

BILL ANALYSIS

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Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	De Leon	AB 367

SUBJECT

Court Ordered Debt Collection Program/Reduce Minimum Unpaid Debt For Referral To \$100

SUMMARY

This bill would establish a task force to evaluate the imposition of criminal court ordered debts and distribution of revenue from the collection of those debts. This bill would also lower the balance requirement for referral of Court Ordered Debt (COD) for collection to the Franchise Tax Board (FTB).

PURPOSE OF BILL

According to the author's staff, the purpose of this bill is to improve the overall process related to the imposition and collection of court ordered fines, fees, and penalties and increase the revenue derived from these sources.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2008, and be operative as of that date.

ANALYSIS

STATE LAW

Under current state law, any fines, fees, penalties, forfeitures, restitutions orders or fines, or any other amounts imposed by a superior or municipal court in California that is delinquent for 90 days or more can be referred to FTB for collection. The delinquent amount must be at least \$250 and include debts imposed for criminal offenses, including violations of the Vehicle Code, but not including parking, registration, or offenses by bicyclists or pedestrians.

After issuing a preliminary notice to the debtor, FTB is authorized to collect the debts referred by the courts in the same manner as authorized for collection of a delinquent personal income tax liability. FTB's costs attributable to this collection program are reimbursed through the amount FTB collects for the program, not to exceed 15%. In general, the county or state fund originally owed the debt receives the net collections after reduction by the amount of FTB's departmental costs.

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THIS BILL

This bill would make the following substantive changes to the existing COD program:

- Reduce the minimum amount of court ordered debts referred for collection to FTB from \$250 to \$100,
- Add public defender fees to the county collection programs for court ordered debts,
- Eliminate a county level working group that had been convened to examine collection issues, and
- Authorize the referral of debts based on violations for parking and registration and offenses by pedestrians and bicyclists.

This bill would also establish a task force to evaluate criminal court ordered debts imposed against adult and juvenile offenders. The task force membership prescribed in the bill would include a representative appointed by FTB. The task force would be formed to do the following:

- Identify all criminal and traffic related court ordered fees, fines, forfeitures, penalties, and assessments imposed under law.
- Identify the distribution of revenue derived from those debts.
- Consult with state and local entities that could be affected by a simplification and consolidation of criminal court ordered debts.
- Evaluate and make recommendations to the Judicial Council for consolidating and simplifying the imposition of criminal court ordered debts and the distribution of the revenue derived from those debts with the goal of improving the process for those entities that benefit from the revenues but with no intention to redistribute the funds that will have a detrimental affect on those entities.
- Evaluate and make recommendations to the Judicial Council on or before December 31, 2009, regarding the priority in which court ordered debts should be satisfied and the use of a comprehensive collection program including cost recovery practices.

PROGRAM BACKGROUND

FTB currently collects debts referred from courts of 43 counties and maintains an inventory of approximately 1.1 million cases. In August, 2004, legislation was enacted (SB 246, Stats. 2004, Ch. 380) making FTB's COD program permanent and requiring FTB to expand participation to all 58 counties and superior courts. To meet this requirement, FTB initiated the Court Ordered Debt Expansion (CODE) Project to develop and implement a scalable collection and billing system that includes web based electronic payment capability to provide debtors basic access to their account information and provide online payment options (i.e., payment by credit/debit card, requests for installment agreements). CODE is in development, and the department expects it to be functional by August, 2009. CODE is expected to administer an inventory of approximately 8 million cases from potentially 190 different courts.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require changes to existing systems to accept expanded debt types (pedestrians/cyclists) and to revise referral criteria. Implementing this bill would also require revisions to the CODE system requirements and changes to existing contracts with the county courts to reflect the expanded debt types and referral criteria.

LEGISLATIVE HISTORY

SB 246 (Escutia, Stats. 2004, Ch. 380) extended indefinitely the provisions authorizing a county to refer delinquent debts to FTB for collection. This legislation requires FTB and the courts to expand the collection or court ordered debts to all 58 California Counties.

FISCAL IMPACT

The provisions of the bill that would lower the debt referral criteria and expand the types of debts that counties may refer to FTB are expected to increase the volumes of cases received by FTB for collection. This increase in volume would result in additional operational costs for postage, printing, phone calls, and payment processing and would require additional staffing.

Because the county clients have been unable to provide FTB with an estimate of the expected volume increase under this bill, FTB has used historical performance data to estimate the increased costs associated with this bill's provisions. For every 100,000 additional cases referred, it is estimated that additional funding of approximately \$1,502,000 (24.5 Personnel Years) would be needed to accommodate the anticipated increased workloads. Additional reimbursement authority to cover the increased costs to the department will be requested through the Budget Change Proposal process.

ECONOMIC IMPACT

This bill would have no impact on state income tax revenues because the debts collected under the Court Ordered Debt Program are disbursed to the county or state fund originally owed, not to the General Fund.

VOTES

Assembly Floor – Ayes: 76, Noes: 0

Senate Floor – Ayes: 36, Noes: 0

Concurrence – Ayes: 79, Noes: 0

LEGISLATIVE STAFF CONTACT

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