AMENDED IN SENATE JUNE 11, 2012

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 tax expenditures from sales and use tax, personal income tax, and corporation tax ~~with~~ *that have* 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:

SECTION 1. Section 13305 of the Government Code is amended to read:

13305. (a) The department shall provide an annual report to the Legislature on tax expenditures by no later than September 15 of each year. The report shall include each of the following:

(1) A comprehensive list of tax expenditures exceeding five million dollars ($5,000,000) in annual cost.

(2) The statutory authority and year of enactment for each credit, deduction, exclusion, exemption, or any other tax benefit as provided by state law.

(3) A description of the legislative intent for each tax expenditure, if the act adding or amending the expenditure contains legislative findings and declarations of that intent, or that legislative intent is otherwise expressed or specified by that act.

(4) The sunset date of each credit, deduction, exclusion, exemption, or any other tax benefit as provided by state law, if applicable.

(5) A brief description of the beneficiaries of the credit, deduction, exclusion, exemption, or other tax benefit as provided by state law.

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

(7) For personal income tax expenditures, the number of taxpayers affected and returns filed, as applicable, for the most recent tax year for which full year data is available.

(8) For corporation tax and sales and use tax expenditures, the number of returns filed or business entities affected, as applicable, for the most recent tax year for which full year data is available.

(9) A listing of any comparable federal tax benefit, if any.

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

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

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

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

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

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

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

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

(b) (1) For sales and use tax expenditures, the report shall identify to the extent possible, at a minimum, the revenue loss, for the most recent ~~tax~~ *fiscal* year for which full year data is available, and estimated revenue loss for the current state fiscal year and subsequent fiscal year by industry code.

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

(A) For the most recent ~~taxable~~ *fiscal* year for which a full year of data is available, average, median, highest, and lowest amounts claimed, by taxpayer ~~liability~~ *total gross sales*.

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

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

(D) Usage data, where available, for the same or similar tax expenditures adopted by other states with similar economics, business entity types, and tax laws.

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

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

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

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

(B) By the tax liability of the taxpayer.

(C) By region.

(D) By industry code.

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

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

(B) For the most recent taxable year for which a full year of data is available, amounts claimed and, as of the time the report is prepared, amounts disallowed.

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

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

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

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

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

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

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

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

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

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

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

(2) To the extent possible, the total resources and expenditures provided pursuant to subparagraphs (B) and (C) of paragraph (1)

shall be accompanied by the projections applicable to the budget year from the previous four enacted Budget Act projections.

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

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

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

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

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

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

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

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

(f) The Director of Finance may authorize suspension for the current fiscal year of any provision of this section not sooner than 30 days after notification in writing of the necessity therefor to the chairperson of the committee in each house that considers the State Budget and the Chairperson of the Joint Legislative Budget Committee.

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