

AMENDED IN SENATE JULY 21, 1997
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

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

February 27, 1997

An act to amend 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 ~~require~~ *authorize* 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 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. *This bill would also provide that this information shall be exempt from disclosure under the California Public Records Act and that any disclosure of that information shall result in a conclusive presumption, as provided, for purposes of specified provisions of that act.*

(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) *This bill would, in the event that SB 48 is chaptered, becomes operative, and adds a specified section to the Government Code, provide that the provisions of this bill shall not be construed to prohibit the release of information pursuant to certain provisions of that section.*

(5) 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 ~~shall~~ *may* 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 shall provide, as determined by the board
 13 with concurrence by the Department of Finance, the rate
 14 of payment and the manner in which compensation for
 15 services shall be paid. The compensation shall be added
 16 to the amount required to be identified or collected by
 17 the collection agency or provider of these services from
 18 the tax debtor. The board shall provide the necessary



1 information for the contractor to fulfill its obligation
2 under that agreement.

3 (b) As determined by the board, with concurrence by
4 the Department of Finance, the contractor may, as part
5 of the collection process, refer the tax debt for litigation
6 by its legal representatives in the name of the board.

7 (c) Amounts collected pursuant to subdivision (a)
8 shall be transmitted to the Treasurer and deposited in the
9 State Treasury. Of the amounts deposited in the State
10 Treasury, an amount equal to the costs incurred by the
11 board in administering the program authorized by this
12 section shall be available to the board, upon appropriation
13 by the Legislature.

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

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

19 6830.5. (a) For the purpose of collecting taxes,
20 interest, additions to tax, or penalties, the board ~~shall~~ may
21 enter into agreements with one or more private persons,
22 companies, associations, or corporations providing these
23 services within this state. The agreement shall provide, as
24 determined by the board with concurrence by the
25 Department of Finance, the rate of payment and the
26 manner in which compensation for services shall be paid.
27 The compensation shall be added to the amount required
28 to be collected by the collection agency from the tax
29 debtor. The board shall provide the necessary
30 information for the contractor to fulfill its obligation
31 under the agreement.

32 (b) Amounts collected pursuant to subdivision (a)
33 shall be transmitted to the Treasurer and deposited in the
34 State Treasury. Of the amounts deposited in the State
35 Treasury, an amount equal to the costs incurred by the
36 board in administering the program authorized by
37 subdivision (a) shall be available to the board, upon
38 appropriation by the Legislature.



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

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

6 7284.6. (a) It is unlawful for any local jurisdiction
7 imposing a utility user tax, any person having an
8 administrative duty for a local jurisdiction imposing a
9 utility user tax, or any ~~person~~ *employee or agent of a local*
10 *jurisdiction acting in an official capacity* who obtains
11 access to information contained in, or derived from,
12 utility user tax records of a local jurisdiction, to do any of
13 the following:

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

16 (A) The business affairs, operations, or any other
17 information pertaining to a utility or other company
18 required to report to the local jurisdiction or to pay a
19 utility user tax.

20 (B) The amount or source of income, profits, losses,
21 expenditures, or any particular thereof, set forth or
22 disclosed in any return.

23 (2) Permit any return or copy thereof, or any records
24 containing any abstract or particulars thereof, to be seen
25 or examined by any person who is not an employee or
26 agent of the local jurisdiction imposing the tax, or not an
27 employee of the utility or other company required to
28 report to the local jurisdiction or to pay a utility user tax.

29 (b) For purposes of this section:

30 (1) "Local jurisdiction" means any city, county, city
31 and county, including any chartered city or city and
32 county, district, or public or municipal corporation.

33 (2) "District" means any agency of the state, formed
34 pursuant to general law or a special act, for the local
35 performance of governmental or proprietary functions
36 within limited boundaries.

37 (c) Any violation of this section is a misdemeanor and
38 is punishable by a fine not exceeding one thousand dollars
39 (\$1,000), by imprisonment in a county jail not exceeding
40 one year, or by both, in the discretion of the court.



1 (d) This section shall not be construed to prohibit the
2 divulging of information to the State Board of
3 Equalization for the purposes of its administration of the
4 Energy Resources Surcharge Law (Part 19 (commencing
5 with Section 40001) of Division 2 of the Revenue and
6 Taxation Code).

7 (e) Any information subject to subdivision (a) shall be
8 exempt from disclosure under the California Public
9 Records Act (Chapter 3.5 (commencing with Section
10 6250) of Division 7 of the Government Code), and any
11 disclosure of that information shall be conclusively
12 presumed to result in unfair competitive disadvantage to
13 the person supplying the information within the meaning
14 of subdivision (i) of Section 6254 of the Government
15 Code.

16 SEC. 4. Section 8102 of the Revenue and Taxation
17 Code is amended to read:

18 8102. The claimant of a refund shall present to the
19 Controller a claim for refund in a form prescribed by the
20 Controller. Upon the request of the Controller, the
21 claimant shall support the claim with the original invoice
22 showing the purchase. The claim shall state the total
23 amount of the fuel purchased by the claimant and the
24 manner and the equipment in which the claimant has
25 used the fuel. The claim shall not be under oath but shall
26 contain, or be accompanied by, a written declaration that
27 it is made under the penalties of perjury.

28 SEC. 5. *In the event that Senate Bill 448 is chaptered
29 and becomes operative, and adds Section 6254.16 to the
30 Government Code, no provision of this act shall be
31 construed to prohibit the disclosure of any information
32 that is permitted or required to be disclosed pursuant to
33 subdivision (a), (b), (c), (d), or (e) of Section 6254.16 of
34 the Government Code, as added by Senate Bill 448.*

35 SEC. 6. No reimbursement is required by this act
36 pursuant to Section 6 of Article XIII B of the California
37 Constitution because the only costs that may be incurred
38 by a local agency or school district will be incurred
39 because this act creates a new crime or infraction,
40 eliminates a crime or infraction, or changes the penalty



1 for a crime or infraction, within the meaning of Section
2 17556 of the Government Code, or changes the definition
3 of a crime within the meaning of Section 6 of Article
4 XIII B of the California Constitution.

5 Notwithstanding Section 17580 of the Government
6 Code, unless otherwise specified, the provisions of this act
7 shall become operative on the same date that the act
8 takes effect pursuant to the California Constitution.

O

