



Legislation Text

File #: 16-1200, **Version:** 1

MEMORANDUM

TO: The Honorable Board of Supervisors

FROM: Rob Howe, Chief Probation Officer

DATE: December 14, 2016

SUBJECT: Approval of Agreement Between the Lake County Probation Department and the State of California Franchise Tax Board.

EXECUTIVE SUMMARY:

The Lake County Probation Department is charged with collecting court ordered fines, fees and restitution. The collection process is difficult with offenders often simply refusing to pay. When an offender is on probation, failure to pay could result in a violation of probation, however, even with that consequence offenders frequently refuse to pay. The terms of fines, fees and restitution often exceed an offender's term of probation, meaning many offenders are released from probation long before their payments are completed. It becomes considerably more difficult to collect when an offender gets released from probation as, without the consequence of a probation violation, the Probation Department has a very limited ability to impose any kind of sanction for refusal to pay. It is estimated the Probation Department is currently attempting to collect on over \$1,000,000 in overdue fines, fees and restitution.

This Agreement would allow the Probation Department to refer delinquent accounts to the State of California, Franchise Tax Board (FTB) for collection. The FTB has considerably more resources and authority to impose penalties for refusal to pay. Those penalties include, but are not limited to, setting up tax assessments, seizing income, filing liens or recommending criminal investigations.

There would be no additional up-front cost for the County as the Probation Department already has the software and licensing needed. The FTB would collect a fee, not to exceed 15% of any amount collected, but since only those accounts that we have been unable to collect on would be referred, any amount received by Lake County represents a profit. Not only would an increase in collected fines and fees benefit the County, but an increase in restitution collection would help the Probation Department with one of our primary goals of assisting victims with restoration. The Agreement itself does not specifically mention the 15% fee; instead under section 3 "The Maximum amount of this Agreement" it says the FTB will charge an Administration Fee in accordance with the governing R&TC (19280-19283) as amended by subsequent legislation. The relevant section, outlining the fee, of that Revenue and Taxation Code is as follows:

California Revenue and Taxation Code

19282. (a) Except as otherwise provided in subdivision (e), amounts collected under this article shall be transmitted to the Treasurer and deposited in the State Treasury to the credit of the Court Collection Account in the General Fund, which is hereby created. Amounts deposited in the Court Collection Account shall, less an amount that is equal to the costs incurred by the Franchise Tax Board in administering the program authorized by this article, be transferred by the Controller either to the county or to the state fund to which the amount due was originally owing or as otherwise directed by contractual agreement. If the amount collected is not sufficient to satisfy the amounts referred for collection pursuant to Section 19280 that are to be paid by an offender, then the amount paid shall be allocated for distribution on a pro rata basis, as defined in subdivision (d), except in counties where the board of supervisors has established a priority of payment for amounts collected under this article pursuant to Section 1203.1d of the Penal Code. The amount that is equal to the costs incurred by the Franchise Tax Board in administering the program authorized by this article shall be transferred by the Controller to the General Fund for the purpose of recovering the amount expended by the Franchise Tax Board from General Fund appropriations for the purpose of implementing and administering the program authorized by this article, and related statutes as added or amended by the act adding this article.

(b) It is the intent of the Legislature that costs to the Franchise Tax Board to administer this article for the 1997 98 fiscal year and each fiscal year thereafter not exceed 15 percent of the amount it collects pursuant to this article.

I was provided this Agreement in a State of California "Standard Agreement" format. The Agreement does not have Lake County's standard signature lines for County Counsel or Clerk of the Board. County Counsel, Anita Grant and County Administrative Officer, Carol Huchingson have both reviewed and approved of this Agreement. The Agreement format only contains a signature line for "County of Lake, by and through the Probation Department".

FISCAL IMPACT: ☒ None ☐ Budgeted ☐ Non-Budgeted

Estimated Cost:

Amount Budgeted:

Additional Requested:

Annual Cost (if planned for future years):

FISCAL IMPACT (Narrative):

As stated, since The FTB fee represents only a percentage of previously uncollectable fines, fees and restitution, this Agreement would represent only potential revenue.

STAFFING IMPACT (if applicable):

None

RECOMMENDED ACTION:

Approve Agreement between the Lake County Probation Department and the State of California Franchise Tax Board and Authorize the Chief Probation Officer to sign it.