

# REVISED ANALYSIS

## Franchise Tax Board

Author: Kuehl Analyst: Gloria McConnell Bill Number: AB 196

Related Bills: See Legislative History Telephone: 845-4336 Original Date: 05-18-99

Attorney: Janet Ballou Sponsor: \_\_\_\_\_

**SUBJECT:** Child Support Enforcement/Establishes Department of Child Support/FTB pilot Program for Current Support Obligations

- REVENUE ESTIMATE CHANGED.
- FURTHER CONCERNS IDENTIFIED.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED 04-06-99 and 05-18-99 STILL APPLIES.
- OTHER - See comments below. Board Position.

### SUMMARY OF BILL

This bill, as it directly affects Franchise Tax Board (FTB), would express the Legislature's intent to establish a one-year six-county pilot project to assess the benefits of referring to the FTB all child support obligations presently being enforced by the district attorney (DA) or local child support agency pursuant to the Welfare and Institutions Code.

The counties participating in the pilot would be selected by the Undersecretary of Child Support Services (Undersecretary), which is created by this bill. The selection would be by county application, in consultation with the FTB and local child support agencies. The referral of the obligations would begin by February 1, 2000, and end February 1, 2001. A report to the Legislature by FTB, with specified data, would be due February 15, 2001. The bill also specifies the criteria that would deem the pilot a success.

Additionally, certain persons currently required under federal law to file an information return reporting non-employee personal services (independent contractor registry [ICR]) for which \$600 or more was paid would be required to accelerate the reporting of those services and payments to Employment Development Department (EDD), operative July 1, 2000. The reporting would be required by the earlier of 20 days after entering into the personal service contract with aggregate payments in excess of \$600 or when payments made exceed \$600. The information could be used for child support enforcement, tax enforcement and EDD purposes.

This analysis does not address the remaining provisions in the bill, which all relate to child support enforcement. For purposes of this analysis, "collections" means the receiving, receipt, and posting (cashiering) of money. "Enforcement" is taking an action to compel payment of a child support or medical support obligation.

An action involves both direct enforcement actions, such as seizure of a bank account, and indirect actions that result in payment of support, such as suspension of a business or driver's license.

Board Position:	Legislative Director	Date
<input type="checkbox"/> S		
<input type="checkbox"/> SA		
<input checked="" type="checkbox"/> N	<b>Johnnie Lou Rosas</b>	<b>08/23/1999</b>
<input type="checkbox"/> NA		
<input type="checkbox"/> O		
<input type="checkbox"/> OUA		
<input type="checkbox"/> NP		
<input type="checkbox"/> NAR		
<input type="checkbox"/> PENDING		

Enforcement may include issuing wage assignments to employers for current support, a demand for payment of current, past due or delinquent amounts, or levies to third-parties, including unemployment compensation, for delinquent support.

#### SUMMARY OF REVISION

This analysis adds to and revises the policy and implementation considerations raised in the Franchise Tax Board's previous analysis. In addition, it reiterates the fiscal impact identified in the FTB's previous analysis, and replaces the previous Board position of "pending" with a new position of "neutral, point out problems."

#### SPECIFIC FINDINGS

##### Policy Considerations

1. Unless this bill were amended to delay implementation of the pilot project until July 1, 2001, this bill could be viewed as setting unrealistic timelines; thus making this a high risk project for failure. The pilot project could not be implemented February 1, 2000, as required by this bill, for the following reasons:
  - FTB could not develop, program and test the technologies needed for this pilot project before July 1, 2001, as discussed under Implementation Consideration,
  - The pilot project would be implemented without benefit of the Undersecretary's California child support enforcement evaluation required by this bill, which is due July 1, 2000.
  - FTB would implement the pilot project in coordination with the county district attorneys, but without regard to the subsequent transfers of the DA's responsibilities to the local child support agencies (beginning March 1, 2001), which could result in disruptions in the flow of the cases and other information necessary to the success of the pilot project.
  - There would be only one month from the time the Undersecretary is to be appointed (January 1, 2000) until the Undersecretary would have to select the six counties for the pilot, which is to be implemented February 1, 2000.
2. The workloads created by this bill could compete against FTB's core responsibilities and processes for processing PIT, especially during FTB's peak PIT filing season. In addition, the enforcement of current support order could take FTB into a social services role and would move beyond FTB's recognized core competency of enforcement of child support delinquencies.
3. Lines of authority for administering FTB's child support programs may be unclear since responsibility for administering the programs would be with the three-member FTB and the department, placed under the State and Consumers Services Agency, but the Undersecretary/Department of Child Support Services would be required to manage the programs.
4. In the event a personal income tax (PIT) tax debtor also owes current or past-due child support, FTB's enforcement priority is unclear. Currently

enforcement of PIT takes priority over delinquent child support enforcement. However, federal regulations require that once an employer is located, an earnings assignment must be issued and take precedent over any other earnings assignment, withhold order and/or other levy.

#### Implementation Considerations

Staff's initial concern is that the pilot project cannot be implemented by the FTB within the required time frames. From the date of enactment, it would take approximately 16 months to complete the feasibility study report (FSR) process and the programming and testing of the computer systems. If the bill were enacted this fall, 16 months places the processes and systems in place by early 2001; however, staff raises concern that implementing this new process during peak season could disrupt tax return processing. Therefore, the Franchise Tax Board strongly suggests, and it is staff's understanding the author agrees, that the bill be amended to required the pilot project to begin implementation July 1, 2001.

Aside from the time frame concern, staff anticipates the pilot project could be implemented in either of two ways: (1) focus on the enforcement and collection workload generated solely by the pilot project; or (2) anticipate that the pilot project would be successful and create within the pilot project the ability for FTB to accommodate the workload for enforcement and collection of Title IV-D child support cases on a statewide basis. In either plan, FTB would continue expansion of its existing child support data base to incorporate current support cases and add the capability of issuing earnings assignments for current support cases to the automated enforcement system (Accounts Receivable Collection System [ARCS]), which is being designed with a targeted implementation date of June 2000. However, for the collection workload, the plans significantly differ: While FTB's existing collection computer system has the capacity to process the pilot project's estimated 1.3 million additional payments annually, it does not have the capacity to process the statewide estimated 10 million (plus) payments annually. If plan #1 (pilot plan) were implemented FTB would merely expand its existing tax collection computer system to accommodate the pilot project workload, but under plan #2 (statewide plan), a new collection computer system would be required.

To begin the programming and testing of the computer systems immediately following approval of the feasibility study report (FSR) process, staff further suggests that the bill provide an appropriation for fiscal year 2000/01, of which 66% would be paid from federal reimbursement received from DSS/DCSE and 34% from the General Fund.

Further, most pilot projects that FTB has implemented were for a duration longer than the one year that would be allowed under this bill. Staff has raised concern and is further exploring whether one year would be sufficient to measure the pilot project and whether sufficient data and statistics are available regarding the current systems to adequately measure the success of the project as detailed by the bill.

As suggested above, assuming a July 1, 2001, implementation date for referral of current support information and an appropriation for FTB's departmental costs, implementation of this bill for purposes of this analysis further assumes:

- The six pilot counties would be the same as those in FTB's original pilot project for its child support delinquency program: Fresno, Los Angeles, Nevada, Santa Clara, Solano, and Ventura.
- The counties would obtain or otherwise assure the existence of a support order and continue to perform case management on all child support accounts for which it is responsible. Rather than send FTB a copy of the support order, staff assumes the counties would transmit to FTB sufficient information (in a form and manner prescribed by FTB, as required by the bill) for it to issue or transfer the earnings assignment or otherwise enforce the support order, including employer information if known. It is also assumed the bill would clearly require the pilot counties to delegate to FTB the authority to enforce the support orders on the current support cases they are referring to FTB. It is also assumed, but the bill needs to clarify, that earnings assignments issued and in effect on a case prior to the referral date would continue to be in effect at the time of referral, but the case would be referred to FTB for monitoring of the earning assignment and enforcement as needed.
- For the pilot period, which would begin July 1, 2001, FTB would receive from the six counties information on approximately 170,000 current support orders. FTB would collect per year approximately 1.3 million payments as a result of the pilot project. As a result of the support orders and/or earnings assignments referred under the pilot project, FTB would issue 800,000 notices (including enforcement notices).

Of additional concern is that the Department of Information Technology and the Administration have planned for a consolidated data center to occur after Y2K issues have been resolved. This consolidated data center plan could affect the implementation plan envisioned in this analysis.

FISCAL IMPACT

Departmental Costs

As the bill moves through the legislative process, the envisioned implementation plan may be revised and/or costs additionally modified. However, under the above discussed implementation plans, staff preliminarily estimates that FTB departmental startup costs would range from \$13 million to \$33 million as follows for fiscal year 2000/01:

	Costs (in millions)	
	Plan 1 Pilot only	Plan 2 Statewide
Collection (cashiering) system	\$ 1.0	\$20.0
Enforcement data base	5.5	5.5
Automated enforcement system	5.3	5.3
Departmental overhead	.9	2.1
Total	\$12.7	\$32.9

This analysis does not take into account all of the following costs that have the potential of significantly increasing the costs identified in this analysis:

- facilities and related/associated costs,

- security,
- network and communications infrastructure, and
- main frame system capacity.

#### Collection Estimate

The data and information necessary to determine the collection impact of the one-year pilot program are not available. To the extent the department is able to receive child support payments earlier than the DAs as a result of this bill, there could be an acceleration of child support collections.

This estimate does not take into consideration the affect that this bill may have on competing debts, as discussed under Policy Consideration.

This estimate does not consider the possible changes in employment, personal income, or gross state product that could result from this bill.

#### BOARD POSITION

Neutral, point out problems. In its meeting of July 6, 1999, the FTB took a position of neutral specifically pointing out the concerns raised as the first two Policy Considerations.