

**Title 8. California Code of Regulations  
Division 1. Department of Industrial Relations  
Chapter 6. Division of Labor Standards Enforcement  
Subchapter 12. Collections  
Section 13800. Collection Cost Fees: Referrals to the Franchise Tax Board**

**FINAL STATEMENT OF REASONS**

UPDATE OF INITIAL STATEMENT OF REASONS

No update of the Initial Statement of Reasons is needed because there are no modifications to the information contained in the Initial Statement of Reasons.

LOCAL MANDATE DETERMINATION

The proposed regulation does not impose any mandate on local agencies or school districts.

SUMMARY AND RESPONSE TO COMMENTS RECEIVED DURING THE 45 DAY NOTICE PERIOD OF SEPTEMBER 7, 2007 THROUGH OCTOBER 22, 2007

**- *Comment One by Bet Tzedek Legal Services:***

The authorizing statute, Revenue and Taxation Code Section 19290(a) requires the regulations to provide for a reasonable fee to cover actual collection costs. While the fee of \$115 represents what is currently a reasonable fee for actual collection costs, the proposed regulation as written does not take into account what a reasonable fee for actual collection costs will be in future years.

The statute requires the judgment debtors to bear the actual collection cost, and if such costs rise over time, then the debtors should pay a higher fee to reflect those costs. Historically, costs for almost all types of services have increased over time, meaning the \$115 will likely not be the actual collection cost in the future.

We suggest that you include language specifying some mechanism to re-calculate the actual collection costs each year. The additional language detailing the re-calculation should make the re-calculation automatic based on a set formula, in order to avoid the need to promulgate new regulations each year. The regulatory language could specifically incorporate the calculation listed in the "Necessity" section of the Initial Statement of Reasons.

**Response:** The Department disagrees with the suggested revision. The commenter's suggestion to add language to allow for the automatic recalculation of the fee is not necessary. The Department will monitor and determine each year's actual collection costs for collection cases referred by the Department to FTB. If the Department determines that the amount of the collection cost fee set out in the regulation no longer accurately reflects the actual collection costs, then the Department will revise the regulation accordingly to accurately reflect the actual collection costs. No revision is necessary at this time.

**- Comment Two by Bet Tzedek Legal Services:**

The proposed regulation does not explicitly state that the fees collected under this regulation will be used for collection. The proposed regulation states that the fee will “cover collection costs incurred as a result of referral to FTB for collection.” However, the regulation does not expressly say that the fees will only be used for collections. As the agency performing the collection work pursuant to its agreement with DIR, FTB should receive the money collected to cover its actual collection costs. We suggest that you add language to the proposed regulation specifying that the fees collected are to be used only for collection costs and not any other purpose.

**Response:** The Department disagrees with this comment and the suggested revision. The proposed language of the regulation as well as the Initial Statement of Reasons make it clear that the fees collected pursuant to this regulation will only be used to cover collection costs incurred by the Department in paying for FTB’s services on collection cases. No revision is necessary.

**ALTERNATIVES DETERMINATION**

The Department has determined that no alternative would be more effective in carrying out the purpose for which the regulation is proposed or would be as effective and less burdensome to affected private persons than the proposed regulation.