

**Introduced by Senator Oropeza**

February 23, 2007

---

---

An act to amend Section 19290 of the Revenue and Taxation Code, relating to tax administration.

LEGISLATIVE COUNSEL'S DIGEST

SB 918, as introduced, Oropeza. Tax administration: Franchise Tax Board: collection of delinquent fees, wages, and penalties.

Existing law requires the Franchise Tax Board to administer the levy and collection of taxes pursuant to the Personal Income Tax Law and the Corporation Tax Law, and establishes procedures for the collection of delinquent taxes. Existing law requires the Franchise Tax Board to enter into an agreement with the Department of Industrial relations to transfer that department's responsibility for the collection of delinquent fees, wages, penalties, costs, and interest, as specified.

This bill would make nonsubstantive technical changes to those provisions and would revise obsolete cross-references.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 19290 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 19290. (a) (1) The Department of Industrial Relations shall
- 4 enter into an agreement with the Franchise Tax Board that transfers
- 5 responsibility from the department to the Franchise Tax Board for
- 6 the collection of delinquent fees, wages, penalties, and costs, and
- 7 any interest thereon, effective July 1, 1995. Under the agreement,

1 the Franchise Tax Board shall collect unsatisfied judgments that  
2 are issued pursuant to Sections 98.2, 226.5, 1023, 1289, 2681, and  
3 6650 of the Labor Code. The agreement shall also provide for the  
4 collection of delinquent debts that result from a final determination  
5 by the department after the exhaustion of appeal remedies pursuant  
6 to Sections 98.3, 210, 1174.5, 1193.6, 1194, 1194.2, 1197.1,  
7 1197.5, 1771, 1774, 3722, 7314, 7350, 7721, and 7904 of the Labor  
8 Code. The agreement shall specify the terms under which fees,  
9 wages, penalties, and costs, and any interest thereon, become  
10 subject to collection by the Franchise Tax Board.

11 (2) The agreement may also provide for reimbursement to the  
12 Franchise Tax Board on the basis of a percentage of the amount  
13 of revenue realized as a result of the Franchise Tax Board's  
14 services, provided that the amount of any reimbursement shall not  
15 exceed the actual costs of collection, including court costs and  
16 reasonable attorney's fees. Wherever possible the collection costs  
17 shall be borne by the judgment debtor. Any fee for the recovery  
18 of wages shall not be paid by the workers. The department shall  
19 adopt rules and regulations to provide for a reasonable fee to cover  
20 actual collection costs. The Franchise Tax Board shall be entitled  
21 to court costs and reasonable attorney's fees as a judgment creditor  
22 under subdivision (i) of Section 98.2 of the Labor Code.

23 (b) Upon written notice to the obligor from the Franchise Tax  
24 Board, any amount referred to the Franchise Tax Board under  
25 subdivision (a) and any interest thereon, including any interest on  
26 the amount referred under subdivision (a) that accrued prior to the  
27 date of referral and any fee imposed to cover collection costs as  
28 provided under subdivision (a), shall be treated as final and due  
29 and payable to the State of California, and shall be collected from  
30 the obligor by the Franchise Tax Board in any manner authorized  
31 under the law for collection of a delinquent personal income tax  
32 liability, including, but not limited to, issuance of an order and  
33 levy under Article 4 (commencing with Section 706.070) of  
34 Chapter 5 of Division 2 of Title 9 of Part 2 of the Code of Civil  
35 Procedure, in the manner provided for earnings withholding orders  
36 for taxes.

37 (c) (1) Part 10 (commencing with Section 17001), this part,  
38 Part 10.7 (commencing with Section 21001), and Part 11  
39 (commencing with Section 23001) shall apply to amounts referred  
40 under this article in the same manner and with the same force and

1 effect and to the full extent as if the language of those laws had  
2 been incorporated in full into this article, except to the extent that  
3 any provision is either inconsistent with this article, or is not  
4 relevant to this article.

5 (2) Any information, information sources, or enforcement  
6 remedies and capabilities available to the agency referring the  
7 amount due described in subdivision (a), shall be available to the  
8 Franchise Tax Board to be used in conjunction with, or independent  
9 of, the information, information sources, or remedies and  
10 capabilities available to the Franchise Tax Board for purposes of  
11 administering Part 10 (commencing with Section 17001), this part,  
12 Part 10.7 (commencing with Section 21001), or Part 11  
13 (commencing with Section 23001).

14 (d) The activities required to implement and administer this part  
15 shall not interfere with the primary mission of the Franchise Tax  
16 Board to administer Part 10 (commencing with Section 17001)  
17 and Part 11 (commencing with Section 23001).

18 (e) For amounts referred for collection—~~under~~ *pursuant to*  
19 subdivision (a), interest shall accrue at the greater of the rate  
20 applicable to the amount due being collected, or the rate provided  
21 under Section 19521. When notice of the amount due includes  
22 interest and is mailed to the obligor, and the amount is paid within  
23 15 days after the date of notice, interest shall not be imposed for  
24 the period after the date of notice.

25 (f) In no event shall a collection under this article be construed  
26 as a payment of income taxes imposed under Part 10 (commencing  
27 with Section 17001) or Part 11 (commencing with Section 23001).

28 (g) The amendments made ~~by the act adding this subdivision~~  
29 *to this section by Chapter 600 of the Statutes of 1997* are operative  
30 for notices issued on or after January 1, 1998.