

# SUMMARY ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Romero Analyst: Jeani Brent Bill Number: AB 1220

Related Bills: See Prior Analysis Telephone: 845-3410 Amended Date: 07/02/1999

Attorney: Patrick Kusiak Sponsor:

**SUBJECT:** Taxpayers to Provide and FTB to Publish Information on Certain Tax Credits Claimed

- DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended May 12, 1999.
- 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 Neutral, If Amended ..
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 26, 1999, and May 12, 1999. STILL APPLY.
- OTHER - See comments below.

### SUMMARY OF BILL

Under the Administration of Franchise and Income Tax Law, this bill would require corporate taxpayers that claim certain credits to provide the department with specified information regarding the credits claimed and carried over, number of employees, and the wages and health benefits provided to its employees.

This bill also would require the department to publish the information in a manner that identifies the name of the corporation with the specified information reported by that corporate taxpayer. The bill would require the information to be provided to the Legislature and the public in a manner determined by the department and to be published on the department's website.

### SUMMARY OF AMENDMENT

The July 2, 1999, amendments resolved the implementation considerations addressed in the department's analysis of the bill as amended May 12, 1999. Specifically, the amendments made the following changes:

1. Changed the penalty provision to require that the full penalty would be imposed and the credits would be denied if the taxpayer fails to file the information with the tax return and the failure continues for 90 days after the department sends a demand to the taxpayer to file the information. The amount of the penalty has been left blank pursuant to the request of the author's staff.
2. Provided that carryover of credits would be denied in the same manner as would the credit, as discussed above. Also, the amendments clarify that the carryover information required would be only that related to the credits specified in the bill.

### Board Position:

S                       NA                       NP  
 SA                       O                       NAR  
 N                       OUA                       PENDING

Department/Legislative Director      Date

**Johnnie Lou Rosas**                      **7/23/1999**

3. Provided that, for taxpayers claiming any of the economic development area credits, the information provided to the department is limited to information relating to the taxpayer's trade or business activities in the economic development area. For taxpayers claiming any of the other credits, only information relating to the taxpayer's trade or business activities in this state would be required.

Except for the implementation considerations, which have been resolved and the items discussed in this analysis, the department's analyses of the bill as amended April 26, 1999, and May 12, 1999, still applies.

#### IMPLEMENTATION CONSIDERATIONS

As amended, staff anticipate that this bill would be implemented as follows:

- Approximately 8,000 corporate taxpayers currently claim one or more of the listed tax credits. Based on prior credits claimed, staff anticipates that these taxpayers likely would be the largest corporations in the state. Many returns for large corporations are so large they are delivered to the department in boxes.
- A check box would be added to the front of the return for taxpayers to indicate that they have claimed one or more of the listed tax credits. Another form also would be developed for taxpayers to provide the specified information.
- Upon initial processing, any returns with the box checked would be pulled out of normal processing and sent to a special unit, which would be created to administer the provisions of this bill.
- The special unit would review each pulled return to determine whether the information form is included and is complete.
- If the form is included and is complete, the information reported would be entered into a data base for publication and for inclusion on the department's website.
- If the form is not included or is not complete, the special unit would issue a notice to the taxpayer to provide the information within 90 days and would hold the return for that time period.
  - If the taxpayer provides the information within 90 days, no penalty would be imposed and no credits would be denied, and the return would be put back into the normal processing system after the information is entered into the data base.
  - If the taxpayer fails to provide the information within 90 days, the special unit would issue a notice of proposed assessment that would deny the credits and impose the penalty provided in this bill.

#### TECHNICAL CONSIDERATIONS

The attached amendments would resolve the following technical considerations raised by this bill:

1. Amendment 1 would correct a typographical error by changing "in" to "an."
2. Amendment 2 would change the term "corporation" to the correct term "taxpayer." This change inadvertently was omitted from the amendments provided in the department's analysis of the bill as amended May 12, 1999.
3. Amendments 3 and 4 would correct the name of two of the credits to local "agency" military base recovery area.

4. Amendments 5 and 6 would include the phrase "or carryover of credit" in two places inadvertently omitted from the amendments provided in the department's analysis of the bill as amended May 12, 1999.
5. Amendment 7 would clarify that no penalty would be imposed if "either" of the two listed conditions exist.

DEPARTMENTAL COSTS

Under the above discussed implementation plan, staff preliminarily estimates that the order of magnitude of the departmental costs would be as shown in the following table:

Franchise Tax Board Order of Magnitude Costs (in millions)		
	1999/00	2000/01
Personal Services (approximately 27 personnel years)	0.9	0.9
Operating Expense and Equipment	0.7	0.2
Departmental overhead	0.1	0.1
Total	\$ 1.7	\$ 1.2

This analysis does not take into account all of the facilities and related costs that might be incurred to create space for the special unit that would be created. These costs have the potential of significantly increasing the costs identified in this analysis.

BOARD POSITION

Neutral, if amended.

At its July 6, 1999, meeting, the Franchise Tax Board voted 2-0 to take a neutral, if amended, position on this bill, as amended July 2, 1999. If this bill is amended to require the department to report the specified information in the aggregate, instead of disclosing individual taxpayer information, the Franchise Tax Board's position would be neutral.

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FRANCHISE TAX BOARD'S  
PROPOSED AMENDMENTS TO AB 1220  
As Amended July 2, 1999

AMENDMENT 1

On page 4, line 35, strikeout "in" and insert:

an

AMENDMENT 2

On page 5, line 10, strikeout "corporation's" and insert:

taxpayer's

AMENDMENT 3

On page 5, line 39, strikeout "area" and insert:

agency

AMENDMENT 4

On page 6, line 1, strikeout "area" and insert:

agency

AMENDMENT 5

On page 6, line 33, after "credit" insert:

or carryover of credit

AMENDMENT 6

On page 7, line 1, after "credits" insert:

and carryover of credits

AMENDMENT 7

On page 7, line 2, after "if" insert:

either of the following exist