



Analysis of Original Bill

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Sponsor:

Bill Number: AB 140

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Related Bills: See Legislative
History

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 under the administration of the California Student Aid Commission (Commission), 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 provide grants to eligible applicants to help alleviate the burden of federal student loan debt for recent California college graduates.

Effective/Operative Date

This bill would become effective and operative January 1, 2020, and would apply to amounts referred to the FTB for collection on or after that date.

State Law

Under federal and state law, gross income generally includes income from all sources, including amounts received as awards and prizes, unless a specific exemption is provided to exclude such amounts from gross income.

Under current state law, the California State Controller is authorized to offset money due from an individual or entity to a state agency as payment for debts due California state agencies, cities and counties for an unpaid fine, penalty, assessment, bail, vehicle parking penalty, or court-ordered reimbursement for court-related services,

and colleges, as well as amounts owed to the IRS. The FTB operates the Intercept Program on behalf of the State Controller's Office. Agencies wishing to participate in the Intercept Program are subject to approval by the State Controller and must enter into an interagency agreement. Participating agencies may send accounts to the FTB for offset only after other avenues of collection have failed and the debtor has been sent a notification of the impending offset. The agency referring the debt to the Intercept Program is responsible for the accuracy of the debt.

An interagency agreement is a contract between two or more California state agencies subject to the approval of the Director of General Services. There are three types of interagency agreements: (1) payable; (2) reimbursement; and (3) Memo of Understanding (MOU). The payable interagency agreement is used when the FTB contracts to pay for a service to be provided by another state agency. The reimbursement agreement is used when the FTB provides a service to be paid for by another state agency. An MOU is a contract between two state agencies for services where no money is exchanged.

Under current Personal Income Tax Law (PITL), 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 Commission establish the California Kickstart My Future Loan Forgiveness Program (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 Commission.

Implementation Considerations

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.

Because the bill fails to specify otherwise, student loan forgiveness awards under the program would be taxable income to the recipient. If this is contrary to the author's intent, this bill should be amended.

Legislative History

AB 379 (Gomez, 2017/2018) was substantially similar to this bill. AB 379 failed to pass out of the Assembly by the Constitutional deadline.

AB 1767 (Cervantes, 2017/2018) was substantially similar to this bill. AB 1767 failed to pass out of the Senate Appropriations Committee by the Constitutional deadline.

SB 148 (Weiner and Atkins, 2017/2018) and AB 2149 (Bonilla, 2015/2016) would have allowed the Board of Equalization or a county to enter into an agreement with a state agency, including 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 cannabis-related business. SB 148 and AB 2149 failed to pass the legislature by the constitutional deadline.

Other States' Information

Because this bill would allow the FTB to collect on behalf of another state agency, a review of other states' tax laws is unnecessary.

Fiscal Impact

The FTB's 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 Commission and the FTB would need to develop an implementation plan that establishes the scope of each agency's roles and duties.

Economic Impact

Revenue Discussion

To determine the magnitude of the potential impact to the General Fund, both the frequency and amount of grants awarded must be known. Since it is difficult to predict the frequency and value of these grants, we are unable to provide an annual estimate. However, according to our calculations, every \$1,000,000 in grants awarded to California residents would result in an additional tax of approximately \$15,000.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

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