

ANALYSIS OF AMENDED BILL

Author: Assembly Committee on Budget Analyst: Janet Jennings Bill Number: AB 1466

Related Bills: See Legislative History Telephone: 845-3495 Amended Date: June 25, 2012

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Repeal The Authority Of The FTB To Collect Department Of Industrial Relation (DIR) Debts/State Employee Furloughs & Personal Leave Program

SUMMARY

Among other items, this bill would do the following:

- Repeal the authority of the Franchise Tax Board (FTB) to collect DIR debts, and
- Authorize a state employee personal leave program (PLP).

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The June 25, 2012, amendments reinstated language that specifies the priority order of certain payments the FTB receives. The amendments also added a provision that would authorize a state employee PLP for 2012. As a result of the amendments, the department's analysis of the bill as amended June 13, 2012, no longer applies.

This analysis only addresses the provisions of this bill that impact the department's programs and operations.

EFFECTIVE/OPERATIVE DATE

As a bill providing for appropriations related to the Budget Bill, this bill would be effective and operative immediately upon enactment, The PLP provision would be operative beginning July 1, 2012, through June 30, 2013.

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ANALYSIS

STATE LAW

DIR Debts

DIR issues wage, fee, and penalty assessments for violations of labor laws and health and safety violations. Since 1995, state law has mandated that the FTB 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.

Due to unsupported software utilized by the FTB to collect DIR debts, the Legislature enacted legislation that additionally authorizes the Employment Development Department (EDD) to collect debts for DIR.

PROGRAM BACKGROUND

Personal Leave Program

Executive Order S-16-08 ordered the Department of Personnel Administration (DPA) to do the following: (1) initiate the layoff process for state civil service employees effective January 1, 2009, through June 30, 2010, and (2) adopt a plan to implement a furlough of two days per month effective February 1, 2009, to June 30, 2010.

Executive Order S-13-09 ordered the DPA, effective July 1, 2009, through June 30, 2010, to adopt an amended plan to implement a furlough of represented state employees for three days per month, regardless of funding source.

All state employees covered by the original and amended furlough plans must use their accrued furlough days prior to using vacation, annual leave, personal holiday, holiday credit, personal leave plan credit, and compensatory time off. Unused furlough hours expire on June 30, 2012.

THIS BILL

This bill would repeal the statutory mandate for the FTB to collect DIR debts.

This bill would also require the DPA to adopt a PLP from July 1, 2012, to June 30, 2013, under which each employee of the department would receive a reduction in pay not greater than 5% in exchange for 8 hours of PLP 2012 Program leave credits per month.

IMPLEMENTATION CONSIDERATIONS

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

LEGISLATIVE HISTORY

DIR Debts

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

Personal Leave Program

AB 2008 (Arambula, Vetoed 2010) would have exempted the FTB from furlough as ordered by an Executive Order or any other action implemented by a state agency, board, or commission, unless specifically authorized by the Legislature.

AB 1215 (De La Torre, 2009/2010) would have exempted the FTB from furlough as ordered by any state agency, board, or commission. This bill failed passage from the Senate Appropriations Committee.

OTHER STATES' INFORMATION

DIR Debts

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.

Personal Leave Program

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

A review of *Florida, Illinois, Massachusetts, Michigan, and Minnesota*, found no state employee furlough programs in place for the 2012 fiscal year.

New York has a Deficit Reduction Leave Program which requires each New York State employee to contribute the value of 5 work days of pay in State Fiscal Year (FY) 2011/12 and 4 workdays pay in State FY 2013/14. In exchange for the reduction in pay, employees are entitled to take an equivalent amount of time off during the fiscal year in which the reduction occurred.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

ECONOMIC IMPACT

DIR Debts

Repealing the authority to collect DIR debts would not impact state income tax revenues. The funds collected from the DIR cases are distributed by DIR to claimants for outstanding back wages and to special funds at DIR.

Personal Leave Program

The PLP program provision would not impact the state's income tax revenue. FTB will modify methods of operation in an effort to mitigate revenue loss and manage information technology project risks associated with the PLP 2012 program. While these mitigation techniques allow FTB to mitigate significant revenue loss, the department will lose the ability to maximize revenue collections realized through full staffing.

With the anticipated reduction in staffing hours approaching 600,000 hours over the life of the PLP 2012 program, FTB will deploy short-term mitigation strategies to reduce the revenue impact associated with the loss of these hours. FTB presumes the life of the program may span up to three years as staff earns the credits in fiscal year 2012/2013 and utilizes the credits throughout 2012/2013 and subsequent years.

SUPPORT/OPPOSITION

Support: None provided

Opposition: None Provided

ARGUMENTS

Proponents: This bill would repeal duplicative language for the collection of DIR debts and initiate general fund savings from salary reductions.

Opponents: The bill could cost the state more over time as employees continue to accrue vacation and furlough hours.

LEGISLATIVE STAFF CONTACT

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