



Analysis of Original Bill

Author: Cervantes	Sponsor:	Bill Number: AB 1767
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Subject: California Kickstart My Future Loan Forgiveness Program/FTB May Recover Payments Made to Recipients No Longer Eligible for Program

Summary

This bill would, under the Education Code, establish the California Kickstart My Future Loan Forgiveness Program (program) under the administration of the California Student Aid Commission (CSAC), and allow the Franchise Tax Board (FTB) to recover payments owed to the program.

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

Recommendation – No position.

Reason for the Bill

The reason for the bill is to alleviate the burden of federal student loan debt for specified graduates.

Effective/Operative Date

This bill would become effective and operative January 1, 2019, and would apply for amounts referred for collection by the FTB on or after that date. At this time, the department would begin negotiating a contract with CSAC, which, if successful, could take several months to complete.

State Law

Under current Personal Income Tax Law (PIT), a tax debt is due and payable, becomes an enforceable tax lien, and becomes subject to collection once the self-assessed tax becomes a record on the FTB's accounts receivable file. The same is true in the case of a deficiency assessment once the taxpayer has exhausted their administrative remedies, including any required hearings. If the FTB does not receive payment in full, the FTB then notifies the taxpayer that collection action including wage garnishments, bank levies, and the recordation of tax liens may commence. Under state law, the FTB is not required to obtain judicial

authorization prior to taking enforcement action or issuing warrants to seize and sell (levy) the taxpayer's assets. If the taxpayer is experiencing financial hardship, the FTB may allow the taxpayer to make installment payments or defer the payment.

In addition to collection of income and franchise tax debt, state law authorizes the FTB to administer several non-tax debt collection programs, such as court-ordered debts and delinquent vehicle license fees. For purposes of collecting non-tax debts, the FTB is authorized to use the remedies and information sources available for collecting on PIT debts as well as any source and remedy for collection available to the referring agency.

This Bill

This bill would, under the administration of the CSAC establish the California Kickstart My Future Loan Forgiveness Program. Under the program, subject to available and sufficient appropriations, eligible applicants, as defined, would be eligible for a student loan forgiveness award equal to 100 percent of the eligible applicant's monthly federal income-driven repayment, as specified.

Recipients that no longer meet the requirements of Education Code section 69822 at the time that any payment is made under the program would be required to refund those payments to the state. The FTB would be allowed to recover these payments in accordance with rules and regulations adopted by the CSAC.

Implementation Considerations

The FTB staff have identified the following implementation considerations for purposes of a high-level discussion; additional concerns may be identified as the bill moves through the legislative process. FTB staff is available to work with the author's office to resolve these and other concerns that may be identified.

The bill is silent on when amounts required to be refunded to the program would be referred to the FTB for collection, the information that the program would be required to share with the FTB to allow for accurate matching of the debtor to their taxpayer account, and the authority to disclose such information.

The bill lacks language that would allow the FTB to utilize the remedies and information sources available for collecting PIT debts. If this is contrary to the author's intent, the bill should be amended.

This bill is anticipated to significantly impact the FTB programs and operations. Specifically, the FTB would need to develop a new automated collection system. Once the system is established, the FTB would have a better understanding of the resources that would be needed to establish the collection program and could develop an implementation plan.

The bill is silent as to funding for the collection of the debt by the FTB. Historically, concern has arisen when the FTB contracts for a percentage of collection to cover costs because the possibility exists that the percentage may not cover the costs of the program in any given year and monies from the General Fund may be needed to cover any difference. The bill should be

amended to provide for funding for the collection of the debt by the FTB. Absent a cost reimbursement the FTB would not be able to collect on these debts.

The bill fails to specify the collection priority for amounts referred under the program in instances where the taxpayer owes more than one debt collected by the FTB. Revenue and Taxation Code section 19533 should be amended to add the priority to the existing statute.

Legislative History

A review of past five legislative sessions did not locate legislation similar to this bill's provisions.

Other States' Information

Since this bill requires the FTB to perform a collection service for another state agency, a review of other states' income tax laws would not be relevant.

Fiscal Impact

The FTB costs cannot be determined until the implementation concerns are resolved, but are anticipated to be significant. The scope, roles, and duties of each agency must be determined before a complete analysis of this bill's impact to the FTB can be ascertained. As this bill moves through the legislative process, the CSAC and the FTB would need to develop an implementation plan that establishes the scope of each agency's roles and duties.

Economic Impact

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

Support/Opposition

Support

None on file.

Opposition

None on file.

Arguments

Proponents

Some may argue the FTB is better equipped to collect debts than the CSAC.

Opponents

Some may argue that having the FTB collect these amounts would divert focus from the core mission of administering the state's income and franchise tax laws.

Policy Concerns

This bill lacks a sunset date. Sunset dates generally are provided to allow periodic review of the effectiveness of the bill by the Legislature.

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