

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 16, 2008

BILL NUMBER: AB 3079

POSITION: Neutral, note concerns

AUTHOR: Assembly Revenue and Taxation

SPONSOR: State Board of Equalization

**BILL SUMMARY: Taxation: State Board of Equalization**

Under current law no agency may disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains. However, the Department of Industrial Relations (DIR) is not specifically prohibited from releasing information in its records that would assist the Board of Equalization (BOE) in the administration of the sales and use tax (SUT) law.

This bill would provide that DIR may permit any authorized representative of the BOE to obtain information available in DIR's records that could assist the BOE in determining compliance with the SUT law. The bill would allow persons who voluntarily tell BOE that they have an unpaid use tax obligation to be held liable for only three years of the unpaid debt as opposed to the currently required eight years. The bill also would impose reporting requirements for train operators regarding the purchase, use and transport of gasoline and diesel fuel, and delete the sunset date of BOE's Managed Audit Program thereby extending that program indefinitely.

**FISCAL SUMMARY**

Finance concurs with BOE estimates of \$2.5 million (\$1.6 million General Fund) additional annual revenue, beginning in 2009-10, resulting from the SUT provisions of this measure. BOE anticipates an increase in Motor Vehicle and Diesel Fuel tax revenues as a result of this bill but is unable to quantify the increase at present.

BOE also estimates that it would incur additional administrative costs in the amount of \$90,000 annually as a result of this measure. We note that, absent an appropriation to fund the \$90,000 cost, resources would have to be re-directed from other workload to administer this measure. DIR has not yet quantified its possible costs, but has expressed concern that those costs may not be absorbable.

**COMMENTS**

Finance notes the following concern regarding this bill:

- While this bill would generate additional General Fund revenue, it contains no appropriation authority for the known BOE implementation costs. This could force BOE to redirect resources from other workload. It is expected that any request for additional resources will be addressed in the annual budget process.

Analyst/Principal (0762) C. Hill	Date	Program Budget Manager Mark Hill	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

**BILL ANALYSIS** Form DF-43 (Rev 03/95 Buff)

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**ANALYSIS****A. Programmatic Analysis**

Under current law no agency may disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains. However, the DIR is not specifically prohibited from releasing information in its records that would assist the BOE in the administration of the SUT laws.

Existing law provides that persons who fail to file a return and pay their SUT obligations can be held liable for past tax obligations, together with interest and penalties, for up to eight prior years subsequent to the issuance of a deficiency determination by BOE, except in the case of fraud which has no limitation period.

The Motor Vehicle Fuel Tax and the Diesel Fuel Tax laws, impose an excise tax of \$0.18 per gallon on the removal of gasoline or diesel fuel at the refinery or terminal rack, upon entry into the state, and upon sale to an unlicensed person, unless specifically exempted.

Existing law, until January 1, 2009, provides for a Managed Audit Program that allows certain taxpayers to conduct a type of self-audit of SUT obligations with instructions and guidance from BOE auditors. Taxpayers meeting specified criteria enter into a Managed Audit Program Participation Agreement and may then conduct many of the audit tasks that would ordinarily be performed by BOE auditors.

This bill would:

- Provide that, upon request by BOE, DIR may permit any authorized representative of the BOE to obtain information available in DIR's records that could assist BOE in determining compliance with the SUT.
- Provide that a deficiency determination against a person who voluntarily discloses unpaid SUT debt shall be limited to three years as opposed to eight. This would apply to persons who voluntarily file an Individual SUT Return for tangible personal property, excluding vehicles, vessels, or aircraft, that are purchased from a retailer outside of California for storage, use, or consumption in the state, and that meets specified conditions.

The purpose is to incentivize people with unpaid Use Tax obligations to report these obligations to BOE. In return, they would only be held liable for three years worth of unpaid debt, as opposed to the currently required eight years. The exemption would only apply in cases where the debt was unpaid due to non-fraudulent reasons.

- For purposes of the Motor Vehicle Fuel Tax law, expand the definition of "train operator" to include a person that owns, operates, or controls any train that is licensed as a railroad by a state or federal agency.
- For purposes of the Motor Vehicle Fuel Tax law and the Diesel Fuel Tax law, require every train operator that transports specified fuel into, out of, or within this state to obtain a license from BOE.
- Require each train operator to prepare and file a report with BOE, which must include information regarding the amount of, location of, and date of delivery of, specified fuel and any other information required by BOE for proper administration of the Motor Vehicle Fuel Tax law and the Diesel Fuel Tax law.

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- Delete the January 1, 2009 sunset date for BOE's Managed Audit Program, thereby extending the program indefinitely.

#### B. Fiscal Analysis

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BOE also estimates that it would incur additional administrative costs in the amount of \$90,000 annually as a result of this measure. We note that, absent an appropriation to fund the \$90,000 cost, resources would have to be re-directed from other workload to administer this measure. DIR has not yet quantified its possible costs, but has expressed concern that those costs may not be absorbable.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)								Fund Code
	LA CO RV	PROP 98	FC	2007-2008	FC	2008-2009	FC	2009-2010		
0860/Equalization	SO	No		--	C	\$45	C	\$90	0001	
1149/Sale Use Tax	RV	No		--	U	\$762	U	\$1,574	0001	
1149/Sale Use Tax	RV	No		--	U	\$39	U	\$79	3059	
1149/Sale Use Tax	RV	No		--	U	\$78	U	\$157	0969	
1149/Sale Use Tax	RV	No		--	U	\$345	U	\$689	0331	
7350/DIR	SO	No		----- See Fiscal Analysis -----					0001	
1138/MV Gas Tax	RV	No		----- See Fiscal Analysis -----					0061	
1140/MV Diesl Tax	RV	No		----- See Fiscal Analysis -----					0061	

<u>Fund Code</u>	<u>Title</u>
0001	General Fund
0061	Motor Vehicle Fuel Account, TTF
0331	Sales Tax Account, Local Revenue Fund
0969	Public Safety Account, LPSF
3059	Fiscal Recovery Fund