Franchise Tax Board

SUMMARY ANALYSIS OF AMENDED BILL

Author: Jones, et al.
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Bill Number: AB 1168
Related Bills: See Prior Analysis
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Amended Date: July 17, 2007
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Sponsor:

SUBJECT: Security of Social Security Numbers/FTB Truncate Social Security Numbers On Lien Abstracts And Any Other Records Created By The Board That Are Disclosable

_____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended __________________.

__X__ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

_____ AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced/amended __________________.

_____ FURTHER AMENDMENTS NECESSARY

_____ DEPARTMENT POSITION CHANGED TO __________________.

__X__ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED July 2, 2007, STILL APPLIES.

_____ OTHER – See comments below.

SUMMARY

This bill would require Franchise Tax Board (FTB) to truncate social security numbers (SSNs) on liens or other documents made public.

SUMMARY OF AMENDMENTS

The July 17, 2007, amendments would do the following:

- Change the operative date from a previously unspecified date to July 1, 2008, for a local agency to fully redact SSNs from documents before making them public,
- Prohibit any government entity from filing a document with a local agency, except for documents filed with a county recorder, that is required to be made public that contains any part of an SSN, unless required by state or federal law, and
- Add intent language to declare that the risk of identity theft inherent in the documents being limited and the need to protect the public interest in ensuring the confidentiality of SSNs warrants the limitation on the public's right of access to the writings of public bodies.

Board Position:			Legislative Director	Date
_______ S	_______ NA	_______ NP		
_______ SA	_______ O	_______ NAR	Brian Putler	8/24/07
_______ N	_______ OUA	___X___ PENDING		

An “Implementation Consideration” has been identified, and the “This Bill” and “Economic Impact” discussions have been revised; the remainder of the department’s analysis of the bill as amended July 2, 2007, still applies.

POSITION

Pending.

THIS BILL

This bill would make changes to the way state, county, and all local levels of government make documents that may contain an SSN available to the public.

On the state level, the bill would prohibit state agencies from filing or recording documents with a local agency that contains more than the last four digits of an SSN. The bill would require FTB to truncate SSNs on any record created by FTB that is disclosable under the Public Records Act and expressly including lien abstracts. SSNs would be required to be truncated by redacting the first five digits of the SSN so that no more than the last four digits of any SSN are displayed.

The bill would allow the Secretary of State (SOS) to refuse to accept for filing any document that contains any part of an SSN. SOS would also be required to truncate the SSN on any existing filed document before making it available to the public.

On the local level, local agencies or filing offices would be required to redact the first five digits of an SSN on a document before making it available to the public.

And, on a county level, except for death records, this bill would establish the Social Security Number Truncation Program within the offices of the county recorder of each county. The program would require the county recorder to create a “public record” version of each “official record” maintained in the county recorder files.

“Official record” would mean the permanent archival record of all instruments, papers, and notices as accepted for recording by a county recorder. “Public record” would mean a record that is in an electronic format and is an exact copy of an official record, except that any SSN contained in that record is truncated.

Creation of public records would be accomplished by recreating the official record in an electronic format and truncating any SSN on the record. This bill would require the county recorder to make only the public record available upon request. The official record would be made available only upon court order or subpoena.

The bill would provide that until the public record version of an official record is created (SSNs are truncated), a request for access to an official record would be permitted. For records recorded from January 1, 1962, through December 31, 2008, the bill would require the recorder to first truncate records that already exist in an electronic format and then create the electronic version of all other records. Each group of records is to be handled in descending chronological order.

For each official record recorded on or after January 1, 2009, the recorder would be required to create a copy of that record in an electronic format and truncate any SSN contained in that record. The recorder would be deemed to be in compliance if due diligence is used to create and truncate SSNs in official records while applying industry best practices.

This bill would provide that any person may request that a recorder truncate a SSN contained in any public record. The recorder would be required to truncate that number within ten business days of receiving the request that includes the exact location of the SSN within a specifically identified public record.

The bill would authorize each county recorder, as approved by that county's board of supervisors, to charge an additional dollar for each page recorded and would limit the use of the funds for purposes of implementing the truncation program. The bill contains additional provisions specific to the process for the county recorder to be able to assess the additional fee that do not impact FTB and are not discussed in this analysis.

This bill would require, by January 1, 2009, and annually thereafter, the County Recorders Association to report to the Legislature and the Office of Privacy Protection (OPP) on the progress each county recorder has made in complying with this bill's provisions. When OPP has determined that all counties have completed the requirements of the program, the report would no longer be required.

This bill would establish a task force to review the use of SSNs by post secondary institutions in California. These provisions do not impact FTB and are not discussed in this analysis.

IMPLEMENTATION CONSIDERATION

The bill would require FTB to provide a truncated SSN on the lien abstracts issued by the department while prohibiting documents filed with the Secretary of State (SOS) from containing any part of an SSN. The author's office has indicated this inconsistency was not intended and would be corrected with future amendments. In its current form, the bill would require additional system changes to comply with the provisions of the bill.

ECONOMIC IMPACT

Based on limited data and assumptions discussed below, the revenue impact from this bill would be as follows:

Revenue Analysis for AB 1168 – Amendments through 7/17/07 Effective for Liens Filed after Enactment Enactment Assumed after 9/1/07			
Fiscal Year	2007-08	2008-09	2009-2010
Restrict SOS Liens	Loss < $500K	Loss < $500K	Loss < $500K

This analysis does not consider any possible changes in employment, personal income, or gross state product that could result from this bill.

The amendments that would require any part of the SSN to be removed from liens filed with SOS could potentially impair the public's ability to identify the appropriate lien obligor, which would reduce the amounts collected by FTB through those liens.

<u>Revenue Discussion</u>

FTB files a small number of SOS liens annually. In the last year, FTB filed 470 liens with SOS that represented $73 million in income tax delinquencies. (Average lien amount is approximately $150,000) Assuming that the lack of SSN information on the SOS liens results in a 5% reduction in the program's effectiveness because the obligor cannot be identified and that the SOS lien program results in a 10% collection rate of the total liabilities, the potential revenue impact of the bill would result in losses under $500,000 annually [$150,000 average lien x 10% balance satisfied = $15,000 per lien x 24 liens (5% reduced program effectiveness x 470 annual filings) = $360,000]

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