

SUMMARY ANALYSIS OF AMENDED BILL

Author: Perea Analyst: William Koch Bill Number: AB 1424
 Related Bills: See Prior Analysis Telephone: 845-4372 Amended Dates: August 15, 18, 31, & September 2, 2011
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Revise Top 250 Tax Debtor List To Top 500/Update List Twice Each Year/License Suspension For Debtors On List/Prohibit State Contracts With Debtors On List/Reciprocal Refund Offsets With Other States/Collection Agreements With Other States Or IRS

SUMMARY

This bill would do the following:

- Increase the Franchise Tax Board’s (FTB) list of the top 250 tax debtors (hereinafter the "Top 500 tax debtor list") to the top 500 tax debtors.
- Require the FTB to update the Top 500 tax debtor list at least twice each year.
- Require state governmental licensing entities to suspend occupational, professional and driver’s licenses held by debtors appearing on the Top 500 tax debtor list, except as specified.
- Prohibit any state agency from entering into a contract for goods and services with a tax debtor on the Top 500 tax debtor list.
- Allow the FTB to offset tax refunds for delinquent tax debts owed to other states, but only upon a reciprocal agreement in which the other state’s tax refunds are offset for delinquent tax debts owed to the FTB.
- Allow the FTB to contract with the IRS or other states to collect tax debts owed to the FTB.
- Allow the FTB to collect tax debts due the IRS or other states, as specified.

Most of the above provisions would also apply to the Board of Equalization (BOE); however, this analysis only addresses the above provisions as they relate to the FTB.

SUMMARY OF AMENDMENTS

The August 15, 2011, August 18, 2011, August 31, 2011, and September 2, 2011, amendments made numerous technical and substantive changes to the bill. The most substantive amendments (1) deleted the option for state governmental licensing entities to make an election to decline to exercise suspension authority and added a requirement that state governmental licensing entities suspend and refuse to issue or renew a license, except as specified, (2) deleted the authority for the BOE and the FTB to suspend a license if the state governmental licensing entity fails to do so, and (3) changed the operative date from January 1, 2012, to July 1, 2012 for provisions relating to license suspension and the prohibition on contracting with the state.

Board Position:	Interim Legislative Director	Date
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_____ OUA		
_____ X NP	Anne Maitland	09/07/11
_____ NAR		

As a result of the amendments, the “Effective/Operative Date,” “This Bill,” “Implementation Considerations,” and “Economic Impact” sections of the department’s analysis of this bill as amended July 12, 2011, have been revised. The “Fiscal Impact” section of that analysis remains unchanged and is included for convenience. This analysis reflects the bill as amended September 2, 2011.

EFFECTIVE/OPERATIVE DATE

This bill would be effective and generally operative on January 1, 2012, and would be specifically operative and apply as follows:

- To any licensee whose name appears on a Top 500 tax debtor list on or after July 1, 2012.
- To any state contract executed on or after July 1, 2012.

ANALYSIS

THIS BILL

Top 500 Tax Debtor List

This provision would:

- Increase the Top 250 tax debtor list to the top 500 tax debtors.
- Require the FTB to update the Top 500 tax debtor list at least twice each year and:
 - Include on the list the type and status of any occupational or professional license held by a debtor on the list and the names and titles of the principal officers of limited liability companies and corporations appearing on the list. Principal officers appearing on the list solely pursuant this provision would not be subject to license suspension or the prohibition on contracting with the state.
 - Require a taxpayer’s proposed resolution of a tax delinquency to be “accepted” by the FTB rather than “not rejected” to avoid appearing on the list.
 - Allow the FTB to return a tax debtor’s name to the list if he or she fails to comply with the terms of the resolution that resulted in the removal of his or her name from the list.

License Suspension for Delinquent Taxpayers Appearing on the Top 500 Tax Debtor List

This provision would require state governmental licensing entities to withhold issuance or renewal of the license of an applicant or to suspend the license of a licensee whose name appears on a certified list provided by the FTB which indicates the applicant or licensee appears on a Top 500 tax debtor list. The Department of Motor Vehicles would only be required to suspend the license of a licensee whose name appears on a certified list and would not be required to withhold issuance or renewal of a license. The California State Bar and the Alcoholic Beverage Control would have permissive authority, rather than a requirement, to withhold issuance or renewal of the license of an applicant or to suspend the license of a licensee on such certified list.

Within 30 days of receipt of a certified list from the FTB, state governmental licensing entities would be required to provide notice of the pending denial or suspension of a license to any applicant or licensee appearing on the certified list. State governmental licensing entities would be required to (1) issue a temporary license that would be valid for a period of 90 days to any applicant on a certified list who is otherwise eligible for a license, and (2) refuse to issue or suspend a license no sooner than 90 days and no later than 120 days from the mailing of the notice of pending denial or suspension, unless the state governmental licensing entity receives a release from the FTB. To receive a release from the FTB, the applicant or licensee would be required to (1) comply with the tax obligation by either paying it in full or entering into an installment payment arrangement or (2) establish a current financial hardship with the FTB. If the applicant or licensee submits a request for release to the FTB within 45 days after receiving the pending denial or suspension notice from the state governmental licensing entity, and the FTB is unable to complete the release review within 45 days after receipt of the release request, the FTB would be required to issue a release.

This provision would require the FTB to do the following:

- Submit a certified list of tax debtors appearing on a Top 500 tax debtor list to every state governmental licensing entity. The certified list would be required to include the name, social security number or taxpayer identification number, and the last known address of the persons identified on the certified list.
- Create release forms.
- Provide release forms to the state governmental licensing entity, applicant or licensee as specified.
- Notify the state governmental licensing entity when an applicant or licensee fails to comply with an installment payment arrangement that was the basis for receiving a release from the FTB.

This provision would define the following:

- “Hardship” means financial hardship, as determined by the FTB, where the taxpayer is financially unable to pay any part of the outstanding liability and is unable to qualify for an installment payment arrangement pursuant to Section 19008 of the R&TC.
- “License” includes certificate, registration, or any other authorization to engage in a profession or occupation issued by a state governmental licensing entity. “License” includes a driver’s license and specifically excludes vehicle registration.
- “Licensee” means an individual authorized by a license to drive a motor vehicle or authorized by license, certificate, registration, or other authorization to engage in a profession or occupation 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 40 licensing entities-see Appendix), the Office of Attorney General, the Department of Insurance, the Department of Motor Vehicles, 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 profession or occupation. The Contractors’ State License Board would be specifically excluded from the definition of “State governmental licensing entity”.

State Agency Contracts for Goods and Services

This provision would prohibit any state agency from entering into a contract for goods and services with a tax debtor on the Top 500 tax debtor list. Any contract entered into in violation of this provision would be void and unenforceable.

Tax Refund Offsets

This provision would allow the FTB to offset tax refunds for delinquent tax debts owed to other states, but only upon a reciprocal agreement in which the other state’s tax refunds are offset for delinquent tax debts owed to the FTB. Offsets for delinquent income tax debts owed to other states would only occur after all other offset requests from California state agencies, cities, counties, and colleges, as well as the federal government, have been satisfied.

Collection Agreements with the IRS and Other States

This provision would:

- Provide authority for the FTB to contract with the IRS or any state imposing an income tax or tax measured by income to collect tax debts owed to the FTB.
- Provide authority for the FTB to collect tax debts due the IRS or any state imposing an income tax or tax measured by income, but only if the IRS or other state agrees to collect tax debts owed to the FTB.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would require the department to create new collection notices, modify existing collection notices, and make some changes to existing computer systems, which would not significantly impact the department’s programs and operations if the resources identified below are received.

FISCAL IMPACT

First-year costs to implement this bill would be approximately \$750,000 and annual ongoing costs would be approximately \$600,000. The provision of the bill that would allow the FTB to collect tax debts due the IRS or other states is not reflected in this cost estimate because implementation is contingent upon the IRS or other states enacting similar legislation, which has yet to occur. Once the IRS or other states enact similar legislation, the department would utilize the normal budget change proposal process to obtain funding for that provision of the bill.

ECONOMIC IMPACT

Revenue Estimate

Estimated Revenue Impact of AB1424 For License Suspension and State Contracts Executed On or After July 1, 2012 Enactment Assumed After June 30, 2011 (In Millions)				
2011-12	2012-13	2013-14	2014-15	2015-16
\$19	\$24	\$26	\$28	\$30

This estimate does not account for changes in employment, personal income, or gross state product that could result from this bill. This estimate does not include any impact on revenues administered by other departments. In addition, it does not reflect any revenue from the provision of the bill that would allow the FTB to contract with the IRS or other states to collect tax debts owed to the FTB because the IRS and other states do not currently have the statutory authority to collect debts owed to the FTB.

LEGISLATIVE STAFF CONTACT

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APPENDIX
Governmental Licensing Entities
(Licensing Boards that are affected by this bill)

1. Section 101 of the Business and Professions Code

(The Contractors' State License Board is excluded from the bill and therefore not included in the list below.)

The Dental Board of California
The Medical Board of California
The State Board of Optometry
The California State Board of Pharmacy
The Veterinary Medical Board
The California Board of Accountancy
The California Architects Board
The Bureau of Barbering and Cosmetology
The Board of Professional Engineers and Land Surveyors
The Bureau for Private Postsecondary and Vocational Education
The Structural Pest Control Board
The Bureau of Home Furnishings and Thermal Insulation
The Board of Registered Nursing
The Board of Behavioral Sciences
The State Athletic Commission
The Cemetery and Funeral Bureau
The State Board of Guide Dogs for the Blind
The Bureau of Security and Investigative Services
The Court Reporters Board of California
The Board of Vocational Nursing and Psychiatric Technicians
The Landscape Architects Technical Committee
The Bureau of Electronic and Appliance Repair
The Division of Investigation
The Bureau of Automotive Repair
The State Board of Registration for Geologists and Geophysicists
The Respiratory Care Board of California
The Acupuncture Board
The Board of Psychology
The California Board of Podiatric Medicine
The Physical Therapy Board of California
The Arbitration Review Program
The Committee on Dental Auxiliaries
The Hearing Aid Dispensers Bureau
The Physician Assistant Committee
The Speech-Language Pathology and Audiology Board
The California Board of Occupational Therapy
The Osteopathic Medical Board of California
The Bureau of Naturopathic Medicine

2. Section 1000 of the Business and Professions Code

State Board of Chiropractic Examiners

3. Section 19420 of the Business and Professions Code

California Horse Racing Board