Franchise Tax Board

ANALYSIS OF AMENDED BILL

Author:	Lieu	Analyst:	Janet Jennings	Bill Number:	SB 1210
Related Bills:	See Legislative History	Telephone:	845-3495	Amended Dates:	April 11, & 25, 2012
		Attorney:	Patrick Kusiak	Sponsor:	

SUBJECT: Court Ordered Debt/Authorize Juvenile Court To Refer Amounts Imposed To FTB For Collection

SUMMARY

This bill would authorize the referral of delinquent fines, state and local penalties, forfeitures, restitution fines and orders, and other amounts imposed by a juvenile court to the Franchise Tax Board (FTB) for collection.

RECOMMENDATION

No position.

Summary of Amendments

The April 11, 2012, amendments added juvenile court fines, penalties, restitution, and other amounts payable to be referred to the FTB for collection. The April 25, 2012, amendments, corrected a technical concern.

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

REASON FOR THE BILL

According to the author's Fact Sheet, the reason for this bill is to correct an oversight in the prison realignment by providing local governments the same authority as the state to collect restitution for victims of convicted felons.

EFFECTIVE/OPERATIVE DATE

This bill would be effective January 1, 2013, and would be operative for debts referred on or after that date.

Board Position:			Executive Officer	Date
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ANALYSIS

STATE LAW

Under current state law, fees, penalties, bail, specified legal costs, 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.

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 percent 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 nontax debt liabilities. Collection actions include, but are not limited to, attaching bank accounts and garnishing wages.

THIS BILL

This bill would authorize juvenile courts to refer debts in the same manner as superior or municipal courts debts are referred to FTB for collection under existing court ordered debt statutes.

IMPLEMENTATION CONSIDERATIONS

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

PROGRAM BACKGROUND

The FTB currently collects fines; state or local penalties, forfeitures, restitution fines, restitution orders, or other amounts imposed by a superior or municipal court of the State of California referred from courts of 43 participating counties and maintains an inventory of approximately 1.1 million cases. For fiscal year 2010/2011 the COD program collected over $81 million and was reimbursed $11.7 million in operational costs.

LEGISLATIVE HISTORY

SB 647 (Committee on Judiciary, Ch. 208, Stats. 2011) allows the FTB to collect specified legal costs relating to an order of the juvenile court. Specified legal costs include the costs for counsel appointed to represent parents or minors pursuant to dependency proceedings.

AB 273 (Anderson, 2009/2010) would have eliminated 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 failed to pass by the constitutional deadline.

SB 556 (Committee on Judiciary, Ch.596, Stats. 2009) Added bail as a debt type authorized to be referred to the FTB for collection.

AB 2487 (Berg, 2007/2008) would have authorized 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, Ch. 752, Stats. 2008) 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, Ch. 132, Stats. 2007) 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.

FISCAL IMPACT

Because FTB's costs to collect court ordered debts are reimbursed from amounts collected, this bill would not impact department costs.

ECONOMIC IMPACT

This bill would not impact state income tax revenues.

SUPPORT/OPPOSITION[1]

Support: Crime Victims United of California, California Police Chiefs Association.

Opposition: None reported.

[1] According to the author's Fact Sheet for SB 1210.

ARGUMENTS

Proponents: Some may say that this bill will help ensure that crime victims get the restitution that they are entitled to.

Opponents: Some may say that these debts should not be collected in the same manner as tax debts.

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