

SUMMARY ANALYSIS OF AMENDED BILL

Author: Beall Analyst: Jane Raboy Bill Number: SB 355
 Related Bills: See Prior Analysis Telephone: 845-5718 Amended Date: May 13, 2013
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Natural Heritage Preservation Tax Credit/Transfer of Credits to Unrelated Party

SUMMARY

This bill would allow a taxpayer to transfer their Natural Heritage Preservation Tax Credit (Conservation Tax Credit) to an unrelated taxpayer upon approval and certification by the Wildlife Conservation Board (Wildlife Board).

This analysis will not address the bill's changes to the Public Resources Code, as they do not impact the department or state income tax revenue.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The May 13, 2013, amendments made several nonsubstantive changes and resolved the department's "Technical Considerations" by accepting the amendments suggested in the analysis of the bill as introduced on February 20, 2013. As a result of the amendments, the "This Bill" and "Economic Impact" sections of that analysis have been revised.

The remainder of the department's analysis of the bill as introduced on February 20, 2013, still applies. The "Fiscal Impact" discussion has been repeated for convenience.

ANALYSIS

THIS BILL

For taxable years beginning on or after January 1, 2013, under the Personal Income Tax Law and the Corporation Tax Law, this bill would allow a taxpayer to transfer Conservation Tax Credits generated in prior years whose carryover period has not expired, to an unrelated party upon the Wildlife Board's approval and certification.

Board Position:	Acting Asst. Legislative Director	Date
_____ S _____ NA <u> X </u> NP _____ SA _____ O _____ NAR _____ N _____ OUA	Jahna Carlson	5/17/13

In order to obtain approval of the credit's transfer, a taxpayer would be required to provide to the Wildlife Board all required information regarding the transfer of the credit in a form and manner prescribed by the Wildlife Board, including the social security or other taxpayer identification number of the unrelated party receiving the transfer and the face amount of the Conservation Tax Credit to be transferred.

The Wildlife Board would be prohibited from approving a transfer of a credit if the consideration received by the taxpayer in exchange for the credit is less than 90 percent of the value of the credit to be transferred.

The Wildlife Board would be required to provide certification of the approved transfer to the taxpayer, in a form and manner specified by the Franchise Tax Board (FTB).

IMPLEMENTATION CONSIDERATIONS

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

It is unclear how the recipient of a credit transfer would document eligibility for the credit with the FTB. Lack of documentation could result in disputes between taxpayers and the department. The author may want to consider amending this bill to include the recipient of a transferred credit and the FTB as parties receiving notification of an approved transfer.

FISCAL IMPACT

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

ECONOMIC IMPACT

REVENUE ESTIMATE

Estimated Revenue Impact of SB 355 As Amended May 13, 2013 For Taxable Years Beginning On or After January 1, 2013 Assumed Enactment After June 30, 2013 ¹		
2013-14	2014-15	2015-16
-\$700,000	-\$3,400,000	-\$4,500,000

¹The table above shows the impact on income and corporation tax collections. Because existing law requires funds to be transferred from the Natural Heritage Preservation Tax Credit Reimbursement Account to the General Fund the net impact of the Conservation Tax Credits on the General Fund is zero. The estimate has been adjusted to account for the requirement that the transfer price must be at least 90 percent of the credit's value. Additionally, the revenue loss attributable to credits that could be transferred and applied in tax year 2013 is omitted from the table above in accordance with the Department's disclosure policies.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION²

Support: California Coalition of Land Trusts; California Rangeland Trust; Land Trust of Santa Cruz County; Marin Agricultural Land Trust; Peninsula Open Space Trust; Sequoia Riverlands Trust; Trust for Public Land; Wildlife Heritage Foundation.

Opposition: None provided.

LEGISLATIVE STAFF CONTACT

Jane Raboy

Legislative Analyst, FTB

(916) 845-5718

Jane.Raboy@ftb.ca.gov

Mandy Hayes

Revenue Manager, FTB

(916) 845-5125

Mandy.Hayes@ftb.ca.gov

Jahna Carlson

Acting Asst. Legislative Director, FTB

(916) 845- 5683

Jahna.Carlson@ftb.ca.gov

² As provided by in the Senate Governance & Finance's analysis of the bill as amended April 25, 2013, available at: < http://www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0351-0400/sb_355_cfa_20130425_162017_sen_comm.html>.