

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: John A. Perez Analyst: Matthew Cooling Bill Number: AB 2559
Related Bills: See Legislative History Telephone: 845-5983 Introduced Date: February 19, 2010
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Agencies/Prohibits Requiring Social Security Numbers For Benefit, Service, Privilege, Or Participation In Any Program

SUMMARY

This bill would prohibit a state agency from requiring a social security number (SSN) on an application for any benefit, service, privilege, or for participation in any program, unless otherwise expressly required by law.

PURPOSE OF THE BILL

It appears that the purpose of this bill is to provide another way to help prevent identity theft.

EFFECTIVE/OPERATIVE DATE

Assuming enactment on or before September 30, 2010, this bill would become effective on January 1, 2011, and operative as of that date.

POSITION

Pending.

ANALYSIS

STATE LAW

Under current state law, state agencies are prohibited, with exceptions, from the following:

- Publicly posting or displaying an individual's SSN,
- Printing an individual's SSN on any card required to access products or services,
- Requiring an individual to transmit his or her SSN over the Internet unless the connection is secure or the SSN is encrypted,
- Requiring an individual to use his or her SSN to access an Internet Web site unless a password or unique personal identification number is also required to access the website, and
- Printing an individual's SSN on any materials that are mailed to the individual, unless state or federal law requires the SSN to be on the document.

Board Position:	Department Director	Date
_____ S		
_____ SA		
_____ N		
_____ NA		
_____ O		
_____ OUA		
_____ NP		
_____ NAR		
_____ X PENDING	Selvi Stanislaus	06/11/10

Documents required to be recorded, such as state tax liens, are expressly exempt from current limitations in state law relating to the use of SSNs if only the last four digits of the SSN are shown. Additionally, current law does not prohibit the Franchise Tax Board (FTB) from using an individual's SSN as an internal identifier, including SSNs on documents mailed to third parties for such purposes as garnishments and levies.

The California Public Records Act (PRA) is designed to give the public access to information in possession of public agencies to the extent that information is a public record. Personal information that would identify an individual, such as an SSN, is exempt from disclosure under the PRA.

THIS BILL

This bill would prohibit a state agency from requiring a person to provide his or her SSN when applying for any benefit, service, or privilege, or for participation in any program, unless otherwise expressly required by law. It would also prohibit a state agency from including a space on any application for an applicant to enter an SSN.

A state agency would be prohibited from requesting the SSN unless it is required by law that the agency collects the SSN as a precondition of receipt of the benefit, service, or privilege, or for participation in the program for which the application is made.

For purposes of this bill, "state agency" would mean a state agency as defined in subdivision (b) of Section 1798.3 of the Civil Code.¹

IMPLEMENTATION CONSIDERATIONS

Revenue and Taxation Code section 18624 requires the FTB to retain identifying numbers on state tax returns. For individuals, this number would be the SSN. Because this bill permits requiring SSNs if otherwise expressly required, this bill would not significantly impact the department's programs or operations.

LEGISLATIVE HISTORY

SB 40 (Correa, Stats. 2009, Ch. 552) provides that any document created on or after January 1, 2010, containing more than four digits of an SSN, is not entitled to be recorded when presented to a county recorder's office.

AB 689 (DeVore, 2007/2008) would have required employers to verify the SSN for each employee hired, assess a penalty for noncompliance, and allow a tax credit for each SSN verified. AB 689 failed to pass out of the house of origin before the Constitutional deadline.

AB 1168 (Jones, Stats. 2007, Ch. 627) requires the FTB to truncate SSNs on liens or other documents made public and established a task force to review the use of SSNs by post-secondary institutions in the state that do not impact the FTB.

¹ Civil Code section 1798.3 provides, in general, that a state agency means every state office, officer, department, division, bureau, board, commission, or other state agency.

SB 216 (Cox, 2007/2008) would have limited the use of an SSN to the last four digits on an abstract of judgment and other court document ordering a party to pay money. SB 216 failed to pass out of the house of origin before the Constitutional deadline.

SB 644 (Correa, Stats. 2007, Ch. 189) limits the use of an SSN to only the last four digits on an abstract of judgment and other court documents ordering a party to pay money and required tax assessors to limit the use of an SSN.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

This bill would not impact state income tax revenue.

LEGISLATIVE STAFF CONTACT

Legislative Analyst

Matthew Cooling

(916) 845-5983

matthew.cooling@ftb.ca.gov

Revenue Manager

Monica Trefz

(916) 845-4002

monica.trefz@ftb.ca.gov

Asst. Legislative Director

Patrice Gau-Johnson

(916) 845-5521

patrice.gau-johnson@ftb.ca.gov