

BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Baker, et al.	AB 434

SUBJECT: State Agencies Post on Home Page of Internet Web Site a Signed Compliance Certification

SUMMARY

This bill would require state agencies, including the Franchise Tax Board (FTB), to post biennially on the home page of their Internet Web site a certification signed by the director and the chief information officer of the state agency that they have determined the agency's Internet Web site is in compliance with specified accessibility standards.

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

REASON FOR THE BILL

The reason for the bill is to assure all California State agencies' web sites are fully accessible to persons with disabilities.

EFFECTIVE/OPERATIVE DATE

This bill would become effective January 1, 2018, and operative as to the first signed compliance certification posting to the agency's Internet Web site before July 1, 2019, and biennially before July 1, and thereafter.

BACKGROUND

The FTB has hundreds of systems and applications available for taxpayers to use. Additionally, the FTB has over 1,000 notices and form letters that are utilized to communicate with taxpayers. Many of these forms are annual forms and the FTB maintains older year specific forms on our website as well. Finally, the FTB has over 20,000 webpages on FTB.CA.GOV. Keeping these items accessible considering law changes or software changes is a monumental task. To ensure accessibility, each individual page and form must be reviewed and tested. System and application reviews can require a complete analysis of code. The FTB can test a form or webpage and find it is in compliance, but subsequent to that testing, Google or Microsoft could change their operating systems and this change could cause the FTB products to now be out of compliance. Then the FTB's staff must go back into each page, system, or form to validate continued accessibility and if accessibility issues are found, fix them. With the extensive volume of products, this is time consuming. New products are constantly being added to the market to assist people with disabilities. These new products can display noncompliance issues on the FTB products that would then be identified and fixed. The FTB makes every effort to be in compliance with resources available.

In the past three years, the FTB has been subjected to a lawsuit regarding the accessibility of a certain product (ultimately resolved) and has been audited by the California State Auditor for accessibility with specific findings documented and ultimately resolved. Both of these experiences have allowed the FTB to understand the full complexity of ensuring our products and tools are accessible for all. It also has allowed the FTB to understand the constant risk described in the previous paragraph about maintaining accessibility ongoing.

FEDERAL/STATE LAW

In 1998, Congress amended the Rehabilitation Act of 1973 to require federal agencies and State agencies or contractors that receive federal funding to make their electronic and information technology accessible to people with disabilities. The law (29 U.S.C. § 794 (d)) applies to all federal agencies when they develop, procure, maintain, or use electronic and information technology.

On January 18, 2017, the U.S. Access Board¹ issued a final rule that updates accessibility requirements for information and communication technology in the federal sector covered by Section 508 of the Rehabilitation Act. The rule references Level A and Level AA Success Criteria and Conformance Requirements in Web Content Accessibility Guidelines WCAG 2.0 issued by the World Wide Web Consortium's Web Accessibility Initiative (WAI).

In 2003, the State of California enacted Government Code (GC) Section 11135, requiring all of its agencies and departments to comply with Section 508 of the Rehabilitation Act.

THIS BILL

Before July 1, 2019, and before July 1 biennially thereafter, this bill would require each state agency or entity, including the FTB, to post on the home page of its Internet Web site a certification signed by the agency's director and chief information officer that the agency's Internet Web site is in compliance with Sections 7405 and 11135 of the Government Code, and the Web Content Accessibility Guidelines 2.0, or a subsequent version, as published by the Web Accessibility Initiative of the World Wide Web Consortium at a minimum Level AA success criteria.

In addition, the Director of the Department of Technology would be required to create a standard form that each state agency's or state entity's chief information officer must use to determine if their agency's Internet Web site is in compliance with the required accessibility standards.

LEGISLATIVE HISTORY

None.

¹ The U.S. Access Board is a federal agency that promotes equality for people with disabilities through leadership in accessible design and the development of accessibility guidelines and standards for the built environment, transportation, communication, medical diagnostic equipment, and information technology.

IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

It is unclear what time period the certification would cover. For example, would the certification indicate that as of the date signed the agency's website was in compliance with the specified accessibility standards? For the entire biennial period until the next certificate is posted?

It is unclear whether the specified accessibility standards would apply to an agency's external website, internal website, or both, and whether the standards would apply to both current and archived web content.

The bill is silent as to how the process for reasonable accommodation standard or alternative format under Section 508 (as referenced in section 7405 of the Government Code) would be used to address certain accessibility issues. The author may wish to amend the bill for clarity.

The bill is silent on the corrective action an agency must take and the timing of such action if the agency's website fails to meet any or all of the specified accessibility standards and is unable to file a timely certification. Would content that could not be updated to meet the standards be required to be deleted? Or flagged in some way? How would an agency address a conflict between the specified accessibility standards and how quickly would this need to be completed?

OTHER STATES' INFORMATION

Since this bill would modify reporting and monitoring activities to ensure state agencies and entity's web sites are accessible, a review of other states' income tax laws would not be relevant.

FISCAL IMPACT

Department staff is unable to determine the costs to administer this bill until further clarification of intent is provided by appropriate parties. During the FTB's costing exercise, the FTB reached out to a few other departments to discuss and found that different interpretations as to the requirements of this legislation existed that would have significant impacts on costs. With these multiple interpretations, the FTB's costs to comply could range between \$4 million (consultant funding and ongoing positions) up to \$39 million in 2018/19 and 2019/20 (consultant funding and ongoing positions) with ongoing position costs of \$5 million. The FTB has numerous systems and applications that assist in producing web content displayed within our web pages or applications. Many of these systems are over 25 years old and output may or may not be accessible upon production under current law. In these situations, the FTB has worked diligently in the past years to ensure the majority of our web content is accessible for those webpages and web-based applications most frequently used. For the remainder, the FTB works closely with taxpayers to ensure they have an accessible document upon request.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue unless the FTB would be required to remove applications, forms, or webpages from the public domain until they are accessible.

APPOINTMENTS

None.

SUPPORT/OPPOSITION²

Support: Coalition of California Welfare Rights Organizations, Inc., Alameda County Board of Supervisors.

Opposition: Disability Rights of California.

VOTES

	Date	Yes	No
Concurrence	09/13/17	78	0
Senate Floor	09/12/17	39	0
Assembly Floor	05/30/17	76	0

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² According to the July 7, 2017, Senate Committee on Governmental Organization bill analysis of the bill as amended July 3, 2017.