

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Committee on Judiciary Analyst: Deborah Barrett Bill Number: SB 556
Related Bills: See Legislative History Telephone: 845-4301 Introduced Date: February 27, 2009
Attorney: Patrick Kusiak Sponsor:

SUBJECT: FTB Superior Court Bail Collections

SUMMARY

This bill would add bail as a class of debts that may be referred by a superior court to Franchise Tax Board (FTB) for collection.

PURPOSE OF THE BILL

According to the author's office, the purpose of the bill is to improve collection of debts owed to the superior courts by clarifying that bail amounts can be referred to FTB for collection under the existing court ordered debt statutes.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2010, and would be operative for debts referred on or after that date.

POSITION

Pending.

ANALYSIS

STATE LAW

Under current state law, fees, penalties, forfeitures, restitution orders, fines, or certain amounts imposed by a superior or municipal court or governmental entity in California and delinquent for 90 days or more can be referred by the court or government entity to FTB for collection.

Restitution orders may be referred by a government entity under the following conditions:

- The government entity has the authority to collect on behalf of the state or victim.
The government entity is responsible for distributing the restitution order collection as appropriate.
The government entity ensures that in making the referral and distribution that it coordinates with any other related collection activities that may occur by superior courts, counties, or other state agencies.
The government entity ensures compliance with the laws relating to reimbursement of the State Restitution Fund.

Table with Board Position (S, NA, NP, SA, O, NAR, N, OUA, X, PENDING) and Department Director/Date (Selvi Stanislaus, 04/10/09)

After issuing a preliminary notice to the debtor, FTB is authorized to collect the referred restitution orders 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. The department has followed legislative intent language under the court-ordered debt (COD) collection program that limits FTB reimbursement to 15% of the amounts collected. In general, the county or state fund originally owed the debt receives the net collection proceeds after reduction by the amount of FTB's departmental collection costs.

Current state law authorizes FTB to use administrative collection tools to collect delinquent tax and non-tax debt liabilities. Collection actions include, but are not limited to, attaching bank accounts and garnishing wages.

PROGRAM BACKGROUND

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 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. Phase 1 of the CODE project was launched February 17, 2009. CODE is expected to administer an inventory of approximately 8 million cases from potentially 190 different courts.

THIS BILL

This bill would authorize courts to refer bail that is due and payable and not less than 90 days delinquent as a class of debts to be referred to FTB for collection under existing court ordered debt statutes.

LEGISLATIVE HISTORY

AB 273 (Anderson 2009) would eliminate the minimum balance thresholds referred for collection by FTB, would provide for additional collection costs of the courts to be added to the amounts referred to FTB, and would make the referrals mandatory for superior courts. This bill is scheduled for hearing in the Assembly Revenue and Taxation Committee on April 13, 2009.

AB 1389 (Committee on Budget, Stats 2008, Ch. 751) would have enacted provisions identical to this bill but was chaptered out by AB 2928 (Spitzer, Stats. 2008, Ch.752)

AB 2487 (Berg, 2007/2008) would authorize courts to refer civil judgments awarded to victims of domestic violence to FTB for collection. This bill was held in the Senate Appropriations Committee.

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 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 FTB and the courts to expand the collection or court ordered debts to all 58 California Counties.

FISCAL IMPACT

Because FTB's costs to collect non tax debts are reimbursed from amounts collected, this provision would not impact department costs.

ECONOMIC IMPACT

This provision would not impact state income tax revenues.

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