

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Assembly Committee on Budget Analyst: Janet Jennings Bill Number: AB 1466
Related Bills: See Legislative History Telephone: 845-3495 Amended Date: June 13, 2012
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Collection Of Department Of Industrial Relation (DIR) Debts/Transfer To EDD\Repeal The Priority Of Payments Resulting From FTB's Authority To Enter Into Reciprocal Agreements With The IRS And Other States

SUMMARY

Among other items, this bill would transfer the collection of DIR debts from the Franchise Tax Board (FTB) to the Employment Development Department (EDD), and would remove a provision that specifies the priority order of certain payments FTB receives.

RECOMMENDATION

No position.

Summary of Amendments

The June 13, 2012, amendments removed the provisions of the bill, related to legislative intent, and replaced them with the provisions discussed in this analysis. This is the department's first analysis of the bill. This analysis only addresses the provisions of this bill that impact the department's programs and operations.

REASON FOR THE BILL

The reason for the bill is to assign the collection of DIR debts to the EDD.

EFFECTIVE/OPERATIVE DATE

As a bill providing for appropriations related to the Budget Bill, this bill would be effective and operative immediately upon enactment.

ANALYSIS

STATE LAW

DIR issues wage, fee, and penalty assessments for violations of labor laws and health and safety violations. Since 1995, state law has mandated the FTB to collect debts for DIR. The law permits these debts to be collected in the same manner as personal income tax liabilities, which includes attaching bank accounts and garnishing wages. DIR is required to reimburse the FTB for the actual costs to collect DIR debts, not to exceed a cumulative maximum set by contract. The current contract maximum for fiscal year 2010/11 is \$500,040.

Board Position:	Executive Officer	Date
_____ S _____ NA _____ X NP		
_____ SA _____ O _____ NAR	Selvi Stanislaus	06/27/12
_____ N _____ OUA		

Recently enacted legislation, SB 856 (Ch. 719, Stats. 2010, Senate Committee on Budget and Fiscal Review), authorizes EDD to collect debts for DIR.

In the event a debtor has more than one debt being collected by the FTB and the amount collected by the FTB is insufficient to satisfy the total amount owing, current law determines the priority of payments from debts owed.¹ Absent a designation in the priority of payments, the debt type would receive payments after all designated applications.

Recently enacted legislation, AB 1424 (Ch. 455, Stats. 2011, Perea), allows 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.

THIS BILL

This bill would eliminate the statutory mandate for the FTB to collect DIR debts. In addition, this bill would remove the provisions that specifies the priority order in which the FTB must apply payments received under reciprocal agreements with other states or the IRS, and payments for the Student Aid Commission (SAC), as the FTB no longer provides a collection service for the SAC (specifies priority order).

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not impact the department's programs and operations.

TECHNICAL CONSIDERATIONS

This bill would remove a provision that specifies the priority order in which the FTB must apply payments received under reciprocal agreements with other states or the IRS. If this was not the author's intent, Amendment 1 would reinstate this statutory provision.

LEGISLATIVE HISTORY

AB 1424 (Perea, Ch. 455, Stats. 2011) among other items, authorized the FTB to contract with the IRS or other states to collect tax debts owed to the FTB.

SB 856 (Senate Committee on Budget and Fiscal Review, Ch. 719, Stats. 2010), authorized the EDD to collect DIR debts.

OTHER STATES' INFORMATION

A review of other states' income tax laws is not relevant to this bill's provision concerning the administration function of the collection of DIR debts.

The IRS and other states do not currently have the statutory authority to collect debts owed to the FTB.

¹ Revenue and Taxation Code section 19533

FISCAL IMPACT

Transferring the collection of DIR debts to EDD would not impact the FTB's costs because DIR currently reimburses the FTB for the costs of collecting DIR debts. Once collection responsibility is transferred to EDD, the FTB's staff working on DIR collections would be redirected to other budgeted positions within the FTB.

Removing the provision that specifies priority order would not impact the FTB's costs because the priority order for payments received would remain the same. Absent direct statutory language, the payment application would remain the last priority, which was the same as the position as the prior statutory provision.

ECONOMIC IMPACT

Transferring the collection of DIR debts to EDD would not impact state income tax revenues. The funds collected from the DIR cases are distributed by DIR to claimants for outstanding back wages, to special funds at DIR, and to the General Fund.

Removing the provision that specifies priority order would not state income tax revenue.

SUPPORT/OPPOSITION

Support: None Provided.

Opposition: None Provided.

ARGUMENTS

Proponents: This bill would repeal duplicative language for the collection of DIR debts.

Opponents: The bill lacks language that would provide a transition period for the transfer of collections from the FTB to the EDD.

LEGISLATIVE STAFF CONTACT

Janet Jennings

Legislative Analyst, FTB

(916) 845-3495

janet.jennings@ftb.ca.gov

Gail Hall

Legislative Director, FTB

(916) 845-6333

gail.hall@ftb.ca.gov

Analyst	Janet Jennings
Telephone #	(916) 845-3495
Attorney	Pat Kusiak

FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1466

Amendment 1

One page 244, between line 3 and 4, insert:

(5) Payment of any delinquencies referred for collection under Article 7 (commencing with Section 19291) of Chapter 5.