

AMENDED IN SENATE APRIL 15, 2009

SENATE BILL

No. 556

**Introduced by Committee on Judiciary (Senators Corbett (Chair),
Florez, Harman, Leno, and Walters)**

February 27, 2009

An act to amend Section 116.820 of the Code of Civil Procedure, *to amend Section 68084.1 of the Government Code*, and to amend Section 19280 of the Revenue and Taxation Code, relating to courts, *and making an appropriation therefor*.

LEGISLATIVE COUNSEL'S DIGEST

SB 556, as amended, Committee on Judiciary. Courts.

(1) Existing law provides that the judgment of a small claims court may be enforced as provided for the enforcement of judgments of other courts. Existing law requires the clerk of the small claims court to charge and collect specified fees for the issuance of a writ of execution or an abstract of judgment, and for an application for an order of examination of a judgment debtor.

This bill would require the clerk of the small claims court to charge and collect all fees associated with the enforcement of small claims court judgments, including, among other things, statutory fees for preparing and issuing, and recording and indexing, an abstract of judgment or a certified copy of a judgment, statutory fees for filing a notice of judgment lien on personal property, and statutory fees for issuing a writ for the enforcement of the judgment, as specified.

(2) *Existing law provides that any money in a court bank account or in a court trust account in a county treasury that remains unclaimed for 3 years shall become the property of the superior court if, after published notice, the money is not claimed or no verified complaint is*

filed and served. Existing law provides that if a claim is filed and rejected, or no action is taken on it, the party who submitted the claim may file a verified complaint seeking to recover all, or a specified part, of the money. Existing law establishes the State Restitution Fund, which is continuously appropriated for indemnifying victims of crime.

This bill would provide that money representing restitution collected on behalf of victims that remains unclaimed for 3 years shall be deposited into the State Restitution Fund. By depositing moneys into the State Restitution Fund this bill would make an appropriation.

(2)

(3) Existing law provides that delinquent fines, state or local penalties, forfeitures, restitution fines and orders, and any other amounts imposed by a superior court upon a person or entity for criminal offenses, that total at least \$100 in the aggregate, may be referred by the court, county, or state to the Franchise Tax Board for collection, as specified.

This bill would additionally authorize the referral of delinquent bail amounts imposed by a superior court to the Franchise Tax Board for collection pursuant to this provision.

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~ yes. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Section 116.820 of the Code of Civil Procedure
 2 is amended to read:
 3 116.820. (a) The judgment of a small claims court may be
 4 enforced as provided in Title 9 (commencing with Section 680.010)
 5 of Part 2 and in Sections 674 and 1174 on the enforcement of
 6 judgments of other courts. A judgment of the superior court after
 7 a hearing on appeal, and after transfer to the small claims court
 8 under subdivision (d) of Section 116.780, may be enforced like
 9 other judgments of the small claims court, as provided in Title 9
 10 (commencing with Section 680.010) of Part 2 and in Sections 674
 11 and 1174 on the enforcement of judgments of other courts.
 12 (b) The clerk of the court shall charge and collect all fees
 13 associated with the enforcement of judgments under Title 9
 14 (commencing with Section 680.010) of Part 2. The clerk shall
 15 immediately deposit all the fees collected under this section into
 16 a bank account established for this purpose by the Administrative
 17 Office of the Courts. The money shall be remitted to the State

Treasury under rules adopted by, or trial court financial policies and procedures authorized by, the Judicial Council under subdivision (a) of Section 77206 of the Government Code. The Controller shall distribute the fees to the Trial Court Trust Fund as provided in Section 68085.1 of the Government Code.

(c) The prevailing party in any action subject to this chapter is entitled to the costs of enforcing the judgment and accrued interest.

SEC. 2. Section 68084.1 of the Government Code is amended to read:

68084.1. (a) Except as otherwise provided by law, any money, excluding restitution to victims, that has been deposited with a superior court, or that a superior court is holding in trust for the lawful owner, in a court bank account or in a court trust account in a county treasury, that remains unclaimed for three years shall become the property of the superior court if, after published notice pursuant to this section, the money is not claimed or no verified complaint is filed and served. *Money representing restitution collected on behalf of victims that remains unclaimed for three years shall be deposited into the State Restitution Fund.*

(b) At any time after the expiration of the three-year period specified in subdivision (a), the executive officer of the superior court may cause a notice to be published once a week for two successive weeks in a newspaper of general circulation published in the county in which the court is located. The notice shall state the amount of money, the fund in which it is held, and that it is proposed that the money will become the property of the court on a designated date not less than 45 days nor more than 60 days after the first publication of the notice.

(c) Before or after publication, a party of interest may file a claim with the court executive officer that shall include the claimant's name, address, amount of claim, the grounds on which the claim is founded, and any other information that may be required by the court executive officer. The claim shall be filed before the designated date on which unclaimed money becomes the property of the court as provided under subdivision (b), and the executive officer shall accept or reject that claim.

(d) If the superior court executive officer rejects the claim, or takes no action on the claim within 30 days after it is filed, the party that submitted the claim may file a verified complaint seeking to recover all, or a specified part, of the money in the court in the

1 county in which the notice is published. The copy of the complaint
2 and summons shall be served on the court executive officer. The
3 court executive officer shall withhold the release of the portion of
4 unclaimed money for which a court action has been filed as
5 provided in this section until the court renders a decision or the
6 claim is settled. Any portion of the unclaimed money not covered
7 by the verified complaint shall become the property of the court
8 if no other claim or verified complaint has been filed regarding it
9 within the time specified in this section. If the party that submitted
10 the claim does not file a verified complaint within 30 days after
11 the date that the court mailed notice that the claim was rejected or
12 within 60 days after the claim was filed, the money shall become
13 the property of the court.

14 (e) Notwithstanding subdivisions (c) and (d), the court executive
15 officer may release the unclaimed money to the depositor of the
16 unclaimed money, or the depositor's heir, beneficiary, or duly
17 appointed representative, if the depositor or the depositor's heir,
18 beneficiary, or duly appointed representative claims the money
19 before the date that the money becomes the property of the superior
20 court, upon submitting proof satisfactory to the court executive
21 officer.

22 (f) If no claim is filed under subdivision (c) and the time for
23 filing claims has expired, the money shall become the property of
24 the court. If a claim or claims are filed with respect to a portion of
25 the money, but not the remainder of the money, and the time for
26 filing claims under subdivision (c) has expired, the remainder of
27 the money shall become the property of the court.

28 (g) Notwithstanding any other provision of this section, the
29 presiding judge may direct the transfer of any individual deposit
30 of twenty dollars (\$20) or less, or any amount if the name of the
31 original depositor is unknown, that remains unclaimed for one
32 year to the Trial Court Operations Fund without the need for
33 publication of notice.

34 (h) The court executive officer may delegate the responsibilities
35 provided in this section to appropriate superior court staff.

36 (i) When any money deposited and held under this section
37 becomes the property of a superior court, the presiding judge shall
38 transfer it to the Trial Court Operations Fund.

1 ~~SEC. 2.~~

2 SEC. 3. Section 19280 of the Revenue and Taxation Code is
3 amended to read:

4 19280. (a) (1) Fines, state or local penalties, bail, forfeitures,
5 restitution fines, restitution orders, or any other amounts imposed
6 by a superior court of the State of California upon a person or any
7 other entity that are due and payable in an amount totaling no less
8 than one hundred dollars (\$100), in the aggregate, for criminal
9 offenses, including all offenses involving a violation of the Vehicle
10 Code, may, no sooner than 90 days after payment of that amount
11 becomes delinquent, be referred by the superior court, the county,
12 or the state to the Franchise Tax Board for collection under
13 guidelines prescribed by the Franchise Tax Board. Unless the
14 victim of the crime notifies the Department of Corrections and
15 Rehabilitation to the contrary, the Department of Corrections and
16 Rehabilitation may refer a restitution order to the Franchise Tax
17 Board, in accordance with subparagraph (B) of paragraph (2), for
18 any person subject to the restitution order who is or has been under
19 the jurisdiction of the Department of Corrections and
20 Rehabilitation.

21 (2) For purposes of this subdivision:

22 (A) The amounts referred by the superior court, the county, or
23 state under this section may include an administrative fee and any
24 amounts that a government entity may add to the court-imposed
25 obligation as a result of the underlying offense, trial, or conviction.
26 For purposes of this article, those amounts shall be deemed to be
27 imposed by the court.

28 (B) Restitution orders may be referred to the Franchise Tax
29 Board only by a government entity, as agreed upon by the
30 Franchise Tax Board, provided that all of the following apply:

31 (i) The government entity has the authority to collect on behalf
32 of the state or the victim.

33 (ii) The government entity shall be responsible for distributing
34 the restitution order collections, as appropriate.

35 (iii) The government entity shall ensure, in making the referrals
36 and distributions, that it coordinates with any other related
37 collection activities that may occur by superior courts, counties,
38 or other state agencies.

39 (iv) The government entity shall ensure compliance with laws
40 relating to the reimbursement of the State Restitution Fund.

1 (C) The Franchise Tax Board shall establish criteria for referral,
2 which shall include setting forth a minimum dollar amount subject
3 to referral and collection.

4 (b) The Franchise Tax Board, in conjunction with the Judicial
5 Council, shall seek whatever additional resources are needed to
6 accept referrals from all 58 counties or superior courts.

7 (c) Upon written notice to the debtor from the Franchise Tax
8 Board, any amount referred to the Franchise Tax Board under
9 subdivision (a) and any interest thereon, including any interest on
10 the amount referred under subdivision (a) that accrued prior to the
11 date of referral, shall be treated as final and due and payable to the
12 State of California, and shall be collected from the debtor by the
13 Franchise Tax Board in any manner authorized under the law for
14 collection of a delinquent personal income tax liability, including,
15 but not limited to, issuance of an order and levy under Article 4
16 (commencing with Section 706.070) of Chapter 5 of Division 2
17 of Title 9 of Part 2 of the Code of Civil Procedure in the manner
18 provided for earnings withholding orders for taxes.

19 (d) (1) Part 10 (commencing with Section 17001), this part,
20 Part 10.7 (commencing with Section 21001), and Part 11
21 (commencing with Section 23001) shall apply to amounts referred
22 under this article in the same manner and with the same force and
23 effect and to the full extent as if the language of those laws had
24 been incorporated in full into this article, except to the extent that
25 any provision is either inconsistent with this article or is not
26 relevant to this article.

27 (2) Any information, information sources, or enforcement
28 remedies and capabilities available to the court or the state referring
29 to the amount due described in subdivision (a), shall be available
30 to the Franchise Tax Board to be used in conjunction with, or
31 independent of, the information, information sources, or remedies
32 and capabilities available to the Franchise Tax Board for purposes
33 of administering Part 10 (commencing with Section 17001), this
34 part, Part 10.7 (commencing with Section 21001), or Part 11
35 (commencing with Section 23001).

36 (e) The activities required to implement and administer this part
37 shall not interfere with the primary mission of the Franchise Tax
38 Board to administer Part 10 (commencing with Section 17001)
39 and Part 11 (commencing with Section 23001).

- 1 (f) For amounts referred for collection under subdivision (a),
2 interest shall accrue at the greater of the rate applicable to the
3 amount due being collected or the rate provided under Section
4 19521. When notice of the amount due includes interest and is
5 mailed to the debtor and the amount is paid within 15 days after
6 the date of notice, interest shall not be imposed for the period after
7 the date of notice.
- 8 (g) In no event shall a collection under this article be construed
9 as a payment of income taxes imposed under Part 10 (commencing
10 with Section 17001) or Part 11 (commencing with Section 23001).