



Bill Analysis

Author: Hill	Sponsor:	Bill Number: SB 937
Analyst: Jahna Carlson	Phone: (916) 845-5683	Introduced: February 6, 2020
Attorney: Shane Hofeling	Related Bills: See Legislative History	

SUBJECT

State Agencies Web Accessibility Temporary Removal Process

SUMMARY

This bill would under the Government Code, establish a method for the removal of documents from a state agency's internet website when a verified justifiable impediment to accessibility exists.

RECOMMENDATION

No position

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for this bill is to ensure transparency when documents are removed from a state agency's internet website and to enhance state government transparency regarding the removal and ongoing access to such documents.

ANALYSIS

This bill would under the Government Code, allow state agencies, including the Franchise Tax Board (FTB), to temporarily remove public documents from its internet website when a justifiable impediment exists that prevents a document from being compliant with the applicable accessibility requirements, the Director of Technology has verified the impediment prohibits full compliance, and the state agency does all of the following:

- Cite the reason for the document's removal.
- List the type, title, data, and number of pages or file size of each removed document on the agency's internet website in an Americans with Disabilities Act (ADA)-compliant digital format.

- List options and instructions on the site for obtaining access to the document offline and how to contact the agency with further questions through use of an ADA compliant platform and channel.
- Provide information about when or if the agency will be converting the removed document and restoring it to a digitally accessible, ADA compliant site.

This bill would apply to any file or document removed from a state agency's internet website after October 14, 2017.

Effective/Operative Date

Assuming this bill is signed by September 30, 2020, it would be effective January 1, 2021, and would apply to any file or document removed from a state agency's internet website after October 14, 2017.

Federal/State Law

Federal 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 Board 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).

State Law

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.

Current state law requires state agencies, including the FTB, to post before July 1, 2019, and before July 1, biennially thereafter on the front page of their Internet Web site a certification signed by the state agency's director and chief information officer that the agency's Internet Web site is in compliance with specified accessibility standards utilizing the standard form developed by the Department of Technology.

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 uses the undefined terms, "justifiable impediment," "all documents," "public documents," "file," and "document." The absence of definitions to clarify these terms could lead to disputes with taxpayers and would complicate the administration of this bill. To ensure consistency with the author's intent this bill should be amended to clearly define the terms.

The bill lacks an exception to allow content removal and updates during routine website maintenance and optimization thus subjecting all content changes to the bill's verification process. If this is contrary to the author's intent this bill should be amended.

It is unclear whether the verification process would apply to both temporary and permanent document removal. For example, the bill uses the term "temporarily remove" in subdivision (c) and uses the phrase "when or if the agency will be converting the removed document..." in paragraph (4) of subdivision (c). To ensure consistency with the author's intent, this bill should be amended.

The bill is silent on when, how often, and in what format the FTB would request from and receive verification of a justifiable impediment from the Director of Technology. The bill also lacks a timeframe for the Director's response and a process for appealing a decision. The author may wish to amend the bill to address these details.

This bill would apply retroactively to files or documents removed from a state agency's website after October 14, 2017, and would require the department to identify and obtain the required verification from the Director of Technology on all content removed from the website since that date, which would be quite costly. Further, it is unclear how the department could determine the reason each item was removed during this period. The author may wish to amend the bill's operative date to limit or eliminate the retroactive application.

Technical Considerations

The undefined terms "justifiable impediment" and "impediment" are used interchangeably. For consistent terminology it is recommended that the bill be amended to replace "impediment" with "justifiable impediment" throughout the bill.

Policy Concerns

Introducing a verification process to improve transparency could delay the dissemination of up-to-date information to the public via a state agency's website.

LEGISLATIVE HISTORY

AB 434 (Baker, et al., Chapter 780, Statutes of 2017) requires state agencies, including the FTB, to post before July 1, 2019, and before July 1, biennially thereafter on the front page of their Internet Web site a certification signed by the state agency's director and chief information officer that the agency's Internet Web site is in compliance with specified accessibility standards.

PROGRAM BACKGROUND

On July 1, 2019, the FTB launched a new website design in compliance with California GC sections 7405 and 11135. GC Section 7405 requires that State of California government agency websites must meet accessibility requirements.

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. The FTB makes every effort to be in compliance with resources available and our current website is accessible as required.

Prior to the launching of our new website on July 1, 2019, in addition to the documents that remain on our current website, the FTB had over 20,000 documents on FTB.CA.GOV. A significant portion of these, while containing valuable information, were never accessed. Keeping these items accessible considering law changes or software changes was a monumental task that was not able to be done with existing resources. 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, changes to computer operating systems can occur and this change could cause the FTB products to now be out of compliance. If that occurs, FTB 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 and the FTB was not able to do this with existing resources. Due to the limited accessing of these documents, and lack of resources, the FTB removed many of these documents from our current website. Each of these documents would now be subject to review under the provisions of this proposed law which would be a substantial and time consuming effort.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined but are expected to be in the tens of millions of dollars both initially and potentially on an on-going basis. As the bill moves through the legislative process and implementation considerations are resolved, costs will be identified.

ECONOMIC IMPACT

Revenue Estimate

This bill as introduced on February 6, 2020, would not impact state income or franchise tax revenue.

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.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE STAFF CONTACT

Jahna Carlson
Legislative Analyst, FTB
(916) 845-5683
jahna.carlson@ftb.ca.gov

Bill Analysis
Introduced February 6, 2020

Bill Number: SB 937

Tiffany Christiansen
Revenue Manager, FTB
(916) 845-5346
tiffany.christiansen@ftb.ca.gov

Annette Kunze
Legislative Director, FTB
(916) 845-6333
annette.kunze@ftb.ca.gov