

SUMMARY ANALYSIS OF AMENDED BILL

Author: Assy. Rev. & Tax Comm. Analyst: Jeani Brent Bill Number: AB 1040

Related Bills: SB 1106 (1997) Telephone: 845-3410 Amended Date: 05/23/97

Attorney: Doug Bramhall

Sponsor:

SUBJECT: Court Debt/Fin Corp. Offset/Corp. Def./Bank Information Rptg/Bonds/
Credit Election

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED March 31, 1997 STILL APPLIES.

OTHER - See comments below.

SUMMARY OF AMENDMENT

The May 23, 1997, amendment would state the intent of the Legislature to replace references to the Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987 edition, with code section references to the North American Industry Classification System (NAICS), expected to be published in 1997. This provision would not impact the state's income tax revenue or the department's current programs or practices.

The May 7, 1997, amendment removed the provision that would have permitted wage omissions identified through the information exchange with the Employment Development Department (EDD) to be assessed pursuant to mathematical error procedures and allow the right of protest and appeal for these adjustments.

The May 1, 1997, amendment removed provisions that would have specifically included in the definition of doing business the holding by a corporation of a partnership interest in a partnership that is doing business in this state, but would not have subjected the corporate partner to the minimum franchise tax.

Except for the amendments noted above and the Summary of Tax Revenue Effect and the Position (both included below), the department's analysis of the bill as amended March 31, 1997, still applies.

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Department Director Position: ___ S ___ O ___ SA ___ OUA ___ N ___ NP ___ NA ___ NAR _____ PENDING		Agency Secretary Position: ___ S ___ O ___ SA ___ OUA ___ N ___ NP ___ NA ___ NAR _____ DEFER TO _____		GOVERNOR'S OFFICE USE Position Approved ___ Position Disapproved ___ Position Noted ___	
Legislative Director Johnnie Lou Rosas	Date 6/10/97	Agency Secretary	Date	By:	Date:

SUMMARY OF BILL

This bill, sponsored by the Franchise Tax Board, would do the following:

1. Allow the department to receive federal information return data regarding the discharge or cancellation of indebtedness.
2. Create a reporting requirement for payers of interest or dividends from bonds issued by another state that are exempt from federal taxation.
3. Allow the state or county to refer to the department for collection court-ordered amounts that are associated with court-ordered fines, penalties, forfeitures or restitution orders. This provision also would allow restitution orders due a victim to be referred to the department for collection, but only if (1) the account is referred by a governmental entity that has the authority to collect on behalf of the victim, and (2) the authorized governmental entity voluntarily agrees to refer the debt to the department for collection and agrees to other administrative duties relating to account referrals and collection distributions.
4. Modify the definition of "corporation" to include banks, unless specifically provided otherwise; provide specific language to exempt banks from existing provisions of the Administration of Franchise and Income Tax Laws and Regulations (AFITL) and the Bank and Corporation Tax Law (B&CTL) for which intentional differences between the treatment of corporations and banks is clear, such as the corporation income tax; and replace the phrase "bank or corporation" with the term "corporation" throughout the B&CTL and the AFITL. The department's policy of not applying Section 24411 to banks would be reversed, allowing a foreign bank to pay exempt dividends to a domestic water's-edge taxpayer.
5. Remove the election provision from the Los Angeles Revitalization Zone (LARZ) sales or use tax credit, the Local Agency Military Base Recovery Area (LAMBRA) sales or use tax credit and the LAMBRA hiring credit and replace it with a provision limiting the taxpayer to one credit.
6. Amend Chapter 952 of Statutes of 1996, which enacted SB 715, to reflect that its provisions apply to taxable or income years beginning on or after January 1, 1997.
7. Repeal sections referring to offset provisions for personal property taxes or license fees that are obsolete, and delete references to those sections contained in other sections (B&CTL).
8. Delete an obsolete reference that requires all apportioning taxpayers to maintain specified information.
9. Change Section 19340 of the AFITL to reflect that when an overpayment is credited against any amount due, any interest on that overpayment also will be credited against any amount due. This provision also would include a reference to "this part," which is the AFITL.
10. Correct a reference to Section 19276 of the AFITL contained in the Business and Professions Code and the Insurance Code to reflect that section's renumbering.
11. Delete an unnecessary and redundant reference to R&TC Section 23097.

12. State the intent of the Legislature to replace references to Standard Industrial Classification Manual published by the United States Office of Management and Budget, 1987 edition, with code section references to the North American Industry Classification System (NAICS), expected to be published in 1997.

SUMMARY OF TAX REVENUE EFFECT

The following table reflects the estimated impacts of the various provisions of this bill:

Estimated Revenue Impact of AB 1040 As Amended May 23, 1997	
1. Information Reporting/ Discharges	Possible acceleration of revenue collections
2. Information Reporting/Bond Interest	Gains of \$5 to \$11 million annually when fully implemented
3. Court-Ordered Debt Collection	No Impact
4. Corporate Definition to Include Banks	\$1 million to \$2 million loss annually
5. Remove Credit Elections	No Impact
6. Operative Date	No Impact
7. Financial Corporation Offset	No Impact
8. Apportioning Reference Correction	No Impact
9. Interest on Overpayment	No Impact
10. Reference Correction	No Impact
11. Redundant Reference	No Impact
12. Legislative Intent	No Impact
Total	Gains of approximately \$4 to \$9 million annually

POSITION

Support.

The Franchise Tax Board voted at its October 28, 1996, meeting to sponsor legislation contained in this bill itemized as numbers one through 11 above.

Neutral.

The staff's position on the legislative intent language contained in this bill itemized as number 12 above is neutral and is determined by administrative considerations.