

AMENDED IN SENATE APRIL 29, 2008

AMENDED IN SENATE APRIL 3, 2008

SENATE BILL

No. 1146

Introduced by Senator Cedillo

February 4, 2008

An act to amend ~~Sections 19551 and 19551.1 of, and to add Section 19551 of, to amend and repeal Section 19551.1 of, and to add and repeal Section 19551.5 to, of, the Revenue and Taxation Code, relating to taxation.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1146, as amended, Cedillo. Tax administration: disclosure of information: Franchise Tax Board and cities.

Existing franchise and income tax laws authorize the Franchise Tax Board to permit tax officials of any city that executed an agreement with the board, as provided, to obtain specified tax information from the board. Existing law authorizes the Franchise Tax Board, until December 31, 2011, to disclose to tax officials of any city, subject to certain specified requirements, a taxpayer's name, address, social security or taxpayer identification number, and business activity code, as provided, but limits the use of that information to employees of the taxing authority of a city.

This bill would revise those provisions by ~~deleting~~ *extending* that repeal date *to January 1, 2014*, and by authorizing a city that has entered into a reciprocal agreement, as defined, with the Franchise Tax Board to obtain specified tax information from the Franchise Tax Board, as provided. This bill would also allow a city to request any other information from the Franchise Tax Board by using an affidavit, as provided.

This bill would also require cities to annually furnish to the ~~board~~ *Franchise Tax Board* specified information that is collected in the course of administration of the city's ~~or county's~~ business tax program, as described, *and would repeal these provisions on January 1, 2014*. By imposing additional duties on local agencies, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that reimbursement for these costs shall be provided for at a specified rate in the annual Budget Act beginning in the 2009–10 fiscal year and each fiscal year thereafter. This bill would also provide that, if the Commission on State Mandates or a California court of appellate jurisdiction determines that the costs to local agencies exceeds the specified rate, the provisions of the bill shall be repealed.

Vote: majority. Appropriation: no. Fiscal committee: yes.
 State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 19551 of the Revenue and Taxation Code
 2 is amended to read:
 3 19551. (a) The Franchise Tax Board may permit the
 4 Commissioner of Internal Revenue of the United States, other tax
 5 officials of this state, the Multistate Tax Commission, the proper
 6 officer of any state imposing an income tax or a tax measured by
 7 income or the authorized representative of that officer, or the tax
 8 officials of Mexico, if a reciprocal agreement exists, to inspect the
 9 income tax returns of any taxpayer, or may furnish to the
 10 commission, or the officer or the authorized representative thereof
 11 an abstract of the return or supply thereto information concerning
 12 any item of income contained in any return or disclosed by the
 13 report of any investigation of the income or return. The information
 14 shall be furnished to the Multistate Tax Commission, the federal
 15 or state officer or his or her representative, or the officials of
 16 Mexico for tax purposes only. Except when furnished pursuant to
 17 a written agreement, information furnished pursuant to this section
 18 shall be furnished only if the request is in the form of an affidavit
 19 under penalty of perjury stating that the purpose for the request
 20 relates to an investigation of the tax specified in the request and

1 that the information will be used in the ordinary performance of
2 the applicant’s official duties.

3 (b) For purposes of this section, “reciprocal agreement” means
4 a formal agreement to exchange information between national
5 taxing officials of Mexico and taxing authorities of the State Board
6 of Equalization, the Franchise Tax Board, and the Employment
7 Development Department. Furthermore, the reciprocal agreement
8 shall be limited to the exchange of information which is essential
9 for tax administration purposes only. Taxing authorities of the
10 State of California shall be granted tax information only on
11 California residents. Taxing authorities of Mexico shall be granted
12 tax information only on Mexican nationals.

13 SEC. 2. Section 19551.1 of the Revenue and Taxation Code
14 is amended to read:

15 19551.1. (a) (1) The Franchise Tax Board may permit the tax
16 officials of any city to enter into a reciprocal agreement with the
17 Franchise Tax Board to obtain tax information from the Franchise
18 Tax Board, as specified in subdivision (b).

19 (2) For purposes of this section, “reciprocal agreement” means
20 a formal agreement to exchange information for tax administration
21 purposes between tax officials of a city and taxing authorities of
22 the Franchise Tax Board.

23 (b) The information furnished to tax officials of a city under
24 this section shall be limited as follows:

25 (1) The tax officials of a city are authorized to receive
26 information only with respect to taxpayers with an address as
27 reflected on the Franchise Tax Board’s records within the
28 jurisdictional boundaries of the city who report income from a
29 trade or business to the Franchise Tax Board.

30 (2) The tax information that may be provided by the Franchise
31 Tax Board to a city is limited to a taxpayer’s name, address, social
32 security or taxpayer identification number, and business activity
33 code.

34 (3) Tax information provided to the taxing authority of a city
35 may not be furnished to, or used by, any person other than an
36 employee of that taxing authority.

37 (4) The information provided to the tax officials of the city by
38 the Franchise Tax Board under this section is subject to Section
39 19542, and may not be used for any purpose other than the city’s

1 tax enforcement, or as otherwise authorized by state or federal
2 law.

3 (5) Section 19542.1 applies to this section.

4 (c) The Franchise Tax Board may not provide any information
5 pursuant to this section until all of the following have occurred:

6 (1) An agreement has been executed between a city and the
7 Franchise Tax Board, that provides that an amount equal to all
8 first year costs necessary to furnish the city information pursuant
9 to this section shall be received by the Franchise Tax Board before
10 the Franchise Tax Board incurs any costs associated with the
11 activity permitted by this section. For purposes of this section, first
12 year costs include costs associated with, but not limited to, the
13 purchasing of equipment, the development of processes, and labor.

14 (2) An agreement has been executed between a city and the
15 Franchise Tax Board, that provides that the annual costs incurred
16 by the Franchise Tax Board, as a result of the activity permitted
17 by this section, shall be reimbursed by the city to the board.

18 (3) Pursuant to the agreement described in paragraph (1), the
19 Franchise Tax Board has received an amount equal to the first year
20 costs.

21 (d) Any information, other than the type of tax information
22 specified in subdivision (b), may be requested by the tax officials
23 of a city or county from the Franchise Tax Board by affidavit. At
24 the time a tax official makes the request, he or she shall provide
25 the person whose information is the subject of the request, with a
26 copy of the affidavit and, upon request, make the information
27 obtained available to that person.

28 (e) This section does not invalidate any other law. This section
29 does not preclude any city or county from obtaining information
30 about individual taxpayers, including those taxpayers exempt from
31 this section, by any other means permitted by state or federal law.

32 (f) Nothing in this section shall be construed to affect any
33 obligations, rights, or remedies regarding personal information
34 provided under state or federal law.

35 (g) Notwithstanding subdivision (c), the Franchise Tax Board
36 shall waive a city's reimbursement of the Franchise Tax Board's
37 cost if a city enters into a reciprocal agreement as provided in
38 paragraph (2) of subdivision (a). The reciprocal agreement shall
39 specify that each party shall bear its own costs to furnish the data
40 involved in the exchange authorized by this section and Section

1 19551.5, and a city shall be precluded from obtaining
2 reimbursement as specified under Section 4 of the act adding this
3 subdivision.

4 *(h) This section shall remain in effect through and including*
5 *December 31, 2013, and shall be repealed on January 1, 2014.*

6 SEC. 3. Section 19551.5 is added to the Revenue and Taxation
7 Code, to read:

8 19551.5. (a) Notwithstanding any other law, each city that
9 assesses a city business tax or requires a city business license shall
10 annually submit to the Franchise Tax Board the information that
11 is collected in the course of administration of the city's business
12 tax program, as described in subdivision (b).

13 (b) Information, collected in the course of administration of the
14 city's business tax program, shall be limited to the following:

15 (1) Name of the business, if the business is a corporation,
16 partnership, or limited liability company, or the owner's name if
17 the business is a sole proprietorship.

18 (2) Business mailing address.

19 (3) Federal employer identification number, if applicable, or
20 the business owner's social security number.

21 (4) Standard Industrial Classification Code (SIC) or North
22 American Industry Classification System (NAICS) Code.

23 (5) Business start date.

24 (6) Business cease date.

25 (7) City number.

26 (8) Ownership type.

27 (c) The reports required under this section shall be filed on
28 magnetic media such as tapes or compact discs, through a secure
29 electronic process, or in other machine-readable form, according
30 to standards prescribed by regulations promulgated by the
31 Franchise Tax Board.

32 (d) Cities shall begin providing to the Franchise Tax Board with
33 the information required by this section as soon as economically
34 feasible, but no later than December 31, 2009. The information
35 shall be furnished annually at a time and in the form that the
36 Franchise Tax Board may prescribe by regulation.

37 (e) The city data provided to the Franchise Tax Board under
38 this section is subject to Section 19542, and may not be used for
39 any purpose other than state tax enforcement or as otherwise
40 authorized by law.

1 (f) If a city enters into a reciprocal agreement with the Franchise
2 Tax Board pursuant to subdivision (a) of Section 19551.1, the city
3 shall also waive reimbursement for costs incurred to provide
4 information required under this section and shall be precluded
5 from obtaining reimbursement as specified under Section 4 of the
6 act adding this subdivision. The reciprocal agreement shall specify
7 that each party shall bear its own costs to furnish the data involved
8 in the exchange authorized by Section 19551.1 and this section,
9 and the Franchise Tax Board shall be precluded from obtaining
10 reimbursement as specified under subdivision (c) of Section
11 19551.1.

12 (g) *This section shall remain in effect through and including*
13 *December 31, 2013, and shall be repealed on January 1, 2014.*

14 SEC. 4. (a) Reimbursement to local agencies for those costs
15 mandated by the state pursuant to this act shall be provided for
16 beginning in the 2009–10 fiscal year and each fiscal year thereafter,
17 by an appropriation in the annual Budget Act. Reimbursement for
18 costs mandated by the state pursuant to Section 19551.1 of the
19 Revenue and Taxation Code, as added by this act, shall be for
20 actual costs incurred by the local agency to provide records in the
21 manner prescribed by the Franchise Tax Board, not to exceed a
22 rate of one dollar (\$1) per usable record submitted by the local
23 agency to the Franchise Tax Board beginning in the 2009–10 fiscal
24 year. The rate shall be annually adjusted in the Budget Act for the
25 implicit price deflator.

26 (b) In the event of a determination by the Commission on State
27 Mandates or a final judicial determination by a California court
28 of appellate jurisdiction that the costs mandated by the state
29 pursuant to this act exceed the rate provided for by subdivision
30 (a), this act shall be repealed 90 days after the date on which the
31 Commission on State Mandates adopts the statement of decision
32 or 90 days after the date on which the first such judicial
33 determination becomes final.

34 (c) This act shall not be repealed pursuant to subdivision (b) if
35 the Director of Finance files a written Notice of Intent to Appeal
36 with the Commission on State Mandates within 90 days of the
37 adoption of a statement of decision finding that the costs mandated
38 by the state pursuant to this act exceed the rate provided for by
39 subdivision (a). The Notice of Intent to Appeal shall consist of a
40 written notice setting forth the intention of the Director of Finance

- 1 to seek judicial review of the decision of the Commission on State
- 2 Mandates.

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