

**JUDICIAL COUNCIL OF CALIFORNIA  
ADMINISTRATIVE OFFICE OF THE COURTS**  
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**Report**

TO: Members of the Judicial Council

FROM: Sheila Calabro, Regional Administrative Director, 818-558-3020  
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DATE: August 16, 2007

SUBJECT: Franchise Tax Board: Court Ordered Debt Program's Request for Support (Action Required)

Issue Statement

In 2004, Senate Bill 246 (Stats. 2004, ch. 380) amended Revenue and Taxation Code section 19280 to require the Franchise Tax Board Court Ordered Debt Program (FTB-COD Program) to accept collection referrals from the 58 superior courts and counties. The bill also required the Judicial Council and the FTB-COD Program to jointly seek whatever additional resources were needed to accommodate referrals from all 58 courts and counties. In response to this mandate, the FTB-COD Program launched a technology project known as the Court Ordered Debt Collections Expansion (CODE) Project in July 2006. In fiscal year (FY) 2007–2008, the CODE Project will face a project-funding deficit of \$1.5 million based on estimated revenue projection shortfalls and spending limits. To prevent delays in the CODE Project, FTB-COD is requesting the Judicial Council's support of its request to the State Department of Finance to utilize \$1.5 million from FTB-COD Court Collection Account reserves.

Background

The FTB-COD Program began as a small pilot program in 1995. In August 2004, Senate Bill 246 made the FTB-COD Program permanent. The FTB-COD Program currently works with 34 California superior courts and counties to pursue collection on some of the courts' most delinquent and aged accounts. Currently, the FTB-COD Program is authorized to charge up to 15 percent of the revenue collected to offset the administrative costs of the program. While the remaining 85 percent is sent directly to courts and counties for deposit into local and state

funds, the 15 percent charged by the FTB-COD Program is retained in the FTB-COD Court Collection Account. In the event the cost to operate the FTB-COD Program is less than 15 percent, a surplus is created and the Court Collection Account increases its fund balance, unless FTB receives council concurrence and state approval to expend a portion of the balance. The current balance in the Court Collection Account is approximately \$5.8 million. FTB estimates that the ongoing fund balance will be \$4.3 million after the requested \$1.5 million is expended. The FTB-COD program is not funded by the State's General Fund.

In July 2006, the FTB began the CODE Project, a four-fiscal year technology project to design, develop and implement an improved system for the primary purpose of supporting the FTB-COD program and expanding its capacity of collecting delinquent court ordered debt for all 58 courts and counties. The system redesign is scheduled to be released in three Phases and will provide a much more stable and maintainable system well into the future. The \$1.5 million is required in order to keep the project on schedule and complete all phases by the end of FY 2009–2010.

#### Recommendations

Staff of the Administrative Office of the Courts (AOC) recommends that the Judicial Council:

1. Support the Franchise Tax Board Court Ordered Debt program's request to the Department of Finance for a one-time appropriation in the amount of \$1.5 million from the Court Collection Account in order to support the technology project known as Court Ordered Debt Collections Expansion in FY 2007–2008.
2. Direct AOC staff to formally inform both the Franchise Tax Board and the Department of Finance of the council's decision regarding this matter.

#### Rationale for Recommendation

Revenue and Taxation Code section 19280(b) specifies that the Judicial Council and the Franchise Tax Board shall jointly seek additional resources for expanding the FTB-COD Program. The Judicial Council's support of the FTB-COD Program's request to the Department of Finance for a one-time appropriation in the amount of \$1.5 million from the FTB-COD Court Collection Account will further the FTB-COD's ongoing efforts to collect delinquent court ordered debt statewide. Since its inception in 1995 through April 2007, the FTB-COD program has collected in excess of \$320 million in fines, fees, assessments and restitution fund fines for superior courts and counties.

With the Judicial Council's support of the FTB-COD Program's request, the planned expansion will remain on schedule, and the FTB-COD Program will be better equipped to further enhance statewide collection of delinquent court ordered debt. The requested \$1.5 million will allow FTB-COD to accomplish phase I of CODE which is scheduled to begin by September 2008. This phase will provide the FTB-COD Program with the funding to increase its capacity to accommodate collection referrals from all 58 courts and counties.

By the beginning of FY 2007–2008, the FTB-COD Program estimates that there will be a surplus of \$5.8 million available in the Court Collection Account. However, FTB needs authorization from the State Department of Finance and support from the Judicial Council to access these funds.

For FY 2007–2008, FTB is authorized to spend \$12.6 million for the FTB-COD Program and expansion project, CODE. In order to be allowed to spend the entire budget of \$12.6 million, FTB must collect \$84 million dollars (\$12.6 million is 15 percent of \$84 million). Although revenue is up nearly 26 percent from FY 2005–2006, collection trends indicate the FTB-COD Program will collect \$74 million dollars in FY 2007–2008; \$10 million less than originally projected. This revenue shortfall effectively reduces FTB-COD Program's budget authority from \$12.6 million to \$11.1 million available to cover both administrative and project costs estimated at \$7.3 million and \$5.3 million respectively, thus leaving a shortfall of \$1.5 million related to the \$5.3 million estimated project cost in FY 2007–2008.

FTB-COD Program's revenue projection for FY 2007–2008, as outlined in their Feasibility Study Report (FSR) 05-01, was overestimated—largely because the baseline year used by FTB, FY 2004–2005, now appears anomalous compared to collections in other years.

In the subsequent FY 2005–2006, FTB-COD Program's revenue declined \$9 million dollars. Although revenue is currently strong, it will not achieve the projected levels originally estimated. Again, current collection trends indicate \$74 million will be collected; \$10 million below the original Feasibility Study Report projections.

The requested \$1.5 million from the FTB-COD Court Collection Account is based on the expected revenue shortfall for FY 2007–2008. Should collections exceed \$74 million the amount requested from the Court Collection Account will be reduced accordingly.

#### Alternative Actions Considered

As an alternative to obtaining additional funding, FTB could delay its expansion project for two years. Implementation of Phase I of the project, which is

scheduled to begin by September 2008, could be postponed until September 2010, or thereafter. However, based on the needs of the courts and counties to utilize the services of FTB-COD Program in their collection programs, this alternative is not recommended. The FTB-COD Program has been extremely beneficial and continues to be an excellent resource in the collection of delinquent court ordered debt.

An additional alternative discussed with FTB staff would be for the FTB-COD Program to reduce its estimated \$7.3 million in administrative costs by \$1.5 million in FY 2007–2008 in order to fund the CODE Project. However, the program is currently staffed at a level to provide services to those courts and counties already utilizing the FTB-COD Program. Reducing staff would have the effect of rolling back services instead of maintaining or expanding current levels of service.

Comments From Interested Parties

None

Implementation Requirements and Costs

None