

# ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Senate Committee on Budget and Fiscal Review Analyst: Janet Jennings Bill Number: SB 75

Related Bills: None Telephone: 845-3495 Amended Date: June 12, 2013

Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Offsets/FTB & Controller Shall Not Condition Request on SSN/FTB May Obtain SSN From DMV

## SUMMARY

Under the Government Code, this bill would prohibit the Franchise Tax Board (FTB) and the Controller from requiring courts to include a Social Security Number (SSN) with accounts referred under the Interagency Intercept Collection (Intercept) Program and would authorize the FTB to obtain SSNs from the Department of Motor Vehicles (DMV).

This bill would also make changes to the Code of Civil Procedures and several other Government Code sections that do not impact the department's programs, or operations and are not discussed in this analysis.

## RECOMMENDATION

No position.

## Summary of Amendments

The June 18, 2013, amendments removed provisions of the bill regarding 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 this bill is to reduce court resources that are diverted from the court system's primary mission by prohibiting the FTB and the Controller from requiring courts to provide SSNs with the accounts referred under the Intercept Program.

## EFFECTIVE/OPERATIVE DATE

As a bill providing appropriations related to the budget bill, this bill would be effective and operative upon enactment.

## ANALYSIS

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## FEDERAL LAW

Under federal law, the Treasury Offset Program (TOP) is administered by the Financial Management Service, a bureau of the U.S. Department of Treasury. TOP collects delinquent non-tax debts owed to federal agencies, child support owed to county and state authorities, and tax debts owed to state taxing agencies by offsetting the debts against a debtor's federal tax refund.

## STATE LAW

Under state law, the California State Controller is authorized to offset money due from an individual or entity by a state agency as payment for debts due California state agencies, cities and counties for an unpaid fine, penalty, assessment, bail, vehicle parking penalty, or court-ordered reimbursement for court-related services, and colleges, as well as the IRS. The FTB operates the Intercept Program on behalf of the State Controller's office. Agencies wishing to participate in the Intercept Program are subject to approval by the State Controller. Participating agencies may send accounts to the FTB for offset only after other avenues of collection have failed and the debtor has been sent a notification of the impending offset. The agency referring the debt to the Intercept Program is responsible for the accuracy of the debt.

The current Intercept Program administrative process requires an SSN in order for a referral to be accepted under the Intercept Program. This requirement provides additional confidence that the referred debt has been matched to the correct taxpayer account.

Current law authorizes city and county tax officials pursuing property tax debts to request SSNs. The FTB currently charges city and county tax officials six dollars per request for a property owner's SSN.

## THIS BILL

The bill would prohibit the Controller and the FTB from requiring an SSN to be included with the offset request for an unpaid fine, penalty, assessment, bail, vehicle parking penalty, or court-ordered reimbursement for court-related services.

This bill would allow the FTB, upon payment of any necessary fees, to obtain an SSN from the DMV for accounts submitted for offset, if necessary, to confirm the identity of a person before making the offset.

## IMPLEMENTATION CONSIDERATIONS

This bill would require the department to accept Intercept Program debt referrals from the courts without an associated SSN. The department's Intercept Program system is currently structured to match against taxpayer funds using the SSN, name, and address, but to reject any referral that lacks an SSN. Implementing this bill would require the Intercept Program system to be reprogrammed to accept court-referred debts that lack an SSN. This could result in the department's inability to match referrals with taxpayer funds, resulting in unsuccessful offsets for the courts.

## **OTHER STATES' INFORMATION**

Since this bill only relates to information sharing among California governmental agencies, a comparison to other states would not be relevant.

### **FISCAL IMPACT**

The department's systems would require reprogramming to accept court-referred debts under the Intercept Program that lack an SSN, which could be absorbed by the department. In addition, the bill would shift the responsibility for finding SSN's for certain court-referred debts from the participating courts to the department, but because the department is not required to locate an SSN in order to process court-referred debts, no additional resources would be appropriated.

### **ECONOMIC IMPACT**

This bill would not impact the state's income tax revenue.

### **SUPPORT/OPPOSITION**

Support: None provided.

Opposition: None provided.

### **ARGUMENTS**

Proponents: Some could argue that requiring courts to provide the SSN for each account referred for offset would divert limited resources from the courts' primary mission.

Opponents: Some could argue that shifting the cost of locating SSNs for court referred debts to the FTB would divert limited resources from the department's primary mission.

### **LEGISLATIVE STAFF CONTACT**

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