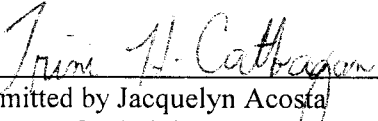


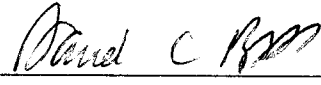


City of Carson Report to Mayor and City Council

April 16, 2013
New Business Consent

SUBJECT: CONSIDER RESOLUTION NO. 13-033 SUPPORTING SENATE BILL 211 TO REPEAL THE SUNSET DATE OF THE FRANCHISE TAX BOARD'S CITY BUSINESS TAX PROGRAM


Submitted by Jacquelyn Acosta
Director of Administrative Services


Approved by David C. Biggs
City Manager

I. SUMMARY

The City Council is asked to approve Resolution No. 13-033 (Exhibit No. 1) in support of Senate Bill (SB) 211 (Price) (Exhibit No. 2) which would permanently repeal the sunset date of the reciprocal sharing of tax information between the Franchise Tax Board (FTB) and a city's tax officials.

II. RECOMMENDATION

1. WAIVE further reading and ADOPT Resolution No. 13-033, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, SUPPORTING SB 211 TO REPEAL THE SUNSET DATE OF THE FRANCHISE TAX BOARD'S CITY BUSINESS TAX PROGRAM."
2. SEND executed copies of Resolution No. 13-033 to State Senators Ted Lieu, Curren Price, Roderick Wright, and Ryan Eisberg; Assemblyman Isadore Hall, III; Congresswoman Janice Hahn, and to members of the Senate Governance and Finance Committee.

III. ALTERNATIVES

TAKE the following actions:

1. MODIFY and APPROVE Resolution No. 13-033 as the City Council may require.
2. TAKE another action that the City Council deems appropriate.

IV. BACKGROUND

Previously AB 63 and SB 1146 authorized the FTB to enter into agreements with local jurisdictions to share income tax information. FTB's program, known as the City Business Tax Program, is scheduled to sunset on December 31, 2013. There is no charge to participate in the program if information is transferred between the City and FTB.

SB 211 repeals permanently the sunset of the City Business Tax Program that authorizes the FTB to exchange tax information with city tax officials in order to

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identify businesses not satisfying both State and local business license tax requirements. FTB data on local business-related income tax filers assists the City in identifying thousands of unlicensed businesses and generates business license revenue.

SB 211 is fully supported by the California Municipal Revenue & Taxation Association (CMRTA), a statewide association of municipal revenue and taxation officials. It is scheduled to be heard before the Senate Governance and Finance Committee on April 24, 2013 and staff is requesting the City Council's support for passage of this bill. If approved, copies of the adopted Resolution will be sent to all local state representatives and other appropriate state representatives and organizations.

V. FISCAL IMPACT

Approval of SB 211 will enable the City to receive its revenue stream of approximately \$1.7 million annually in business license and related fees from this program.

VI. EXHIBITS

1. Resolution No. 13-033. (pgs. 3 - 4)
2. Senate Bill 211 Text. (pgs. 5 - 9)

Prepared by: Boris Sztorch, Revenue Manager

TO: Rev09-04-2012

Reviewed by:

City Clerk	City Treasurer
Administrative Services	Public Works
Community Development	Community Services

Action taken by City Council

Date _____ Action _____

RESOLUTION NO. 13-033

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
CARSON, CALIFORNIA, SUPPORTING SENATE BILL 211 TO
REPEAL THE SUNSET DATE OF THE FRANCHISE TAX BOARD'S
CITY BUSINESS TAX PROGRAM

WHEREAS, Assembly Bill 63 (AB 63) and subsequently Senate Bill 1146 (SB 1146) authorized the City Business Tax Program which has been a leading source of revenue to many cities and the State of California since 2002; and

WHEREAS, AB 63/SB 1146 contained a provision which will sunset the Franchise Tax Board (FTB) City Business Tax Program on December 31, 2013; and

WHEREAS, AB 63/SB 1146 authorized the California State Franchise Tax Board to disclose certain income tax records related to business activities of residents, corporations, and other entities to cities; and

WHEREAS, the City of Carson utilizes the FTB data to check existing business license records and identify unregistered businesses with the City; and

WHEREAS, the City of Carson generates additional revenues from the FTB City Business Tax Program.

NOW, THEREFORE, be it resolved by the City Council of the City of Carson, California, that:

Section 1. The above recitals are true and correct and incorporated herein by this reference.

Section 2. SB 211 will provide stability and reliability to the tax data-sharing program in order to help the City locate businesses that have not paid business license taxes and related fees.

Section 3. Based on the foregoing recitations and all evidence presented to and considered by the City Council, it does hereby declare its support for SB 211 and urges the California State Legislature and Governor to support SB 211.

PASSED, APPROVED and ADOPTED this ____ day of April, 2013.

Mayor Jim Dear

ATTEST:

City Clerk Donesia L. Gause, CMC

APPROVED AS TO FORM:

City Attorney



Introduced by Senator Price

February 11, 2013

An act to amend Sections 19551.1 and 19551.5 of, and to amend and repeal Section 19551 of, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 211, as introduced, Price. Tax administration: disclosure of information: Franchise Tax Board and cities.

Existing law authorizes, until December 31, 2013, a city that has entered into a reciprocal agreement, as defined, with the Franchise Tax Board, to exchange tax information, as provided. Existing law limits the use of the tax data received from the Franchise Tax Board for business tax administration purposes and provides that any other use or disclosure of the information is punishable as a misdemeanor.

This bill would delete the repeal date of the provisions relating to the reciprocal agreements between the Franchise Tax Board and cities, thus indefinitely extending the duration for these provisions.

Because this bill would continue the operation of the reciprocal agreement tax information agreement, and the unauthorized use of such information would be a crime, it would impose a state-mandated local program.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

- P2 1 SECTION 1. Section 19551 of the *Revenue and Taxation Code*,
 2 as amended by Section 1 of Chapter 345 of the Statutes of 2008,
 3 is amended to read:
 4 19551. (a) The Franchise Tax Board may permit the
 5 Commissioner of Internal Revenue of the United States, other tax
 6 officials of this state, the Multistate Tax Commission, the proper
 7 officer of any state imposing an income tax or a tax measured by
 8 income or the authorized representative of that officer, or the tax
 9 officials of Mexico, if a reciprocal agreement exists, to inspect the
 10 income tax returns of any taxpayer, or may furnish to the
 11 commission, or the officer or the authorized representative thereof
 12 an abstract of the return or supply thereto information concerning
 13 any item of income contained in any return or disclosed by the
 14 report of any investigation of the income or return. The information
 15 shall be furnished to the Multistate Tax Commission, the federal
 16 or state officer or his or her representative, or the officials of
 17 Mexico for tax purposes only. Except when furnished pursuant to
 18 a written agreement, information furnished pursuant to this section
 19 shall be furnished only if the request is in the form of an affidavit

EXHIBIT NO. 02

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20 under penalty of perjury stating that the purpose for the request
 21 relates to an investigation of the tax specified in the request and
 22 that the information will be used in the ordinary performance of
 23 the applicant's official duties.

24 (b) Notwithstanding subdivision (a) and except as otherwise
 25 provided in Section 19551.1, tax officials of political subdivisions
 26 of this state shall request information from the Franchise Tax Board
 27 by affidavit only. At the time a tax official makes the request, he
 28 or she shall provide the affected person with a copy of the affidavit
 29 and, upon request, make the information obtained available to that
 30 person.

31 (c) For purposes of this section, "reciprocal agreement" means
 32 a formal agreement to exchange information between national
 33 taxing officials of Mexico and taxing authorities of the State Board
 34 of Equalization, the Franchise Tax Board, and the Employment
 35 Development Department. Furthermore, the reciprocal agreement
 36 shall be limited to the exchange of information that is essential for
 37 tax administration purposes only. Taxing authorities of the State
 38 of California shall be granted tax information only on California
 P3 1 residents. Taxing authorities of Mexico shall be granted tax
 2 information only on Mexican nationals.

3 ~~(d) This section shall remain in effect through and including~~
 4 ~~December 31, 2013, and shall be repealed on January 1, 2014.~~

5 SEC. 2. Section 19551 of the *Revenue and Taxation Code*, as
 6 added by Section 2 of Chapter 345 of the Statutes of 2008, is
 7 repealed.

8 ~~19551. (a) The Franchise Tax Board may permit the~~
 9 ~~Commissioner of Internal Revenue of the United States, other tax~~
 10 ~~officials of this state, the Multistate Tax Commission, the proper~~
 11 ~~officer of any state imposing an income tax or a tax measured by~~
 12 ~~income or the authorized representative of that officer, or the tax~~
 13 ~~officials of Mexico, if a reciprocal agreement exists, to inspect the~~
 14 ~~income tax returns of any taxpayer, or may furnish to the~~
 15 ~~commission, or the officer or the authorized representative thereof~~
 16 ~~an abstract of the return or supply thereto information concerning~~
 17 ~~any item of income contained in any return or disclosed by the~~
 18 ~~report of any investigation of the income or return. The information~~
 19 ~~shall be furnished to the Multistate Tax Commission, the federal~~
 20 ~~or state officer or his or her representative, or the officials of~~
 21 ~~Mexico for tax purposes only. Except when furnished pursuant to~~
 22 ~~a written agreement, information furnished pursuant to this section~~
 23 ~~shall be furnished only if the request is in the form of an affidavit~~
 24 ~~under penalty of perjury stating that the purpose for the request~~
 25 ~~relates to an investigation of the tax specified in the request and~~
 26 ~~that the information will be used in the ordinary performance of~~
 27 ~~the applicant's official duties.~~

28 ~~(b) Notwithstanding subdivision (a), tax officials of political~~
 29 ~~subdivisions of this state shall request information from the~~
 30 ~~Franchise Tax Board by affidavit only. At the time a tax official~~
 31 ~~makes the request, he or she shall provide the affected person with~~
 32 ~~a copy of the affidavit and, upon request, make the information~~
 33 ~~obtained available to that person.~~

34 ~~(c) For purposes of this section, "reciprocal agreement" means~~
 35 ~~a formal agreement to exchange information between national~~
 36 ~~taxing officials of Mexico and taxing authorities of the State Board~~
 37 ~~of Equalization, the Franchise Tax Board, and the Employment~~
 38 ~~Development Department. Furthermore, the reciprocal agreement~~

39 ~~shall be limited to the exchange of information that is essential for~~
 40 ~~tax administration purposes only. Taxing authorities of the State~~
 P4 1 ~~of California shall be granted tax information only on California~~
 2 ~~residents. Taxing authorities of Mexico shall be granted tax~~
 3 ~~information only on Mexican nationals.~~

4 ~~(d) This section shall become operative on January 1, 2014.~~

5 SEC. 3. Section 19551.1 of the *Revenue and Taxation Code*
 6 is amended to read:

7 19551.1. (a) (1) The Franchise Tax Board may permit the tax
 8 officials of any city to enter into a reciprocal agreement with the
 9 Franchise Tax Board to obtain tax information from the Franchise
 10 Tax Board, as specified in subdivision (b).

11 (2) For purposes of this section, "reciprocal agreement" means
 12 a formal agreement to exchange information for tax administration
 13 purposes between tax officials of a city and the Franchise Tax
 14 Board.

15 (b) The information furnished to tax officials of a city under
 16 this section shall be limited as follows:

17 (1) The tax officials of a city are authorized to receive
 18 information only with respect to taxpayers with an address as
 19 reflected on the Franchise Tax Board's records within the
 20 jurisdictional boundaries of the city who report income from a
 21 trade or business to the Franchise Tax Board.

22 (2) The tax information that may be provided by the Franchise
 23 Tax Board to a city is limited to a taxpayer's name, address, social
 24 security or taxpayer identification number, and business activity
 25 code.

26 (3) Tax information provided to the taxing authority of a city
 27 may not be furnished to, or used by, any person other than an
 28 employee *or agent* of that taxing authority.

29 (4) The information provided to the tax officials of the city by
 30 the Franchise Tax Board under this section is subject to Section
 31 19542, and may not be used for any purpose other than the city's
 32 tax enforcement, or as otherwise authorized by state or federal
 33 law.

34 (5) Section 19542.1 applies to this section.

35 (c) The Franchise Tax Board may not provide any information
 36 pursuant to this section until all of the following have occurred:

37 (1) An agreement has been executed between a city and the
 38 Franchise Tax Board, that provides that an amount equal to all
 39 first year costs necessary to furnish the city information pursuant
 40 to this section shall be received by the Franchise Tax Board before
 P5 1 the Franchise Tax Board incurs any costs associated with the
 2 activity permitted by this section. For purposes of this section, first
 3 year costs include costs associated with, but not limited to, the
 4 purchasing of equipment, the development of processes, and labor.

5 (2) An agreement has been executed between a city and the
 6 Franchise Tax Board, that provides that the annual costs incurred
 7 by the Franchise Tax Board, as a result of the activity permitted
 8 by this section, shall be reimbursed by the city to the Franchise
 9 Tax Board.

10 (3) Pursuant to the agreement described in paragraph (1), the
 11 Franchise Tax Board has received an amount equal to the first year
 12 costs.

13 (d) Any information, other than the type of tax information
 14 specified in subdivision (b), may be requested by the tax officials
 15 of a city from the Franchise Tax Board by affidavit. At the time a

16 tax official makes the request, he or she shall provide the person
17 whose information is the subject of the request, with a copy of the
18 affidavit and, upon request, make the information obtained
19 available to that person.

20 (e) This section does not invalidate any other law. This section
21 does not preclude any city or county from obtaining information
22 about individual taxpayers, including those taxpayers not subject
23 to this section, by any other means permitted by state or federal
24 law.

25 (f) Nothing in this section shall be construed to affect any
26 obligations, rights, or remedies regarding personal information
27 provided under state or federal law.

28 (g) Notwithstanding subdivision (c), the Franchise Tax Board
29 shall waive a city's reimbursement of the Franchise Tax Board's
30 cost if a city enters into a reciprocal agreement as defined in
31 paragraph (2) of subdivision (a). The reciprocal agreement shall
32 specify that each party shall bear its own costs to furnish the data
33 involved in the exchange authorized by this section and Section
34 19551.5, and a city shall be precluded from obtaining
35 reimbursement as specified under Section 5 of the act adding this
36 subdivision.

37 ~~(h) This section shall remain in effect through and including~~
38 ~~December 31, 2013, and shall be repealed on January 1, 2014.~~

39 SEC. 4. Section 19551.5 of the *Revenue and Taxation Code*
40 is amended to read:

P6 1 19551.5. (a) Notwithstanding any other law, each city that
2 assesses a city business tax or requires a city business license shall,
3 upon the request of the Franchise Tax Board, annually submit to
4 the Franchise Tax Board the information that is collected in the
5 course of administration of the city's business tax program, as
6 described in subdivision (b).

7 (b) Information, collected in the course of administration of the
8 city's business tax program, shall be limited to the following:

9 (1) Name of the business, if the business is a corporation,
10 partnership, or limited liability company, or the owner's name if
11 the business is a sole proprietorship.

12 (2) Business mailing address.

13 (3) Federal employer identification number, if applicable, or
14 the business owner's social security number.

15 (4) Standard Industrial Classification (SIC) Code or North
16 American Industry Classification System (NAICS) Code.

17 (5) Business start date.

18 (6) Business cease date.

19 (7) City number.

20 (8) Ownership type.

21 (c) The reports required under this section shall be filed on
22 magnetic media such as tapes or compact discs, through a secure
23 electronic process, or in other machine-readable form, according
24 to standards prescribed by regulations promulgated by the
25 Franchise Tax Board.

26 (d) Cities that receive a request from the Franchise Tax Board
27 shall begin providing to the Franchise Tax Board the information
28 required by this section as soon as economically feasible, but no
29 later than December 31, 2009. The information shall be furnished
30 annually at a time and in the form that the Franchise Tax Board
31 may prescribe by regulation.

32 (e) The city data provided to the Franchise Tax Board under

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33 this section is subject to Section 19542, and may not be used for
 34 any purpose other than state tax enforcement or as otherwise
 35 authorized by law.

36 (f) If a city enters into a reciprocal agreement with the Franchise
 37 Tax Board pursuant to subdivision (a) of Section 19551.1, the city
 38 shall also waive reimbursement for costs incurred to provide
 39 information required under this section and shall be precluded
 40 from obtaining reimbursement as specified under Section 5 of
 P7 1 Chapter 345 of the Statutes of 2008. The reciprocal agreement
 2 shall specify that each party shall bear its own costs to furnish the
 3 data involved in the exchange authorized by Section 19551.1 and
 4 this section, and the Franchise Tax Board shall be precluded from
 5 obtaining reimbursement as specified under subdivision (c) of
 6 Section 19551.1.

7 (g) A city shall not be required to provide information to the
 8 Franchise Tax Board pursuant to this section if the Franchise Tax
 9 Board fails to provide tax information to the city pursuant to a
 10 reciprocal agreement entered into pursuant to subdivision (a) of
 11 Section 19551.1 for reasons other than concerns related to
 12 confidentiality of tax information provided to the city.

~~13 (h) This section shall remain in effect through and including~~
~~14 December 31, 2013, and shall be repealed on January 1, 2014.~~

15 SEC. 5. No reimbursement is required by this act pursuant to
 16 Section 6 of Article XIII B of the California Constitution because
 17 the only costs that may be incurred by a local agency or school
 18 district will be incurred because this act creates a new crime or
 19 infraction, eliminates a crime or infraction, or changes the penalty
 20 for a crime or infraction, within the meaning of Section 17556 of
 21 the Government Code, or changes the definition of a crime within
 22 the meaning of Section 6 of Article XIII B of the California
 23 Constitution.

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