



Analysis of Amended Bill

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| Author: Low | Sponsor: | Bill Number: AB 3143 |
| Analyst: Janet Jennings | Phone: (916) 845-3495 | Amended: June 21, 2018 |
| Attorney: Bruce Langston | Related Bills: See Legislative History | |

Subject: Tax Preparation Act/California Tax Education Council Can Enter Agreement with FTB to Provide Reimbursement to FTB for Assistance in Carrying Out Enforcement Activities

Summary

Among other things, this bill states that the California Tax Education Council (CTEC) may enter into agreements with the Franchise Tax Board (FTB) to provide reimbursement to the FTB for assistance in carrying out enforcement activities consistent with the Tax Preparation Act.

This bill would, under the Business and Professions Code, rename the Tax Preparer Law administered by the CTEC as the "Tax Preparation Act" (Act), modify provisions of the Act, and extend the Act's sunset date.

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

Recommendation – No position.

Summary of Amendments

The bill as introduced February 16, 2018, extended the sunset date for the Tax Preparer Law administered by the CTEC under the Business and Professions Code. The June 21, 2018, amendments recast and renamed the Tax Preparer Law, including specifically authorizing the CTEC to enter into agreements with the FTB.

This is the department's first analysis of the bill.

Reason for the Bill

The reason for the bill is to improve the CTEC's regulatory effectiveness and efficiency consistent with the Assembly Business and Professions Committee staff recommendations made for the purpose of remedying issues identified through CTEC's Sunset Review process and extend the sunset date of the improved program.

Effective/Operative Date

This bill would become effective and operative January 1, 2019, except where specifically operative.

State Law

SB 1077 (Greene, Chapter 1137, Statutes of 1997) shifted responsibility for overseeing tax preparers from the Tax Preparer Program within the Department of Consumer Affairs to a registration program under the newly established CTEC, that is a single nonprofit organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.¹

Under the Business and Professions Code,² it is a violation for a tax preparer to fail to register as a tax preparer with the CTEC and requires the FTB to notify the CTEC when it identifies an individual who violated the registration requirement with the CTEC.³

Under the Revenue and Taxation Code (R&TC),⁴ the FTB may assess a penalty for the failure to register as a tax preparer with the CTEC.

This Bill

Among other things, this bill would specifically authorize the CTEC to enter into an agreement with the FTB to reimburse the FTB for its assistance carrying out enforcement activities consistent with The Tax Preparation Act.

Implementation Considerations

Implementing this bill would not impact the department's programs and operations.

Legislative History

A review of the past five legislative sessions did not find any legislation related to this bill's provisions that impact the department.

Other States' Information

Oregon, Maryland, and New York are the only states that set competency and ethical standards for tax preparers similar to California.

¹ California Business and Professions Code sections 22250-22259.

² California Business and Profession Code section 22253(a)(1).

³ California Business and Profession Code section 22253.2.

⁴ California R&TC section 19167(a)(4).

Fiscal Impact

Reimbursement for providing information, as required in this bill, is normally provided to the FTB through an interagency contract.

Economic Impact

Revenue Estimate

This bill would result in the following revenue gain:

Estimated Revenue Impact of AB 3143 as Amended June 21, 2018
Assumed Enactment after June 30, 2018

| Fiscal Year | Revenue |
|-------------|-----------|
| 2018-2019 | \$150,000 |
| 2019-2020 | \$300,000 |
| 2020-2021 | \$400,000 |

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

Revenue Discussion

This bill extends the sunset date allowing the FTB to issue a penalty to tax preparers that fail to register with the CTEC.

On average, the FTB issues approximately \$700,000 in penalties to tax preparers that fail to register with the CTEC. This amount is grown to account for changes in the economy over time and a collection vintage is applied.

Policy Concern

The R&TC limits the FTB's authority to assessment and collection of a tax preparer penalty for the failure to register as a tax preparer with the CTEC. Any expansion of enforcement activities absent amendments to the R&TC could be problematic.

Support/Opposition

Support: None provided.

Opposition: None provided.

Arguments

Proponents: Some may argue that this bill would allow the FTB to continue to assist the CTEC in enforcement of the registration requirements contained in the Business and Professions Code.

Opponents: Some may argue the CTEC should enforce its registration requirements on its own.

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