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COUNTY OF SAN DIEGO

INTER-DEPARTMENTAL CORRESPONDENCE

April 29, 1991

TO: Supervisor John MacDonald, Chairman
Supervisor Brian P. Bilbray, Vice Chairman
Supervisor George F. Bailey
Supervisor Susan Golding
Supervisor Leon L. Williams

RECEIVED
APR 30 1991
Ans'd JLS

FROM: John R. Sweeten, Director
Office of Intergovernmental Affairs

SUBJECT: **SB 526 (KILLEA) -- OFFSETS: COUNTIES: FINES: COLLECTION**
AB 1823 (BENTLEY) -- PAYMENT OF FINES

SB 526 would authorize the State Controller to offset any amount due a county based on an outstanding warrant for failure to pay any fine, penalty, or assessment, against any amount to be refunded a person under the Personal Income Tax Law. AB 1823 would require the Controller to offset amounts due against tax refunds and prizes awarded by the California State Lottery Commission. Both bills address the growing problem of outstanding warrants, and the loss of revenue to local agencies and the State from unpaid fines, penalties, and assessments.

On February 19, 1991 (40), the Board approved a set of recommendations by Supervisor Golding to improve the rate of collections while reducing the number of outstanding warrants. One recommendation was for the Chief Administrative Officer and County Counsel to work with the Municipal Courts to determine the County's ability to intercept income tax refunds from persons with outstanding warrants. SB 526 and AB 1823 both provide the necessary authority for the interception of income tax refunds.

In accordance with Board Policy M-2, and by copy of this memorandum, I have requested the County's Sacramento Representative to inform appropriate members of the Legislature and the Administration that the County supports AB 1823, and supports and seeks an amendment to SB 526.

Respectfully,

JOHN R. SWEETEN
Director

JRS:FB

Attachment

cc: Chief Administrative Officer
Sacramento Representative
Municipal Courts

STOCK #75-3344

COUNTY OF SAN DIEGO

LEGISLATIVE ANALYSIS

Bill Number: SB 526 (as amended 4/22/91) -- Offsets: Counties: Fines: Collection

Author: Senator Killea

Present Law: Authorizes the Controller to offset any amount due a county from a person or entity that has been reduced to a judgement, is contained in an order of the court, or is delinquent unsecured property taxes, against any amount to be refunded a person or entity under the Personal Income Tax Law.

Proposed Law: Would authorize the Controller to offset any amount due a county that is from an outstanding warrant for payment of any fine, penalty, or assessment, against any amount to be refunded a person or entity under the Personal Income Tax Law.

Recommendation: Support and Seek Amendment

Discussion: The issue of outstanding warrants is a problem in many areas of the state. In San Diego County, there is a backlog of approximately 655,000 outstanding warrants. SB 526 addresses this problem by authorizing the Controller to intercept state income tax refunds from persons with outstanding warrants.

SB 526 provides for the following:

- Authorizes counties to request the Controller to intercept tax refunds from persons with outstanding warrants.
- Authorizes the Controller to prescribe the standards and procedures for counties to claim offsets from persons with outstanding warrants.
- Authorizes the courts to order a defendant upon whom a fine, penalty, or assessment is imposed, to provide his or her social security number in order to assist collection efforts.

The current process, with respect to outstanding warrants, is cumbersome and requires a county to obtain a civil judgement or court order before the Controller can legally intercept a tax refund. SB 526 would simplify the process by providing counties another option to pursue collection efforts from persons with outstanding warrants who owe fines, penalties, or assessments.

Proposed Amendment

Rather than authorize the Controller to intercept income tax refunds, the bill should be amended to require the Controller to intercept refunds, provided a proper request is made by a county.

Fiscal Impact: Undetermined.

SAN DIEGO STATE UNIVERSITY 1897

COUNTY OF SAN DIEGO

LEGISLATIVE ANALYSIS

Bill Number: AB 1823 (as amended 4/16/91) -- Payment of Fines

Author: Assembly Member Bentley

Present Law: Authorizes the Controller to offset any amount due a county from a person or entity that has been reduced to a judgement, is contained in an order of the court, or is delinquent unsecured property taxes, against any amount to be refunded a person or entity under the Personal Income Tax Law.

Proposed Law: Would require the Controller to offset any amount due a county that is from an outstanding warrant for payment of any fine, penalty, or assessment, against any amount to be refunded a person under the Personal Income Tax Law, and against any prizes awarded by the California State Lottery Commission.

Recommendation: Support

Discussion: The issue of outstanding warrants is a problem in many areas of the state. In San Diego County, there is a backlog of approximately 655,000 outstanding warrants. AB 1823 addresses this problem by requiring the Controller to intercept income tax refunds and prizes awarded by the California State Lottery Commission from persons with outstanding warrants.

AB 1823 provides for the following:

- Permits counties to annually submit to the Controller a list of persons with outstanding warrants for which fines or other amounts of money are owing. The social security number for these persons may also be submitted.

- Requires the Department of Motor Vehicles, commencing January 1, 1993, to obtain the social security number of each person applying for a driver's license.

- Requires the Controller to offset any amount due a county that is from an outstanding warrant for payment of any fine, penalty, or assessment, against any amount to be refunded a person or entity under the Personal Income Tax Law.

The current process, with respect to outstanding warrants, is cumbersome and requires a county to obtain a civil judgement or court order before the Controller can legally intercept a tax refund. AB 1823 would simplify the process by providing counties another option to pursue collection efforts from persons with outstanding warrants who owe fines, penalties, or assessments.

Fiscal Impact: Undetermined.

AMENDED IN SENATE APRIL 22, 1991

SENATE BILL No. 526

Introduced by Senator Killea

February 27, 1991

An act to amend Section 12419.8 of, *and to add Section 68106 to,* the Government Code, ~~and to add Sections 18416 and 19313 to the Revenue and Taxation Code,~~ relating to collection of fines.

LEGISLATIVE COUNSEL'S DIGEST

SB 526, as amended, Killea. Offsets: counties: fines: collection ~~: tax forms~~.

(1) Existing law authorizes the Controller to offset any amount due a county from a person or entity that has been reduced to a judgment, is contained in an order of a court, or is delinquent unsecured property taxes, as specified, against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law.

This bill would additionally authorize the Controller to offset any amount due a county that is from a bench warrant for payment of any fine, penalty or assessment, against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law.

~~The existing Personal Income Tax Law provides for the filing of specified tax forms and provides that returns be in the form as the Franchise Tax Board may prescribe.~~

~~This bill would require that the Franchise Tax Board, in preparing tax forms, include a space for the taxpayer's California driver's license number or California identification card number, as specified. It would also require that every resident of this state required to file a return under the~~

~~Personal Income Tax Law include his or her California driver's license number or California identification card number on his or her return.~~

(2) Existing law provides for the imposition of various fines, forfeitures, or penalties upon persons convicted of a crime.

This bill would specify that a court may order a criminal defendant upon whom a fine, forfeiture, or penalty is imposed, to disclose to the court his or her social security number in order to assist in its collection.

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

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

SECTION 1. Section 12419.8 of the Government Code is amended to read:

12419.8. (a) The Controller may, in his or her discretion, offset any amount due a county from a person or entity, against any amount owing the person or entity by a state agency on a claim for a refund from the Franchise Tax Board under the Personal Income Tax Law or the Bank and Corporation Tax Law. Standards and procedures for submission of requests for offsets shall be as prescribed by the Controller. Whenever insufficient funds are available to satisfy an offset request, the Controller, after first applying the amounts available to any amount due a state agency, may allocate the balance among any other requests for offset.

(b) The Controller shall deduct and retain from any amount offset in favor of a county an amount sufficient to reimburse the Controller and the Franchise Tax Board for their administrative costs of processing the offset payment.

(c) This section shall apply only to any of the following situations:

(1) Where the amount has been reduced to a judgment.

(2) Where the amount is contained in an order of a court.

(3) Where the amount is from a bench warrant for payment of any fine, penalty, or assessment.

(4) Where the amount is delinquent unsecured property taxes on which a certificate lien has been filed for record in the office of the county recorder pursuant to Section 2191.3 of the Revenue and Taxation Code.

(d) For purposes of paragraph (4) of subdivision (c):

(1) Upon the tax collector's request for taxpayer identification numbers required by the Controller's procedures, the assessor shall immediately notify the appropriate assessee, by registered or certified mail, that the request has been made for the purpose of intercepting refunds from the state government due the taxpayer, in order to offset the delinquent property tax obligation. The letter shall state that if the assessee does not pay the outstanding tax amount to the tax collector within 20 days, the required taxpayer identification number will be so provided.

(2) The assessor shall not be named in any action that may be brought as a result of compliance with this subdivision.

~~SEC. 2. Section 18416 is added to the Revenue and Taxation Code, to read:~~

~~18416. Every resident of this state required to file a return under this part shall include his or her California driver's license number or California identification card number issued pursuant to Section 13000 of the Vehicle Code on his or her return.~~

~~SEC. 3. Section 19313 is added to the Revenue and Taxation Code, to read:~~

~~19313. For purposes of Section 18416, the Franchise Tax Board shall, in preparing tax forms, include a space for the taxpayer's California driver's license number or California identification card number issued pursuant to Section 13000 of the Vehicle Code. In the case of joint tax return forms, the Franchise Tax Board shall include two spaces for the taxpayers' California driver's license number or California identification card number issued pursuant to Section 13000 of the Vehicle Code.~~

SEC. 2. Section 68106 is added to the Government

Code, to read:

68106. A court may order a criminal defendant upon whom a fine, forfeiture, or penalty is imposed, to disclose to the court his or her social security number in order to assist in its collection.

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AMENDED IN ASSEMBLY APRIL 16, 1991

CALIFORNIA LEGISLATURE—1991-92 REGULAR SESSION

ASSEMBLY BILL No. 1823

Introduced by Assembly Member Bentley

March 8, 1991

An act to add Section 12419.6 to the Government Code, ~~relating to offsets.~~ *and to amend Section 853.7 of the Penal Code, relating to payment of fines.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1823, as amended, Bentley. ~~Offsets~~ *Payment of fines.*

Existing law permits or requires the Controller to offset certain delinquent accounts, amounts due state agencies and counties, and other amounts against tax refunds owed to individuals or entities.

This bill would ~~require~~ *permit* every county and every city and county to annually submit to the Controller a list of persons with outstanding warrants for which fines or other amounts of money are owing with the social security numbers for those persons. ~~This requirement would impose a state/mandated local program.~~

The bill would require the Department of Motor Vehicles, commencing on or before January 1, 1993, to obtain the social security number of each person applying for a driver's license. *The bill would provide that these social security numbers are not public records.* The bill would require the Controller to offset the amounts owing by any person against personal income tax refunds certified by the Franchise Tax Board and prizes awarded by the California State Lottery Commission.

~~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, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.~~

~~This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed $1,000,000, shall be made from the State Mandates Claims Fund.~~

Existing law makes it a misdemeanor to willfully violate a written promise to appear or a lawfully granted continuance of a promise to appear in court.

This bill would make it a misdemeanor to willfully fail to pay a lawfully imposed fine within the time authorized by the court and without lawful excuse presented to the court on or before the date the fine is due, thereby creating a crime and imposing 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.

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

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

SECTION 1. Section 12419.6 is added to the Government Code, to read:

12419.6. (a) Every county and every city and county ~~shall~~ *may* annually submit to the Controller a list of persons with outstanding warrants for which fines or other amounts of money are owing. The person's social security number ~~shall~~ *may* also be provided with each persons's name on the list.

(b) Commencing on or before January 1, 1993, the Department of Motor Vehicles shall obtain the social security number of each person applying for a driver's

license. *Notwithstanding Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1, or any other provision of law, the social security number of any person obtained pursuant to this subdivision is not a public record and shall only be used and provided to an authorized agency for the purpose of making an offset pursuant to this section.*

(c) The Controller shall offset the amounts owing by any person pursuant to subdivision (a) against personal income tax refunds which have been certified by the Franchise Tax Board and against any prizes awarded by the California State Lottery Commission, and draw warrants for the amounts offset in favor of the respective counties or cities and counties to which due, and, for any balance, in favor of the claimant. Whenever amounts available are insufficient to offset all amounts due counties or cities and counties, the amount available shall be applied in a manner as the Controller, in his or her discretion, shall determine.

~~SEC. 2. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.~~

SEC. 2. Section 853.7 of the Penal Code is amended to read:

853.7. *(a)* Any person who willfully violates his or her written promise to appear or a lawfully granted continuance of his or her promise to appear in court is guilty of a misdemeanor, regardless of the disposition of the charge upon which he or she was originally arrested.

(b) Any person willfully failing to pay a lawfully imposed fine within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due is guilty of a misdemeanor, regardless of the full payment of the fine after that time.

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 which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction. Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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