

The 2021-22 Budget: Funding for Debt Collector Licensing and Regulation

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Background

Recent Legislation Broadens Authority of Department of Financial Protection and Innovation (DFPI). Chapter 157 of 2020 (AB 1864, Limón)—known as the California Consumer Financial Protection Law (CCFPL)—broadens DFPI’s authority in various ways beginning January 1, 2021. For example, the legislation allows DFPI to promulgate regulations to require entities providing financial products or services to California consumers to register with the department. These providers are known as “new covered persons” (NCPs). DFPI estimates that CCFPL will require roughly 9,000 NCPs to register and that the large majority of these NCPs—roughly 7,000—will be debt collectors. To support the implementation of CCFPL, the 2020-21 budget package provided four-year, limited-term support. Specifically, the budget includes \$8.3 million from the Financial Protection Fund (FPF) and 44 positions for DFPI in 2020-21 (increasing annually to \$19.2 million and 90 positions by 2023-24). (The FPF is the primary fund supporting DFPI and receives revenue largely from regulatory fees.)

Separate Legislation Requires DFPI to License Debt Collectors. Chapter 163 of 2020 (SB 908, Wieckowski) requires DFPI to establish a regulatory and licensing system to oversee debt collectors. DFPI began implementing SB 908 on January 1, 2021 and is required to allow any debt collector that applies for a license prior to January 1, 2022 to operate pending review of the application. We note that some of the oversight responsibilities specified in SB 908 for the department are similar to those specified in CCFPL. For example, both pieces of legislation authorize DFPI to conduct examinations of debt collectors to uncover unlawful practices. However, the licensing requirements in SB 908 would generally create a

higher level of oversight than CCFPL. For example, in implementing the SB 908 license application process, DFPI will need to assess whether applicants are of sound financial condition, have a reasonable business plan, and are likely to comply with state law.

Governor’s Proposal

Limited-Term Resources to Implement Legislation. The Governor’s budget proposes three-year, limited-term funding including a total of \$16.5 million (FPF) and 71 positions in 2021-22 (increasing annually to \$18 million and 90 positions by 2023-24) for DFPI to implement SB 908. This total amount includes (1) \$10.7 million and 44 positions in newly authorized resources and (2) \$5.8 million and 27 positions in existing resources redirected from CCFPL implementation. The proposed positions would be divided between a licensing and examination unit, an enforcement unit, and a legal division. In addition, the positions include various support staff such as human resources and information technology positions.

Assessment

Overall Need for Resources Subject to Uncertainty. To estimate the amount of resources necessary to implement SB 908, DFPI made various workload assumptions. For example, the department estimates that it will need to license 7,000 debt collectors—consistent with its assumption that it will need to register 7,000 debt collectors under CCFPL. According to the department, this estimate is based on the fact that Texas currently licenses roughly 7,000 debt collectors and the assumption that California would have at least the same number of debt collectors. In addition, because the department is still in the process of drafting SB 908 regulations, it had to make assumptions about the level of staff time

and resources needed to license and regulate debt collectors. For example, based on various assumptions about the amount of time aspects of the licensing and examination process take, DFPI estimates it will need 17 financial institutions examiners in 2021-22 (increasing annually to 28 examiners by 2023-24).

If these assumptions are accurate, the overall level of resources proposed in the Governor's budget for the implementation SB 908 are reasonable, including the amount of resources that would be redirected from CCFPL implementation. However, the assumptions made by the department are subject to considerable uncertainty. For example, because many of the regulations to implement SB 908 are still being developed, it is unclear whether DFPI will issue licenses in the same manner as Texas. It is possible that DFPI could license significantly more or less than 7,000 debt collectors. As a result, there is considerable uncertainty about the amount of resources necessary to implement SB 908, both in the short and long run.

Recommendation

Approve Proposed Resources, but Require Future Reports on Actual Workload. We recommend that the Legislature approve the proposed level of limited-term resources to implement SB 908 as they appear reasonable based on the assumptions made by the department. However, it is unclear how much funding the department will need on an ongoing basis due to the uncertainty about the accuracy of the assumptions. In order to assist the Legislature to make future funding decisions, we recommend requiring the department to report on:

- ***Debt Collector License Applications.***

We recommend the Legislature require the department to report on the number of debt collectors who have applied for a license as of January 1, 2022. (Because debt collectors would be unable to legally operate in California if they have not applied for a license by January 1, 2022, it is reasonable to think the vast majority will have done so by then.) This report, which should be provided no later than January 10, 2022, would provide the Legislature with sufficient information to assess whether the department's assumption that it will need to license and regulate 7,000 debt collectors is accurate. To the extent it is not, the Legislature would be in a position to adjust the department's funding for SB 908 implementation as part of the 2022-23 budget process.

- ***Assumed Versus Actual Workload.***

We recommend the Legislature require the department to report by January 10, 2024 on how actual workload compares to the level of workload assumed for each position approved for SB 908 implementation. Since much of the SB 908 regulatory framework will be in place and workload will be underway by then, the department should have a much clearer understanding of the actual resources necessary to implement SB 908. This would provide the Legislature with information to assess the department's ongoing need for resources as it considers the budget for 2024-25—the year SB 908 funding would expire.

LAO Publications

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