

AMENDED IN SENATE SEPTEMBER 9, 1997
AMENDED IN SENATE SEPTEMBER 4, 1997
AMENDED IN SENATE AUGUST 11, 1997
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 Section 6830 of, and to add Sections 6830.5, 7284.6, and 7284.7 to, the Revenue and Taxation Code, relating to taxation. An act to add Sections 7284.6 and 7284.7 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 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 who obtain access to information with respect to that tax, to disclose or allow the examination of certain tax-related 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)~~

~~(2) 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 enter into agreement with one~~
7 ~~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~~
19 ~~information for the contractor to fulfill its obligation~~
20 ~~under that agreement.~~
21 ~~(b) As determined by the board, with concurrence by~~
22 ~~the Department of Finance, the contractor may, as part~~
23 ~~of the collection process, refer the tax debt for litigation~~
24 ~~by its legal representatives in the name of the board.~~
25 ~~(c) Amounts collected pursuant to subdivision (a)~~
26 ~~shall be transmitted to the Treasurer and deposited in the~~
27 ~~State Treasury. Of the amounts deposited in the State~~
28 ~~Treasury, an amount equal to the costs incurred by the~~
29 ~~board in administering the program authorized by this~~
30 ~~section shall be available to the board, upon appropriation~~
31 ~~by the Legislature. This subdivision shall not apply to the~~
32 ~~contract for out-of-state discovery/collection services~~
33 ~~that was in development as of August 21, 1997 (Contract~~
34 ~~No. 97-219), if that contract is entered into before July 1,~~
35 ~~1998.~~



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

4 ~~SEC. 2. Section 6830.5 is added to the Revenue and~~
5 ~~Taxation Code, to read:~~

6 ~~6830.5. (a) For the purpose of collecting taxes,~~
7 ~~interest, additions to tax, or penalties, the board may~~
8 ~~enter into agreements with one or more private persons,~~
9 ~~companies, associations, or corporations providing these~~
10 ~~services within this state. The agreement shall comply~~
11 ~~with all provisions of the Accounts Receivable~~
12 ~~Management Act, Chapter 4.3 (commencing with~~
13 ~~Section 16580) of Part 2 of Division 4 of Title 2 of the~~
14 ~~Government Code. The agreement shall provide, as~~
15 ~~determined by the board with concurrence by the~~
16 ~~Department of Finance, the rate of payment and the~~
17 ~~manner in which compensation for services shall be paid.~~
18 ~~The compensation shall be added to the amount required~~
19 ~~to be collected by the collection agency from the tax~~
20 ~~debtor. The board shall provide the necessary~~
21 ~~information for the contractor to fulfill its obligation~~
22 ~~under the agreement.~~

23 ~~(b) Amounts collected pursuant to subdivision (a)~~
24 ~~shall be transmitted to the Treasurer and deposited in the~~
25 ~~State Treasury. Of the amounts deposited in the State~~
26 ~~Treasury, an amount equal to the costs incurred by the~~
27 ~~board in administering the program authorized by~~
28 ~~subdivision (a) shall be available to the board, upon~~
29 ~~appropriation by the Legislature. This subdivision shall~~
30 ~~not apply to the contract for out-of-state~~
31 ~~discovery/collection services that was in development as~~
32 ~~of August 21, 1997 (Contract No. 97-219), if that contract~~
33 ~~is entered into before July 1, 1998.~~

34 ~~(c) In accordance with Section 13292 of the~~
35 ~~Government Code, an annual report of the in-state~~
36 ~~collection activity is required.~~

37 ~~SEC. 3.~~

38 ~~SECTION 1. Section 7284.6 is added to the Revenue~~
39 ~~and Taxation Code, to read:~~



1 7284.6. (a) It is unlawful for any local jurisdiction,
2 including any employee, officer, authorized agent, or
3 contractor of the local jurisdiction, to permit any utility
4 user's tax return or copy thereof, or any records of any
5 payment of utility user's tax, to be seen or examined by,
6 or disclosed to, any person who is not one of the following:

7 (1) An employee, officer, authorized agent, or
8 contractor of the local jurisdiction with administrative or
9 compliance responsibilities relating to the utility user's
10 tax ordinance.

11 (2) An employee of the utility or other company that
12 is required to report or pay a utility user's tax to the local
13 jurisdiction, and that furnished the records or
14 information.

15 (b) Notwithstanding subdivision (a), this section does
16 not prohibit a local jurisdiction from doing any of the
17 following:

18 (1) Disclosing to a taxpayer information derived from
19 the records of a utility or other utility service provider, if
20 the information is used to calculate the utility user's tax
21 of that taxpayer; or, disclosing that information in a tax
22 collection action, provided that that information is
23 subject to a protective order issued by a court.

24 (2) Disclosing to a tax officer of the state or federal
25 government, pursuant to a written reciprocal agreement,
26 information derived from the records of a utility or other
27 utility service provider, if the information is used to
28 calculate the local utility user's tax.

29 (3) Disclosing the gross utility user's tax revenues
30 collected from the customers of a utility that is owned or
31 operated by the local jurisdiction that imposes the utility
32 user's tax.

33 (c) For purposes of this section:

34 (1) "Local jurisdiction" means any city, county, city
35 and county, including any chartered city or city and
36 county, district, or public or municipal corporation.

37 (2) "District" means any agency of the state, formed
38 pursuant to general law or a special act, for the local
39 performance of governmental or proprietary functions
40 within limited boundaries.



1 (d) Any violation of this section is a misdemeanor and
2 is punishable by a fine not exceeding one thousand dollars
3 (\$1,000), by imprisonment in a county jail not exceeding
4 one year, or by both, in the discretion of the court.

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

11 (f) Any information subject to subdivision (a) shall be
12 exempt from disclosure under the California Public
13 Records Act (Chapter 3.5 (commencing with Section
14 6250) of Division 7 of the Government Code), except that
15 nothing in this section shall be construed to prohibit the
16 disclosure of records pursuant to Section 6254.16 of the
17 Government Code.

18 ~~SEC. 4.~~

19 SEC. 2. Section 7284.7 is added to the Revenue and
20 Taxation Code, to read:

21 7284.7. (a) It is unlawful for any employee, officer,
22 authorized agent or contractor of a local jurisdiction
23 levying a utility user’s tax, that obtains access to
24 information contained in utility user tax records of a local
25 jurisdiction, to disclose any information obtained from
26 the records of a utility or other company required to
27 report or pay a utility user’s tax to the local jurisdiction as
28 a result of an audit, or any other information obtained in
29 the course of an on-site audit, to any person who is not an
30 employee, officer, authorized agent, or contractor of the
31 local jurisdiction with administrative or compliance
32 responsibilities relating to the utility user’s tax ordinance.

33 (b) Any violation of this section is a misdemeanor and
34 is punishable by a fine not exceeding one thousand dollars
35 (\$1,000), by imprisonment in a county jail not exceeding
36 one year, or by both, in the discretion of the court.

37 (c) This section shall not be construed to prohibit the
38 divulging of information to the State Board of
39 Equalization for the purposes of its administration of the
40 Energy Resources Surcharge Law (Part 19 (commencing



1 with Section 40001) of Division 2 of the Revenue and
2 Taxation Code).

3 (d) Notwithstanding subdivisions (a) and (b), this
4 section shall not be construed to prohibit an employee,
5 officer, authorized agent, or contractor of a local
6 jurisdiction levying a utility user's tax from doing any of
7 the following:

8 (1) Disclosing to a taxpayer information derived from
9 the records of a utility or other utility service provider, if
10 the information is used to calculate the utility user's tax
11 of that taxpayer; or, disclosing that information in a tax
12 collection action, provided that the information is subject
13 to a protective order issued by a court.

14 (2) Disclosing to a tax officer of the state or federal
15 government, pursuant to a written reciprocal agreement,
16 information obtained from the records of a utility or other
17 utility service provider, if the information is used to
18 calculate the local utility user's tax.

19 (3) Disclosing the gross utility user's tax revenues
20 collected from the customers of a utility that is owned or
21 operated by the local jurisdiction that imposes the utility
22 user's tax.

23 (e) For purposes of this section:

24 (1) "Local jurisdiction" means any city, county, city
25 and county, including any chartered city or city and
26 county, district, or public or municipal corporation.

27 (2) "District" means any agency of the state, formed
28 pursuant to general law or a special act, for the local
29 performance of governmental or proprietary functions
30 within limited boundaries.

31 (f) Nothing in this section shall be construed to create
32 an exemption from disclosure under subdivision (k) of
33 Section 6254 of the Government Code, or to prohibit the
34 disclosure of records pursuant to Section 6254.16 of the
35 Government Code or subdivision (i) of Section 6254 of
36 the Government Code.

37 ~~SEC. 5.~~

38 *SEC. 3.* No reimbursement is required by this act
39 pursuant to Section 6 of Article XIII B of the California
40 Constitution because the only costs that may be incurred



1 by a local agency or school district will be incurred
2 because this act creates a new crime or infraction,
3 eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section
5 17556 of the Government Code, or changes the definition
6 of a crime within the meaning of Section 6 of Article
7 XIII B of the California Constitution.

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

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