

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: April 28, 2009  
POSITION: Neutral  
SPONSOR: Franchise Tax Board

BILL NUMBER: SB 402  
AUTHOR: L. Wolk

**BILL SUMMARY: Franchise Tax Board: Collections**

This Franchise Tax Board (FTB) sponsored bill would establish a record match process between financial institution customer records and FTB debtor records. FTB would use matched information to collect delinquent state income tax debts and non tax debts using existing laws and computer systems.

**FISCAL SUMMARY**

Finance concurs with FTB estimates that this bill would result in General Fund costs of \$2.1 million in 2009-10, \$6.1 million in 2010-11 and \$4.7 million in 2011-12. Revenues resulting from this bill are estimated at \$35 million in 2010-11, 63 million in 2011-12, and rising to \$150 million by 2017.

**COMMENTS**

Finance notes the following with regard to this bill:

- This bill could provide FTB additional tools, based on a proven model, to address the state’s tax gap.
- This bill’s provisions are incorporated into pending budget trailer legislation and the revenues and costs are included in the conference version of the pending revision to the 2009 Budget Act.

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Analyst/Principal (0762) C. Hill	Date	Program Budget Manager Mark Hill	Date
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Department Deputy Director	Date
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Governor's Office:	By:	Date:	Position Approved _____
			Position Disapproved _____

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**BILL ANALYSIS** Form DF-43 (Rev 03/95 Buff)

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**ANALYSIS****A. Programmatic Analysis**

Existing law mandates the establishment of the Financial Information Data Match (FIDM) program, which requires financial institutions to match customer records against a list of child support debtors. Financial institutions may comply with the requirement by sending depositor information to FTB, or by matching the names themselves. FTB, upon confirmation of a record match, then issues an order to withhold (OTW) to the financial institution, which then freezes the taxpayer's assets and remit amounts necessary to satisfy the debt. Current federal law prohibits FIDM information from being used for any purpose other than the collection of outstanding child support debts.

This bill would, using elements of the FIDM model, require FTB to coordinate with financial institutions doing business in California to establish a Financial Institution Record Match system (FIRM) using automated data exchanges to the maximum extent feasible, and would require FTB to promulgate rules or regulations necessary to implement the provisions of the bill that include the following:

- A structure by which financial institutions may receive FTB files of delinquent debtors that the institution will match with its own list of accountholder to identify delinquent tax debtor account holders at that institution.
- An option by which financial institutions without the technical ability to process the data exchange, may forward to FTB a list of all account holders and their Social Security Numbers, or other taxpayer identification numbers so the FTB can match that list with files of delinquent tax debtors.
- Authority for FTB to exempt a financial institution from the requirements of this bill if the FTB determines that the financial institution's participation would not generate sufficient revenue to be cost effective for the department, and for FTB to suspend the requirements of this section temporarily for a financial institution if it is determined that the financial institution is undercapitalized.

This bill would provide that any use of the information obtained under this bill's provisions for any purpose other than the collection of delinquent franchise or income tax or other debts referred to FTB for collection would be a violation of existing disclosure restrictions, and would provide authority for FTB to provide confidential taxpayer data to the financial institutions for purposes of the tax data match. Financial institutions would be required to provide to FTB, on a quarterly basis, the name, record address and other addresses, social security number or other taxpayer identification number, and identifying information for each delinquent tax debtor identified by FTB, and would be prohibited from disclosing to the debtor that their identifying information had been furnished to the FTB, unless required to do so by law. Institutions furnishing information to FTB pursuant to this bill would be shielded from liability.

Institutions which willfully fail to comply with an FTB request for debtor information would be subject to a penalty of \$50 for each record not provided, up to a maximum of \$100,000 in any calendar year, and FTB would be required to reimburse financial institutions for actual costs to implement and administer the program, up to \$2,500 for startup costs and no more than \$250 per quarter thereafter.

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## B. Fiscal Analysis

Finance concurs with FTB estimates that this bill would result in General Fund costs of \$2.1 million in 2009-10, \$6.1 million in 2010-11 and \$4.7 million in 2011-12. Revenues resulting from this bill are estimated at \$35 million in 2010-11, 63 million in 2011-12, and rising to \$150 million by 2017.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)							
	LA	(Dollars in Thousands)							
	CO	PROP							Fund
	RV	98	FC	2009-2010	FC	2010-2011	FC	2011-2012	Code
1730/FTB	SO	No	C	\$2,087	C	\$6,097	C	\$4,718	0001
1100/Majr Tax Lic	RV	No		--	U	\$35,000	U	\$63,000	0001
1730/FTB	SO	No	C	\$150	C	\$300		--	0044
1730/FTB	SO	No	C	\$278	C	\$556		--	0064
1730/FTB	SO	No	C	\$665	C	\$968		--	0242
1141/MV Registra	RV	No		--		--	U	\$1,000	0064
1301/Trial Ct Rev	RV	No		--		--	U	\$2,000	0242
<u>Fund Code</u>	<u>Title</u>								
0001	General Fund								
0044	Motor Vehicle Account, STF								
0064	Motor Vehicle License Fee Account, TTF								
0242	Court Collection Account								