ASSEMBLY BILL No. 77

Introduced by Assembly Member Gorell

January 3, 2011

An act to add Section 15627 to, and to repeal Part 10 (commencing with Section 15700) of Division 3 of Title 2 of, the Government Code, and to add Section 20.5 to the Revenue and Taxation Code, relating to governmental organization.

legislative counsel's digest

AB 77, as introduced, Gorell. Governmental reorganization: tax functions.

(1) Existing law provides for the establishment of the Franchise Tax Board and prescribes its various powers and duties regarding the administration of state personal income taxes and corporation franchise and income taxes. The State Board of Equalization collects and administers various taxes and fees imposed under specified programs and serves as an arbiter for the resolution of tax disputes involving the imposition of fees and taxes, including those taxes administered by the Franchise Tax Board.

This bill would abolish the Franchise Tax Board, and would provide for the transfer of its powers and duties to the State Board of Equalization, effective January 1, 2013.

(2) Existing law imposes, on employers in this state, unemployment insurance taxes that are administered by the Employment Development Department. Existing law also imposes taxes on insurance companies that are administered by the Department of Insurance.

This bill would also provide for the transfer of the tax administrative functions performed by the Employment Development Department and the Department of Insurance to the State Board of Equalization, effective January 1, 2013.

(3) This bill would require the State Board of Equalization to submit a report to the Governor and the Legislature, on or before June 30, 2012, regarding the board's assumption of the duties of the Franchise Tax Board and the assumption of the tax administration functions of the Employment Development Department and the Department of Insurance, as specified. This bill would also repeal this reporting requirement on June 30, 2016.

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

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

SECTION 1. Section 15627 is added to the Government Code, to read:

15627. (a) (1) The board is the successor to, and is vested with, all of the duties, powers, purposes, responsibilities, and jurisdiction of the Franchise Tax Board. However, the statutes and laws under which the Franchise Tax Board existed and all laws prescribing the duties, powers, purposes, responsibilities, and jurisdiction of the Franchise Tax Board, together with all lawful rules and regulations established thereunder, are expressly continued in force.

(2) Any action to which the Franchise Tax Board is a party on and before January 1, 2013, shall not be abated by operation of law and shall continue in the name of the State Board of Equalization, which shall be substituted for the Franchise Tax Board by the court in which the action is pending. The substitution of parties will not affect the rights of the parties to the action.

(3) "Franchise Tax Board" when used in any statute, law, rule, or regulation now in force, or that may hereafter be enacted or adopted, means the board.

(b) (1) The board is the successor to, and is vested with, all of the duties, powers, purposes, responsibilities, and jurisdiction of the tax administration functions currently performed by the Employment Development Department and the Department of Insurance. However, the statutes and laws under which the administrative tax functions of the Employment Development Department and the Department of Insurance exist and all laws prescribing the duties, powers, purposes, responsibilities, and jurisdiction of the administrative tax functions performed by the Employment Development Department and the Department of Insurance, together with all lawful rules and regulations established thereunder, are expressly continued in force.

(2) Any action regarding the administration of the tax functions of the Employment Development Department to which the Employment Development Department is a party on and before January 1, 2013, shall not be abated by operation of law and shall continue in the name of the State Board of Equalization, which shall be substituted for the Employment Development Department by the court in which the action is pending. The substitution of parties will not affect the rights of the parties to the action.

(3) Any action regarding the administration of the tax functions of the Department of Insurance to which the Department of Insurance is a party on and before January 1, 2013, shall not be abated by operation of law and shall continue in the name of the State Board of Equalization, which shall be substituted for the Department of Insurance by the court in which the action is pending. The substitution of parties will not affect the rights of the parties to the action.

SEC. 2. Part 10 (commencing with Section 15700) of Division 3 of Title 2 of the Government Code is repealed.

SEC. 3. Section 20.5 is added to the Revenue and Taxation Code, to read:

20.5. Any reference hereafter in this code to the "Franchise Tax Board" shall be deemed a reference to the board.

SEC. 4. (a) The Executive Director of the State Board of Equalization, with the approval of the board, shall organize its new responsibilities, formerly those of the Franchise Tax Board, in any manner as he or she deems necessary for the proper conduct of the board's consolidated revenue collection, administration, and enforcement functions.

(b) The Executive Director of the State Board of Equalization, with the approval of the board, shall organize its new tax administration responsibilities, formerly administered by the Employment Development Department, in any manner as he or she deems necessary for the proper conduct of the board's consolidated revenue collection, administration, and enforcement functions.

(c) The Executive Director of the State Board of Equalization, with the approval of the board, shall organize its new tax administration responsibilities, formerly administered by the Department of Insurance, in any manner as he or she deems necessary for the proper conduct of the board's consolidated revenue collection, administration, and enforcement functions.

SEC. 5. (a) The civil service staff of the Franchise Tax Board shall be transferred to the State Board of Equalization in accordance with Section 19050.9 of the Government Code.

(b) Any civil service staff of the Employment Development Department, that as a result of this act is required to be transferred to the State Board of Equalization, shall be transferred in accordance with Section 19050.9 of the Government Code.

(c) Any civil service staff of the Department of Insurance, that as a result of this act is required to be transferred to the State Board of Equalization, shall be transferred in accordance with Section 19050.9 of the Government Code.

SEC. 6. (a) It is the intent of the Legislature in enacting this act to provide a governmental organization that ensures centralized, effective, efficient, and impartial tax revenue collection, administration, and enforcement for the State of California.

(b) In order to effectuate this purpose, it is the intent of the Legislature to do the following:

(1) Consolidate the powers and duties of the Franchise Tax Board into the State Board of Equalization, and thereby streamline the functions previously performed by both of those agencies.

(2) Consolidate the powers and duties, with respect to the administrative tax functions, of the Employment Development Department and the Department of Insurance into the State Board of Equalization, and thereby streamline the functions previously performed by all of those agencies with the functions performed by the State Board of Equalization.

(c) It is the intent of the Legislature that this consolidation shall be carried out in the least disruptive manner so as to ensure that tax collections are not adversely affected.

(d) It is the intent of the Legislature that the consolidation shall progress as expeditiously as is feasible and economical.

SEC. 7. (a) On or before June 30, 2012, the State Board of Equalization shall submit a report to the Governor and the Legislature on the plan for, and the progress of, the board's assumption of the duties of the Franchise Tax Board and the board's assumption of the tax administration functions performed by the Employment Development Department and the Department of Insurance. The report shall include recommendations for legislation that would be necessary to more effectively achieve the efficiencies and purposes intended by this act and shall include, but not be limited to, the following:

(1) (A) A strategic plan to facilitate the orderly assumption by the board of all duties and responsibilities of the Franchise Tax Board, including the identification of critical issues, including, but not limited to, the consolidation of computer systems, telecommunications, and office space.

(B) A strategic plan to facilitate the orderly assumption by the board of all tax administration duties and responsibilities of the Employment Development Department and the Department of Insurance, including the identification of critical issues, including, but not limited to, the consolidation of computer systems, telecommunications, and office space.

(2) Identification of those functions performed by the Franchise Tax Board and the tax administration functions performed by the Employment Development Department and the Department of Insurance that are readily conducive to consolidation or centralization into the board, including, but not limited to, administrative functions, document processing, remittance cashiering, public service, collection, and physical equipment and facilities.

(3) Identification of administrative functions that, because of statutory conflicts or inconsistent administrative processes of the Franchise Tax Board and the State Board of Equalization, cannot be readily consolidated into the board.

(4) Identification of administrative functions that, because of statutory conflicts or inconsistent administrative processes of the Employment Development Department and the State Board of Equalization, cannot be readily consolidated into the board.

(5) Identification of administrative functions that, because of statutory conflicts or inconsistent administrative processes of the Department of Insurance and the State Board of Equalization, cannot be readily consolidated into the board.

(b) (1) The report required to be submitted pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

(2) Pursuant to Section 10231.5 of the Government Code, this section is repealed on June 30, 2016.

SEC. 8. (a) Any contract, lease, license, or any other agreement to which the State Board of Equalization or the Franchise Tax Board is a party shall not be void or voidable by reason of this act, but shall continue in full force and effect, with the State Board of Equalization assuming all of the rights, obligations, and duties of the Franchise Tax Board. That assumption by the State Board of Equalization shall not in any way affect the rights of the parties to the contract, lease, license, or agreement.

(b) Any contract, lease, license, or any other agreement to which the State Board of Equalization or the Employment Development Department is a party shall not be void or voidable by reason of this act, but shall continue in full force and effect, with the State Board of Equalization assuming all of the rights, obligations, and duties of the Employment Development Department. That assumption by the State Board of Equalization shall not in any way affect the rights of the parties to the contract, lease, license, or agreement.

(c) Any contract, lease, license, or any other agreement to which the State Board of Equalization or the Department of Insurance is a party shall not be void or voidable by reason of this act, but shall continue in full force and effect, with the State Board of Equalization assuming all of the rights, obligations, and duties of the Department of Insurance. That assumption by the State Board of Equalization shall not in any way affect the rights of the parties to the contract, lease, license, or agreement.

SEC. 9. (a) On and after January 1, 2013, the unencumbered balance of all money available for expenditure by the Franchise Tax Board in carrying out any functions transferred to the State Board of Equalization by this act shall be made available for the support and maintenance of the State Board of Equalization. All books, documents, records, and property of the Franchise Tax Board shall be transferred to the board.

(b) On and after January 1, 2013, the unencumbered balance of all money available for expenditure by the Employment Development Department in carrying out any functions transferred to the State Board of Equalization by this act shall be made available for the support and maintenance of the State Board of Equalization. All books, documents, records, and property of the Employment Development Department, relative to the tax administrative functions of that department, shall be transferred to the board.

(c) On and after January 1, 2013, the unencumbered balance of all money available for expenditure by the Department of Insurance in carrying out any functions transferred to the State Board of Equalization by this act shall be made available for the support and maintenance of the State Board of Equalization. All books, documents, records, and property of the Department of Insurance, relative to the tax administrative functions of that department, shall be transferred to the board.

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