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# GOING THE WRONG DIRECTION: REVENUE-LOSING BILLS MOVE FORWARD

Despite the extreme revenue shortfall that has led to budget proposals reducing or eliminating a long list of essential state services, numerous bills that would further cut the amount of revenue available to fund the 2012-13 state budget continue to move through the legislative process. Most are similar to bills that failed in 2009 but have been re-introduced without regard to the obvious change in the state's fiscal situation. *These bills should be rejected.* Instead, the Legislature needs to raise new revenue and use the Rainy Day Fund to fund a balanced approach that minimizes damaging cuts to public education, higher education, and health and human services.

## Increasing the small-business franchise tax exemption

*$150 million in 2012-13*

In 2009 the Legislature temporarily increased the exemption from the franchise tax for small businesses. Companies with gross receipts of up to $1 million were exempted from the tax, up from the original level of $300,000 adopted in 2006, when the tax was reformed to become what is popularly known as the "margins tax." The exemption is scheduled to fall back to $600,000 in 2012.

On Monday, April 11, the Ways and Means Committee is hearing five bills that would keep the exemption at $1 million. Compared to current law, these bills would reduce state revenue available to fund the 2012-13 state budget by $150 million.

Revenue from the changes made to the franchise tax in 2006 flow to the Property Tax Relief Fund (PTRF), which is used to replace revenue lost by school districts due to the school property tax cuts required by Legislature. The PTRF goes entirely to the Foundation School Program, so any loss of revenue to the PTRF must either be replaced by General Revenue or by a reduction in funding for public education.

The bills are:

- House Bill (HB) 262 by Rep. Hilderbran,
- HB 579 by Rep. Callegari and 11 co-authors,
- HB 701 by Rep. Murphy and seven co-authors,
- HB 1187 by Rep. Charlie Howard, and
- HB 1411 by Rep. Bonnen.

## CAPCOS

*$200 million in 2017-20*

Certified Capital Companies (CAPCO) program gives insurance companies credits against their premium taxes for investments in certain venture capital firms known as CAPCOs. The CAPCOs package half of the proceeds back to the insurance companies as fixed-income investments, then invest the rest (minus fees) in small businesses. Any profits realized by these investments are retained by the CAPCO and insurance company. The state benefits only indirectly from what economic activity is generated by these investments. The program has been criticized for its inefficiency, lack of audited reporting, and poor targeting of investments.

Two bills that would extend the current CAPCO program for four more years were heard in committee last week:

- Senate Bill (SB) 891 by Sen. Carona in the Senate Economic Development Committee, and
- HB 2580 by Rep. Murphy in the House Economic and Small Business Development Committee.

These bills would reduce the amount of general revenue by $50 million per year for four years, 2017-2020, when the tax credits were eligible to be claimed.

Similar bills were introduced in 2009:

- HB 1582 by Rep. Flynn, which died in the Local and Consent Calendars Committee, and
- SB 2585 by Sen. Averitt, which was taken off the Senate Intent Calendar.

## Tax refund for manufacturing, nuclear plants

*More than $25 million per year starting in 2014*

HB 433 by Rep. Parker, with 25 co-sponsors, would grant a tax refund to a manufacturer, nuclear plant, or other electrical generating facility that had a city or county property tax abatement (Tax Code, Chapter 312) or a school-district abatement (Chapter 313) and promised to make a $100 million investment and create 200 jobs. There would be no wage or benefit requirements on the jobs. The refund would be based on any increase in sales taxes collected in the county where the project was located that could be attributed to economic activity generated by the project. Each project could receive refunds equal to 5 percent of total investments, up to $50 million.

A committee substitute was voted out of the House Economic and Small Business Development Committee on April 7. A similar bill (HB 4525 by Rep. Parker) passed the House in 2009, but died on the Senate Intent Calendar.

## Property Tax Exemption for Warehouse Inventory

*More than $10 million per year*

In 2007 the Legislature passed a bill (HB 621 by Rep. Chavez) to implement a 2001 constitutional amendment permitting a property tax exemption for “goods-in-transit.” However, the bill was written too broadly and few school districts adopted the exemption, fearing that inventory held by retail chains and others would be exempted.

SB 326 by Sen. Duncan is another attempt to implement the exemption, with a narrower definition. (In 2009 a similar bill, SB 947 by Sen. Duncan, passed the Senate but died on the House General State Calendar.)

The fiscal note obscures the potential cost of the exemption. The Legislative Budget Board (LBB) states that, if the bill made some property taxable that is currently exempt, thus increasing school-district revenue, the state would save money through the school-finance formulas. The LBB adds that the opposite would also be true–if the bill resulted in more school districts granting the exemption, school revenue would decrease and the cost to the state of the school-finance formulas would increase.

But the LBB makes no attempt to quantify the potential gain or loss to the state. In fact, the Comptroller's Property Tax Division reports that *only two school districts* currently grant this exemption, for a total annual cost to the state of $284,000. This is the maximum potential state savings if both were to decide to tax this property.

On the other hand, informal estimates from El Paso County *alone* indicate that the cost to the state if districts in that county were to grant the exemption would be $3 million per year. The 2007 bill, which would have created a broader exemption than this year's version, had an estimated cost to the state of $33.7 million per year by 2012, indicating that SB 326 would indeed create a substantial cost for the state, even if the LBB did not forecast an exact amount.