Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Wieckowski	Analyst:	Janet Jennings	Bill Number:	SB 775
Related Bills:	None	Telephone:	845-3495	Amended Date:	May 1, 2017
		Attorney:	Bruce Langston	Sponsor:	

SUBJECT: FTB in Consultation with Climate Dividend Access Board, Develop, Implement & Administer California Climate Dividend Program

SUMMARY

This bill would modify provisions of the Government Code and Health and Safety Code relating to greenhouse gas reduction that are administered by the State Air Resources Board (SARB) and establish a per capita dividend program to be administered by the Franchise Tax Board (FTB).

RECOMMENDATION – NO POSITION

Summary of Amendments

The May 1, 2017, amendments removed language related to identifying strategies and methods of reducing greenhouse gases and replaced it with the provisions discussed in this analysis. This is the department's first analysis of the bill.

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 provide the state with a stable revenue program to fund the state's priorities.

EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective and operative immediately upon enactment.

FEDERAL/STATE LAW

A review of federal and state laws found no statutes mandating a per capita payment program as would be required by this bill.

THIS BILL

This bill would, under the program administered by SARB to reduce greenhouse gases:

- Create in the State Treasury the following three funds to be funded from the proceeds of the quarterly allowance auctions as specified:

- The California Climate and Clean Energy Research Fund, which would receive the first unspecified amount each year.
- The California Climate Dividend Fund, which would receive the next unspecified amount each year.
- The California Climate Infrastructure Fund, which would receive the amount remaining after the prior deposits are made each year.

- Require the SARB, in consultation with the FTB, to prepare an annual report summarizing the collection and disposition of all moneys collected from the quarterly allowance auctions.
- Require the SARB and the FTB to use conservative accounting management practices to maintain sufficient reserves in each of the funds established by this bill.
- Specify that appropriate accounting management practices may include reasonable projections determined on an annual basis of expected revenue collection to achieve the money collection and disposition requirements of the quarterly allowance auction regime, the Economic Competitiveness Assurance Program, and the California Climate Dividend Program this bill would establish.

This bill would establish the Economic Competitiveness Assurance Program that would be administered by the SARB. Monies collected under this program would be required to be deposited in the California Climate Dividend Fund this bill would create.

This bill would also establish the California Climate Dividend Program (Dividend Program) and designate the FTB as the administering agency. Specifically, the Dividend Program provisions would:

- Establish the Climate Dividend Access Board (Access Board), specify the composition of the Access Board, and require the Access Board to:
  - Conduct periodic workshops and make recommendations to the FTB on how to effectively and safely distribute climate dividends to residents of communities in the state that are difficult to reach including, homeless, unbanked, underbanked, and undocumented residents.
  - Consider methods to minimize the cost to the state and its residents of alternative climate dividend distribution methods with the goal of maximizing the benefit of climate dividends to the state's residents.
- Require the FTB in consultation with the Access Board to:
  - Develop and implement a program to deliver quarterly per capita dividends to all residents and maximize the ease of enrollment in the program that may include automatic enrollment of residents who filed a state income tax return in the prior year.

- Employ reasonable estimates of expected carbon revenue collection, the projected number of residents, and set aside reasonable reserve margins from period to period to ensure that the per capita refund allows the available moneys in the California Climate Dividend Fund to remain undepleted.

- Allow the FTB to:
    - Determine an appropriate frequency of dividends for a category of residents upon the determination, in consultation with the Access Board, that a quarterly dividend is impracticable for any particular category of residents. The appropriate frequency must be at least once per year.
    - Allocate dividends to nonprofit organizations that are providing direct services to a category of residents in lieu of allocating such dividends to that category of residents upon the determination, after consultation with the Access Board, that a workable mechanism to distribute dividends to such residents is unavailable.

- Specify that:
    - All revenues generated by the quarterly allowance auction regime and the Economic Competitiveness Assurance Program constitute state funds for the purposes of the False Claims Act.
    - The provisions of the Dividend Program would have no effect on the implementation of any other requirements of Division 25.5 of the Health and Safety Code, including regulations developed pursuant to Part 5 of Division 25.5 of the Health and Safety Code.

IMPLEMENTATION CONSIDERATIONS

Department staff has identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

This bill lacks administrative details necessary to implement the California Client Dividend Program and to determine its impacts to the department's systems, forms, and processes. The bill is silent on the following issues:

> The term "California resident" is undefined. For example, should the term be limited to individuals? How long must the California resident be in the state to be eligible? Whether the payment should include all ages and income levels? In addition, it is not clear if individuals who are incarcerated or currently supported by state funds (welfare, foster care, Medi-Cal, general assistance) are eligible. Further, if payments are to be provided to minors it is unclear who will be able to accept the payment on their behalf. The bill should be amended to clearly define who and what the criteria is for eligibility in the program.

It is unclear if dividend payments would be issued to only those residents who enroll in the program or every California resident. The bill should be amended to clarify if enrollment is required for receipt of a dividend distribution.

The FTB administers the California Revenue and Taxation Code (R&TC). This bill's provisions are placed in the Government and Health and Safety Codes. Provisions for the FTB to administer the program should instead be added to the R&TC.

LEGISLATIVE HISTORY

None.

OTHER STATES' INFORMATION

The states surveyed include *Florida*, *Illinois*, *Massachusetts*, *Michigan*, *Minnesota*, and *New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

None of these states provide a per capita distribution comparable to the one proposed by this bill.

FISCAL IMPACT

Department staff is unable to determine the costs to administer this bill until the implementation concerns have been resolved, but anticipate the costs to be significant. The bill would require the FTB to set-up of a new program area to administer the receipt of registrations, calculate the available dividends, distribute the dividends, and monitor for fraud.

ECONOMIC IMPACT

Revenue Estimate

This bill does not modify the R&TC, and would not change the calculation of tax.

Under current State and Federal law dividend income is considered taxable income. The distribution of these dividends would result in additional taxable income for Californians and a revenue gain. To the extent this new program increases the amount and price of allowances purchased there would be in increase in business expenses that would result in a revenue loss. The department does not have enough information to determine the relative magnitude of these effects, and are unable to determine whether the net effect of the program would be a revenue increase or decrease.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion

This bill creates the California Climate Dividend Program which would be administered by the FTB. The program would be funded by the auctioning of allowances and the Economic Competitive Assurance Program. The bill does not specify what percentage of the revenue raised by auction would be directed towards the California Climate Dividend Program. The money raised by the Economic Competitive Assurance Program would be directed towards the California Climate Dividend Program.

The California Climate Dividend Program would require the FTB to distribute dividends from the fund to California residents on a per capita basis. This bill does not modify the R&TC, and would not change the calculation of tax. Under current State and Federal law dividend income is considered taxable income and would result in a revenue gain.

In addition, this bill eliminates free allowances. The tax regime surrounding allowances is uncertain but it is general consensus that free allowances are not considered taxable income. However, allowances purchased at auction would be a business expense and deducted against income during the year in which it was used. To the extent that this new program increases the amount and price of allowances purchased there would be in increase in deductions resulting in a revenue loss.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

ARGUMENTS

Proponents: Some may argue that the per capita payments would alleviate the additional costs passed to consumers by businesses required to comply with the climate change and greenhouse reduction plan.

Opponents: Some may argue that funds should be placed in the General Fund in order for the Legislature to direct the spending on the based on the state’s priorities.

POLICY CONCERNS

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of the credit by the Legislature.

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