



Bill Analysis

Author: Skinner

Sponsor:

Bill Number: SB 242

Related Bills: See Legislative
History

Introduced: January 25, 2023

SUBJECT

Hope, Opportunity, Perseverance, and Empowerment for Children Trust Account Act

SUMMARY

This bill would, under the Welfare and Institutions Code (WIC), exempt funds in a trust account established under the California Hope, Opportunity, Perseverance, and Empowerment (HOPE) for Children Trust Account Act (HOPE Program) from consideration when determining eligibility and benefit amounts for any means-tested program until an eligible youth withdraws or transfers the funds from the HOPE trust fund account (HOPE account). In addition, HOPE account funds paid to eligible youth would not be subject to any money judgement or a Franchise Tax Board (FTB) intercept.

This analysis only addresses the provisions of the bill that would impact the FTB.

RECOMMENDATION

No position.

SUMMARY OF AMENDMENTS

Not applicable.

REASON FOR THE BILL

The reason for the bill is to exempt HOPE accounts from being considered when determining eligibility and benefit amounts for any means-tested program and to exempt these payments from a money judgment or FTB intercept.

ANALYSIS

This bill would, under the WIC, provide that funds paid to eligible youth from a HOPE account would not be subject to any money judgement or an FTB intercept.

Introduced January 25, 2023

Effective/Operative Date

This bill would be effective and operative January 1, 2024.

Federal/State Law

Offset and Collection Authority

Internal Revenue Code section 6331 provides that the Treasury Secretary may authorize collection of tax by levy, including levies on salary or wages, when any person liable to pay any tax neglects or refuses to pay after notice and demand.

Under current state law, the California State Controller (Controller) is authorized to offset delinquent accounts, as specified, against personal income tax refunds that have been certified by the FTB.

FTB's Collection program collects tax owed through self-assessment, audit, settlement, and filing enforcement. The automated systems collect revenue from taxpayers who voluntarily comply, while manual collection efforts make sure taxpayers who do not comply pay their fair share. FTB is authorized to issue orders to withhold to collect past due income taxes or a bill owed to local or state agencies.

In addition, fines, state or local penalties, bail, forfeitures, restitution fines, restitution orders, or any other amount imposed by a Superior or Juvenile court, the Supreme Court of the State of California, or a governmental entity in California, totaling no less than \$100, and delinquent for 90 days or more, can be referred by the courts, the State Bar, or governmental entity to the FTB for collection.

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

For taxable years beginning on or after January 1, 2024, the Controller is prohibited from offsetting delinquent accounts against the personal income tax refunds of an individual who received the California Earned Income Tax Credit (CalEITC) or the Young Child Tax Credit (YCTC) for the taxable year. This prohibition does not apply to delinquent accounts for the nonpayment of child or family support.

Implementation Considerations

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

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This bill uses the term “intercept” that is undefined. The absence of clarifying language could lead to confusion and disputes with taxpayers. Furthermore, depending on how this is defined, it could have a significant impact on FTB’s operations. The author will need to amend this bill to clarify.

Technical Considerations

None noted.

Policy Considerations

To the extent that a taxpayer has an existing liability that would have been subject to offset or levy, that liability would continue to accrue interest and could potentially be subject to involuntary collection action.

LEGISLATIVE HISTORY

AB 156 (Assembly Committee on Budget, Chapter 569, Statutes of 2022), established the HOPE for Children Trust Account Act under the Personal Income Tax Law that provides for a gross income and earned income exclusion for funds deposited and withdrawn from a HOPE account.

AB 194 (Assembly Committee on Budget, Chapter 55, Statutes of 2022), among other items, specified, under the Government Code, that the Controller cannot offset delinquent accounts against personal income tax refunds of an individual who receives a CalEITC or a YCTC for taxable years beginning on or after January 1, 2024.

SB 854 (Skinner, 2021/2022) would, under the WIC, have required the State Treasurer, on or before February 15, 2023, to convene a workgroup to advise the Legislature on the policy and funds necessary to establish trust fund accounts for specified children. This bill did not pass out of the Senate by the constitutional deadline.

PROGRAM BACKGROUND

The HOPE Program, established under the WIC, provides eligible children with a trust account. The HOPE Program Board, in consultation with the HOPE Advisory Workgroup, administers the HOPE Program and the funds appropriated for the Program.

An “eligible child” means a minor resident of California, who is under 18 years of age, has not emancipated from their parent, Indian custodian, or legal guardian, and meets one of the following qualifications:

- Lost a parent due to COVID-19 and the minor’s family was considered low income, as defined.
- Is a foster child, who resides in California, or is a California resident, who is placed out of state by a juvenile or tribal court, as defined.

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Funds deposited and withdrawn from a HOPE account are excluded from gross income and are not considered earned income for purposes of determining eligibility for the CalEITC and the YCTC.

FISCAL IMPACT

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

ECONOMIC IMPACT

Revenue Estimate

This bill as introduced on January 25, 2023, would not impact state income or franchise tax revenue.

LEGAL IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

As per the May 23, 2023, Senate Floor analysis of SB 242, the following organizations are in support of this bill.

Support

Grace Institute - End Child Poverty in California (source)

Access Reproductive Justice

Agee Global Solutions, LLC

Amity Foundation

Aspiranet

California Alliance of Child and Family Services

California Alternative Payment Program Association

California Association of Food Banks

California Catholic Conference

California Court Appointed Special Advocate Association

California Family Resource Association

Catholic Charities of Santa Clara County

Center for Public Interest Law/children's Advocacy Institute/University of San Diego

Chicano Federation of San Diego County

Child Abuse Prevention Center

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Children Now
Coalition of California Welfare Rights Organizations
Consumer Watchdog
County of Santa Clara
County Welfare Directors Association of California
Courage California
Covid Survivors for Change
Dolores Huerta Foundation
End Poverty in California
Equal Rights Advocates
Friends Committee on Legislation of California
Head Start California
Health Net
Health Net and Its Affiliated Companies
John Burton Advocates for Youth
Los Angeles Regional Food Bank
Maryvale
Maternal and Child Health Access
National Association of Social Workers, California Chapter
National Council of Jewish Women CA
Parent Voices California
Shields for Families
The Children's Partnership
The Salvador E. Alvarez Institute for Non-violence

Opposition

As per the same analysis dated May 23, 2023, there is no opposition noted.

ARGUMENTS

None on file.

LEGISLATIVE CONTACT

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