

BILL ANALYSIS

Department, Board, Or Commission Franchise Tax Board	Author Dodd	Bill Number AB 279
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SUBJECT

FTB Disclosure Reciprocal Agreement with Counties

SUMMARY

This bill would expand current law's tax data sharing between the Franchise Tax Board (FTB) and cities.

REASON FOR THE BILL

The reason for the bill is to expand the reciprocal sharing of specified data for tax administration purposes to counties, or city and county.

EFFECTIVE/OPERATIVE DATE

This bill would become effective and operative January 1, 2016.

FEDERAL/STATE LAW

Because the authorized exchange of information between the state and local governments would be exclusive of federal data, a discussion of federal law would not be relevant.

Existing state law prohibits the disclosure of taxpayer and return information, except as specifically authorized by statute. Generally, disclosure is authorized to other state tax agencies and federal tax agencies for tax administration purposes only.

Current state law authorizes the FTB to enter into agreements with cities to exchange specified tax data. The agreements can either require the cities to reimburse the FTB's costs for providing the data, or allow for waiver of the FTB's costs if the cities agree to provide their business tax or license data at no cost to the FTB. If the cities provide business tax or license data to the FTB without agreeing to receive tax data from the FTB free of charge, the FTB is required to reimburse the cities' costs of providing the business tax or license data at a maximum rate of \$1 per usable record. Employees of the cities may only use tax data received from the FTB for city business tax administration purposes; any other use or disclosure of the information is a

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misdeemeanor.¹ The FTB may only provide a city with the tax data specified below for taxpayers with an address within that city's jurisdiction:

- Taxpayer name,
- Taxpayer address,
- Taxpayer social security number or taxpayer identification number, and
- Business activity code.

In addition, a city's tax officials may request from the FTB any other taxpayer information but must do so by affidavit. At the time the tax official requests the tax information, he or she must provide a copy of the affidavit to the taxpayer whose information is sought, and upon request, make the obtained information available to that taxpayer.

The information the FTB can request from cities is limited to the following:

- The name of the business if it is a corporation, partnership, or limited liability company, or the owner's name if it is a sole proprietorship,
- Business mailing address,
- Federal employer identification number, if applicable, or the business owner's social security number,
- Standard Industry Classification (commonly referred to as "SIC") Code or North American Industry Classification System (commonly referred to as "NAICS") Code,
- Business start date,
- Business cease date,
- City number, and
- Ownership type.

The current safeguarding of information practices currently in place under the reciprocal agreement contracts between the FTB and cities include:

- (A) Completion of a data exchange security questionnaire provided by the FTB prior to approval of a data exchange by the FTB.
- (B) On-site safeguard review conducted by the FTB.
- (C) Completion of disclosure training provided by the FTB and a confidentiality statement signed by all employees with access to information provided by the FTB confirming the requirements of data security with respect to that information and acknowledging awareness of penalties for unauthorized access or disclosure under Sections 19542 and 19552 of the Revenue and Taxation Code (R&TC) and Section 502 of the Penal Code.

¹ R&TC sections 19542 and 19552.

- (D) Notification of the FTB by the tax official of a city within 24 hours of the discovery of any incident of unauthorized or suspected unauthorized access or disclosure and submission of a detailed report of the incident and the parties involved.
- (E) Destruction of all records received by a city tax official in a manner rendering them unusable or unreadable so an individual record can no longer be ascertained, in a time frame specified by the FTB.

The current tax-data-sharing program is scheduled to sunset on December 31, 2019.

THIS BILL

This bill would expand the reciprocal sharing of specified data for tax administration purposes to a county or city and county.²

LEGISLATIVE HISTORY

SB 211 (Hernandez, Chapter 513, Statutes of 2013) extended the sunset date on the reciprocal sharing of tax information between the FTB and a city's tax officials until January 1, 2019.

SB 1146 (Cedillo, Chapter 345, Statutes of 2008), among other things, extended the authority of the FTB to disclose limited confidential tax information to city tax officials until 2013.

SB 1374 (Cedillo, Chapter 513, Statutes of 2006) extended the FTB's authority to disclose limited confidential tax information to city tax officials until 2011.

AB 63 (Cedillo, Chapter 915, Statutes of 2001) authorized the FTB to disclose limited confidential tax information to city tax officials in order to enhance the enforcement of an existing city business tax law. This authority was originally set to expire in 2002.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

A review of *Florida, Illinois, Massachusetts, Michigan, and Minnesota* laws found no comparable statutes. *New York* law provides for a reciprocal sharing of tax information between the New York State Tax Commission and city tax officials.

FISCAL IMPACT

If the FTB does not enter into a reciprocal agreement with a participating county or a city and county, the participating county or city and county would be required to reimburse the FTB's costs for providing the data. The costs would include the department's programming of systems, form updates, increase on-site safeguard reviews, and increase disclosure training.

²Currently San Francisco is the solely designated "city and county" in the state.

ECONOMIC IMPACT

This bill would result in the following revenue gain:

Estimated Revenue Impact of AB 279 As Enrolled July 9, 2015 Assumed Enactment After September 30, 2015		
2015-16	2016-17	2017-18
+ \$80,000	+ \$500,000	+ \$800,000

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

Revenue Discussion:

This bill would expand the city business tax program to allow a county, or city and county to participate. It is assumed that Sacramento County would participate in the first year, Los Angeles and San Diego would participate beginning in the second year, and several smaller counties would participate beginning in the third year. This estimate assumes participating counties or a city and county would have computer systems compatible for data sharing with the FTB.

Due to administrative requirements and existing data exchange time frames, no notices are expected be issued in 2016. Based on existing city business tax data, it is estimated that non-filer contacts would result in an additional \$500,000 for filing enforcement notices issued in 2017, \$2.4 million in 2018, and \$250,000 in 2019. Unless the current sunset date is extended, no new informational data would be received after January 1, 2019.

Based on FTB collection statistics, it is assumed that 35 percent would be collected in the first year, 20 percent in the second year, 10 percent in the third year, and remaining amounts would be collected over the next several years.

These estimates are converted to the fiscal year estimates, rounded, and accrued back one year to arrive at the estimates shown in the table above.

APPOINTMENTS

None.

SUPPORT/OPPOSITION³

Support: California Association of County Treasurer-Tax Collectors, California State Association of Counties, El Dorado County Board of Supervisors, Mono County Board of Supervisors, Humboldt County Board of Supervisors, Rural County Representatives of California.

Opposition: Unknown

³ As listed on the June 12, 2015, Senate Governance and Finance Committee analysis.

VOTES

	Date	Yes	No
Senate Floor	07/09/15	33	6
Assembly Floor	05/14/15	67	9

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