knight, 2013/2014) contains the same virtual consolidation requirements as this bill. SB 582 was referred to the Committee on Government and Finance on March 11, 2013.

AB 77 (Gorell, 2011/2012) would have consolidated the FTB, the EDD, and the California Department of Insurance into the BOE. This bill was withdrawn from its first policy committee hearing by the author.

SB 1326 (Harman, 2011/2012) contained the same virtual consolidation requirements as SB 582. SB 1326 failed to pass out of the Senate Appropriations Committee.

SB 1554 (Strickland, 2011/2012) would have abolished the FTB and transferred its powers and duties, along with the EDD's wage withholding duties to the BOE. SB 1554 was withdrawn from its first policy committee hearing by the author.

SB 1133 (Runner, 2009/2010) contained the same consolidation requirements as AB 77. SB 1133 failed to pass out of the Senate Revenue and Taxation Committee.

SB 274 (Dutton, 2007/2008) contained the same consolidation requirements as AB 77. SB 274 was withdrawn from its first policy committee hearing by the author.

FISCAL IMPACT

The costs to implement this bill, although unknown at this time, could be significant. As indicated in the "Implementation Considerations" section, the scope, roles, and duties of the BOE, the EDD, and the FTB need to be identified before a complete analysis of this bill's impact on the FTB can be ascertained. As this bill moves through the legislative process and the BOE, the EDD, and the FTB develop an implementation plan, costs to implement this bill will be identified.

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 might say that this bill could ease taxpayer burden and facilitate tax compliance.

Opponents: Some might say this bill could increase taxpayer confusion because while the BOE, the EDD, and the FTB would be virtually consolidated by a single web-based portal, the continued existence of three separate taxing agencies may leave some taxpayers uncertain of their tax responsibilities specific to each department.

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