

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 884

Introduced by Senator Calderon

February 18, 2011

~~An act relating to taxation.~~ *An act to add Sections 16587, 16588, and 16589 to the Government Code, relating to state and local government.*

LEGISLATIVE COUNSEL'S DIGEST

SB 884, as amended, Calderon. Tax administration: ~~Franchise Tax Board and the State Board of Equalization~~ *state and local government*: sale of tax liabilities.

Existing law, the Accounts Receivable Management Act, requires participants, under specified conditions, to assign or sell, and authorizes a city, county, or city and county to sell or transfer part or all of its accounts receivable to a private debt collector or private person or entity, provided that the debtor has been notified in writing of the proposed assignment, transfer, or sale, except as specified.

This bill would authorize the State Board of Equalization, the Franchise Tax Board, and any other state agency, department, or office, and any city, county, or city and county, to sell to investors those accounts receivable arising from tax liabilities under the jurisdiction of the authorized entity. The bill would require the entity to retain an independent firm that has demonstrated expertise in marketing and selling distressed assets that meets specified requirements, and would require the firm to report certain information, as specified.

~~The Personal Income Tax Law and the Corporation Tax Law impose taxes on, or measured by, income. The Franchise Tax Board administers the Personal Income Tax Law and the Corporation Tax Law. Existing~~

law requires the Franchise Tax Board to administer specified taxes and collect those taxes from taxpayers.

~~Existing law requires the State Board of Equalization to administer specified taxes, including sales and use taxes, fuel taxes, and alcoholic beverage taxes, and to collect those taxes from taxpayers.~~

~~This bill would declare the intent of the Legislature to enact legislation authorizing the boards to make a sale to private investors of specified tax liabilities that are subject to an automatic stay on collection of taxes pursuant to a bankruptcy proceeding, and requiring the resulting revenues to be transmitted to the General Fund, as specified.~~

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

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

1 SECTION 1. Section 16587 is added to the Government Code,
2 to read:

3 16587. (a) Notwithstanding any other law, the State Board of
4 Equalization, the Franchise Tax Board, and any other state agency,
5 department, or office, are hereby authorized to sell to investors
6 those tax liabilities under the jurisdictions of the boards, agencies,
7 departments, and offices that are subject to an automatic stay on
8 collection of taxes, pursuant to a bankruptcy proceeding under
9 Title 11 of the United States Code. In conducting these sales they
10 are empowered to compromise and settle the amount which they
11 will receive through the sale of these accounts receivable.

12 (b) In order to manage the sales, and receive the maximum
13 value for the state of California, the state agencies, departments,
14 boards, and offices shall retain an independent firm that has
15 demonstrated expertise in marketing and selling distressed assets.
16 In selecting the firm, they shall use the same process utilized by
17 the state pursuant to Section 10344 of the Public Contract Code.

18 SEC. 2. Section 16588 is added to the Government Code, to
19 read:

20 16588. In order to be eligible to be selected to assist the state
21 to market the accounts receivable referenced in Section 16587,
22 the prospective consultant shall not engage in proprietary trading,
23 in so far as the company does not, and shall not, use its resources
24 to purchase accounts receivable, debt securities, or equity
25 securities. The selected firm shall also demonstrate that it has a

1 *centralized, transparent marketplace and auction platform for the*
2 *marketing and sale of distressed assets, and shall produce regular*
3 *reports to maintain a level of transparency into the transactions*
4 *conducted. This reporting requirement allows the state to comport*
5 *with its obligation to report and track state debt levels and*
6 *transactions with third parties. The firm shall report to the state*
7 *the outcome and tax basis of each transaction taking place through*
8 *the marketplace.*

9 *SEC. 3. Section 16589 is added to the Government Code, to*
10 *read:*

11 *16589. A city, county, or city and county is authorized to sell*
12 *to investors those tax liabilities under the jurisdiction of the city,*
13 *county, or city and county that are subject to an automatic stay*
14 *on collection of taxes, pursuant to a bankruptcy proceeding under*
15 *Title 11 of the United States Code. The sales shall be conducted*
16 *in the manner and under the same conditions that the state may*
17 *sell its liabilities, as described in Sections 16587 and 16588.*

18 ~~SECTION 1. It is the intent of the Legislature to enact~~
19 ~~legislation that does both of the following:~~

20 ~~(a) Authorizes the Franchise Tax Board and the State Board of~~
21 ~~Equalization to sell to private investors those tax liabilities under~~
22 ~~the jurisdiction of the boards that are subject to an automatic stay~~
23 ~~on collection of taxes pursuant to a bankruptcy proceeding under~~
24 ~~Title 11 of the United States Code.~~

25 ~~(b) Requires the revenue from the sale of the tax liabilities~~
26 ~~described in subdivision (a) to be immediately transmitted to the~~
27 ~~General Fund upon receipt.~~