

AMENDED IN SENATE JULY 14, 1997

AMENDED IN SENATE JUNE 16, 1997

AMENDED IN ASSEMBLY MAY 20, 1997

AMENDED IN ASSEMBLY APRIL 28, 1997

AMENDED IN ASSEMBLY APRIL 14, 1997

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1043**

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**Introduced by Committee on Revenue and Taxation  
(Assembly Members Caldera (Chair), Alquist, Aroner,  
Knox, Machado, and Papan)**

February 27, 1997

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An act to amend ~~Section~~ *Sections 6830 and 8102* of, and to add Sections 6830.5 and 7284.6 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1043, as amended, Committee on Revenue and Taxation. Taxation.

(1) The Sales and Use Tax Law authorizes the State Board of Equalization to contract with persons outside of California for the identification of persons or businesses who may owe taxes or other amounts or to contract for debt collection services with persons outside of California. Existing law allows the board to add the cost of these services to the amount to be identified or collected from the taxpayer.

This bill would *instead require the board to contract with persons outside of California for those services and would require the cost of those services to be added to the amount to be identified or collected, as specified.*

*This bill would also ~~authorize~~ require the board to enter into agreements with one or more private persons, companies, associations, or corporations for the purpose of collecting taxes, interest, additions to tax, or penalties within the state, and ~~to add~~ would require the cost of the collection service to be added to the amount to be collected from the taxpayer, as specified.*

(2) The Sales and Use Tax Law provides, subject to certain exceptions, that it is unlawful for the State Board of Equalization, or certain persons having an administrative duty under that law or access to information with respect to sales or transactions and use taxes collected by that board, to make known or allow the disclosure or examination of certain information or documents.

This bill would, as provided, make it unlawful for any local jurisdiction imposing a utility tax, or certain persons with duties on behalf of that jurisdiction or access to information with respect to that tax, to make known or allow the disclosure or examination of certain information or documents. This bill would specify that a violation of these provisions is a misdemeanor. By creating a new crime, this bill would establish a state-mandated local program.

(3) The Motor Vehicle Fuel License Tax Law imposes a tax for the privilege of distributing motor vehicle fuel or for the privilege of storing motor vehicle fuel for sale or use in the propulsion of a motor vehicle on a highway, as specified. That law provides that certain persons who have paid a tax shall be reimbursed and repaid the amount of the tax under certain circumstances and requires that a claim for refund be supported by the original invoice showing the purchase.

This bill would instead require that a claim for refund be presented in a form prescribed by the Controller, and that upon the request of the Controller, the claimant support the claim with the original invoice showing the purchase.

(4) 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.

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

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

1 SECTION 1. *Section 6830 of the Revenue and*  
2 *Taxation Code is amended to read:*

3 6830. (a) For the purpose of identifying persons or  
4 businesses who may owe taxes or other amounts, or for the  
5 purpose of collecting taxes, interest, additions to tax, and  
6 penalties, the board ~~may shall~~ enter into agreement with  
7 one or more private persons, companies, associations, or  
8 corporations providing these services outside this state  
9 with respect to the identification of persons or businesses  
10 who may owe taxes or other amounts, or the collection of  
11 taxes, interest, additions to tax, and penalties. The  
12 agreement ~~may shall~~ provide, ~~at the discretion of the~~  
13 ~~board,~~ *as determined by the board with concurrence by*  
14 *the Department of Finance,* the rate of payment and the  
15 manner in which compensation for services shall be paid.  
16 The compensation ~~may shall~~ be added to the amount  
17 required to be identified or collected by the collection  
18 agency or provider of these services from the tax debtor.  
19 The board shall provide the necessary information for the  
20 contractor to fulfill its obligation under that agreement.

21 (b) ~~With the approval of the board,~~ *As determined by*  
22 *the board, with concurrence by the Department of*  
23 *Finance,* the contractor may, as part of the collection  
24 process, refer the tax debt for litigation by its legal  
25 representatives in the name of the board.

26 (c) *Amounts collected pursuant to subdivision (a)*  
27 *shall be transmitted to the Treasurer and deposited in the*  
28 *State Treasury. Of the amounts deposited in the State*  
29 *Treasury, an amount equal to the costs incurred by the*  
30 *board in administering the program authorized by this*



1 section shall be available to the board, upon appropriation  
2 by the Legislature.

3 (d) In accordance with Section 13292 of the  
4 Government Code, an annual report of the out-of-state  
5 collection activity is required.

6 SEC. 2. Section 6830.5 is added to the Revenue and  
7 Taxation Code, to read:

8 6830.5. (a) For the purpose of collecting taxes,  
9 interest, additions to tax, or penalties, the board ~~may~~ shall  
10 enter into agreements with one or more private persons,  
11 companies, associations, or corporations providing these  
12 services within this state. The agreement ~~may provide, at~~  
13 ~~the discretion of the board~~ shall provide, as determined  
14 by the board with concurrence by the Department of  
15 Finance, the rate of payment and the manner in which  
16 compensation for services shall be paid. The  
17 compensation ~~may~~ shall be added to the amount required  
18 to be collected by the collection agency from the tax  
19 debtor. The board shall provide the necessary  
20 information for the contractor to fulfill its obligation  
21 under the agreement.

22 (b) Amounts collected pursuant to subdivision (a)  
23 shall be transmitted to the Treasurer and deposited in the  
24 State Treasury. Of the amounts deposited in the State  
25 Treasury, an amount equal to the costs incurred by the  
26 board in administering the program authorized by  
27 subdivision (a) shall be available to the board, upon  
28 appropriation by the Legislature.

29 (c) In accordance with Section 13292 of the  
30 Government Code, an annual report of the in-state  
31 collection activity is required.

32 ~~SEC. 2.~~

33 SEC. 3. Section 7284.6 is added to the Revenue and  
34 Taxation Code, to read:

35 7284.6. (a) It is unlawful for any local jurisdiction  
36 imposing a utility user tax, any person having an  
37 administrative duty for a local jurisdiction imposing a  
38 utility user tax, or any person who obtains access to  
39 information contained in, or derived from, utility user tax  
40 records of a local jurisdiction, to do any of the following:



1 (1) Make known, in any manner whatever, either of  
2 the following:

3 (A) The business affairs, operations, or any other  
4 information pertaining to a utility or other company  
5 required to report to the local jurisdiction or to pay a  
6 utility user tax.

7 (B) The amount or source of income, profits, losses,  
8 expenditures, or any particular thereof, set forth or  
9 disclosed in any return.

10 (2) Permit any return or copy thereof, or any records  
11 containing any abstract or particulars thereof, to be seen  
12 or examined by any person who is not an employee or  
13 agent of the local jurisdiction imposing the tax, or *not* an  
14 employee of the utility or other company required to  
15 report to the local jurisdiction or to pay a utility user tax.

16 (b) For purposes of this section:

17 (1) "Local jurisdiction" means any city, county, city  
18 and county, including any chartered city or city and  
19 county, district, or public or municipal corporation.

20 (2) "District" means any agency of the state, formed  
21 pursuant to general law or a special act, for the local  
22 performance of governmental or proprietary functions  
23 within limited boundaries.

24 (c) Any violation of this section is a misdemeanor and  
25 is punishable by a fine not exceeding one thousand dollars  
26 (\$1,000), by imprisonment in a county jail not exceeding  
27 one year, or by both, in the discretion of the court.

28 (d) This section shall not be construed to prohibit the  
29 divulging of information to the State Board of  
30 Equalization for the purposes of its administration of the  
31 Energy Resources Surcharge Law (Part 19 (commencing  
32 with Section 40001) of Division 2 of the Revenue and  
33 Taxation Code).

34 ~~SEC. 3.~~

35 *SEC. 4.* Section 8102 of the Revenue and Taxation  
36 Code is amended to read:

37 8102. The claimant of a refund shall present to the  
38 Controller a claim for refund in a form prescribed by the  
39 Controller. Upon the request of the Controller, the  
40 claimant shall support the claim with the original invoice



1 showing the purchase. The claim shall state the total  
2 amount of the fuel purchased by the claimant and the  
3 manner and the equipment in which the claimant has  
4 used the fuel. The claim shall not be under oath but shall  
5 contain, or be accompanied by, a written declaration that  
6 it is made under the penalties of perjury.

7 ~~SEC. 4.~~

8 SEC. 5. No reimbursement is required by this act  
9 pursuant to Section 6 of Article XIII B of the California  
10 Constitution because the only costs that may be incurred  
11 by a local agency or school district will be incurred  
12 because this act creates a new crime or infraction,  
13 eliminates a crime or infraction, or changes the penalty  
14 for a crime or infraction, within the meaning of Section  
15 17556 of the Government Code, or changes the definition  
16 of a crime within the meaning of Section 6 of Article  
17 XIII B of the California Constitution.

18 Notwithstanding Section 17580 of the Government  
19 Code, unless otherwise specified, the provisions of this act  
20 shall become operative on the same date that the act  
21 takes effect pursuant to the California Constitution.

