



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	03/14/11	Bill No:	SB 120
Tax Program:	Registered Warrants	Author:	Anderson
Sponsor:	Author	Code Sections:	GC 17203.6
Related Bills:	SB 11 (Anderson) AB 1044 (Butler)	Effective Date:	Upon enactment

BILL SUMMARY

This bill would require a state agency to accept a registered warrant, or other similar evidence of indebtedness issued by the Controller, for payment of any state obligation.

Summary of Amendments

Since the previous analysis, this bill was amended to delete the requirement to accept registered warrants contingent on the Controller making a specified determination and add the requirement that a state agency also accept other similar evidence of indebtedness issued by the Controller.

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 (added by SB 483, Chapter 1211, Stats. 1983) 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 State Board of Equalization (BOE) to accept registered warrants. The BOE 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

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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 BOE 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 to accept from any person or entity a registered warrant or any other similar evidence of indebtedness 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.

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, or other similar debt instruments, which are, in fact, "IOUs" issued by the state, it is necessary that this act take effect immediately."

LEGISLATIVE HISTORY

This bill contains the same provisions as AB 1506 (Anderson), as amended July 1, 2009, of the 2009-10 Legislative Session. At the August 31, 2009 BOE Legislative Committee meeting, the Members unanimously voted to support the July 1, 2009 version of AB 1506 which would have required a state agency to accept registered warrants or other similar form of indebtedness issued by the Controller for payment of state obligations.

AB 1506 was passed by the Assembly 78-0 on September 2, 2009, and by the Senate 35-0 on August 23, 2010. However, Governor Schwarzenegger vetoed the bill on September 30, 2010, with the following message:

"This measure would require all state departments, upon a specified determination made by the State Controller's Office, to accept registered warrants, also known as IOUs, in lieu of cash payments. The issuance of IOUs represents an embarrassing failure on the part of the state to manage its finances. Unfortunately, if the Legislature does not pass a balanced budget soon, the possibility that the Controller will be forced to issue IOUs this year becomes all too real. I sympathize with businesses that were issued IOUs last year and those businesses that may receive them this year. IOUs place enormous financial strains on recipients who are unable to use them to pay their own obligations, including debts owed to the state. However, requiring state departments to accept IOUs in lieu of cash payments defeats the purpose of issuing IOUs in the first place. It would exacerbate the state's cash crisis and would accelerate the possibility of the state defaulting on its debt service and payroll obligations.

Since IOUs could be avoided if the Legislature passed a balanced budget, I am unable to sign this bill."

On August 31, 2009, the BOE Members voted unanimously to sponsor a proposal that would require the BOE to accept registered warrants as payment for any tax, surcharge,

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or fee liability owed to the BOE, if the registered warrant is issued specifically to that tax, fee, or surcharge payer. This legislative proposal was incorporated into the BOE-sponsored omnibus bill, SB 1494. However, the bill was recommended for the suspense file because of the registered warrant provisions. In order to move the BOE-sponsored bill off suspense, the BOE staff accepted the Committee recommendations to eliminate the registered warrant provisions from the bill.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the author, who writes, "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 March 14, 2011 amendments** (1) delete the provisions which made the requirement to accept registered warrants contingent on the Controller making a specified determination, (2) delete the provisions requiring the Controller by each September 1 to submit a report to the Joint Legislative Budget Committee, (3) delete the provisions which made the proposed statute inoperative on July 1, 2012, and (4) add a requirement that a state agency also accept (in addition to a registered warrant) other similar evidence of indebtedness issued by the Controller.
3. **Bill would not be problematic to administer.** During 2009, the BOE accepted State-issued registered warrants as payment of sales and use taxes and other taxes and fees owed to the BOE. Because procedures already exist to allow taxpayers to pay with a registered warrant, implementing the bill's provisions would not be problematic for the BOE.

Related legislation. Two bills have been introduced this session related to registered warrants:

- SB 11 (Anderson) would prohibit a state entity from assessing a fine, interest, or penalty on a debt owed to the state for the payee of a registered warrant if the debt owed to the state was imposed between January 1, 2006, and December 31, 2009, and would change the due date of a state debt to 30 days after the payable date of registered warrants.
- AB 1044 (Butler), sponsored by the BOE, would require the BOE to accept registered warrants from a taxpayer with any tax, surcharge, or fee obligation owed when the registered warrant has been paid directly to that tax, surcharge, or fee payer.

COST ESTIMATE

Because the BOE 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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