

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: June 30, 2010
POSITION: Oppose

BILL NUMBER: X6 SB 19
AUTHOR: D. Florez
RELATED BILLS: AB 2666

BILL SUMMARY: Franchise Tax Board: tax expenditure reporting

This bill would require the Franchise Tax Board (FTB) to annually compile specified information related to publicly traded corporations receiving credits of \$20,000 or more, commencing with information from the 2010 taxable year, in a timely manner to be included on the State Reporting Transparency in Government Internet Website.

FISCAL SUMMARY

The FTB estimates a one-time cost of implementation of \$111,000 in 2010-11 to develop, program, and test system changes, and an ongoing cost of \$46,000.

The Office of the Chief Information Officer (OCIO) estimates the costs related to this bill at \$70,000, a one-time cost for development, and an annual ongoing cost of \$15,000 for maintenance and storage.

COMMENTS

This bill is contrary to long-standing general tax policy that keeps tax payer information confidential. The tax system is primarily based on self compliance. If tax payers believe their personal or business lives will be exposed to public scrutiny and possibly used by business competitors, it may discourage tax compliance or give incentive for tax payers to leave the state. This bill would provide preferential treatment to businesses that are not publicly traded in that they would not have to disclose credit use. There is no apparent public policy reason for such a market intervention.

Finance is also opposed to this bill because it would increase the FTB's workload and result in additional unplanned costs to the department and to the OCIO which cannot be absorbed within existing resources.

Analyst/Principal (0724) R. Lawrence	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**

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake.

Existing state law prohibits the disclosure of any taxpayer information, except as specifically authorized by statute. Generally, disclosure is authorized to other state tax agencies, federal tax agencies, and the Multistate Tax Commission solely for tax administration purposes. Additionally, the FTB is authorized to publish statistical data related to taxpayer information so long as no individually identifiable information is revealed. Unauthorized disclosure of state tax information is a misdemeanor and unauthorized disclosure of federal tax information is a felony.

Current law also requires the FTB to compile and make publicly available an annual list that identifies the largest 250 tax delinquencies that exceed \$100,000 selected from both the personal income tax and corporation tax records. This has induced some tax payers to pay tax debt.

Existing law requires the Department of Finance (DOF) to provide an annual report to the Legislature on tax expenditures providing details on individual categories of the expenditures and historical information on the enactment and repeal of the expenditures. This information is intended to be used to uniform any debate about continuing or changing state tax expenditures.

This bill

Would require the FTB to annually compile the following information, commencing with information based on the 2010 taxable year:

The name, mailing addresses, and California corporation number of a publicly traded corporation receiving credits of \$20,000 .

The amount of credits claimed by the publicly traded corporation.

The information is to be compiled for timely inclusion on the OCIO's Reporting Transparency in Government Internet Website.

"Publicly traded corporation" would means a corporation with securities that are either listed or admitted to trading on a national or foreign exchange, or are the subject of two way quotations, such as bid and asked prices, that are regularly published by one or more broker-dealers in the National Daily Quotation Service or similar service.

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This bill would require the following information to be compiled on a credit-by-credit basis and to be searchable by the publicly traded corporation's name, corporation number (when available), expenditure type, and key word:

- The publicly traded corporation's name
- The California corporation number (when applicable)
- The name of the tax credit claimed
- The amount of the tax credit claimed
- A description of the initial justification for the tax expenditure

The data provided on the website must be downloadable to a spreadsheet by the public from the state Reporting Transparency in Government Internet Website.

Related Bill:

AB 2666 as amended June 30, 2010, would require the FTB to annually compile tax expenditure information claimed on tax returns of publicly traded companies and submit the information to the State Chief Information Officer.

B. Fiscal Analysis

According to the FTB, this bill would not impact state income tax revenues.

Costs:

The FTB estimates a one-time cost of implementation of \$111,000 in 2010-11 to develop, program, and test system changes, and an ongoing cost of \$46,000. According to the FTB, in the current fiscal climate the increased resources necessary to carry out these provisions would require additional funding which would be requested as budget augmentation if not provided for in the bill. The FTB further notes that if approval of a budget augmentation is denied, it may be unable to implement the provisions of this bill.

The OCIO estimates the cost related to this bill at \$70,000, a one-time cost for development, and an annual ongoing cost of \$15,000 for maintenance and storage. The OCIO notes that these estimates are based on the assumption that the FTB would develop, maintain, upload the data and provide the data in an exportable format to be posted on the website. According to OCIO, these costs cannot be absorbed within their budget.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							Fund Code
	LA	(Dollars in Thousands)							
	CO RV	PROP 98	FC	2010-2011	FC	2011-2012	FC	2012-2013	
1104/Corp Tax	RV	Yes		----- No/Minor Fiscal Impact -----					0001
1730/FTB	SO	No	C	\$111	C	\$46	C	\$46	0001
0502/Chief Info	SO	No	C	\$70	C	\$15	C	\$15	0001