SENATE COMMITTEE ON APPROPRIATIONS
Senator Anna Caballero, Chair
2023 - 2024 Regular Session

SB 1327 (Glazer) - Income taxation: credits: local news media: data extraction transactions

Version: May 2, 2024
Urgency: Yes
Hearing Date: May 13, 2024
Policy Vote: REV. & TAX. 4 - 1
Mandate: Yes
Consultant: Robert Ingenito

Bill Summary: SB 1327 would (1) impose a Data Extraction Mitigation Fee, as specified, (2) enact credits against the Personal Income and Corporation taxes for news media entities that pay wages for current or newly employed journalists, and (3) utilize the Fee revenue to reimburse foregone General Fund revenue resulting from the credits.

Fiscal Impact:

- The Franchise Tax Board (FTB) estimates that, for every $1 million in qualified wages paid, revenue loss to the General Fund would be $440,000.
- FTB estimates that for every $5 billion in gross receipts derived from data extractions transactions nationally, the estimated state revenue gain would be $50 million.
- FTB's annual costs to administer the bill have yet to be determined, but minimally would be in the hundreds of thousands of dollars (General Fund).

Background: Daily newspaper circulation in the United States is roughly half of what it was in the 1970s. Newspaper advertising has also declined. Between 2010 and 2017, publicly traded U.S. print media firms experienced an average decrease of 9 percent per year in print advertising revenue. Although digital advertising revenue comprises an increasingly large portion of total advertising revenue, the amount is still relatively small compared to that of print advertising. Digital advertising revenue accounted for 29 percent of the total advertising revenue of publicly traded U.S. print media firms in 2017. Moreover, the growth in digital advertising revenue has not offset the decline in traditional advertising revenue; for example, the U.S. newspaper industry's total advertising revenue fell from $26 billion in 2010 to $18 billion in 2017.

Newspapers' trend of reduced advertising revenue is juxtaposed against revenue gains for large internet companies such as Amazon, Meta, and Google. In the 4th quarter of 2024, for example, Meta's ad sales increased 24 percent year over year to $39 billion, Amazon's rose 27 percent to $15 billion, and Alphabet saw its Google ad business rise 11 percent to $66 billion.

Proposed Law: This bill would, among other things, do the following:

- Impose a Data Extraction Mitigation Fee on persons engaged in data extraction transactions, as defined, measured by gross receipts derived from digital advertising in California. The tax would be 7.25 percent of gross receipts, as specified. FTB would be authorized to adopt regulations, as specified.

- Enact Personal Income and Corporation Tax credits for news media entities that pay wages for currently hired or newly employed qualified journalists, as well as for costs incurred to acquire freelance content for subsequent publication, as specified. The credit percentages would vary based on (1) whether the news media entity has more or less than 10 full-time employees on the first day of the taxable year when they claim the credit, and (2) whether they provide the employee both group health insurance and retirement or pension benefits. Taxpayers claiming the credit for new employees must have a net increase in statewide employment, as specified. The tax credit would be refundable.

- Create the Data Extraction Mitigation Fee Fund and deposit the revenues, interest, and penalties from the Fee into the Fund, less refunds and reimbursement to FTB for the costs of administration and collection. The measure then would allocate revenue in the following order:

  - Satisfy current budgetary formulas, specifically (1) the Proposition 98 requirement for K-14 education, and (2) the Proposition 2 Budget Reserve.

  - To the General Fund in an amount estimated by FTB to reimburse any deductions against the Personal Income and Corporation Tax authorized by the bill.

  - To the General Fund in an amount estimated by FTB to reimburse foregone revenues due to the measure's tax credits.

  - Upon appropriation by the Legislature, to FTB to administer a grant program (as specified) for non-profit eligible news organizations, of at least $25 million annually, or at most 5 percent of total annual revenues derived from the fee, with half of the amount reserved for organizations with fewer than ten employees.

  - Any remaining funds may be appropriated by the Legislature to fund and support activities and programs to assist local journalism in California.

- Additionally, the bill would provide a deduction against the Personal Income and Corporation Tax equal to the amount of the Data Extraction Tax paid by a taxpayer.

Staff Comments: This bill would (1) raise revenue from a new source, (2) satisfy constitutional allocation requirements for public education and the state's budget reserve, and (3) backfill the General Fund for the costs of the tax credits it would create. However, the proposed income and corporation tax credits would take effect in taxable year 2024; consequently, the State would begin paying tax refunds in 2025, before the Data Extraction Mitigation Fee could likely be implemented and the resulting General

Fund backfill could occur. Consequently, the result would be lower near-term General Fund resources than would be the case absent the bill.

As noted previously, this bill would allow a qualified taxpayer a refundable credit to hire and retain full-time employees at eligible local news organizations or qualified broadcast stations. FTB notes that calculating the magnitude of the potential impact to the General Fund, among other things, would require (1) the number of qualified full-time employees, (2) the qualified wages paid, (3) employee hire dates, and (4) the determination of a net increase in employment. Lacking this information, FTB indicates that the bill's revenue impact to the General Fund is unknown.

However, FTB estimates that for every $1 million in qualified wages paid, after applying an average credit percentage of 40 percent, the revenue loss would be approximately $400,000. Additionally, FTB estimates that for every $200,000 in costs to acquire freelance content, after applying the specified credit percentage of 20 percent, the revenue loss would be approximately $40,000. Thus for every $1 million in qualified wages paid, combined revenue loss to the General Fund would be $440,000.

To estimate the revenue impact of the Data Extraction Mitigation Fee, FTB would need data regarding gross receipts derived from data extraction transactions occurring in the State. Because this level of detail is not reported on the tax returns, such activity cannot be known in advance, and thus the revenue impact to the General Fund from the Fee is unknown.

However, FTB estimates that for every $5 billion in gross receipts derived from data extractions transactions nationally, 14 percent ($700 million) would be attributable to California. After applying the Data Extraction Mitigation Fee of 7.25 percent, FTB estimates that the revenue gain would be $50 million.

FTB notes that, due to technical concerns with the current version of the bill, it cannot estimate the revenue impact that would result from providing a deduction against the Personal Income and Corporation Tax equal to the amount of the Data Extraction Tax paid by a taxpayer.

Any local government costs resulting from the mandate in this measure are not state-reimbursable because the mandate only involves the definition of a crime or the penalty for conviction of a crime.

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