

AMENDED IN ASSEMBLY APRIL 17, 2012

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 *from sales*

and use tax, personal income tax, and corporation tax with an annual revenue loss of at least \$5,000,000, 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 tax exemptions and all other tax expenditures when
- 25 the 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.

1 (10) A description of any tax expenditure evaluation or
2 compilation of information completed by any state agency since
3 the last report made under this section.

4 (11) If available, anticipated revenue loss pursuant to the final
5 fiscal committee analysis of the act that established the tax
6 expenditure, adjusted for inflation.

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

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

11 SEC. 2. Section 13305.5 is added to the Government Code, to
12 read:

13 13305.5. (a) At the time of the submission of the Governor’s
14 Budget pursuant to Section 12 of Article IV of the California
15 Constitution, within the first 10 days of each calendar year, the
16 State Board of Equalization and the Franchise Tax Board shall
17 submit to the Department of Finance and the Legislature a report
18 on the fiscal and tax effect of ~~all~~ tax expenditures *from sales and*
19 *use tax, personal income tax, and corporation tax. The report shall*
20 *be limited to tax expenditures with an annual revenue loss of at*
21 *least five million dollars (\$5,000,000). To the extent allowed under*
22 *federal law, the report shall include the most recent data to*
23 *characterize the economic, tax, and demographic profile of*
24 *claimants, including, but not limited to, the following:*

25 (1) An estimate or range of estimates for the state and local
26 revenue loss for the current fiscal year and the two subsequent
27 fiscal years. For sales and use tax expenditures, this shall include
28 partial-year *tax* exemptions and all other tax expenditures when
29 the State Board of Equalization has obtained that information.

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

33 (b) (1) For sales and use tax expenditures ~~and property tax~~
34 ~~expenditures~~, the report shall identify *to the extent possible*, at a
35 minimum, the revenue loss, ~~to the extent possible for each~~
36 ~~expenditure, for the prior year, current year, and budget year, in~~
37 ~~the following categories:~~ *for the most recent tax year for which*
38 *full year data is available, and estimated revenue loss for the*
39 *current state fiscal year and subsequent fiscal year by industry*
40 *code.*

1 ~~(A) By tax liability using taxpayer brackets.~~

2 ~~(B) By region.~~

3 ~~(C) By industry code.~~

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

6 (A) For the ~~prior year~~ *most recent taxable year for which a full*
7 *year of data is available*, average, median, highest, and lowest
8 amounts claimed, by taxpayer ~~bracket liability~~.

9 (B) For the ~~prior year~~ *most recent taxable year for which a full*
10 *year of data is available*, amounts claimed and ~~rejected~~, *as of the*
11 *time the report is prepared*, amounts disallowed.

12 (C) Where ~~available~~ *deemed appropriate by the State Board of*
13 *Equalization*, citations of academic studies pertaining to the tax
14 expenditure or similar tax expenditures.

15 (D) Usage data, where available, for the same or similar tax
16 expenditures adopted by other states ~~or the federal government~~
17 *with similar economics, business entity types, and tax laws*.

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

20 (3) The State Board of Equalization shall report the information
21 required under paragraphs (1) and (2) only to the extent that the
22 board is in possession of that information. *The information may*
23 *reflect board staff estimates or taxpayer's self-reported data*.

24 (c) (1) For personal income tax expenditures and corporation
25 *income and franchise* tax expenditures, the report shall identify,
26 at a minimum, the revenue loss, to the extent possible for each
27 expenditure, for the ~~prior year, current year, and budget year~~, *most*
28 *recent taxable year for which a full year of data is available*, the
29 *current fiscal year*, and the *budget year*, in the following
30 categories:

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

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

33 (C) By region.

34 (D) By industry code.

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

37 (A) For the ~~prior year~~ *most recent taxable year for which a full*
38 *year of data is available*, average, median, highest, and lowest
39 amounts claimed by taxpayer bracket.

1 (B) For the ~~prior year~~ *most recent taxable year for which a full*
2 *year of data is available*, amounts claimed and ~~rejected~~, *as of the*
3 *time the report is prepared*, amounts disallowed.

4 (C) Where ~~available~~ *deemed appropriate by the Franchise Tax*
5 *Board*, citations of academic studies pertaining to the tax
6 expenditure or similar tax expenditures.

7 (D) Usage data, where available, for the same or similar tax
8 expenditures adopted by other states *with similar economies*,
9 *business entity types*, and *tax laws* or the federal government.

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

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

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

19 SEC. 3. Section 13308 of the Government Code is amended
20 to read:

21 13308. (a) (1) At the time of the submission of the Governor’s
22 Budget pursuant to Section 12 of Article IV of the California
23 Constitution, within the first 10 days of each calendar year, or as
24 soon thereafter as feasible, the Director of Finance shall submit to
25 the Legislature total recommended state General Fund expenditures
26 and estimated, including any proposed, state General Fund revenues
27 that shall include the following:

28 (A) The five-year capital infrastructure plan required by Section
29 13102.

30 (B) An estimate of the total General Fund resources, including
31 any proposed resources, available for the state General Fund
32 expenditures recommended for the budget year and the three fiscal
33 years following the budget year.

34 (C) A projection of anticipated state General Fund expenditures
35 recommended for the budget year and, for the three fiscal years
36 following the budget year, the changes in those expenditure
37 amounts that would likely result from changes in population,
38 caseload, and similar factors.

39 (D) For each tax expenditure exceeding five million dollars
40 (\$5,000,000) in annual cost, an estimate of the loss of revenue due

1 to the tax expenditure in the upcoming fiscal year. For purposes
2 of this subparagraph, “tax expenditure” means a credit, deduction,
3 exclusion, exemption, or any other tax benefit as provided for by
4 the state.

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

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

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

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

22 (d) The Director of Finance shall provide to the Legislature, on
23 or before May 1 of each year, all proposed adjustments to the
24 Governor’s Budget in appropriations for capital outlay.

25 (e) The Director of Finance shall provide to the Legislature, on
26 or before May 14 of each year, all of the following:

27 (1) An estimate of General Fund revenues for the current fiscal
28 year and for the ensuing fiscal year.

29 (2) Any proposals to reduce expenditures to reflect updated
30 revenue estimates.

31 (3) All proposed adjustments to the Governor’s Budget that are
32 necessary to reflect updated estimates of state funding required
33 pursuant to Section 8 of Article XVI of the California Constitution,
34 or to reflect caseload enrollment or population changes.

35 (f) The Director of Finance may authorize suspension for the
36 current fiscal year of any provision of this section not sooner than
37 30 days after notification in writing of the necessity therefor to the
38 chairperson of the committee in each house that considers the State

- 1 Budget and the Chairperson of the Joint Legislative Budget
- 2 Committee.

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