ANALYSIS OF ORIGINAL BILL

Franchise Tax Board

Author:	Wolk	Analyst:	Michelle Chan	Bill Number:	SB 365
Related Bills:	See Legislative History	Telephone:	845-6805	Introduced Date:	February 20, 2013
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Tax Expenditures/Add 10 Year Sunset

SUMMARY

This bill would create specific requirements for new tax credit bills introduced on or after January 1, 2014.

RECOMMENDATION

No position.

REASON FOR THE BILL

The reason for this bill is to provide the same level of review and performance measure that is applied to spending programs and tax preference programs, including tax credits.

EFFECTIVE/OPERATIVE DATE

This bill would become effective on January 1, 2014, and would be specifically operative for any new tax credit bill introduced on or after January 1, 2014.

ANALYSIS

FEDERAL/STATE LAW

Existing state and federal laws provide various tax credits and other tax benefits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These benefits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Existing federal and state laws are silent with regard to requiring tax credit bills to include specific goals, purposes, objectives, performance measures, or a sunset date.

Board Position:			Executive Officer	Date
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THIS BILL

This bill would require bills that create a new tax credit under the Personal Income Tax Law or the Corporation Tax Law to contain language specifying the following:

- The specific goals, purposes, and objectives the new tax credit will achieve (e.g., a jobs credit that would provide an incentive for a company to hire a certain demographic);
- Detailed performance measures for the Legislature to use to measure whether the tax credit meets the goals, purposes, and objectives in the bill. For example, in the case of a jobs credit bill, performance measures could include the increase in the number of jobs available, or the number of individuals that would be targeted for employment;
- Data collection and reporting requirements that would allow the Legislature to evaluate whether the credit is meeting, failing to meet, or exceeding its goals, purposes, and objectives, including baseline data, to be collected and remitted in each year the credit is effective for the Legislature to measure the change in performance indicators, and the specific taxpayers, state agencies, or other entities required to collect and remit data; and
- The credit would cease to be operative no later than ten taxable years after its effective date and would be repealed as of January 1 of the year following the end of the operative period.

IMPLEMENTATION CONSIDERATIONS

Because this bill would add requirements for future bills, implementing this bill would not impact the department's programs and operations.

LEGISLATIVE HISTORY

SB 508 (Wolk, Vetoed, 2011/2012) contained provisions substantially similar to this bill. SB 508 was vetoed on October 10, 2011, by Governor Brown, who indicated in his veto message that the Legislature should examine all its bills to determine how long they should exist or, indeed, whether they should exist at all. A copy of the Governor's veto message is provided in Exhibit A.

ACA 6 (Calderon, 2009/2010) would have amended the state's constitution to, among other things, limit the operative period to seven years from the date of the enactment of a new or amended tax credit. ACA 6 failed to pass out of the first house by the constitutional deadline.

SB 1272 (Wolk, Vetoed, 2009/2010) contained provisions similar to this bill. SB 1272 was vetoed on September 23, 2010, by Governor Schwarzenegger, who indicated in his veto message that the average California taxpayer would probably be better served if the Legislature were willing to automatically sunset every new spending entitlement, program expansion, and business mandate after seven years. A copy of the Governor's veto message is provided in Exhibit B.

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

OTHER STATES' INFORMATION

The states surveyed include *Florida, 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.

Under *Illinois* law, every exemption, credit, and deduction against tax shall be limited by a reasonable and appropriate sunset date. Absent a specified reasonable and appropriate sunset date, a five-year sunset date applies.

No performance measuring requirements or required sunset dates comparable to those proposed by this bill were found for *Florida, Massachusetts, Michigan, Minnesota*, or *New York*.

FISCAL IMPACT

Because this bill would add requirements for future bills, no departmental costs are associated with this bill.

ECONOMIC IMPACT

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

SUPPORT/OPPOSITION

Support: American Federation of State, County, and Municipal Employees.

Opposition: None identified.

ARGUMENTS

Proponents: This bill would provide performance review and oversight to tax expenditure programs to make them more transparent and effective.

Opponents: This bill would create uncertainty for long-term tax planning that could be a disincentive for businesses looking to locate or expand in California.

LEGISLATIVE STAFF CONTACT

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EXHIBIT A

SB 508 (2011/2012) VETO MESSAGE

VETOED DATE: 10/10/2011

To the Members of the California State Senate:

I am returning Senate Bill 508 without my signature.

While I agree that we should consider sunset clauses for personal income and corporate tax credits, one size does not fit all. The legislature should examine all its bills to determine how long they should exist or, indeed, whether they should exist at all.

Sincerely,

Edmund G. Brown Jr.

EXHIBIT B

SB 1272 (2009/2010) VETO MESSAGE

VETOED DATE: 09/23/2010

To the Members of the California State Senate:

I am returning Senate Bill 1272 without my signature.

While the sponsors seem intent on eliminating measures that will generate jobs and stimulate the economy, the average California taxpayer would probably be better served if the Legislature were willing to automatically sunset every new spending entitlement, program expansion and business mandate after 7 years.

For this reason, I am unable to sign this bill.

Sincerely,

Arnold Schwarzenegger