

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Eng Analyst: Angela Raygoza Bill Number: AB 1925  
 Related Bills: See Prior Analysis Telephone: 845-7814 Amended Date: April 23, 2008  
 Attorney: Patrick Kusiak Sponsor: Franchise Tax Board

**SUBJECT:** Failure To Resolve Outstanding Liabilities As Grounds For Revoking a Professional or Occupational License

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended \_\_\_\_\_.

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 \_\_\_\_\_.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED

April 7, 2008, STILL APPLIES.

OTHER – See comments below.

**SUMMARY**

This Franchise Tax Board (FTB) sponsored bill would allow FTB to suspend occupational and professional licenses because of unpaid income tax liabilities and notify the applicable licensing agency of the suspension.

**SUMMARY OF AMENDMENTS**

The April 23, 2008, amendments would do the following:

- Remove the limited hearing for license holders on the issue of whether the tax liability reflected in the notice of state tax lien has been paid,
- Clarify the definition of “financial hardship” by specifying types of information that may be used to establish a hardship, and
- Add a provision to the bill that would limit the suspension process to unpaid liabilities that arise more than 60 days after the date of enactment of the bill.

board Position:	Asst. Legislative Director	Date
<input checked="" type="checkbox"/> S		
<input type="checkbox"/> SA	Patrice Gau-Johnson	5/12/08
<input type="checkbox"/> N		
<input type="checkbox"/> NA		
<input type="checkbox"/> O		
<input type="checkbox"/> OUA		
<input type="checkbox"/> NP		
<input type="checkbox"/> NAR		
<input type="checkbox"/> PENDING		

As a result of the April 23, 2008, amendments, the “Effective/Operative Date,” “This Bill,” “Other States Information,” “Fiscal Impact,” and “Economic Impact” discussions as provided in departments analysis of the bill as amended April 7, 2008, have been revised. Except for the discussion in this analysis, the remainder of the department's analysis of the bill as amended April 7, 2008, still applies.

## **EFFECTIVE/OPERATIVE DATE**

If enacted in the 2008 legislative session, this bill would be effective January 1, 2009, and operative for state tax liens based on notices of proposed assessment (NPAs) mailed 60 days after the enactment date and state tax liens based on other amounts that become due and payable more than 60 days after the enactment date of this bill.

## **ANALYSIS**

### THIS BILL

This bill would suspend an individual’s occupational or professional license because of unpaid income tax liabilities. Suspension of a license would occur only after the following have been provided to the debtor:

- Notice of State Income Tax Due,
- Final Notice Before Levy,
- Order To Withhold (OTW) is issued (if debtor’s bank information is available to FTB),
- Notice of State Tax Lien (issued when a state tax lien is recorded),
- 60-day preliminary suspension notice.

This bill would allow FTB to disclose to the licensing boards the reason for the suspension--unpaid income taxes.

This bill would specify that FTB staff would provide a hearing, upon request of a debtor, for a license holder who believes they would experience a financial hardship as a result of the suspension “Financial hardship” would be defined by Revenue and Taxation Code (R&TC) section 19008, as determined by FTB, where suspension of a license will result in the licensee being financially unable to pay his or her taxes including penalties, interest, and applicable fees and is unable to qualify for an installment payment arrangement pursuant to R&TC section 19008. In order to establish that a financial hardship exists, the licensee shall submit any information, including information related to reasonable business and personal expenses, requested by FTB for making the determination. Once the debtor proves financial hardship, the FTB would defer or cancel the suspension.

This bill would apply to state tax liens based on Notice of Proposed Assessments (NPAs) that are mailed more than 60 days after the enactment date. Additionally, this bill would apply to all other tax liabilities that are due and payable more than 60 days after the date of enactment.

This bill would define the following:

- “License” includes certificate, registration, or any other authorization to engage in a business or profession issued by a state governmental licensing entity.
- “Licensee” means any individual authorized by a license, certificate, registration, or other authorization to engage in a business or profession issued by a state governmental licensing entity.
- “State governmental licensing entity” means any entity included in Sections 101, 1000, or 19420 of the Business and Professions Code (approximately 36 licensing entities), the Office of Attorney General, the Department of Insurance, the State Bar of California, the Department of Real Estate, and any other state agency, board, or commission that issues a license, certificate, or registration authorizing a person to engage in a business or profession. “State governmental licensing entity” excludes the Department of Motor Vehicles.

This bill would allow the Contractors State License Board and FTB to have concurrent authority to suspend a contractor’s license.

This bill requires licensing boards to provide FTB information at a time requested by FTB.

## **OTHER STATES’ INFORMATION**<sup>1</sup>

The following 35 states were surveyed:

*Illinois, Iowa, Massachusetts, Minnesota, Oregon, Vermont* and *Wisconsin*-tax provide for suspension of professional and occupational licensees for unpaid personal income tax liabilities. The revenue department for each of those states directs the licensing authority to suspend the licenses.

*Missouri* laws provide that the revenue department can suspend a professional and occupational license for delinquent personal income tax liability. The revenue department suspends the license and then notifies the licensing board of the suspension of the license holder.

Recently, *Pennsylvania* enacted an information exchange program to ensure that individuals and businesses licensed by the state pay their state income, sales and use, cigarette, liquor, and property taxes. The revenue department notifies a licensing board when it determines that an applicant or licensee has a state tax delinquency. The licensing board will deny or suspend a license for failure to comply with state tax laws.

---

<sup>1</sup> Please see Appendix A that lists all states with a Professional and Occupational Income Tax Clearance Program.

*Oklahoma* and *Maryland* have statutory authority to prevent the renewal of state-issued licenses for non-payment of state personal income taxes. The revenue department will notify a licensing board when it determines that the licensee has a state tax delinquency. Each state licensing agency is prohibited from renewing a license if the licensee has delinquent state tax liabilities.

*New Jersey* law authorizes the Director of Revenue to demand, by written notice to a licensing board, the suspension of a professional, occupational, or business license of an entity that has an unsatisfied judgment for tax indebtedness.

*Michigan* has statutory authority to withhold a license for unpaid state taxes; a hearing is conducted prior to withholding the license. At this time, the only licenses withheld are liquor licenses because of the limited resources available to license boards.

*Indiana* and *Maine* have provisions that prevent the licensing boards from issuing or renewing a professional or occupational license of any applicant or licensee if a licensee has unpaid state income tax.

*Colorado, Connecticut, Delaware, Hawaii, Louisiana, Mississippi, Nebraska, New Hampshire, New York, North Carolina, North Dakota, Ohio, and Tennessee* do not have statutory authority to suspend occupational and professional licenses for delinquent personal income tax liabilities.

*Alaska, Florida, Nevada, South Dakota, Texas, Washington, and Wyoming* do not administer personal income tax.

## **FISCAL IMPACT**

Staff estimates a one-time cost of approximately \$2.4 million (27.4 Personnel Years (PYs)) to program, develop, and test a new process within existing systems and add collection staff to review, process, and suspend accounts that have been matched to licensees. Staff estimates on-going annual costs of approximately \$1.1 million (12.4 PYs) for mailing notices and responding to taxpayer inquiries resulting from those notices. This new function would be operative in the latter part of the 2009-10 fiscal year. Implementing this bill would be contingent upon funding approval.

## ECONOMIC IMPACT

### Revenue Estimate

This bill would result in the following revenue gains:

Estimated Revenue Impact of AB 1925 Effective On or After January 1, 2009 Enactment Assumed After June 30, 2008 (\$ in Millions)			
Occupational	2008-09	2009-10	2010-11
Licensing	+\$1	+\$13	+\$13

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

### Revenue Discussion

This revenue estimate takes into account the following:

- Excluding the current inventory of collection accounts of \$19 million for taxpayers with occupational licenses, and
- Determining that filing enforcement NPAs would not be final until approximately May, 2009. Therefore, the department would not start sending out suspensions for occupational licenses until May, 2010.

The revenue impact of this bill would be determined by the number of delinquent taxpayers who are required to possess an occupational or professional license and who pay their tax liabilities under threat of or after an actual suspension of their occupational license.

This estimate was calculated using the account balances of the department's accounts receivable for taxpayers with occupational licenses, tax liability of a \$1,000 or more, and the past due liability has existed for at least one year. This excludes accounts in bankruptcy and installment agreements.

It is estimated that 17,200 taxpayers with occupational and professional licenses will enter the collection process each year. Of the 17,200 taxpayers, 6,600 are expected to comply with this bill. It is estimated that the average payment amount for these cases would be \$2,000, generating additional annual collections of approximately \$13 million (6,600 x \$2,000).

The calendar year impacts are converted to cash flow fiscal year estimates in the table above with the first fiscal year 2009-10 representing 10% of the \$13 million impact. Revenue impact was accrued back to 2008-09.

## LEGISLATIVE STAFF CONTACT

Legislative Analyst  
Angela Raygoza  
(916) 845-7814

[angela.raygoza@ftb.ca.gov](mailto:angela.raygoza@ftb.ca.gov)

Revenue Manager  
Rebecca Schlusser  
(916) 845-5986

[rebecca.schlusser@ftb.ca.gov](mailto:rebecca.schlusser@ftb.ca.gov)

Asst. Legislative Director  
Patrice Gau-Johnson  
(916) 845-5521

[patrice.gau-johnson@ftb.ca.gov](mailto:patrice.gau-johnson@ftb.ca.gov)

Appendix A  
 State Professional and Occupational License  
 Income Tax Clearance Program

<b>State</b>	<b>Administers Personal Income Tax</b>	<b>Professional/Occupational License Income Tax Clearance Program?</b>
Alaska	No	No
Colorado	Yes	No
Connecticut	Yes	No
Delaware	Yes	No
Florida	No	No
Hawaii	Yes	No
Illinois	Yes	Yes
Indiana	Yes	Yes
Iowa	Yes	Yes
Louisiana	Yes	No
Maine	Yes	Yes
Maryland	Yes	Yes
Massachusetts	Yes	Yes
Michigan	Yes	Yes
Minnesota	Yes	Yes
Mississippi	Yes	No
Missouri	Yes	Yes
Nebraska	Yes	No
Nevada	No	No
New Hampshire	No	No
New Jersey	Yes	Yes
New York	Yes	No
North Carolina	Yes	No
North Dakota	Yes	No
Ohio	Yes	No
Oklahoma	Yes	Yes
Oregon	Yes	Yes
Pennsylvania	Yes	Yes
South Dakota	No	No
Tennessee	Yes (only for interest on dividend income)	No
Texas	No	No
Vermont	Yes	Yes
Washington	No	No
Wisconsin	Yes	Yes
Wyoming	No	No