

ANALYSIS OF ORIGINAL BILL

Author: Brough Analyst: Davi Milam Bill Number: AB 1929
 See Legislative
 Related Bills: History Telephone: 845-2551 Introduced Date: February 12, 2016
 Attorney: Bruce Langston Sponsor _____

SUBJECT:	Earned Income Refundable Credit Annual Report/ FTB Include in Report Number of False or Fraudulent Claims
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SUMMARY

This bill would, under the Personal Income Tax Law, modify the Franchise Tax Board’s annual report to the Legislature on the earned income tax credit (EITC).

RECOMMENDATION

No position.

REASON FOR THE BILL

The reason for the bill is to ensure the California EITC is monitored so that the state avoids spending tax dollars on false or fraudulent claims.

EFFECTIVE/OPERATIVE DATE

The bill would be effective January 1, 2017, and operative for reports required to be submitted to the legislature on or after that date.

FEDERAL/STATE LAW

Federal Law

Existing federal law (Internal Revenue Code (IRC) section 32) allows eligible individuals a refundable EITC. A refundable credit allows for the excess of the credit over the taxpayer’s tax liability to be refunded to the taxpayer. The EITC is a percentage of the taxpayer’s earned income and is phased-out as income increases. The federal EITC percentage varies based on the number of qualifying children.

Board Position:				Executive Officer	Date
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State Law

Beginning with the calendar year 2015 tax year, state law provides a refundable California EITC that is generally determined in accordance with IRC section 32 as applicable for federal income tax purposes for the taxable year, except as modified.¹

The Franchise Tax Board (FTB) must annually report to the Legislature the following information related to the California EITC:

- The number of tax returns claiming the credit.
- The number of individuals represented on tax returns claiming the credit.
- The average credit amount on tax returns claiming the credit.
- The distribution of credits by number of dependents and income ranges.
- An estimate of the number of families who are lifted out of deep poverty by the credit and an estimate of the number of families who are lifted out of deep poverty by the combination of the credit and the federal tax credit.

THIS BILL

This bill would modify the FTB's annual EITC report to the Legislature by requiring the FTB to also report the number of false or fraudulent EITC claims.

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.

This bill uses the undefined phrase "false or fraudulent claims." It is unclear whether the author's intent is for the FTB to report the total number of incorrect EITC claims or the number of claims that are determined by the FTB to be fraudulent, or otherwise invalid in whole or in part. For clarity and ease of administration, it is recommended that the bill be amended.

LEGISLATIVE HISTORY

SB 80 (Committee on Budget and Fiscal Review, Chapter 21, Statutes of 2015) enacted the California EITC and required the FTB to annually report specified information to the Legislature.

OTHER STATES' INFORMATION

Because this bill only modifies a report to the Legislature on the California EITC, a review of other states' tax information would not be relevant.

¹ Revenue and Taxation Code section 17052. The California EITC is only operative for taxable years the annual Budget Act specifies an adjustment factor and authorizes resources for the FTB to oversee and audit returns associated with the California EITC. For additional details on the California EITC, refer to www.ftb.ca.gov.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill continues to move through the legislative process, costs will be identified.

ECONOMIC IMPACT

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

SUPPORT/OPPOSITION

Support: None provided.

Opposition: None provided.

ARGUMENTS

Proponents: Some may say that this bill would provide valuable information on improper payments related to the California EITC.

Opponents: Some may argue that reporting the number of "false or fraudulent claims" identified, absent any other metrics, would shed little information on the magnitude of improper payments related to the state's EITC.

LEGISLATIVE STAFF CONTACT

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