



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	05/26/06	Bill No:	AB 2098
Tax:	Administration	Author:	Liu
Related Bills:			

BILL SUMMARY

This bill would require all state agencies, except those that qualify for an exemption or exclusion, to receive and make all payments electronically through a comprehensive electronic payment system. This analysis is limited to the effect the bill would have on the Board's electronic payment services.

Summary of Amendments

Since the previous analysis, this bill was amended to identify the Department of General Services (DGS) as the primary state agency to develop and implement the online electronic payment system and changed the operative date to January 1, 2009.

ANALYSIS

Current Law

Electronic payments received. The Board is responsible for collection of state and local sales and use taxes and a variety of special taxes and fees. Accordingly, there are various Revenue and Taxation Code sections that authorize the Board to receive payments from tax or fee payers by electronic funds transfers (EFT). In general, certain tax or fee payers are mandated to file by EFT while others can participate in the EFT program voluntarily.

Additionally, current Government Code section 6163 (a)(1) requires that all state agencies accept payment made by means of a credit card or other payment device. Government Code section 6163 (a)(2)(A) provides that a state agency may request that the director grant an exemption from subdivision (a)(1) if the agency determines that its acceptance of payments by credit card or other payment device would have any of the following results: (i) It would not be cost-effective; (ii) it would result in a net additional unfunded cost to the agency; or (iii) it would result in a shortfall of revenues to the State of California.

Electronic payments made. With respect to payment methods used by state agencies, the Prompt Payment Act (Government Code section 927) requires state agencies to pay undisputed invoices within 45 days of receipt or late payment penalties will be incurred. State agencies primarily use two payment methods when buying goods and services. One method is a typical paper process, which requires state agencies to go through many administrative functions and results in processing numerous individual invoices. The second method is a state charge card process, which allows state agencies to pay vendors at the point of sale and to receive payment performance and sales volume rebates for those purchases. The DGS has entered into an agreement with U.S. Bank allowing state agencies to make procurement transactions for goods and services through the purchase card system known as CAL-Card.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

Proposed Law

This bill would add section 11002.5 to the Government Code to provide that the DGS, in consultation with the State Controller's Office, shall construct an electronic payment system by January 1, 2009 which would allow all state agencies to receive and make all payments online through various electronic payment methods. The DGS would be responsible for negotiating for the best possible provider rates on behalf of all state agencies.

The DGS and the Controller's office would minimize the financial impact of methods for the acceptance or dispersal of funds by electronic fund transfers on all users of the system, including state agencies. DGS in consultation with the Controller may negotiate and enter into any contracts necessary to implement or facilitate the methods for the dispersal of funds by electronic funds transfers, and would determine how the electronic funds transfer system would best be developed. The DGS and Controller would use certain factors in developing the system, including, but not limited to the following:

- Cost effectiveness
- Performance
- Flexibility for future expansion of services
- Timeliness

All state agencies would be required to join and use the payment system, but the agency could file an exemption request with DGS if the agency determines that participation in the online centralized payment system would have any of the following results:

- It would not be cost effective.
- It would result in a net additional unfunded cost to the agency.
- It would result in a shortfall of revenues to the state.

The DGS would be responsible for approval or denial of the exemption requests.

Additionally, a state agency may be excluded from participation in the electronic payment system if the state agency is unable to enter into the contracts on terms that are acceptable to the agency, or if the director acting on behalf of the agency is unable to enter into contracts on terms that are acceptable to the director and agency, as are necessary to enable the agency to utilize the electronic payment system.

Finally, a state agency that has established a comparable electronic payment system by the effective date of this legislation shall have the choice to opt-in to the new system.

COMMENTS

1. **Sponsor and purpose.** This bill is sponsored by the State Controller's office, the California Small Business Association, and Small Business California. The purpose of the bill is to create a comprehensive, single portal system allowing all necessary payments to the state to be received or made electronically. The sponsors anticipate that the state would enjoy several benefits, including: consolidating the state's bargaining power for credit card services to negotiate lower fee rates; decreasing processing costs of electronic payments; sending payments more promptly to vendors; and improving business relationships.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

2. **The May 26, 2006 amendments** provide that the online electronic payment system would be implemented by January 1, 2009. **The May 18, 2006 amendments** provided that the DGS in consultation with, or in conjunction with, the Controller's office would develop and implement a comprehensive online electronic payment system based on certain factors. Both agencies would use their best efforts to minimize the financial impact for the users of the system, and DGS would be authorized to negotiate and enter into contracts necessary to receive or make electronic fund transfers. **The May 8, 2006 amendments** provided that all agencies are required to participate in the electronic payment system, unless they are approved for exemption by the DGS, or if a state agency or its director is unable to enter into the contracts on acceptable terms, or if a state agency has established a comparable electronic payment system. The bill would allow the participating state agencies to receive and make *all* payments electronically through the online payment processing system. **The May 1, 2006 amendments** provided state agencies the option of participating in the electronic processing system. Additionally, the DGS was identified as the agency to negotiate the best possible provider rates on behalf of all state agencies.

3. **The online electronic payment system covers all types of payments.** This bill would allow participating state agencies to receive or make *all* electronic payments through the comprehensive electronic payment system. According to the author's staff, this is intended to include not only payments from taxpayers and to vendors, but also payments to and from other government entities and persons.

Currently, the Board does not have an online electronic processing system for "all payments" received or made. Some payments come from or are made to sources other than a vendor or a taxpayer. Generally, these administrative payments include certain payments to government entities for services (e.g. court filing fees and advance warrant fees), and payments to or from employees or other persons (e.g. travel advance reimbursement, Public Records Act photocopy fees, wage garnishment payments, and bank levies). To the extent that the DGS is able to develop an online, one-stop payment system that covers all types of administrative payments the Board could then determine if it would be able to participate in the system or seek an exemption.

4. **The Board utilizes various electronic payment mediums.** The Board accepts credit card payments from the Discover Network, MasterCard, Visa and American Express. The Board subscribes to the DGS Master Service Agreement that negotiates the terms of the credit card payment program contract. Currently, the fee associated with accepting credit card payments is 2.5 percent of the transaction amount and is paid to the credit card processing vendor. The fee is not paid to, or charged by, the Board.

Electronic funds transfers are received by automated clearing house (ACH) debit and ACH credit as well as Fedwire transfers. Those taxpayers that utilize the ACH debit process first contact the State's data collection service and provide the payment information. The State's bank will then debit the authorized amount from the taxpayer's account. The state pays the cost to report a debit transaction. The taxpayer pays any fees that their financial institution may charge. For ACH credit payers their first contact is with their own bank to instruct them to transfer the payment to the Board's bank account. The taxpayer is responsible for any fees charged by their financial institution.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

Certain payments to vendors, up to a specified amount, are made through the CAL-Card program. The DGS administers this program which allows participating state agencies to make procurements up to \$50,000 per transaction. The CAL-Card program is flexible enough to allow participants to tailor the program to meet their individual card needs. The Board will soon be implementing this program and taking advantage of certain cost savings associated with the state's Master Purchase Agreement.

5. **The Board may not realize full cost savings.** Currently, about 80 percent of the total revenue for sales and use taxes and the special taxes and fees are paid by EFT. The author's office suggests that state agencies may realize cost savings from processing electronic payments and may also realize increased revenue by decreasing the "float time" of payments. However, with the Board already receiving a large part of the taxpayer's payments electronically the Board is currently realizing reduced payment "float time."

Additionally, the major processing costs for the Board result from processing paper tax returns rather than the payments. With the exception of electronically filed tax returns which include electronic payment, taxpayers who currently pay through an electronic medium must still file their paper tax returns. Costs for processing paper returns are the same whether paid by cash, check, EFT or credit card.

COST ESTIMATE

At this time the Board is unable to determine the cost impact without having more information regarding the development of the online electronic processing system and how it will interface with BOE's current systems.

REVENUE ESTIMATE

The bill would not affect the revenues collected for the state by the Board.

Analysis prepared by:	John Cortez	916-445-6662	06/07/06
Contact:	Margaret S. Shedd	916-322-2376	
ls			2098-3jc.doc

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.