



## Bill Analysis

Author: Skinner

Sponsor:

Bill Number: SB 242

Related Bills: See Legislative  
History

Amended: August 19, and  
August 23, 2024

### SUBJECT

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

### SUMMARY

This bill, under the Government Code (GOV), would 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 Code of Civil Procedure (CCP), one-time lump sum payments made from a HOPE account would be considered exempt property and would be automatically exempt from levies, except for orders related to child support, spousal support, family support, or a criminal restitution. This bill, under the Administration of Franchise and Income Tax Laws (AFITL), would require the Treasurer to disclose information to the Franchise Tax Board (FTB) and require the FTB to disclose information to the Treasurer for the purpose of verifying eligibility for the HOPE program.

### RECOMMENDATION

No position—the three-member FTB has not formally voted or taken a position on this bill.

### SUMMARY OF AMENDMENTS

The August 23, 2024, amendments added double jointing language to address chaptering issues in the event that both this bill and AB 274 (Bryan 2023/2024) pass and this bill is chaptered last.

The August 19, 2024, amendments require the Treasurer and FTB to disclose information to one another for the purpose of verifying eligibility for the HOPE program.

The amendments also removed various changes from under the Welfare Institutions Code and added similar changes to the CCP related to the prohibition of levying the HOPE funds and made other technical changes.

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 levies.

**ANALYSIS**

This bill, under the CCP, would exempt a one-time lump-sum payment made from a HOPE trust account from enforcement of a money judgement, except for a levy in connection with child support, spousal support, family support, or a criminal restitution. Financial institutions would treat the one-time lump sum payments made from a HOPE trust account as exempt from levy if the payments were marked as a "HOPE trust account payment" or is otherwise sufficiently identified as a HOPE trust account payment.

This bill would also prevent the HOPE program payments from being used to offset delinquent accounts.

This bill, under the AFITL, would require the State Treasurer to disclose to the FTB information for the sole purpose of determining eligibility under the HOPE program. This bill would authorize the State Treasurer to disclose information, including, but not limited to, name, individual taxpayer identification number (ITIN) or social security number, date of birth, and other information needed to verify the income of individuals.

Additionally, this bill would require the FTB to disclose to the State Treasurer, through data sharing agreements, the amounts of the federal adjusted gross income for the most recent and preceding taxable year as reported by the taxpayer. Information would only be provided if records are available and with respect to taxpayers that the Treasurer provided information to FTB.

This bill would prohibit the FTB from disclosing or providing any federal tax information.

In addition, the information provided to the State Treasurer would be subject to the disclosure limitation provided in Revenue and Taxation Code (RTC) section 19542. The State Treasurer or any current or former officer, employee, or agent of the Treasurer, would be prohibited from disclosing or using any information obtained from the FTB except for the approved purposes described above.

The FTB would be required to return or destroy all information received from the Treasurer once the exchange of information has been completed.

This bill also makes other technical changes.

*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 against personal income tax refunds that have been certified by the FTB, California State Lottery winnings, and unclaimed property.

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*

None noted.

## 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 HOPE 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 anticipates minimal costs to implement this bill.

## **ECONOMIC IMPACT**

### *Revenue Estimate*

This bill as amended on August 19, 2024, and August 23, 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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