

BILL ANALYSIS

Department, Board, Or Commission Franchise Tax Board	Author Committee on Budget and Fiscal Review	Bill Number SB 84
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SUBJECT

Modify the Financial Integrity and State Manager's Accountability Act of 1983, Authorize the Franchise Tax Board (FTB) to Collect Unpaid Tolls, Toll Evasion Penalties, and Related Administrative or Service Fees, and Exclude Certain Grants Received Related to Seismic Improvements from Taxable Income

SUMMARY

Among other things, this bill would do the following:

Provision 1: Modify The Financial Integrity and State Manager's Accountability Act of 1983.

Provision 2: Authorize the FTB to collect unpaid tolls, toll evasion penalties, and related administrative or service fees.

Provision 3: Exclude grants, rebates and other financial incentives received for seismic improvements from taxable income.

This analysis only addresses the provisions of this bill that impact the department's programs and operations.

ECONOMIC IMPACT SUMMARY

Fiscal Year	2015-16	2016-17	2017-18
Provision 1	No impact	No impact	No impact
Provision 2	No impact	No impact	No impact
Provision 3	\$70,000	\$150,000	\$150,000

EFFECTIVE/OPERATIVE DATE

Provisions 1, 2, and 3, as provisions of a bill providing for appropriations related to the Budget Bill and identified as a bill related to the budget in the Budget Bill, would be effective and operative immediately upon enactment.

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Date
6/23/15

FISCAL IMPACT

Provisions 1, 2, and 3 would not significantly impact the department's costs.

PROVISION 1: Modify the Financial Integrity and State Manager's Accountability Act of 1983

REASON FOR THE PROVISION

The reason for this provision is to rename and update the Financial Integrity and State Manager's Accountability Act of 1983 (hereinafter "FISMA").

STATE LAW

Current state law requires the head of each state agency subject to the FISMA requirements to biennially conduct an internal review and prepare a report on the adequacy of the agency's systems of internal accounting, administrative control, and monitoring practices in accordance with the guidance of the Department of Finance and the Office of the Controller. The reports are submitted to the Legislature, the California State Auditor, the Controller, the Treasurer, the Attorney General, the Governor, the Department of Finance, and to the state Library where they are available for public inspection. The report is due on a biennially basis no later than December 31 of each odd-numbered year.

The FTB is subject to the FISMA requirements.

THIS PROVISION

The provision would rename the Financial Integrity and State Manager's Accountability Act of 1983 to the State Leadership Accountability Act.

In addition to non-substantive technical changes, the provision would also define:

- "Objectivity" to mean allowing those tasked with monitoring to maintain integrity, impartiality, a questioning state of mind, and the ability to accurately and fairly assess circumstances and draw sound conclusions.
- "Internal Control" to mean a process, including a continuous built-in component of operations, effected by a state agency's oversight body, management, and other personnel that provide reasonable assurance that the state agency's objectives will be achieved. The following five components of internal control, if effectively designed, implemented, and operated in an integrated manner, constitute an effective internal control system.
 - "Control environment" to mean the foundation for an internal control system that provides the discipline and structure to help a state agency achieve its objectives.
 - "Risk assessment" to mean an assessment of the risks facing the state agency as it seeks to achieve its objectives and provides the basis for developing appropriate risk responses.

- “Control activities” to mean the actions management establishes through policies and procedures to achieve objectives and respond to risks in the internal control system.
- “Information and communication” to mean the quality of vital information used and communicated to achieve the state agency’s objectives.
- “Monitoring” to mean the activities management establishes and operates to assess the quality of performance over time and promptly resolve the findings of audits and other reviews.
- “Agency head” to mean the individual responsible for the overall operations of a state agency.
- “State agency” to mean every entity included in subdivision (a) of Section 11000 of the Government Code and the California State University. The Department of Finance would be required to make the final determination whether a state entity is a state agency for purposes of being subject to the provisions of the State Leadership Accountability Act.

The provision would require technology infrastructure to support the completeness, accuracy, and validity of information processed.

The provision would remove the Treasurer, the Attorney General and the Governor, and add the Secretary of Government Operations and the Department of Finance as recipients of the report, and require a state agency to file a plan and schedule for correcting the identified inadequacies and weaknesses concurrently with the report rather than within 30 days of the report being filed.

LEGISLATIVE HISTORY

AB 728 (Hadley 2015/2016) would require that a state agency’s FISMA reports be posted on the agency’s Internet Website within five days of finalization. AB 728 is currently referred to the Assembly Committee on Appropriations.

AB 661 (Gaines, et al. 2013/2014) would have modified the FISMA requirements. AB 661 failed to pass out of the Assembly by the constitutional deadline.

ECONOMIC IMPACT

This provision would not impact the state’s income tax revenue.

PROVISION 2: Authorize the FTB to Collect Unpaid Tolls, Toll Evasion Penalties, and Related Administrative or Service Fees

REASON FOR THE PROVISION

The reason for this provision is to allow the FTB to collect unpaid tolls, toll evasion penalties, and related administrative or service fees.

STATE LAW

The responsibility and authority for the collection of registration fees, transfer fees, license fees, use taxes, and any interest, penalties, or services added, is transferred from the Department of Motor Vehicles (DMV) to the FTB. Collection actions include, but are not limited to, attaching bank accounts and garnishing wages.

THIS PROVISION

This provision would add unpaid tolls, toll evasion penalties, and any related administrative or service fees to the list of delinquent accounts that the FTB is authorized to collect on behalf of the DMV.

LEGISLATIVE HISTORY

AB 2928 (Spitzer, Chapter 752, Statutes of 2008) authorized the California Department of Corrections and Rehabilitation (CDCR) to refer restitution orders owed by persons who are or have been under CDCR jurisdiction to the FTB for collection and allow the person who is owed the restitution to decline the collection assistance.

AB 367 (De Leon, Chapter 132, Statutes of 2007) established a task force to evaluate the imposition of court ordered debt (COD) and distribution of revenue from the collection of those debts, and lowered the minimum balance requirement for referral of COD for collection to the FTB.

ECONOMIC IMPACT

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

PROVISION 3: Exclude Grants, Rebates and Other Financial Incentives Received for Seismic Improvements from Taxable Income

REASON FOR THE PROVISION

The reason for this provision is to provide an incentive to taxpayers that incur costs for earthquake loss mitigation.

FEDERAL/STATE LAW

Federal gross income means all income from whatever source derived unless a specific exclusion is provided, and California generally conforms to that treatment. Grants and loan forgiveness are generally includable in gross income unless a specific exclusion is provided. Whether or not rebates are includable in gross income depends on whether or not they are treated as a refund or purchase price adjustment. In general, in order to be excluded from gross income and treated as a refund or price adjustment, a rebate must be based on or related to the cost of the property purchased, the rebate must be received from someone having a reasonable connection to the sale of the property such as the manufacturer, distributor, or seller and installer, and the rebate must not represent payment or compensation for services. The treatment of vouchers would be generally similar to rebates. Loans do not result in the realization of income.

THIS PROVISION

The provision would, for each taxable year beginning on or after July 1, 2015, under the Personal Income Tax Law (PITL) and the Corporation Tax Law (CTL), allow an exclusion from gross income in an amount received as any of the following:

- Loan
- Loan forgiveness
- Grant
- Credit
- Rebate
- Voucher
- Or other financial incentive.

The exclusion would apply as long as the amount is issued by the California Residential Mitigation Program or the California Earthquake Authority to assist a residential property owner or occupant with expenses paid or obligations incurred for earthquake loss mitigation.

“Earthquake loss mitigation”¹ would mean an activity that reduces seismic risks to a residential structure or its contents or both.

A residential structure would mean a structure as described in subdivision (a) of Section 10087 of the Insurance Code.

LEGISLATIVE HISTORY

AB 428 (Nazarian, 2015/2016) would allow a credit equal to 30 percent of the qualified taxpayer’s qualified costs for retrofitting at-risk property. AB 428 is currently before the Senate Governance and Finance Committee.

AB 1510 (Nazarian, 2013/2014) would have allowed a credit equal to 30 percent of the qualified taxpayer’s qualified costs for retrofitting at-risk property. AB 1510 failed to pass out of the Assembly Revenue and Taxation Committee by the constitutional deadline.

SB 677 (McPherson, 2001/2002) would have allowed a credit equal to an unspecified percentage of the final cost of seismic retrofitting to comply with the seismic retrofit building standards for hospitals. SB 677 failed to pass out of the Senate Revenue and Taxation Committee by the constitutional deadline.

OTHER STATES’ INFORMATION

Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York laws lack a provision that would allow grants for seismic retrofit and exclude them from gross income, as would be allowed by this provision. The laws of these states were selected due to their similarities to California’s economy, business entity types, and tax laws.

¹ As defined in subdivision (a) of Section 10087 of the Insurance Code.

ECONOMIC IMPACT

Revenue Estimate

Provision 3 would result in the following revenue loss:

Estimated Revenue Impact of SB 84 As Enrolled June 19, 2015 Assumed Enactment After June 30, 2015		
2015-16	2016-17	2017-18
- \$70,000	- \$150,000	- \$150,000

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

Revenue Discussion

Based on data from the California Residential Mitigation Program and the California Earthquake Authority, these organizations awarded approximately \$1.8 million in grants to 600 homeowners in calendar year 2015. This figure was grown to account for the increasing size of the program. It was assumed that qualifying taxpayers would have an average tax rate of 6 percent, resulting in an estimated \$150,000 revenue loss for tax year 2016. The estimates are converted to the fiscal year estimates and then rounded, and are reflected in the table above.

APPOINTMENTS

None.

SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

VOTES

	Date	Yes	No
Concurrence	06/19/15	28	12
Assembly Floor	06/19/15	52	26
Senate Floor ²	03/23/15	23	13

² When the vote was taken on 03/23/15, the bill included only legislative intent language related to the budget.

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