STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE ENROLLED BILL

Date Amended:	**Vetoed**	Bill No:	**AB 1506**
Tax:	**Registered Warrants**	Author:	**Anderson**
Related Bills:		Position:	**Support application of the bill's provisions to the Board**

BILL SUMMARY

This bill would require a state agency, upon the Controller making a specified determination, to accept a registered warrant issued by the Controller for payment of any state obligation.

ANALYSIS

CURRENT LAW

Existing Chapter 2 (commencing with Section 17200) of Part 4 of Division 4 of Title 2 of the Government Code provides that the Controller is responsible for issuing warrants drawn from the General Fund for payment of obligations of the state. In instances where the amount payable out of the General Fund is in excess of the balance remaining in the General Fund after deducting amounts earmarked or reserved for payment by law, the Controller can issue a "registered warrant."

A registered warrant carries a promise to pay the bearer the amount shown on the warrant plus interest, by a date prescribed on the warrant, usually within one year of the date of issuance. Registered warrants bear interest at a rate fixed by current state law from the date of registration to the date of maturity, or the date upon which the State Treasurer advertises that they are payable upon presentation if they bear no date of maturity.

Government Code Section 17280.1 requires the Franchise Tax Board (FTB) to accept registered warrants as payment for personal income or bank and corporation taxes. Under existing law, there is no statute that requires the Board to accept registered warrants. The Board does, however, have the authority *to accept* registered warrants as payment of liabilities at its own discretion.

Existing Government Code Section 17203 provides that registered warrants issued by the State are acceptable and may be used as security for the performance of any public or private trust or obligation or for the performance of any act, including the use of such registered warrants by banks and savings and loan associations as security deposits of funds of any county, municipal or public corporation, district, political subdivision, or state agency. Under Government Code Section 17205, all registered warrants are considered to be a "negotiable instrument;" i.e. a form of payment that *may* be accepted by the payee in a particular transaction. A negotiable instrument however, is not the same as "legal tender," which *must* be accepted as a form of payment. Based on these statutes and the lack of any legal authority that clearly prohibits it, State-issued registered warrants *could be* accepted by the Board as valid remittances for purposes of crediting payment of a tax, surcharge, or fee liability for the "payee."

PROPOSED LAW

This bill would add Section 17203.6 to the Government Code to require a state agency, upon the Controller making a specified determination, to accept from a person or entity a registered warrant issued by the Controller endorsed by the payee, at full face value, for payment of any obligation owed by that payee to that state agency.

This bill would specify that its requirements shall become operative only if the Controller determines that all of the following conditions are satisfied:

1) Acceptance of registered warrants will not jeopardize the ability of the state to issue regular warrants for all of the following: education programs, debt service, state payroll, pensions, In-Home Support Services, Medi-Cal providers, or any other payment required by federal law, the California Constitution, or a court order.
2) Acceptance of registered warrants will not result in a net cost to the state. For purposes of this paragraph, the calculation of "net cost" includes, but is not limited to, all of the following factors:
    - Interest savings related to redemption of the registered warrant.
    - Interest costs related to any new registered warrants issued to replace the registered warrant accepted for payment of a state obligation.
    - Costs related to any other internal or external borrowing required to offset the loss of resources due to acceptance of the registered warrants for payment of a state obligation.
    - Forgone interest earnings related to loss payments due to acceptance of the registered warrants for payment of a state obligation.
    - Significant new administrative costs to state agencies related to acceptance of registered warrants for payment of a state obligation.

This bill would specify that its provisions shall not apply to an obligation owed by a payee for payments subject to the immediate deposit standard contained in Section 23304 (a)(3) of the Federal Unemployment Tax Act (26 U.S.C. Sec. 3304(a)(3)) or Section 303(a)(4) of the Social Security Act (42 U.S.C Sec. 303(a)(4)).

This bill would require the Controller, on or before September 1 following the conclusion of a fiscal year in which a state agency is required to accept registered warrants, to submit a report to the Joint Legislative Budget Committee that contains all of the following:

- The amount of warrants received by state agencies.
- The effect of the acceptance of these warrants on the state's cashflow and financial well-being, including any net costs or savings, and any impacts on state payments required by federal law, the state Constitution, or a court order.

As an urgency statute, this bill would take effect immediately upon enactment. The bill states that an urgency statute is necessary: "In order to allow the residents of the state to pay for all obligations owed to the state, while the state is issuing registered warrants, it is necessary that this act take effect immediately."

The bill's provisions would become inoperative on July 1, 2012, and, as of January 1, 2013, are repealed, unless a later enacted statute that becomes operative on or before January 1, 2013, deletes or extends the dates on which the bill becomes inoperative and is repealed.

BACKGROUND

At the July 21, 2009 Board Hearing, the Members of the Board directed staff to accept the State-issued warrants as payment of sales and use taxes and other taxes, surcharges, or fees owed to the Board. A similar State budget situation in 1992 also resulted in the Board's decision to accept State-issued registered warrants for payment of outstanding liabilities.

Because of the specific reference to personal income or bank and corporation taxes included in the law that was enacted in 1983, the FTB was able to announce in advance that it would be accepting registered warrants in the event the State began to issue them. Having specific authority made it simple for that tax agency to answer any questions from taxpayers and to begin implementing a plan to accept the registered warrants.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the author. According to the author's office, "Existing law already allows the state to distribute IOUs. According to Government Code section 17203, 'Such registered warrants are acceptable and may be used as security for the faithful performance of any public or private trust or obligation or for the performance of any act, including the use of such registered warrants by banks and savings and loan associations as security for deposits of funds of any county, municipal or public corporation, district, political subdivision, or state agency.' This reminds us of Wimpy's famous line, 'I'd gladly pay you Tuesday for a hamburger today.' So, the inequity then is revealed by the peoples' inability to use those instruments in a practical way."

2. **The August 10, 2010 amendments** deleted any references to "other forms of indebtedness" or "similar evidence of indebtedness." **The March 17, 2010 amendments** added coauthors and made a nonsubstantive change. **The August 31, 2009 amendments** (1) specified that the bill's requirements are operative only if the Controller makes a specified determination, (2) required the Controller, on or before September 1 following the conclusion of a fiscal year in which a state agency is required to accept registered warrants, to submit a report to the Joint Legislative Budget Committee, and (3) provided that the bill's provisions would become inoperative on July 1, 2012, and would be repealed on January 1, 2013.

3. **Board Members directed staff to accept registered warrants.** At the July 21, 2009 Board Hearing, the Board Members decided to accept the State-issued registered warrants as payment of sales and use taxes and other taxes and fees owed to the Board. In preparation for the July 21, 2009 hearing, the Board's Legal Department prepared an opinion addressing questions on whether the Board is allowed to accept registered warrants issued by the State in payment of tax liabilities from taxpayers who are payees on registered warrants. The Board's Legal Department concluded that while the Board is not required to accept registered warrants as payment for tax liabilities, it is not prohibited from doing so. However, in order to make it clear that the Board is authorized to accept registered warrants in the future, the Board Members directed staff to draft a legislative proposal that would codify the Board's current practice in statute.

   At the August 31, 2009 Board Legislative Committee Meeting, the Members voted to support a proposal to specifically provide that the Board shall accept registered warrants as payment for any tax, surcharge, or fee liability to the Board if the registered warrant is issued specifically to that tax, fee, or surcharge payer.

COST ESTIMATE

Because the Board is already accepting registered warrants as payment for outstanding liabilities, this measure would have no administrative cost impact.

REVENUE ESTIMATE

This bill would have no impact on state and local revenues, as well as any special fund revenues. However, because payment of taxes, fees, and surcharges using a registered warrant would require the warrant to be held until the warrant redemption date, there could be a deceleration of cash receipts.

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