



Bill Analysis

Author: Wiener

Sponsor:

Bill Number: SB 271

Related Bills: See Legislative
History

Amended: January 3, 2022

SUBJECT

List of State Tax Filers to Federal District Courts in California

SUMMARY

This bill would, under the Code of Civil Procedure (CCP) and the Revenue and Taxation Code (RTC), provide that the Franchise Tax Board (FTB) shall furnish to each federal district court in California a list of resident state tax filers for the district, upon request. In addition, each federal district in California that requests the list for its district would be required to enter into a data sharing agreement with the FTB.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

The January 3, 2022, amendments removed provisions of the bill related to the Elections Code and replaced them with the provisions discussed in this analysis.

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

REASON FOR THE BILL

The reason for this bill is to allow the FTB to share data with the federal district courts in California to expand jury pools.

ANALYSIS

Under the CCP, this bill would require the FTB to furnish each federal district court in California with a list of resident state tax filers for the district upon request by November 1 of each year.

The existing definition of "list of resident state tax filers," currently means the name, date of birth, principal residence address, and county of principal residence, of persons who are 18 years of age or older and have filed a California resident income tax return for the preceding taxable year. This bill would modify the definition to clarify this data is as reported by the taxpayer to the FTB.

Amended January 3, 2022

Under the RTC, this bill states that the FTB will furnish each federal district court in California that has entered into a data protection agreement with a list of resident state tax filers only for the purpose of expanding jury pools.

The FTB would be required to enter into a data protection agreement with each federal district court in California that elects to obtain a list of resident tax filers, as specified.

"Data protection agreement," would mean a formal agreement for the FTB to furnish a list of resident state tax filers to a federal district court in California for the purpose of expanding jury pools and for the protection of the FTB's data.

The data protection agreement would specify the following:

- Information provided to a federal district court in California shall not be furnished to, or used by, any person other than an employee or contractor of that federal district court designated to process or store the information and shall be utilized in a form and manner to safeguard the information as required by the FTB, including, but not limited to, the following provisions:
 - Prior to approval of a data exchange by the FTB, a data exchange security questionnaire for the federal district court in California and any designated contractor provided by the FTB must be completed.
 - Permission for the FTB to conduct an onsite data protection safeguard review of the federal district court, upon request.
 - Completion of disclosure training provided by the FTB and a confidentiality statement signed by all employees or contractors with access to information provided by the FTB confirming the requirement of data security with respect to that information and acknowledging awareness of penalties for unauthorized access or disclosure, as specified.
 - Upon discovery of any incident of unauthorized or suspected unauthorized access or disclosure of the information, the federal district court in California would be required to notify the FTB within 24 hours and provide a detailed report of the incident and the parties involved.
 - All records received by the federal district court in California shall be destroyed in a manner so as to make them unusable or unreadable so an individual record may no longer be ascertained in a timeframe specified by the FTB.

The information provided to the federal district court in California by the FTB is subject to Section 19542 of the RTC, relating to criminal penalties for unauthorized disclosure, and not be used for any purpose other than for expanding jury pools. Section 19542.1 of the RTC, relating to willful unauthorized inspection, would also apply.

Amended January 3, 2022

The bill also provides that no reimbursement would be required by this act to local agencies for the expansion of the crime of the penalty of perjury.

Effective/Operative Date

This bill would become effective and operative January 1, 2023.

Federal/State Law

Federal Law

No comparable provision in federal law.

State Law

Current state law prohibits the disclosure of any taxpayer information except as specifically authorized by statute. California law permits the FTB to release individual tax return information to specific state agencies. Agencies must have a specific reason for requesting the information, including investigating items of income disclosed on any return or report, verifying eligibility for public assistance, locating absent parents to collect child support, or locating abducted children. For some agencies, only limited information may be released, such as the taxpayer's social security number and address.

Current state law requires that all persons selected for jury service be selected at random from sources inclusive of a representative cross section of the population of the area served by the court. Sources may include, in addition to other lists, customer mailing lists, telephone directories, or utility company lists.

Jury commissioners are required to use the list of registered voters, the list of resident tax filers, and the Department of Motor Vehicle (DMV) list of licensed drivers and identification cardholders that are residents within the area served by the court as appropriate source lists for selection of jurors.

On an annual basis, the FTB furnishes the jury commissioner of each county with the current list of resident state tax filers, which includes the name, date of birth, principal residence address and county of principal residence of persons who are 18 years of age or older at the time they filed a California resident income tax return for the preceding taxable year.

The DMV is required to submit information to the jury commissioner and the jury commissioner is prohibited from disclosing such information to any person, organization, or agency.

Amended January 3, 2022

Implementation Considerations

None noted.

Technical Considerations

None noted.

Policy Considerations

None noted.

LEGISLATIVE HISTORY

SB 592 (Wiener, Chapter 230, Statutes of 2020) provided that a list of resident state tax filers would be an additional appropriate source list used for jury selection. AB 592 also allows the FTB to share the list of resident state tax filers with the jury commissioner of each county.

SB 310 (Skinner, 2019/2020), prior to being amended, would have, under the CCP, provide that a list of state tax filers would be an additional appropriate source list used for jury selection. SB 310 was amended on August 26, 2019, and removed provisions that would have impacted the FTB.

SB 1001 (Weiner, 2019/2020), would have, under the CCP, provided that a list of state tax filers would be an additional appropriate source list used for jury selection, and would have allowed the FTB to share the list of state tax filers with the jury commissioner of each county. SB 1001 did not pass out of the Senate by the constitutional deadline.

AB 535 (Jones-Sawyer, 2017/2018), would have removed the prohibition of a person with a felony conviction from serving on a jury and excluded certain other persons. AB 535 did not pass out of the Assembly by the constitutional deadline.

SB 576 (Wiener, 2017/2018), would have required jury commissioners to collect and maintain demographic data from prospective jurors. SB 576 did not pass out of the Senate by the constitutional deadline.

PROGRAM BACKGROUND

None noted.

FISCAL IMPACT

The department's costs to implement this bill have yet to be determined. As the bill moves through the legislative process, costs will be identified.

Amended January 3, 2022

ECONOMIC IMPACT

Revenue Estimate

This bill as amended January 3, 2022, would not impact state income or franchise tax revenue.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

To be determined.

ARGUMENTS

To be determined.

LEGISLATIVE CONTACT

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