

Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author: Senate Committee on Budget and Fiscal Review

Analyst: Janet Jennings

Bill Number: SB 857

Related Bills: See Legislative History

Telephone: 845-3495

Amended Date: October 7, 2010

Attorney: Patrick Kusiak

Sponsor: _____

SUBJECT: Court-Ordered Debt Amnesty

SUMMARY

This bill would, among other things, require governmental entities responsible for collection of delinquent court-ordered debts (COD) to administer a one-time amnesty program to accept 50 percent payment of eligible debts as full satisfaction of the debt.

This analysis only addresses provisions of the bill that could impact the Franchise Tax Board (FTB).

SUMMARY OF AMENDMENTS

The October 7, 2010, amendments replaced legislative intent language with the provisions discussed in this analysis. This is the department's first analysis of the bill.

PURPOSE OF THE BILL

According to the language of the bill, the purpose is to ensure governmental efficiencies and to help alleviate the current fiscal crisis.

EFFECTIVE/OPERATIVE DATE

As an urgency measure, this bill would be effective immediately upon enactment and operative for guidelines issued on or before November 1, 2011, and during an amnesty payment period between January 1, 2012, and June 30, 2012.

POSITION

Pending.

Board Position:			
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Department Director	Date
Patrice Gau-Johnson for Selvi Stanislaus	10/29/10

ANALYSIS

STATE LAW

Under current state law, the state or county courts, including the superior courts, generally may refer past due court-ordered debts to the FTB for collection. The FTB collects the debt in any manner authorized under the laws for collection of delinquent personal income tax liabilities.

The FTB's costs attributable to this collection program are reimbursed through the amount the FTB collects for the program, not to exceed 15 percent. In general, the county or state fund originally owed the debt receives the net collections after reduction by the amount of the FTB's departmental costs.

Current law¹ provides that after consultation with the FTB regarding its court-ordered debt collection program, the Judicial Council may develop a collection amnesty program. The amnesty program would include a provision that some or all of the interest or collection costs imposed on fines and other amounts may be waived if the remaining amounts due are paid within the amnesty period.

THIS BILL

Under this bill, the Judicial Council (JC) would be required to adopt by November 1, 2011, guidelines for a one-time infraction amnesty program required to be established in each county regarding eligible fines and bail. Court debts eligible for the program include the following:

- Eligible violations are limited to infractions,
- The due date for payment of the fine or bail was on or before January 1, 2009,
- The defendant does not owe victim restitution on any case in the county, and
- There are no outstanding misdemeanor or felony warrants for the defendant in the county.

This one-time amnesty program provides that payment of 50 percent of the eligible fine or bail amount would be accepted as full satisfaction of the eligible fine or bail, but only if payment is made between January 1, 2012, and June 30, 2012.

Unless agreed otherwise by the court and the county in writing, the government entities that are responsible for the collection of delinquent court-ordered debt shall be responsible for implementation of the amnesty program as to that debt, with the same division of responsibility applicable for collection of court-ordered debt.

¹ SB 940 (Escutia, Stats. 2003, ch. 268)

IMPLEMENTATION CONSIDERATIONS

Because the FTB currently collects court-ordered debt for counties and superior courts, without specific details about how the one-time program would work, it is difficult to determine the impact to the department. In the absence of specific program details, department staff has made the following assumptions:

- The courts and counties would determine which debts are eligible for the amnesty program and would withdraw these debts from the FTB's court-ordered debt collection program.
- Court-ordered debts previously referred to the FTB and currently in an installment agreement or with a current wage attachment would be excluded from the one-time amnesty program.
- All court-ordered debts referred to the FTB would be fully collectable.
- The volume of accounts referred for collection to the FTB would continue to be sufficient to fund the operating costs of the program.
- Participating courts and counties would be able to address the technological requirements of the one-time forgiveness program.

Based on the above assumptions, the FTB does not anticipate any implementation concerns. However, if any of the assumptions fail to become part of the guidelines of the one-time program, department staff expects that implementation issues could arise.

LEGISLATIVE HISTORY

AB 2928 (Spitzer Stats. 2008, ch. 752) authorized the California Department of Corrections and Rehabilitation (CDCR) to refer restitution orders owed by persons who are or have been under CDCR jurisdiction to the FTB for collection and allow the person who is owed the restitution to decline the collection assistance.

AB 367 (De Leon, Stats. 2007, ch. 132) established a task force to evaluate the imposition of criminal COD and distribution of revenue from the collection of those debts, and lowered the minimum balance requirement for referral of COD for collection to the FTB.

SB 246 (Escutia, Stats. 2004, ch. 380) extended indefinitely the provisions authorizing a county to refer delinquent debts to FTB for collection, thereby requiring the FTB and the courts to expand the collection of court-ordered debts to all 58 California Counties.

SB 940 (Escutia, Stats. 2003, ch. 268) authorized the Judicial Council, after consultation with the Franchise Tax Board regarding its court-ordered debt collection program, to develop a collection amnesty program.

PROGRAM BACKGROUND

The FTB currently collects restitution orders referred from courts of 43 counties and maintains an inventory of approximately 1.1 million cases. Non-tax debt collection is accomplished primarily through the use of wage garnishments and bank levies. In August 2004, legislation was enacted (SB 246, Stats. 2004, Ch. 380) making the FTB's COD program permanent and requiring the FTB to expand participation to all 58 counties and superior courts.

FISCAL IMPACT

Assuming that the assumptions stated above regarding the parameters of the amnesty program are included in the guidelines issued by the JC, it is expected that this bill would not impact the department's costs. However, if the guidelines require the FTB to participate in implementing the program, there could be significant departmental costs.

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

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