

ASSEMBLY BILL

No. 279

Introduced by Assembly Member Dodd

February 11, 2015

An act to amend Sections 19551.1 and 19551.5 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 279, as introduced, Dodd. Tax administration: disclosure of information: Franchise Tax Board and cities and counties.

Existing law authorizes, until January 1, 2019, a city that has entered into a reciprocal agreement, as defined, with the Franchise Tax Board, to exchange tax information, as provided. Existing law requires, until January 1, 2019, upon the request of the Franchise Tax Board, each city that assesses a city business tax or requires a city business license to annually submit to the board specified information relating to the administration of the city's business tax program. Existing law defines the term "city" to include, among others, a city and county. Existing law limits the collection and use of this information and provides that any unauthorized use of this information is punishable as a misdemeanor.

This bill would expand these provisions to additionally apply to a county. By expanding the scope of a crime, this bill would impose 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:

1 SECTION 1. Section 19551.1 of the Revenue and Taxation
2 Code is amended to read:

3 19551.1. (a) (1) The Franchise Tax Board may permit the tax
4 officials of any ~~city~~ *city, county, or city and county* to enter into a
5 reciprocal agreement with the Franchise Tax Board to obtain tax
6 information from the Franchise Tax Board, as specified in
7 subdivision (b).

8 (2) For purposes of this section, “reciprocal agreement” means
9 a formal agreement to exchange information for tax administration
10 purposes between tax officials of a ~~city~~ *city, county, or city and*
11 *county*, and the Franchise Tax Board.

12 (b) The information furnished to tax officials of a ~~city~~ *city,*
13 *county, or city and county* under this section shall be limited as
14 follows:

15 (1) The tax officials of a ~~city~~ *city, county, or city and county*
16 are authorized to receive information only with respect to taxpayers
17 with an address as reflected on the Franchise Tax Board’s records
18 within the jurisdictional boundaries of the ~~city~~ *city, county, or city*
19 *and county* who report income from a trade or business to the
20 Franchise Tax Board.

21 (2) The tax information that may be provided by the Franchise
22 Tax Board to a ~~city~~ *city, county, or city and county* is limited to a
23 taxpayer’s name, address, social security or taxpayer identification
24 number, and business activity code.

25 (3) Tax information provided to the taxing authority of a ~~city~~
26 ~~may~~ *city, county, or city and county shall* not be furnished to, or
27 used by, any person other than an employee of that taxing authority
28 and shall be utilized in a form and manner to safeguard the tax
29 information as required by the Franchise Tax Board, including,
30 but not limited to:

31 (A) The completion of a data exchange security questionnaire
32 provided by the Franchise Tax Board prior to approval of a data
33 exchange by the Franchise Tax Board.

1 (B) The tax official of a ~~city~~ *city, county, or city and county*
2 shall allow for an onsite safeguard review conducted by the
3 Franchise Tax Board.

4 (C) The completion of disclosure training provided by the
5 Franchise Tax Board and a confidentiality statement signed by all
6 employees with access to information provided by the Franchise
7 Tax Board confirming the requirement of data security with respect
8 to that information and acknowledging awareness of penalties for
9 unauthorized access or disclosure under Sections 19542 and 19552
10 of this code and Section 502 of the Penal Code.

11 (D) The tax official of a ~~city~~ *city, county, or city and county*
12 shall notify the Franchise Tax Board within 24 hours upon
13 discovery of any incident of unauthorized or suspected
14 unauthorized access or disclosure of the tax information and
15 provide a detailed report of the incident and the parties involved.

16 (E) All records received by the tax officials of a ~~city~~ *city, county,*
17 *or city and county* shall be destroyed in a manner to make them
18 unusable or unreadable so an individual record may no longer be
19 ascertained in a timeframe specified by the Franchise Tax Board.

20 (4) The information provided to the tax officials of the ~~city~~ *city,*
21 *county, or city and county* by the Franchise Tax Board under this
22 section is subject to Section 19542, and may not be used for any
23 purpose other than the ~~city's~~ *city, county, or city and county's* tax
24 enforcement, or as otherwise authorized by state or federal law.

25 (5) Section 19542.1 applies to this section.

26 (c) The Franchise Tax Board may not provide any information
27 pursuant to this section until all of the following have occurred:

28 (1) An agreement has been executed between a ~~city~~ *city, county,*
29 *or city and county* and the Franchise Tax Board, that provides that
30 an amount equal to all first year costs necessary to furnish the ~~city~~
31 *city, county, or city and county* information pursuant to this section
32 shall be received by the Franchise Tax Board before the Franchise
33 Tax Board incurs any costs associated with the activity permitted
34 by this section. For purposes of this section, first year costs include
35 costs associated with, but not limited to, the purchasing of
36 equipment, the development of processes, and labor.

37 (2) An agreement has been executed between a ~~city~~ *city, county,*
38 *or city and county* and the Franchise Tax Board, that provides that
39 the annual costs incurred by the Franchise Tax Board, as a result

1 of the activity permitted by this section, shall be reimbursed by
2 the ~~city~~ *city, county, or city and county* to the Franchise Tax Board.

3 (3) Pursuant to the agreement described in paragraph (1), the
4 Franchise Tax Board has received an amount equal to the first year
5 costs.

6 (d) Any information, other than the type of tax information
7 specified in subdivision (b), may be requested by the tax officials
8 of a ~~city~~ *city, county, or city and county* from the Franchise Tax
9 Board by affidavit. At the time a tax official makes the request,
10 he or she shall provide the person whose information is the subject
11 of the request, with a copy of the affidavit and, upon request, make
12 the information obtained available to that person.

13 (e) This section does not invalidate any other law. This section
14 does not preclude any ~~city or county~~ *city, county, or city and county*
15 from obtaining information about individual taxpayers, including
16 those taxpayers not subject to this section, by any other means
17 permitted by state or federal law.

18 (f) Nothing in this section shall be construed to affect any
19 obligations, rights, or remedies regarding personal information
20 provided under state or federal law.

21 (g) Notwithstanding subdivision (c), the Franchise Tax Board
22 shall waive a ~~city's~~ *city, county, or city and county's* reimbursement
23 of the Franchise Tax Board's cost if a ~~city~~ *city, county, or city and*
24 *county* enters into a reciprocal agreement as defined in paragraph
25 (2) of subdivision (a). The reciprocal agreement shall specify that
26 each party shall bear its own costs to furnish the data involved in
27 the exchange authorized by this section and Section 19551.5, and
28 a ~~city~~ *city, county, or city and county* shall be precluded from
29 obtaining reimbursement as specified under Section 5 of the act
30 adding this subdivision.

31 (h) This section shall remain in effect only until January 1, 2019,
32 and as of that date, is repealed.

33 SEC. 2. Section 19551.5 of the Revenue and Taxation Code
34 is amended to read:

35 19551.5. (a) Notwithstanding any other law, each ~~city~~ *city,*
36 *county, or city and county* that assesses a ~~city~~ *city, county, or city*
37 *and county* business tax or requires a ~~city~~ *city, county, or city and*
38 *county* business license shall, upon the request of the Franchise
39 Tax Board, annually submit to the Franchise Tax Board the
40 information that is collected in the course of administration of the

1 ~~city's~~ *city, county, or city and county's* business tax or business
2 license program, as described in subdivision (b).

3 (b) Information, collected in the course of administration of the
4 ~~city's~~ *city, county, or city and county's* business tax or business
5 license program, shall be limited to the following:

6 (1) Name of the business, if the business is a corporation,
7 partnership, or limited liability company, or the owner's name if
8 the business is a sole proprietorship.

9 (2) Business mailing address.

10 (3) Federal employer identification number, if applicable, or
11 the business owner's social security number, *if known*.

12 (4) Standard Industrial Classification (SIC) Code or North
13 American Industry Classification System (NAICS) Code.

14 (5) Business start date.

15 (6) Business cease date.

16 (7) *City, county, or city and county account or license* number.

17 (8) Ownership type.

18 (c) The reports required under this section shall be filed on
19 magnetic media such as tapes or compact discs, through a secure
20 electronic process, or in other machine-readable form, according
21 to standards prescribed by regulations promulgated by the
22 Franchise Tax Board.

23 (d) Cities that receive a request from the Franchise Tax Board
24 shall begin providing to the Franchise Tax Board the information
25 required by this section as soon as economically feasible, but no
26 later than December 31, 2009. The information shall be furnished
27 annually at a time and in the form that the Franchise Tax Board
28 may prescribe by regulation.

29 (e) ~~The city~~ *city, county, or city and county* data provided to the
30 Franchise Tax Board under this section is subject to Section 19542,
31 and may not be used for any purpose other than state tax
32 enforcement or as otherwise authorized by law.

33 (f) If a ~~city~~ *city, county, or city and county* enters into a
34 reciprocal agreement with the Franchise Tax Board pursuant to
35 subdivision (a) of Section 19551.1, the ~~city~~ *city, county, or city*
36 *and county* shall also waive reimbursement for costs incurred to
37 provide information required under this section and shall be
38 precluded from obtaining reimbursement as specified under Section
39 5 of Chapter 345 of the Statutes of 2008. The reciprocal agreement
40 shall specify that each party shall bear its own costs to furnish the

1 data involved in the exchange authorized by Section 19551.1 and
2 this section, and the Franchise Tax Board shall be precluded from
3 obtaining reimbursement as specified under subdivision (c) of
4 Section 19551.1.

5 (g) A ~~city~~ *city, county, or city and county* shall not be required
6 to provide information to the Franchise Tax Board pursuant to this
7 section if the Franchise Tax Board fails to provide tax information
8 to the ~~city~~ *city, county, or city and county* pursuant to a reciprocal
9 agreement entered into pursuant to subdivision (a) of Section
10 19551.1 for reasons other than concerns related to confidentiality
11 of tax information provided to the ~~city~~ *city, county, or city and*
12 *county*.

13 (h) This section shall remain in effect only until January 1, 2019,
14 and as of that date, is repealed.

15 SEC. 3. No reimbursement is required by this act pursuant to
16 Section 6 of Article XIII B of the California Constitution because
17 the only costs that may be incurred by a local agency or school
18 district will be incurred because this act creates a new crime or
19 infraction, eliminates a crime or infraction, or changes the penalty
20 for a crime or infraction, within the meaning of Section 17556 of
21 the Government Code, or changes the definition of a crime within
22 the meaning of Section 6 of Article XIII B of the California
23 Constitution.