



Bill Analysis

Author: Skinner

Sponsor:

Bill Number: SB 242

Related Bills: See Legislative
History

Amended: May 30, 2024

SUBJECT

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

SUMMARY

This bill would, under the Government Code, prohibit the payments authorized under the California Hope, Opportunity, Perseverance, and Empowerment (HOPE) for Children Trust Account Act (HOPE program) from being used to offset any delinquent accounts. Under the Welfare and Institutions Code (WIC), one-time lump sum payments made from a HOPE account would be considered exempt property for programs established under the WIC and would be automatically exempt from a garnishment order, with exception for orders related to child support, spousal support, family support, or a criminal restitution.

RECOMMENDATION

No position—The Franchise Tax Board (FTB) has not formally voted or taken a position on this bill.

SUMMARY OF AMENDMENTS

The May 30, 2024, amendments prohibited offsetting payments authorized pursuant to the HOPE program against delinquent accounts, added a provision automatically exempting one-time lump sum payments from a HOPE account received directly from the state from garnishment orders, as specified, provided other requirements for financial institutions to identify these payments, and modified the operative date.

The amendments also made various changes under the WIC related to the HOPE program and certain public social services. This analysis only addresses the provisions of the bill that would impact the FTB.

REASON FOR THE BILL

The reason for the bill is to exempt HOPE payments from offset and garnishments.

ANALYSIS

This bill would, under the Government Code (GOV), prohibit the Controller from offsetting any delinquent accounts of an individual with payments authorized pursuant to the HOPE program (Chapter 16.1 of Part 6 of Division 9 of the Welfare Institutions Code (commencing with Section 18997.5)).

This bill would, under the WIC, provide the following:

- A one-time lump sum payment from a HOPE account directly from the state would be automatically exempt from a garnishment order, except in connection with nonpayment of child support, spousal support, family support, or a criminal restitution payable to victims.
- Financial institutions would exempt the one-time HOPE account payments from any garnishment order if the payments were marked by the Treasurer as a "HOPE trust account payment" or includes some other industry-standard unique identifier.
- To identify the exempt deposit, financial institutions would be required to perform a one-time account review of the account's history using a lookback period.

The following definitions would apply:

- "Account review" means the process of examining deposits in an account to determine if a benefit agency has deposited a benefit payment into the account during the lookback period.
- "Garnishment order" means a writ, order, notice, summons, judgment, levy, or similar written instruction issued by a court, the state or a state agency, or a municipality or municipal corporation, including an order to freeze the assets in an account, to effect a garnishment against a debtor.
- "Lookback period" means the two-month period that begins on the date preceding the date of account review and ends on the corresponding date of the month two months earlier or on the last date of the month two months earlier if the corresponding date does not exist.

The above provision, would become operative on July 1, 2025, or on the date that the State Department of Social Services (CDSS) notifies the Legislature of either of the following, whichever is later:

- The Statewide Automated Welfare System can perform the necessary automation to implement this section.
- The California Automated Response and Engagement System (CARES) can perform the necessary automation to implement this section.

Effective/Operative Date

This bill would be effective and operative January 1, 2025.

*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. The 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

None noted.

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, and, under the Personal Income Tax Law, funds deposited into and withdrawn from a HOPE account are excluded from gross income and not taken into account as earned income for purposes of eligibility for the California EITC and YCTC.

AB 194 (Assembly Committee on Budget, Chapter 55, Statutes of 2022), among other items, specified, under the GOV, 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.

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.

OTHER STATES' INFORMATION

None Noted.

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 amended on May 30, 2024, would not impact state income or franchise tax revenue.

LEGAL IMPACT

None noted.

EQUITY IMPACT

None noted.

APPOINTMENTS

None noted.

SUPPORT/OPPOSITION

Assembly Committee on Human Services analysis 06-10-2024.

Support:

End Poverty in California (EPIC) (Co-Sponsor)
Grace Institute - End Child Poverty in CA (Co-Sponsor)
Liberation in A Generation (Co-Sponsor)
Agee Global Solutions, LLC (UNREG)
Aspiranet
California Alliance of Child and Family Services
California Catholic Conference
California Immigrant Policy Center
City of Alameda
CleanEarth4Kids.org
County of Santa Clara
ETTA
Hadassah

Health Net and its Affiliated Companies
Jewish Center for Justice
Jewish Community Relations Council (SACRAMENTO)
Jewish Democratic Club of Silicon Valley
Jewish Democratic Club of Solano County
Jewish Family & Community Services East Bay
Jewish Family and Children's Service of Long Beach and Orange County
Jewish Family and Children's Services of San Francisco, the Peninsula, Marin and Sonoma Counties
Jewish Family Service of Los Angeles
Jewish Family Service of San Diego
Jewish Family Service of the Desert
Jewish Family Services of Silicon Valley
Jewish Federation of Greater Los Angeles
Jewish Federation of Greater Santa Barbara
Jewish Federation of the Greater San Gabriel and Pomona Valleys
Jewish Federation of the Sacramento Region
Jewish Long Beach
Jewish Public Affairs Committee
Jewish Silicon Valley
JVS SoCal
Milpa Collective
Progressive Zionists of California

Opposition:

None on file.

ARGUMENTS

Assembly Committee on Human Services analysis 06-10-2024.

Proponents: None on file.

Opponents: None on file.

LEGISLATIVE CONTACT

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