

**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**

INITIAL STATEMENT OF REASONS

SPECIFIC PURPOSE OF THE REGULATION

The purpose of this regulation is to implement, interpret, and make specific Revenue and Taxation Code §19290 by establishing a collection cost fee that will be imposed on judgment debtors that have been referred by the Department of Industrial Relations (Department) and its component divisions to the Franchise Tax Board (FTB) for collection.

NECESSITY

Revenue and Taxation Code §19290(a) specifies that the Department is to enter into an interagency agreement with the FTB to collect unsatisfied judgments (issued pursuant to Labor Code §§ 98.2, 226.5, 1023, 1289, 2681, and 6650) and delinquent debts based upon final determinations by the Department following the exhaustion of appeal remedies (pursuant to Labor Code §§ 98.3, 210, 1174.5, 1193.6, 1194, 1194.2, 1197.1, 1197.5, 1771, 1774, 3722, 7314, 7350, 7721, and 7904). This statutory section also provides that the Department is to adopt rules and regulations to provide for a reasonable fee to cover actual collection costs, and that, whenever possible, the collection costs shall be borne by the judgment debtor.

Currently, there are no collection cost fees imposed or recovered in cases referred by the Department to FTB. The proposed regulation is necessary to establish a collection cost fee which will be imposed on the judgment debtor to cover actual collection costs.

The fee for collection costs was calculated as follows: the contract amount of the Interagency Agreement for collection services between the Department and FTB for the Fiscal Year 2006/2007 divided by the number of collection cases referred by the Department to FTB during the Fiscal Year 2006/2007 (the Fiscal Year runs from July 1 through June 30 of each year). The amount of the Interagency Agreement represents the cost to the Department of FTB's services in collecting on the referred judgments and delinquent debts. Dividing the Interagency Agreement amount by the number of collection cases referred to FTB during the Fiscal Year yields the cost for collecting on each individual referred case.

The Fiscal Year 2006/2007 Interagency Agreement contract amount was \$274,640.42, and the number of cases referred by the Department to FTB in Fiscal Year 2006/2007 was 2,386. Thus, the collection cost fee for each case referred to the FTB for collection will be established at one-hundred and fifteen dollars (\$115).

The cost of FTB's services reflects the collection system that FTB currently has in place for referrals pursuant to Revenue and Taxation Code §19290. FTB has indicated that the current collection system is outdated and may need to be upgraded in the near future as the vendor may no longer support the system. FTB is in the process of conducting a feasibility

study to determine the potential costs of such an upgrade. If an upgrade to FTB's collection system for referrals pursuant to Revenue and Taxation Code §19290 is implemented, the Department will revise this regulation to reflect the increased collection costs as a result of the system upgrade.

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS

The Department relied upon the following documents in proposing the adoption of this regulation: (1) 2006/2007 Interagency Agreement between the Department and FTB for collection services; and (2) May 2004 Bureau of State Audits Report 2003-131.

ALTERNATIVES TO THE REGULATIONS AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES

No other alternatives were presented or considered in connection with the proposed regulatory action.

ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS

The Department has not identified any alternatives that would lessen any adverse impact on small businesses. The proposed regulation will only apply to an employer who fails to pay a judgment or delinquent debt against it. The proposed fee of \$115 would be imposed on each judgment or delinquent debt referred by the Department to FTB for collection. The proposed amount of the fee is relatively low. Consequently, any potential adverse impact on affected small businesses would be insignificant and minimal.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS

The proposed regulatory action does not impose any additional expenses on businesses in general, other than on those employers that have an unsatisfied judgment or delinquent debt issued pursuant to the Labor Code. The proposed regulation will only apply to an employer who fails to pay such a judgment or delinquent debt against it. The proposed fee of \$115 would be imposed on each judgment or delinquent debt referred by the Department to FTB for collection. The proposed amount of the fee is relatively low. Consequently, any potential adverse economic impact on the affected employers would be insignificant and minimal. The proposed regulation would not have a significant adverse economic impact on affected businesses.