



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

Date Amended:	06/22/06	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, among other things, this bill was amended to clarify the factors for determining the cost-effectiveness of joining the electronic payment system, and also clarify that the system will still allow state agencies to receive checks or cash.

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 Department of General Services (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.

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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 would 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, the Franchise Tax Board would be excluded from participation in the electronic payment system, but would have the option to join and use the electronic payment system.

All other state agencies that have established a comparable electronic payment system by the effective date of this legislation shall have the choice to opt-in to the new system.

Finally, the electronic payment system is intended to work in conjunction with non-electronic payments in the form of checks or cash. This allows participating agencies to continue to offer various methods to receive payments.

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;

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decreasing processing costs of electronic payments; sending payments more promptly to vendors; and improving business relationships.

2. **The June 22, 2006 amendments** clarify the factors for determining the cost-effectiveness of joining the electronic payment system, and also clarify that the system will still allow state agencies to receive checks or cash. **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, but not necessarily every payment.** This bill would allow participating state agencies to receive or make 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. However, as recently amended, the payment system is intended to work in conjunction with more traditional payments, such as checks and cash. The system allows the Board's customers and taxpayers an additional option, but does not preclude the use of "paper" payments.
4. **What is a comparable electronic payment system? When should it be in place?** The bill would allow a state agency that has a comparable electronic payment system in place by the effective date of the legislation the option to opt-in to the new system. It would appear that the effective date of the legislation would refer to the date the law goes into effect, January 1, 2007. The system is to be implemented by January 1, 2009. The author may wish to allow state agencies an opportunity to put in place a comparable electronic payment system no later than January 1, 2009. Additionally, the state agencies electronic payment system may be best compared to the system that is put into effect by DGS by January 1, 2009. If the DGS system has limitations and can not meet the processing requirements for all types of payments, then the state agencies should be able to compare to that system.

Finally, the Board currently receives about 80 percent of the total revenue for sales and use taxes and the special taxes and fees by EFT. Is "comparable" measured by the percent of funds received (or made) through an established electronic payment

system, or is it measured by the availability of the system – whether used or not, or is it measured by the percent of taxpayers or customers that use the system?

5. **The electronic payment system would allow state agencies to receive cash or check payments.** The bill was recently amended to clarify that participating state agencies would still be able to accept payments in the form of cash or check. While the author felt the need to clarify this issue, it is not clear if payments can be made by cash or check. Additionally, the author may want to clarify that the electronic payment system will allow state agencies to accept, or make, acceptable non-electronic forms of payment. The bill currently refers to “cash or check”, which could be construed to mean third-party checks or foreign bank checks, and not include money orders. It also appears that state agencies vary in the forms of payment that are acceptable.

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.

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