



## **Analysis of Amended Bill**

Author: Committee on Judiciary	Sponsor:	Bill Number: AB 3249
Analyst: Janet Jennings	Phone: (916) 845-3495	Amended: May 3, 2018, and May 16, 2018
Attorney: Bruce Langston	Related Bills: See Legislative History	

**Subject:** Court Ordered Debt, Include Amounts Imposed by Supreme Court & Amounts Due to State Bar

### **Summary**

This bill would, among other things, add amounts imposed by the Supreme Court of the State of California for certain amounts due to the State Bar as a debt type that can be referred to the Franchise Tax Board (FTB) Court Ordered Debt (COD) collection program.

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

**Recommendation – No position.**

### **Summary of Amendments**

The May 3, 2018, amendments modified a provision of the Revenue and Taxation Code relating to COD the FTB is authorized to collect, as discussed in this analysis, and provisions of the Business and Professions, Civil, and Government Codes relating to the State Bar and its licensees.

The May 16, 2018, amendments further modified provisions of the Business and Professions Code relating to the State Bar Act.

This is the department's first analysis of the bill.

### **Reason for the Bill**

The reason for this bill is to address issues relating to the State Bar of California and its duties, rules, and regulations.

### **Effective/Operative Date**

This bill would become effective and operative for debts referred to the FTB COD collection program on and after January 1, 2019.

## **State Law**

Under current state law, fines, state or local penalties, bail, forfeitures, restitution fines, restitution orders, and certain amounts imposed by a superior, or juvenile court or governmental entity in California totaling no less than \$100, and delinquent for 90 days or more can be referred by the court or government entity to the FTB for collection.

Current state law authorizes the FTB to use administrative collection tools to collect delinquent tax and nontax debt liabilities. Collection actions include, but are not limited to, attaching bank accounts and garnishing wages.

## **This Bill**

This bill would add certain amounts imposed by the Supreme Court of the State of California for debts due to the State Bar under Business and Professions Code sections 6086.10 (relating to disciplinary proceeding costs and expenses), and 6140.5 (relating to reimbursement to the Client Security Fund) to the debt types that can be referred to the FTB COD collection program.

## **Implementation Considerations**

The department has identified the following implementation concern. Department 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 the authority to collect sanctions ordered by the State Bar under Business and Professions Code 6083.1. If the author intends for these amounts to be subject to collections by the FTB, this bill should be amended.

## **Legislative History**

SB 1210 (Lieu, Chapter 762, Statutes of 2012) authorized the referral of delinquent fines, state and local penalties, forfeitures, restitution fines and orders, and other amounts imposed by a juvenile court to the FTB for collection.

SB 647 (Committee on Judiciary, Chapter 208, Statutes of 2011) authorized the FTB to collect specified legal costs relating to an order of the juvenile court. Specified legal costs include the costs for counsel appointed to represent parents or minors pursuant to dependency proceedings.

AB 273 (Anderson, 2009/2010) would have eliminated the minimum balance thresholds on debts referred for collection by the FTB, allowed additional collection costs of the courts to be added to the amounts referred to the FTB, and made the referrals mandatory for superior courts. AB 273 failed to pass by the constitutional deadline.

SB 556 (Committee on Judiciary, Chapter 596, Statutes of 2009) added bail as a debt type authorized for referral to the FTB for collection.

### **Other States' Information**

Since this bill would modify the court ordered debts that could be referred to the department for collection, a review of other states' income tax laws would not be relevant.

### **Fiscal Impact**

Reimbursement for providing collection services, as required in this bill, is normally provided to the FTB through an interagency contract.

### **Economic Impact**

This bill would not impact state income tax revenues.

### **Support/Opposition**

Support: None provided.

Opposition: None provided.

### **Arguments**

**Proponents:** Some may argue that the FTB is an appropriate agency to provide for collection of these debts.

**Opponents:** Some may argue that authorizing the FTB to collect debts due the State Bar is an inappropriate use of tax collection authority.

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