

SUMMARY ANALYSIS OF AMENDED BILL

Author: Bonilla Analyst: Janet Jennings Bill Number: AB 2149
Related Bills: See Prior Telephone: 845-3495 Amended Date June 22, 2016
Analysis Attorney: Bruce Langston Sponsor: _____

SUBJECT: Medical Cannabis State Payment Collection Law/BOE and Counties May Enter Into Collection Agreement with the FTB

SUMMARY

This bill would authorize the Board of Equalization (BOE) or a county to enter into agreements to collect cash payments from medical cannabis related businesses for other state agencies, including the Franchise Tax Board (FTB).

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

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The June 22, 2016, amendments authorized a county, as defined, as an entity that may contract with a state agency to collect medical cannabis related cash payments, added definitions and rules related to collection fees and the reimbursement of costs. Except for the “This Bill” and “Technical Considerations” sections, the department’s analysis of the bill as amended March 17, 2016, still applies. The “Fiscal Impact” and Economic Impact” sections are restated for convenience.

THIS BILL

This bill would allow the BOE or a county to enter into an agreement with a state agency (the FTB) to collect cash payments for any fee, fine, penalty, or other charge payable to the state agency by a person that is a medical cannabis-related business.

The BOE would be required to collect fees, fines, penalties, and other charges if it enters into an agreement with the FTB to make those collections. A county would collect fees, fines, penalties, and other charges only if both the board of supervisors of the county and the county tax collector or county treasurer-tax collector approves of entering into an agreement with the FTB to make those collections.

For the collection by the BOE or a county of fines, penalties, taxes, or other charges on the behalf of the FTB pursuant to an agreement, the BOE or county would be reimbursed for its costs of collection from the funds or accounts which those fines, penalties, taxes, or other charges are to be deposited, not to exceed 10 percent of the amounts collected, upon appropriation by the Legislature.

The FTB's agreement with the BOE or a county may impose a cash collection fee in an amount reasonably necessary to recover the collection costs to be incurred by the BOE or county in dealing with cash payments, which may include, but are not limited to, the costs of processing and securing the cash payments, but could not exceed 10 percent of any amounts collected.

- The amount of the cash collection fee would be determined by the FTB and the BOE or county.
- A cash collection fee could not be imposed if the fine, penalty, or other charge already includes amounts reasonably necessary to recover the collection costs of cash payments.
- Any cash collection fees imposed would be deposited into the funds or accounts which the fine, penalty, or other charge to be collected is deposited.
- No cash collection fee would be authorized for the collection of a tax.

The agreements would be required to include:

- A provision that the BOE or county be reimbursed for the administrative costs of the collection from the funds or accounts which the fees, fines, penalties, taxes, or other charges are otherwise required by law to be deposited, and would specify whether that reimbursement is continuously appropriated or made upon appropriation by the Legislature.
- A provision that the BOE or county transmit the collected moneys to the Treasurer to be deposited in the State Treasury to the credit of the funds or accounts which the fees, fines, penalties, taxes, or other charges are otherwise required by law to be deposited.
- A provision that describes the administrative costs the BOE or county would incur in carrying out the collection, which costs could not exceed 10 percent of the moneys collected.
- The amount of any cash collection fee, if imposed, and how the amount was determined by the FTB and the BOE or county.
- Any other provisions the BOE or county and the FTB determines is necessary to implement the collection of the fees, fines, penalties, taxes, or other charges.

This bill would provide the following definitions:

"County" means a county and a city and county.

"Regulatory fee" means a charge defined in paragraph (3) of subdivision (b) of Section 3 of Article XIII A of the California Constitution.

"State agency" mean a state entity as defined in Section 11000 of the Government Code, that administers any fee, fine, penalty, or other charge payable by a medical cannabis-related business. This definition specifically includes the FTB.

TECHNICAL CONSIDERATIONS

The bill uses inconsistent phrases for “any fee, fine, penalty, or other charges,” “any fee, fine, penalties, taxes, or other charges,” and “any fines, penalties, taxes, or other charges.’ For clarity, the bill should be amended to consistently apply these phrases.

FISCAL IMPACT

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

ECONOMIC IMPACT

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

SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

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