

AMENDED IN ASSEMBLY MARCH 28, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2638

Introduced by Assembly Member Eng

February 24, 2012

An act to amend Sections 13305 and 13308 of, and to add Section 13305.5 to, the Government Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

AB 2638, as amended, Eng. State government: fiscal affairs.

Existing law requires the Department of Finance to report annually to the Legislature with regard to tax expenditures, *as defined*. Existing law requires the report to include specified information.

This bill would require the report to include, if available, anticipated revenue loss pursuant to the final fiscal committee analysis of the act that established the tax expenditure, adjusted for inflation.

At the time of the submission of the Governor's Budget to the Legislature, existing law requires the Director of Finance to submit to the Legislature total recommended state General Fund expenditures and estimated state General Fund revenues, as specified.

This bill would require the report to include, for each tax expenditure exceeding \$5,000,000 in annual cost, an estimate of the loss of revenue due to the tax expenditure in the upcoming fiscal year. At that time, the bill would also require the State Board of Equalization and the Franchise Tax Board to submit to the Department of Finance and the Legislature a report on the fiscal and tax effect of all tax expenditures, as specified.

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

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

1 SECTION 1. Section 13305 of the Government Code is
2 amended to read:
3 13305. (a) The department shall provide an annual report to
4 the Legislature on tax expenditures by no later than September 15
5 of each year. The report shall include each of the following:
6 (1) A comprehensive list of tax expenditures exceeding five
7 million dollars (\$5,000,000) in annual cost.
8 (2) The statutory authority and year of enactment for each credit,
9 deduction, exclusion, exemption, or any other tax benefit as
10 provided by state law.
11 (3) A description of the legislative intent for each tax
12 expenditure, if the act adding or amending the expenditure contains
13 legislative findings and declarations of that intent, or that legislative
14 intent is otherwise expressed or specified by that act.
15 (4) The sunset date of each credit, deduction, exclusion,
16 exemption, or any other tax benefit as provided by state law, if
17 applicable.
18 (5) A brief description of the beneficiaries of the credit,
19 deduction, exclusion, exemption, or other tax benefit as provided
20 by state law.
21 (6) An estimate or range of estimates for the state and local
22 revenue loss for the current fiscal year and the two subsequent
23 fiscal years. For sales and use tax expenditures, this would include
24 partial year exemptions and all other tax expenditures when the
25 State Board of Equalization has obtained that information.
26 (7) For personal income tax expenditures, the number of
27 taxpayers affected and returns filed, as applicable, for the most
28 recent tax year for which full year data is available.
29 (8) For corporation tax and sales and use tax expenditures, the
30 number of returns filed or business entities affected, as applicable,
31 for the most recent tax year for which full year data is available.
32 (9) A listing of any comparable federal tax benefit, if any.
33 (10) A description of any tax expenditure evaluation or
34 compilation of information completed by any state agency since
35 the last report made under this section.
36 (11) If available, anticipated revenue loss pursuant to the final
37 fiscal committee analysis of the act that established the tax
38 expenditure, adjusted for inflation.

1 (b) For purposes of this section, “tax expenditure” means a
2 credit, deduction, exclusion, exemption, or any other tax benefit
3 as provided for by the state.

4 (c) This section shall become operative on January 1, 2007.

5 SEC. 2. Section 13305.5 is added to the Government Code, to
6 read:

7 13305.5. (a) At the time of the submission of the Governor’s
8 Budget pursuant to Section 12 of Article IV of the California
9 Constitution, within the first 10 days of each calendar year, the
10 State Board of Equalization and the Franchise Tax Board shall
11 submit to the Department of Finance and the Legislature a report
12 on the fiscal and tax effect of all tax expenditures. To the extent
13 allowed under federal law, the report shall include the most recent
14 data to characterize the economic, tax, and demographic profile
15 of claimants, including, but not limited to, the following:

16 (1) An estimate or range of estimates for the state and local
17 revenue loss for the current fiscal year and the two subsequent
18 fiscal years. For sales and use tax expenditures, this shall include
19 partial year exemptions and all other tax expenditures when the
20 State Board of Equalization has obtained that information.

21 (2) If available, anticipated revenue loss pursuant to the final
22 fiscal committee analysis of the act that established the tax
23 expenditure, adjusted for inflation.

24 ~~(b) The report shall facilitate a qualitative comparison of the~~
25 ~~benefits of the tax expenditures.~~

26 (b) (1) *For sales and use tax expenditures and property tax*
27 *expenditures, the report shall identify, at a minimum, the revenue*
28 *loss, to the extent possible for each expenditure, for the prior year,*
29 *current year, and budget year, in the following categories:*

30 (A) *By tax liability using taxpayer brackets.*

31 (B) *By region.*

32 (C) *By industry code.*

33 (2) *The report shall also include the following information for*
34 *each of those tax expenditures:*

35 (A) *For the prior year, average, median, highest, and lowest*
36 *amounts claimed, by taxpayer bracket.*

37 (B) *For the prior year, amounts claimed and rejected.*

38 (C) *Where available, citations of academic studies pertaining*
39 *to the tax expenditure or similar tax expenditures.*

1 (D) Usage data, where available, for the same or similar tax
2 expenditures adopted by other states or the federal government.

3 (E) Any other distinguishing tax characteristics, including, but
4 not limited to, other tax expenditures claimed.

5 (3) The State Board of Equalization shall report the information
6 required under paragraphs (1) and (2) only to the extent that the
7 board is in possession of that information.

8 (c) (1) For personal income tax expenditures and corporation
9 tax expenditures, the report shall identify, at a minimum, the
10 revenue loss, to the extent possible for each expenditure, for the
11 prior year, current year, and budget year, in the following
12 categories:

13 (A) By the adjusted gross income of the claimants.

14 (B) By the tax liability of the taxpayer.

15 (C) By region.

16 (D) By industry code.

17 (2) The report shall also include the following information for
18 each of those tax expenditures:

19 (A) For the prior year, average, median, highest, and lowest
20 amounts claimed by taxpayer bracket.

21 (B) For the prior year, amounts claimed and rejected.

22 (C) Where available, citations of academic studies pertaining
23 to the tax expenditure or similar tax expenditures.

24 (D) Usage data, where available, for the same or similar tax
25 expenditures adopted by other states or the federal government.

26 (E) Any other distinguishing tax characteristic, including, but
27 not limited to, other tax expenditures claimed.

28 (d) When filing the report required in subdivisions (b) and (c),
29 the State Board of Equalization and the Franchise Tax Board shall
30 provide sufficient data to support a subsequent analysis of the
31 revenue loss of the tax expenditure.

32 (e)

33 (e) For purposes of this section, “tax expenditure” means a
34 credit, deduction, exclusion, exemption, or any other tax benefit
35 as provided for by the state.

36 SEC. 3. Section 13308 of the Government Code is amended
37 to read:

38 13308. (a) (1) At the time of the submission of the Governor’s
39 Budget pursuant to Section 12 of Article IV of the California
40 Constitution, within the first 10 days of each calendar year, or as

1 soon thereafter as feasible, the Director of Finance shall submit to
2 the Legislature total recommended state General Fund expenditures
3 and estimated, including any proposed, state General Fund revenues
4 that shall include the following:

5 (A) The five-year capital infrastructure plan required by Section
6 13102.

7 (B) An estimate of the total General Fund resources, including
8 any proposed resources, available for the state General Fund
9 expenditures recommended for the budget year and the three fiscal
10 years following the budget year.

11 (C) A projection of anticipated state General Fund expenditures
12 recommended for the budget year and, for the three fiscal years
13 following the budget year, the changes in those expenditure
14 amounts that would likely result from changes in population,
15 caseload, and similar factors.

16 (D) For each tax expenditure exceeding five million dollars
17 (\$5,000,000) in annual cost, an estimate of the loss of revenue due
18 to the tax expenditure in the upcoming fiscal year. For purposes
19 of this subparagraph, “tax expenditure” means a credit, deduction,
20 exclusion, exemption, or any other tax benefit as provided for by
21 the state.

22 (2) To the extent possible, the total resources and expenditures
23 provided pursuant to subparagraphs (B) and (C) of paragraph (1)
24 shall be accompanied by the projections applicable to the budget
25 year from the previous four enacted Budget Act projections.

26 (3) The information provided pursuant to subparagraphs (B) and
27 (C) of paragraph (1) shall be updated as soon as feasible after both
28 the submission pursuant to subdivision (e) of this section and upon
29 enactment of the Budget Act.

30 (b) The Director of Finance shall provide to the Legislature, on
31 or before February 1 of each year, all proposed statutory changes,
32 as prepared by the Legislative Counsel, that are necessary to
33 implement the Governor’s Budget, as described in subdivision (a)
34 of Section 13337.

35 (c) The Director of Finance shall provide to the Legislature, on
36 or before April 1 of each year, all proposed adjustments to the
37 Governor’s Budget except as specified by subdivisions (d) and
38 (e).

- 1 (d) The Director of Finance shall provide to the Legislature, on
2 or before May 1 of each year, all proposed adjustments to the
3 Governor’s Budget in appropriations for capital outlay.
- 4 (e) The Director of Finance shall provide to the Legislature, on
5 or before May 14 of each year, all of the following:
- 6 (1) An estimate of General Fund revenues for the current fiscal
7 year and for the ensuing fiscal year.
- 8 (2) Any proposals to reduce expenditures to reflect updated
9 revenue estimates.
- 10 (3) All proposed adjustments to the Governor’s Budget that are
11 necessary to reflect updated estimates of state funding required
12 pursuant to Section 8 of Article XVI of the California Constitution,
13 or to reflect caseload enrollment or population changes.
- 14 (f) The Director of Finance may authorize suspension for the
15 current fiscal year of any provision of this section not sooner than
16 30 days after notification in writing of the necessity therefor to the
17 chairperson of the committee in each house that considers the State
18 Budget and the Chairperson of the Joint Legislative Budget
19 Committee.