

LEGISLATION PRESENTED FOR BOARD POSITION
March 25, 2002

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AB 1857 (Wayne) As Introduced January 30, 2002
Administrative Procedures/Required Information Regarding
State Agency Regulations Published On Web Site

Under the Government Code, this bill would require an agency that maintains an Internet Web site to also include on the website the text of a proposed emergency adoption, amendment, or repeal of a regulation and the date the proposal was submitted to the Office of Administrative Law (AOL). This document would be required to be posted on the website during the rulemaking process and for at least 15 days afterward.

The bill also would require an agency proposing the adoption, amendment, or repeal of a regulation to justify why it has rejected reasonable alternatives that would lessen any adverse impact on small business.

The bill would remove the requirement that the name and telephone number of a person designated to respond to questions on the substance of the proposed regulation be provided. Instead, the bill would provide that if the agency representative receives an inquiry that the representative cannot answer, the representative would be required to refer the inquiry to another person in the agency for a prompt response.

This bill would be effective and operative January 1, 2003.

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

Staff Recommendation: Neutral

Status: Assembly Business and Professions Committee

AB 1862 (Wyman) As Introduced January 31, 2002
Credit for Employer Benefits Paid to Employee on Active
Duty for Operation Enduring Freedom

This bill would allow a credit to employers equal to 100% of the benefits paid to a qualified employee who is called to active military duty as a result of Operation Enduring Freedom. The term "benefits" would mean the difference between the amount the employee would have received as an employee during the time the individual was on active duty and the amount the employee received as military pay and allowances. Any excess credit could be carried over to subsequent years until exhausted.

Revenue Impact: (In Millions)

2001-02	2002-03	2003-04
-\$10	-\$45	-\$25

Staff Recommendation: Neutral, if amended

Credits generally are provided as a percentage of amounts paid or incurred. This bill would allow a 100% credit, which is unprecedented.

This bill does not contain a sunset date or limit the number of years that the credit may be carried over to future years.

Current law excludes certain benefits from gross income, but these amounts appear on the employee's military paycheck. It may be difficult for employers to determine how much should be paid to make up the difference. In addition, an employer may provide health, dental, retirement, or cafeteria plan payments for their employee. It is not clear if the employer would have to consider these types of payments to calculate the differences in pay.

Status: Assembly Revenue and Taxation Committee

AB 2127 (Matthews) As Introduced February 20, 2002
Asthma and Lung Disease Research Fund

This bill would reestablish the Lung Disease and Asthma Disease Research Fund as the Asthma and Lung Disease Research Fund, and would allow taxpayers to designate their own funds (not tax liability) for contribution to the fund on their tax returns in full dollar amounts of \$1 or more.

This bill would require FTB to include a designation space for the fund beginning with the first taxable year another voluntary contribution fund designation is removed. This bill would allow the voluntary contribution designation to remain on the tax return for five years. Starting with the second calendar year, the fund must satisfy the \$250,000 contributions test (or the indexed amount) to remain on the tax return.

This bill would require any contribution amounts designated to the Lung Disease and Asthma Research Fund prior to the fund's repeal continue to be transferred and disbursed pursuant to the article as in effect on January 1, 2002.

Revenue Impact: Assuming the minimum level of contributions are achieved each year, potential revenue losses would be very minor, on the order of \$15,000 annually beginning with the fiscal year commencing after the fund designation appears on filed tax returns. The loss would result from itemized deductions for the contributions.

Staff Recommendation: Neutral

Status: Assembly Revenue and Taxation Committee

AB 2781 (Cohn) As Introduced February 25, 2002
FTB Electronic Filing/ Prohibits Use of Specific Electronic
Products, Services, System, Software or Computer Code

This bill would prohibit the FTB from:

- Offering expanded online tax return filing or developing or making available electronic products or services that would, in any way, determine or calculate a taxpayer's income tax liability.
- Employing the use of any system, software or computer code, online or interactive system, or associated technologies that electronically record, capture, store, observe, or monitor any usage or preparation of electronic tax forms transmitted by a taxpayer, other than the final form transmitted by, or on behalf of, the taxpayer to the FTB.

Revenue Impact: This bill could significantly change the way FTB does business and the way taxes are collected. Given the drastic change in FTB's operation that this bill would require and the number of implementation considerations, a revenue estimate cannot be made. However, for 2000-01 it is known that the taxes administered by FTB brought in more than \$51 billion, representing over 65% of the state's General Fund. This bill would put this tax base at risk.

Staff Recommendation: Oppose

The author's office has indicated to staff that the purpose of this bill is to build consumer confidence and protect taxpayer privacy when e-filing with FTB. However, as introduced, the bill's language is extremely broad and would have significant consequences beyond the indicated intent.

For example, if the term "electronic" in subdivision (a) includes all computer systems that are used to "determine or calculate a taxpayer's income tax liability," this bill could be interpreted to stop the way FTB administers the income tax laws. Since most of FTB's computer systems "determine or calculate income tax liabilities" in some manner, this bill would prohibit the use of all of FTB's mainframe computer systems used in the processing of tax returns and those used in audit and filing enforcement.

Additionally, this bill could prohibit FTB from providing a number of other electronic products/services that determine or calculate income tax liability that would include the following list.

- Tax returns provided on FTB's website.

Revenue Impact: (In Millions)

2002-03	2003-04	2004-05
\$235	\$15	\$15

Staff Recommendation: Neutral**Status:** Assembly Revenue and Taxation Committee

SB 1273 (Haynes) As Introduced January 15, 2002
Credit for contributions to nonprofit educational assistance organization

This bill would allow a credit equal to 70% of the amount of qualifying contributions to a nonprofit educational assistance organization, as defined. The credit would not be applicable to contributions designated for the benefit of a specific student. The nonprofit educational assistance organization would be required to provide to the taxpayer a receipt including the name of the organization, the amount of the contribution, and any additional information required by the FTB. The credit would be in lieu of any otherwise allowable credit or deduction for the contribution.

The bill would be effective immediately upon enactment, and the credit would be operative for taxable years beginning on or after January 1, 2002. Any excess credit could be carried over for five years.

Revenue Impact: Pending

2002-03	2003-04	2004-05
-\$170	-\$185	-\$215

Staff Recommendation: Neutral, if amended

The definition for "nonprofit educational assistance organization" has several grammatical and structural issues that make this bill confusing to read and difficult to administer.

In addition, there are a number of terms that need to be defined to avoid confusion and taxpayer conflict. Definitions are needed for "educational assistance," "administrative expenses," "greatest need," "state's share," "total program," "funded pupil count," and "private educational supplies and materials."

Status: Senate Revenue and Taxation Committee

SB 1275 (Haynes) As Introduced January 17, 2002
100% Credit for Gun Safe or Firearm Safety Equipment

Under the PITL, this bill would allow a 100% credit for the amount paid or incurred for a gun safe or other firearm safety equipment that complies with standards specified in the Penal Code.

The bill would be effective immediately upon enactment, and the credit would be operative for taxable years beginning on or after January 1, 2002. Any excess credit could be carried over until exhausted.

Revenue Impact: (In Millions)

2002-03	2003-04	2004-05
-\$29	-\$32	-\$34

Staff Recommendation: Neutral, if amended

This bill would allow a credit for the purchase of a gun safe regardless of whether the safe was used to store firearms or other valuable items such as jewelry.

Unlike most credits relating to the purchase of property, this bill does not require that:

- The property be purchased and used within California;
- The property be "new," not used property; and
- The taxpayer recapture the credit if the property is subsequently disposed of or removed from the state.

This bill would allow a credit equal to 100% of the cost of the safe or equipment. Credits generally are provided as a percentage of amounts paid or incurred. This bill would allow a 100% credit, which is unprecedented.

This bill does not specify a repeal date or limit the number of years for the carryover period.

Status: Senate Revenue and Taxation Committee

SB 1288 (McClintock) As Introduced January 17, 2002
"Tax Me More" Act

This bill would create the Tax Me More Act, and would allow a taxpayer to pay additional taxes in excess of the taxes owed for the taxable year, if any.

The FTB would be required to revise its personal income tax and bank and corporation tax forms and instructions to include space for the optional payment of additional taxes to fund state operations.

This bill would become effective January 1, 2003, and would apply to taxable years beginning on or after that date.

Revenue Impact: The revenue gain is projected to be insignificant, less than \$100,000 annually.

Staff Recommendation: Oppose, unless amended
The department has identified numerous implementation concerns.

- ◆ The language in this bill is internally inconsistent. While appearing to allow a taxpayer to make a contribution voluntarily to fund state government, this bill refers to the contribution as an “additional tax” and includes it in the amount of “new tax owed.” Several issues arise in connection with this language, including whether:
 - (1) Penalties or interest could be assessed on the “additional tax” in the instance where a taxpayer fails to pay his or her full tax *in toto* or in part.
 - (2) The “additional tax” could be applied to any unpaid tax the taxpayer has due such as understated tax, prior year liabilities, prior discharged amounts, or an underestimate of current tax due.
 - (3) The “additional tax” could be applied to non-tax debt collected by the FTB, including Child Support.
- ◆ The department would need to add three additional lines on all tax returns and programming would be required to capture additional data. Increased pre-filing and post-filing questions would result in increased contacts from taxpayers regarding this new “additional tax.”

Status: Senate Revenue and Taxation Committee

SB 1300 (Haynes) As Introduced January 18, 2002
California New Market Venture Capital Program

This bill would enact the California New Market Venture Capital Program Act of 2002, requiring the Technology, Trade and Commerce Agency (TTCA) to establish a new program by the same name.

This bill would establish two credits. The first credit would be for qualified equity investments in a qualified community development entity. The amount of the credit would vary as follows:

- 5% of the original issue price of the qualified equity investment for the year of the investment and the following two years.
- 6% of the original issue price of the qualified equity investment for the following four years.

The credit would be subject to recapture in the first seven years of the investment if either of the following occurred:

- The entity that used the equity investment ceases to be a qualified community development entity, or
- The proceeds for an equity investment cease to meet the requirements of a qualified equity investment.

This bill would be effective January 1, 2003. However, the tax credits would apply to taxable years beginning on or after January 1, 2002. Any excess credit could be carried over until exhausted.

The second credit would equal 20% of the FMV of any qualified contribution to a qualified donee that was a nonprofit corporation. A qualified donee could include a land conservancy or land trust with the principal purpose to enable housing or community development projects for persons who are disadvantaged, have a transitional need, have low-income, or are a member of a targeted group as defined by the IRC. The credit would be in lieu of any otherwise allowable deduction or credit for the contribution.

The second credit would be operative for taxable years beginning on or after January 1, 2002, and before January 1, 2007. Any excess credit could be carried over until exhausted.

Revenue Impact: (Shown in two parts)

1. Investment in Qualified Community Development Entity (CDE) Credit

The proposed tax credit at the state level is linked to federal allocations from the U.S. Treasury that, as of this analysis, have not been made. Therefore, revenue losses due to the proposed credit are speculative. As possible orders of magnitude, based on prorating federal estimates, revenue losses could be on the order of \$1 million beginning in 2002-03, growing to perhaps \$5 million by 2003-04. This portion of the bill is based on the analysis of SB 1084 from 2001-02.

This bill would require that a qualified CDE be a "domestic" corporation or partnership. Under California Corporations Code Section 167, a domestic corporation means a corporation formed under the laws of California. A requirement that a qualified CDE be a "domestic" corporation or partnership may be subject to constitutional challenge under the Commerce Clause of the United States Constitution.

2. Donations of Cash or Land for Affordable Housing Credit

Orders of Magnitude (\$ Millions)			
<i>Cash and property donation credit</i>	2002-03	2003-04	2004-05
<i>Assumptions*</i>			
\$35 million Donation	(4)	(7)	(7)
\$60 million Donation	(7)	(12)	(12)
\$110 million Donation	(12)	(22)	(22)

Includes \$10 million in cash contributions for each level of possible real property donations.

Staff Recommendation: Neutral, if amended

Substantive amendments are necessary to resolve implementation and policy concerns regarding definitions and the credit certification process.

Status: Senate Housing and Community Development Committee

**SB 1365 (Speier) As Introduced February 6, 2002
California Breast Cancer Research Fund**

This bill would extend the operation of the California Breast Cancer Research Fund from January 1, 2003, to January 1, 2008.

In addition, this bill would authorize the University of California to use up to 5% of the money allocated for administering and promoting the program.

Revenue Impact: The potential revenue losses would be insignificant, \$40,000 or less annually as a result of itemized deductions for the contributions. (This fund received approximately \$641,000 from contributions on the 2000 tax return).

Staff Recommendation: Neutral

Status: Senate Revenue and Taxation Committee