

AMENDED IN SENATE JULY 11, 2011

AMENDED IN SENATE JUNE 12, 2011

AMENDED IN SENATE MARCH 24, 2011

AMENDED IN SENATE MARCH 17, 2011

AMENDED IN SENATE MARCH 14, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 103

Introduced by Committee on Budget (Blumenfield (Chair), Alejo, Allen, Brownley, Buchanan, Butler, Cedillo, Chesbro, Dickinson, Feuer, Gordon, Huffman, Mitchell, Monning, and Swanson)

January 10, 2011

~~An act to amend Sections 17053.33, 17053.34, 17053.45, 17053.46, 17053.47, 17053.70, 17053.74, 23101, 23612.2, 23622.7, 23622.8, 23633, 23634, 23645, 23646, and 25128 of, to amend, repeal, and add Section 25136 of, to add Section 6377 to, to repeal Section 25128.5 of, and to repeal and amend Sections 17053.80 and 23623 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy. An act to add Section 16330 to the Government Code, relating to state finance, and making an appropriation therefor, to take effect immediately, bill related to the budget.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 103, as amended, Committee on Budget. ~~Taxation—State funds:~~
State Agency Investment Fund.

(1) Existing law provides for the investment of certain state moneys by the Treasurer through the Pooled Money Investment Account, according to specified criteria.

This bill would create the State Agency Investment Fund in the State Treasury, for the receipt of deposits by state agencies of up to \$500,000,000 each, from moneys not required by law to be deposited in the Pooled Money Investment Account, for a total of \$10,000,000,000 in the fund at any one time. It would authorize the Director of Finance, in consultation with the Treasurer, to set certain terms and conditions for the deposits, and require the Treasurer to invest the moneys held in the fund through the Pooled Money Investment Account, according to specified criteria. It would continuously appropriate moneys in the fund to the Controller for the payment of interest expenditures and the return of deposits to depositors.

(2) The Administrative Procedure Act governs the procedure for the adoption, amendment, or repeal of regulations by state agencies and for the review of those regulatory actions by the Office of Administrative Law, subject to specified criteria.

This bill would exempt activities conducted by the Director of Finance, in consultation with the Treasurer, in implementing and administering the investment program provided for in the bill from the provisions of the act.

(3) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

~~The Sales and Use Tax Law imposes a tax on retailers measured by the gross receipts from the sale of tangible personal property sold at retail in this state, or on the storage, use, or other consumption in this state of tangible personal property purchased from a retailer for storage, use, or other consumption in this state. That law provides various exemptions from those taxes:~~

~~On and after July 1, 2012, this bill would exempt from specified sales and use taxes, or a portion of those taxes, the sale of, and the storage, use, or other consumption in this state, of tangible personal property, as defined, purchased for use by a qualified person, as defined, primarily in any stage of manufacturing, processing, refining, fabricating, or recycling of property; in research and development; to maintain, repair, measure, or test specified property; and by a contractor for use in a construction contract with a qualified person, as specified.~~

~~The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes counties and cities to impose local sales and use taxes in conformity~~

~~with the Sales and Use Tax Law, and the Transactions and Use Tax Law authorizes districts, as specified, to impose transactions and use taxes in conformity with the Sales and Use Tax Law. Exemptions from state sales and use taxes are incorporated in these laws.~~

~~This bill would specify that this exemption does not apply to local sales and use taxes or transactions and use taxes.~~

~~This bill would also specify that this exemption would be operative only so long as state sales and use taxes are equal to or greater than 7% or until July 1, 2016, whichever first occurs.~~

~~The Personal Income Tax Law and the Corporation Tax Law authorize various credits against the taxes imposed by those laws, including a credit for taxable years beginning on or after January 1, 2009, in the amount of \$3,000 for each full-time employee hired by a qualified employer, until a cutoff date on which a maximum cumulative credit of \$400,000,000 has been reached for all taxable years. Those laws define “qualified employer” as a taxpayer that employed 20 or fewer employees as of the last day of the preceding taxable year.~~

~~This bill would, under both laws, continue that credit only for taxable years beginning before January 1, 2011, and for taxable years beginning on or after January 1, 2011, and before January 1, 2013, would authorize a credit in the amount of \$4,000 for each full-time employee, as specified, and would revise the definition of “qualified employer” to mean a taxpayer that employed 50 or fewer employees as of the last day of the preceding taxable year. This bill would also provide that the credit, under both laws, would be repealed upon the cutoff date or December 31, 2013, whichever occurs earlier.~~

~~The Personal Income Tax Law and the Corporation Tax Law allow for various tax credits and deductions in computing the taxes imposed by those laws, relating to enterprise zones, targeted tax areas, local agency military base recovery areas, and manufacturing enhancement areas. Under existing law, specified tax credits for sales and use taxes paid by certain taxpayers in these areas may be carried over to succeeding taxable years, until the credit amount is exhausted. Under both laws, credits are allowed to specified taxpayers for the hiring and employment of specified employees within enterprise zones, targeted tax areas, local agency military base recovery areas, and manufacturing enhancement areas.~~

~~This bill would revise the credits allowed for the hiring and employment of specified employees for taxable years beginning on or after January 1, 2011, to provide, generally, for a credit of \$5,000 for~~

~~each net increase in specified full-time employees. This bill would cease to allow carryovers for the credits for sales and use taxes and for hiring and employment for taxable years beginning before January 1, 2006, and limit the carryover period to five years for those portions of credit that were first allowed in taxable years beginning on or after January 1, 2006.~~

~~This bill would require specified taxpayers to submit information to the Franchise Tax Board under penalty of perjury. By requiring these taxpayer to submit information under penalty of perjury, this bill would create a new crime and thereby impose a state-mandated local program.~~

~~The Corporation Tax Law imposes taxes measured by income and, in the case of a business with income derived from or attributable to sources both within and without this state, apportions the income between this state and other states and foreign countries in accordance with a specified 4-factor formula based on the property, payroll, and sales within and without this state, except that in the case of an apportioning trade or business that derives more than 50% of its gross business receipts from conducting one or more qualified business activities, as defined, business income is apportioned in accordance with a specified 3-factor formula. That law, for taxable years beginning on or after January 1, 2011, allows a taxpayer to have that income apportioned in accordance with a single sales factor formula, except as provided, pursuant to an irrevocable annual election, as specified. That law also provides that sales of tangible and intangible personal property are in this state in accordance with specified criteria.~~

~~This bill would, for taxable years beginning or after January 1, 2011, revise the rules which determine whether a taxpayer is doing business within this state, revise the provisions which determine whether specific sales occur in this state, and require a taxpayer, except as provided, to apportion their income in accordance with a single sales factor.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

~~This bill would constitute a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.~~

~~This bill would take effect immediately as a tax levy.~~

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~no~~-yes. Fiscal committee: yes.
State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 16330 is added to the Government Code,
2 to read:

3 16330. (a) (1) The State Agency Investment Fund is hereby
4 created within the State Treasury, for the receipt of deposits from
5 state agencies with moneys not currently required by law to be
6 deposited in the Pooled Money Investment Account.

7 (2) For purposes of this section, a “state agency” includes any
8 state office, officer, department, division, bureau, board,
9 commission, organization, or agency, including, but not limited
10 to, the University of California, the California State University,
11 the California Community Colleges, and the Judicial Council.

12 (b) Each agency that deposits moneys in the fund shall deposit
13 no less than a total of five hundred million dollars (\$500,000,000).
14 The total amount of moneys that may be deposited in the fund from
15 all eligible sources shall not exceed, at any point in time, a total
16 of ten billion dollars (\$10,000,000,000), or a lesser amount as
17 determined by the Director of Finance, in consultation with the
18 Treasurer.

19 (c) The terms and conditions of deposits made into the fund
20 shall be set by the Director of Finance, in consultation with the
21 Treasurer. Those terms shall include, but not be limited to, the
22 size of deposit from a particular state agency, the length of time
23 those moneys shall be held in deposit in the fund, the availability
24 of funds for withdrawal by the state agency depositing the funds,
25 and the annual rate of interest paid on deposits, as described in
26 subdivision (e).

27 (d) Moneys held in the fund shall be invested by the Treasurer
28 in investments authorized by Sections 16430 and 16480 through
29 the Pooled Money Investment Account, and notwithstanding any
30 other law, shall be deemed borrowable by the General Fund for
31 cashflow purposes pursuant to Sections 16310 and 16381.
32 Repayment of any of those borrowings shall be considered a
33 priority payment, equivalent to any other loan repayment made
34 from the General Fund to another state fund.

1 (e) Notwithstanding any other law, the rate of interest to be
2 paid to the depositors shall be the base apportionment rate based
3 on their pro rata share of the earnings of the Pooled Money
4 Investment Account on a quarterly basis at the end of each quarter
5 plus an enhanced amount. The pro rata share shall be determined
6 by a dollar day participation. The base apportionment rate applied
7 to the dollar day participation in the fund shall be the
8 quarter-to-date average yield of the Pooled Money Investment
9 Account for the current quarter. The enhancement amount paid
10 to depositors in the fund shall be determined by the Director of
11 Finance, in consultation with the Treasurer, and shall be added
12 to the base rate earned by the Pooled Money Investment Account
13 at the time the apportionment is made. The total interest cost
14 described in this subdivision shall not exceed that provided for in
15 paragraph (1) of subdivision (d) of Section 16731.

16 (f) Notwithstanding Section 13340, moneys in the fund are
17 hereby continuously appropriated to the Controller for payment
18 of interest expenditures to depositors calculated in accordance
19 with subdivision (e), and return of deposits to depositors according
20 to terms and conditions set by the Director of Finance, in
21 consultation with the Treasurer.

22 (g) The Department of Finance shall determine the budget items
23 to be used for the recording and reporting of interest expenditures
24 pursuant to this section.

25 (h) Deposits in the fund shall be tracked separately for each
26 participant in the state's accounting system, and shall be deemed
27 to be assets of each participant. These assets shall be reflected as
28 such on the participants' financial statements.

29 (i) Actions by the Director of Finance, in consultation with the
30 Treasurer, in implementing and administering the investment
31 program provided for in this section shall be exempt from the
32 provisions of the Administrative Procedure Act (Chapter 3.5
33 commencing with Section 11340) of Part 1 of Division 3).

34 SEC. 2. This act is a bill providing for appropriations related
35 to the Budget Bill within the meaning of subdivision (e) of Section
36 12 of Article IV of the California Constitution, has been identified
37 as related to the budget in the Budget Bill, and shall take effect
38 immediately.

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Senate, June 12, 2011. (JR11)**

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