

# ANALYSIS OF AMENDED BILL

## Franchise Tax Board

Author: Lara Analyst: Janet Jennings Bill Number: SB 1159

Related Bills: None Telephone: 845-3495 Amended Date: April 7, 2014

Attorney: Bruce Langston Sponsor: \_\_\_\_\_

**SUBJECT:** Licensing Bodies Report to FTB Federal Tax Identification Numbers or Social Security Numbers of Applicants & Subject Licensees to Penalty for Failure to Provide Information

### SUMMARY

This bill would modify licensing requirements under the Business and Professions Code and the penalty for failing to meet those requirements under the Revenue and Taxation Code.

### RECOMMENDATION

No position.

### Summary of Amendments

The April 7, 2014, amendments removed provisions of the bill related to license suspension, 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 remove the barrier to obtaining a professional license due to the lack of an identification number.

### EFFECTIVE/OPERATIVE DATE

This bill would become effective and operative January 1, 2015.

### ANALYSIS

#### FEDERAL LAW

A Taxpayer Identification Number (TIN) is an identification number used by the Internal Revenue Service (IRS) in the administration of tax laws. The Social Security Administration issues a social security number whereas the IRS issues all other TINs. Examples of TINs are as follows:

- Social Security Number (SSN)
- Individual Taxpayer Identification Number (ITIN)
- Taxpayer Identification Number for Pending U.S. Adoptions (ATIN)

Board Position:

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Executive Officer

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## STATE LAW

Current state law prevents a licensing board from processing an application for an original license unless the applicant provides its federal employer identification number, or social security number.<sup>1</sup>

Current state law allows a licensing board to furnish the Franchise Tax Board (FTB) the following information with respect to every license:

- Name.
- Address or addresses of record.
- Federal employer identification number if the entity is a partnership, or the SSN.
- Type of license.
- Effective date of license.
- Expiration date of license.
- Whether license is active or inactive, if known.

Current state law specifies that the Contractors State License Board (CSLB) may refuse to issue, reinstate, reactivate, suspend, or renew a contractor's license for the failure of a licensee to pay state taxes and any fees that may be assessed by the CSLB, the Department of Industrial Relations, the Employment Development Department, or the FTB.

Current state law allows for a suspension of a delinquent taxpayer's occupational or professional license once a delinquency is at least five months old and four specified notices have been issued by the FTB.

Current state law also authorizes professional license denial and suspension for failure to pay court-ordered child support debt. The local child support agencies compile a list for the Department of Child Support Services (DCSS) of obligors who are more than 30 calendar days in arrears in making their child support payments. The DCSS reviews the list to verify the information is accurate and then sends the list of obligors to the various licensing boards. Once the list is received, those boards immediately send a 150-day compliance letter to the obligor. If the obligor fails to comply within the 150-day timeframe and the licensing board fails to receive a release letter from the local child support agency, the occupational, professional, or driver's license is suspended by the licensing board.

## THIS BILL

This bill would require an applicant to provide the applicant's SSN or ITIN, if one has been issued, on their application for an initial issue or renewal of a professional license.

The licensing board would be required to report to the FTB the applicants that failed to provide the federal employer identification number, social security number, if one has been issued to the individual. Additionally, an applicant that fails to provide this information upon notice and demand by the FTB would be subject to a one hundred dollar penalty.

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<sup>1</sup> Business and Professions code Section 30 (c)

This bill would include the ITIN as non-public information not available for inspection, reciprocity agreements, to the information allowed to be shared with the FTB, and as information that the FTB may request from a licensee.

## **PROGRAM BACKGROUND**

The department utilizes information received from the Department of Consumer Affairs, the California State Bar, the Horse Racing Board, the Department of Insurance, the Department of Real Estate, and the Bureau of Automotive Repair to:

- Identify self-employed individuals who have a potential requirement to file and income tax return, but have failed to do so.
- Suspend the occupational or professional license for failure to pay income tax.

## **IMPLEMENTATION CONSIDERATIONS**

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

Because the bill added the provision that an applicant would only need to provide a SSN or ITIN on an application "if one had been issued," more applications could be submitted that lack a SSN or ITIN, which would result in the department having difficulty verifying income earned under the license or suspending a license for unpaid income taxes.

It is unclear that a licensing board would have access to the information needed to identify and report to the FTB the individuals that have been issued an ITIN or SSN and fail to provide that information on the license application.

The bill fails to include the ITIN as an item subject to the one hundred dollar penalty for failure to provide information requested by the FTB, if this is contrary to the author's intent, the bill should be amended.

## **OTHER STATES' INFORMATION**

Since this bill is amending the requirements to obtain an occupational or professional license, a review of other states' tax information would not be relevant.

## **FISCAL IMPACT**

The costs to implement this bill have yet to be determined. As the bill continues to move through the legislative process costs will be identified and an appropriation will be requested, if necessary.

## **ECONOMIC IMPACT**

This bill does not change the tax liability owed. However, it may make it more difficult to locate a small number of noncompliant taxpayers. This is likely to have a minimal revenue impact.

## **SUPPORT/OPPOSITION**

Support: None on file.

Opposition: None on file.

## **ARGUMENTS**

Proponents: Some would argue that those without an identification number should be allowed to obtain and renew a professional or occupational license.

Opponents: Some would argue that a valid identification number is needed to verify to whom a professional or occupational license is issued.

## **LEGISLATIVE STAFF CONTACT**

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