

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: April 16, 2013

TO: Honorable Members of the Rules, Elections and
Intergovernmental Relations Committee

FROM: Gerry F. Miller *KFM*
Chief Legislative Analyst

Council File No.: 13-0002-S56
Assignment No.: 13-04-0290

SUBJECT: Resolution (Krekorian-LaBonge) to Support SB 211 relative to the California Franchise Tax Board.

CLA RECOMMENDATION: Adopt Resolution (Krekorian-LaBonge) to include in the City's 2013-2014 State Legislative Program SUPPORT of SB 211 to allow the City to continue to enter into a reciprocal agreement with the Franchise Tax Board (FTB) to exchange tax information.

SUMMARY

Resolution (Krekorian-LaBonge) notes that Los Angeles, like other cities in California and the state itself, has a significant underground economy and the resultant loss of tax revenue due to non-compliant businesses. The Resolution further notes that previous law authorized tax officials of California, other states and Mexico to enter into a reciprocal agreement with the Franchise Tax Board (FTB) to exchange tax information. However, prior laws did not afford California's city tax officials the same authority to enter into reciprocal agreements with the FTB to receive or exchange tax information. According to the Resolution, in 2001, AB 63 (Cedillo) afforded FTB the authority to disclose to tax officials of any city specified tax information but only until December 31, 2011. In 2008, SB 1146 (Cedillo) was approved by the Governor, affording the FTB the authority to enter into a reciprocal agreement and disclose to tax officials of any city specified tax information only until December 31, 2013. In addition, SB 1146 required cities to annually provide the FTB specified information that is collected in the course of administration of a city's business tax program. The Resolution states that on February 11, 2013, SB 11 (Price) was introduced in the State Senate, such legislation, if approved, would remove the December 31, 2013 repeal date of the provisions relating to reciprocal agreements between the FTB and cities, thus indefinitely extending the duration for these provisions. The Resolution states that SB 211 does not increase any local or state tax. By sharing information on existing data bases, taxes that are duly owed can be identified and collected, thus creating a level playing field for businesses that pay their fair share of taxes with those that currently do not. According to the Resolution, the State Franchise Tax Board has sponsored and supports SB 211. Lastly, the Resolution indicates that the City of Los Angeles' Office of Finance has successfully added approximately 167,000 non-registered businesses to the City of Los Angeles' tax rolls and collected over \$161 million in tax revenue to date since the passage of AB 63 in 2001. The Resolution, therefore, recommends that the City support SB 211.

BACKGROUND

On April 9, 2013, Resolution (Krekorian-LaBonge) was introduced to support SB 211 to allow the City to continue to enter into a reciprocal agreement with the California Franchise Tax Board (FTB) to exchange tax information. Existing law authorizes, until December 31, 2013, a city that has entered into a reciprocal agreement with the FTB to exchange tax information. SB 211 would delete the repeal date of the provisions relating to the reciprocal agreements between cities and the FTB, thereby indefinitely extending the duration for such provisions.

According to an October 25, 2011 Councilmember Garcetti Motion (Garcetti-Parks), the California Legislature last amended the Revenue and Taxation Code to extend the December 31, 2008 sunset date to December 31, 2013. This action provided authority to the FTB to furnish limited taxpayer information to tax officials of any California city. The agreement has been a major component of the Business Tax Discovery Program in the City of Los Angeles Office of Finance which has generated \$142 million in General Fund revenue since inception.

Pursuant to the current reciprocal agreement with the City, the FTB provides data to the City twice each year during the months of June and December. The Office of Finance uses this data to identify businesses that are operating in the City without a business tax registration certificate and thus are not paying their fair share of the business tax. The agreement also requires that the City furnish limited taxpayer information, predicated upon the assurance of taxpayer confidentiality, to the FTB once a year.

The agreement requires that the City pay an annual amount of \$20,000 to the FTB for the data transfer that occurs twice per year. The City Council has authorized payment in the amount of \$20,000 per year for the period January 2012 through December 2014 (C.F. 09-0603-S1). The Office of Finance has reviewed SB 11 and recommends support.

It is therefore recommended that the City support SB 211 to delete the repeal date of the provisions relating to the reciprocal agreement and allow the City to continue to exchange tax information with the FTB.

DEPARTMENTS NOTIFIED

Office of Finance

BILL STATUS

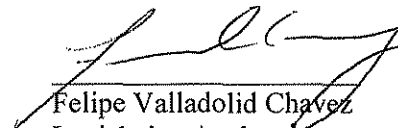
SB 211

Introduced

February 11, 2013

Referred to Committee on Government and Finance

February 21, 2013


Felipe Valladolid Chavez
Legislative Analyst

Attachments: 1) Resolution (Krekorian-LaBonge)
GFM: fvc

RESOLUTION

WHEREAS, any official position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have been first adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, Los Angeles, like other cities in California and the state itself, has a significant underground economy and the resultant loss of tax revenue due to non-compliant businesses.

WHEREAS, previous law authorized tax officials of California, other states and Mexico to enter into a reciprocal agreement with the Franchise Tax Board (FTB) to exchange tax information. However, prior law did not afford California's city tax officials the same authority to enter into reciprocal agreements with the FTB to receive or exchange tax information.

WHEREAS, in 2001, AB 63 (Cedillo) afforded FTB the authority to disclose to tax officials of any city specified tax information but only until December 31, 2011.

WHEREAS, in 2008, SB 1146 (Cedillo) was approved by the Governor, affording the FTB the authority to enter into a reciprocal agreement and disclose to tax officials of any city specified tax information only until December 31, 2013. In addition, the bill requires cities to annually provide the FTB specified information that is collected in the course of administration of a city's business tax program.

WHEREAS, on February 11, 2013, SB 211 (Price) was introduced in the State Senate, such legislation, if approved, removing the December 31, 2013 repeal date of the provisions relating to the reciprocal agreements between the FTB and cities, thus indefinitely extending the duration for these provisions. Furthermore, SB 211 specifies that tax information provided to the taxing authority of a city may not be furnished to, or used by, any person other than an employee or agent of that taxing authority.

WHEREAS, SB 211 does not increase any local or state tax. By sharing information on existing data bases, taxes that are duly owed can be identified and collected, thus creating a level playing field for businesses that pay their fair share of taxes with those that currently do not.

WHEREAS, the State Franchise Tax Board has sponsored and supports SB 211.

WHEREAS, the City of Los Angeles' Office of Finance has successfully added approximately 167,000 non-registered businesses to the City of Los Angeles' tax rolls and collected over \$161 million in tax revenue to date since the passage of AB63 in 2001.

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles, hereby includes in its 2013-2014 State Legislative Program SUPPORT of SB 211 (Price) that would allow the City of Los Angeles to continue to enter into a reciprocal agreement with the Franchise Tax Board (FTB) to exchange tax information.

PRESENTED BY: Paul Kerkorian
PAUL KERKORIAN
Councilmember, 2nd District

SECONDED BY: [Signature]

APR 9 2013