

Assembly Bill No. 279

Passed the Assembly May 14, 2015

Chief Clerk of the Assembly

Passed the Senate July 9, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 19551.1 and 19551.5 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 279, Dodd. Tax administration: disclosure of information: Franchise Tax Board and cities and counties.

Existing law authorizes, until January 1, 2019, a city that has entered into a reciprocal agreement, as defined, with the Franchise Tax Board to exchange tax information, as provided. Existing law requires, until January 1, 2019, upon the request of the Franchise Tax Board, each city that assesses a city business tax or requires a city business license to annually submit to the board specified information relating to the administration of the city's business tax program. Existing law defines the term "city" to include, among others, a city and county. Existing law limits the collection and use of this information and provides that any unauthorized use of this information is punishable as a misdemeanor.

This bill would expand these provisions to additionally apply to a county. By expanding the scope of a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 19551.1 of the Revenue and Taxation Code is amended to read:

19551.1. (a) (1) The Franchise Tax Board may permit the tax officials of any city, county, or city and county to enter into a reciprocal agreement with the Franchise Tax Board to obtain tax information from the Franchise Tax Board, as specified in subdivision (b).

(2) For purposes of this section, “reciprocal agreement” means a formal agreement to exchange information for tax administration purposes between tax officials of a city, county, or city and county, and the Franchise Tax Board.

(b) The information furnished to tax officials of a city, county, or city and county under this section shall be limited as follows:

(1) The tax officials of a city, county, or city and county are authorized to receive information only with respect to taxpayers with an address as reflected on the Franchise Tax Board’s records within the jurisdictional boundaries of the city, county, or city and county who report income from a trade or business to the Franchise Tax Board.

(2) The tax information that may be provided by the Franchise Tax Board to a city, county, or city and county is limited to a taxpayer’s name, address, social security or taxpayer identification number, and business activity code.

(3) Tax information provided to the taxing authority of a city, county, or city and county shall not be furnished to, or used by, any person other than an employee of that taxing authority and shall be utilized in a form and manner to safeguard the tax information as required by the Franchise Tax Board, including, but not limited to:

(A) The completion of a data exchange security questionnaire provided by the Franchise Tax Board prior to approval of a data exchange by the Franchise Tax Board.

(B) The tax official of a city, county, or city and county shall allow for an onsite safeguard review conducted by the Franchise Tax Board.

(C) The completion of disclosure training provided by the Franchise Tax Board and a confidentiality statement signed by all employees with access to information provided by the Franchise Tax Board confirming the requirement of data security with respect to that information and acknowledging awareness of penalties for unauthorized access or disclosure under Sections 19542 and 19552 of this code and Section 502 of the Penal Code.

(D) The tax official of a city, county, or city and county shall notify the Franchise Tax Board within 24 hours upon discovery of any incident of unauthorized or suspected unauthorized access or disclosure of the tax information and provide a detailed report of the incident and the parties involved.

(E) All records received by the tax officials of a city, county, or city and county shall be destroyed in a manner to make them unusable or unreadable so an individual record may no longer be ascertained in a timeframe specified by the Franchise Tax Board.

(4) The information provided to the tax officials of the city, county, or city and county by the Franchise Tax Board under this section is subject to Section 19542, and may not be used for any purpose other than the city, county, or city and county's tax enforcement, or as otherwise authorized by state or federal law.

(5) Section 19542.1 applies to this section.

(c) The Franchise Tax Board may not provide any information pursuant to this section until all of the following have occurred:

(1) An agreement has been executed between a city, county, or city and county and the Franchise Tax Board, that provides that an amount equal to all first year costs necessary to furnish the city, county, or city and county information pursuant to this section shall be received by the Franchise Tax Board before the Franchise Tax Board incurs any costs associated with the activity permitted by this section. For purposes of this section, first year costs include costs associated with, but not limited to, the purchasing of equipment, the development of processes, and labor.

(2) An agreement has been executed between a city, county, or city and county and the Franchise Tax Board, that provides that the annual costs incurred by the Franchise Tax Board, as a result of the activity permitted by this section, shall be reimbursed by the city, county, or city and county to the Franchise Tax Board.

(3) Pursuant to the agreement described in paragraph (1), the Franchise Tax Board has received an amount equal to the first year costs.

(d) Any information, other than the type of tax information specified in subdivision (b), may be requested by the tax officials of a city, county, or city and county from the Franchise Tax Board by affidavit. At the time a tax official makes the request, he or she shall provide the person whose information is the subject of the request, with a copy of the affidavit and, upon request, make the information obtained available to that person.

(e) This section does not invalidate any other law. This section does not preclude any city, county, or city and county from obtaining information about individual taxpayers, including those

taxpayers not subject to this section, by any other means permitted by state or federal law.

(f) Nothing in this section shall be construed to affect any obligations, rights, or remedies regarding personal information provided under state or federal law.

(g) Notwithstanding subdivision (c), the Franchise Tax Board shall waive a city, county, or city and county's reimbursement of the Franchise Tax Board's cost if a city, county, or city and county enters into a reciprocal agreement as defined in paragraph (2) of subdivision (a). The reciprocal agreement shall specify that each party shall bear its own costs to furnish the data involved in the exchange authorized by this section and Section 19551.5, and a city, county, or city and county shall be precluded from obtaining reimbursement as specified under Section 5 of the act adding this subdivision.

(h) This section shall remain in effect only until January 1, 2019, and as of that date, is repealed.

SEC. 2. Section 19551.5 of the Revenue and Taxation Code is amended to read:

19551.5. (a) Notwithstanding any other law, each city, county, or city and county that assesses a city, county, or city and county business tax or requires a city, county, or city and county business license shall, upon the request of the Franchise Tax Board, annually submit to the Franchise Tax Board the information that is collected in the course of administration of the city, county, or city and county's business tax or business license program, as described in subdivision (b).

(b) Information, collected in the course of administration of the city, county, or city and county's business tax or business license program, shall be limited to the following:

(1) Name of the business, if the business is a corporation, partnership, or limited liability company, or the owner's name if the business is a sole proprietorship.

(2) Business mailing address.

(3) Federal employer identification number, if applicable, or the business owner's social security number, if known.

(4) Standard Industrial Classification (SIC) Code or North American Industry Classification System (NAICS) Code.

(5) Business start date.

(6) Business cease date.

(7) City, county, or city and county account or license number.

(8) Ownership type.

(c) The reports required under this section shall be filed on magnetic media such as tapes or compact discs, through a secure electronic process, or in other machine-readable form, according to standards prescribed by regulations promulgated by the Franchise Tax Board.

(d) Cities that receive a request from the Franchise Tax Board shall begin providing to the Franchise Tax Board the information required by this section as soon as economically feasible, but no later than December 31, 2009. The information shall be furnished annually at a time and in the form that the Franchise Tax Board may prescribe by regulation.

(e) The city, county, or city and county data provided to the Franchise Tax Board under this section is subject to Section 19542, and may not be used for any purpose other than state tax enforcement or as otherwise authorized by law.

(f) If a city, county, or city and county enters into a reciprocal agreement with the Franchise Tax Board pursuant to subdivision (a) of Section 19551.1, the city, county, or city and county shall also waive reimbursement for costs incurred to provide information required under this section and shall be precluded from obtaining reimbursement as specified under Section 5 of Chapter 345 of the Statutes of 2008. The reciprocal agreement shall specify that each party shall bear its own costs to furnish the data involved in the exchange authorized by Section 19551.1 and this section, and the Franchise Tax Board shall be precluded from obtaining reimbursement as specified under subdivision (c) of Section 19551.1.

(g) A city, county, or city and county shall not be required to provide information to the Franchise Tax Board pursuant to this section if the Franchise Tax Board fails to provide tax information to the city, county, or city and county pursuant to a reciprocal agreement entered into pursuant to subdivision (a) of Section 19551.1 for reasons other than concerns related to confidentiality of tax information provided to the city, county, or city and county.

(h) This section shall remain in effect only until January 1, 2019, and as of that date, is repealed.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because

the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2015

Governor