

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Correa Analyst: Kristina E. North Bill Number: AB 1567

Related Bills: See Prior Analysis Telephone: 845-6978 Amended Date: April 10, 2003

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: FTB Investigators/"Peace Officer" Status

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED FEBRUARY 21, 2003, STILL APPLIES.

OTHER - See comments below.

SUMMARY

This bill would expand the peace officer duties of certain individuals.

SUMMARY OF AMENDMENTS

The April 10, 2003, amendments would:

- ◆ Specify that, in addition to the introductory Peace Officer Standards and Training (POST) course, certain peace officers must also complete the POST Specialized Investigators Basic Course within six months of being hired.
- ◆ Specify that certain peace officers must successfully complete required firearms training and re-qualify in firearms use at least every six months or less as directed by the employing agency.
- ◆ Specify that the replaced classifications would remain operative concurrently with the new classifications until July 1, 2006. At that time, the replaced classifications would be repealed and only the new classifications would remain operative.
- ◆ Add intent language that this bill (1) acknowledges that terrorism is a new domestic threat that the state must be prepared for and (2) provides a means for the Governor to use trained peace officers to prevent and combat terrorist threats or other emergencies by using already-deployed public safety resources.
- ◆ Make other changes that do not impact the department and are not discussed in this analysis.

Board Position:

____ S ____ NA ____ NP
____ SA ____ O ____ NAR
____ N ____ OUA PENDING

Legislative Director

Date

Jana Howard for Brian Putler 5/15/03

As a result of the amendment, new implementation considerations and a revised technical consideration and related amendment are included below. The remainder of the department's analysis of the bill as introduced February 21, 2003, still applies.

POSITION

Pending.

BACKGROUND

Currently, to obtain a POST certificate Franchise Tax Board (FTB) investigators must complete the introductory POST course and the Specialized Investigators Basic Course. To date, by agreement between the Commission on Peace Officer Standards and Training and FTB management, only one FTB investigator has not completed the Specialized Investigators Basic Course. Currently, FTB investigators re-qualify on the use of firearms quarterly.

IMPLEMENTATION CONSIDERATION

From January 1, 2004, through June 30, 2006, two separate and conflicting code sections would govern FTB investigators. Since both the primary and the other duties differ under each section, it is unclear which section would govern FTB investigators for the period that both are in effect. Without clarification, conflicts could arise and a delay in the primary duty of collecting certain income tax revenues could occur.

The timeframe for when an officer under subdivision (h) must complete the Specialized Investigators Basic Course is unclear.

It is unclear if an incumbent FTB investigator who was not required to take the Specialized Investigators Basic Course would be required to complete the course as a result of this bill. If the additional training is required, the 15-week period that the incumbent investigator would be away from the department could impact FTB's enforcement of the Revenue and Taxation Code, and thus, FTB's ability to collect certain income tax revenues.

TECHNICAL CONSIDERATION

This bill changes the Penal Code section that lists FTB investigators as peace officers. Government Code section 20391(e) provides for the retirement benefits of FTB investigators by specific reference to the Penal Code section under which FTB investigators are currently classified. To avoid any issues with FTB investigator retirement benefits, this section should be amended to reflect the Penal Code section changes proposed by this bill. Amendment 1 is provided.

FISCAL IMPACT

This bill would not significantly impact the department's costs.

LEGISLATIVE STAFF CONTACT

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FRANCHISE TAX BOARD'S
PROPOSED AMENDMENTS TO AB 1567
As Amended April 10, 2003

AMENDMENT 1

On page 3, between line 39 and 40, please insert:

SECTION 2. Section 20391 of the Government Code is amended to read:

20391. "State peace officer/firefighter member" means:

(a) All persons in the Board of Prison Terms, the Department of Consumer Affairs, the Department of Developmental Services, the Department of Health Services, the Department of Toxic Substances Control, the Horse Racing Board, the Department of Industrial Relations, the Department of Insurance, the Department of Mental Health, the Department of Motor Vehicles, the Department of Social Services employed with the class title of Special Investigator (Class Code 8553), Senior Special Investigator (Class Code 8550), and Investigator Assistant (Class Code 8554) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(b) All persons in the Department of Alcoholic Beverage Control employed with the class title Investigator Trainee, Alcoholic Beverage Control (Class Code 7553), Investigator I, Alcoholic Beverage Control, Range A and B (Class Code 7554), and Investigator II, Alcoholic Beverage Control (Class Code 7555) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(c) All persons within the Department of Justice who are state employees as defined in subdivision (c) of Section 3513 and who have been designated as peace officers and performing investigative duties.

(d) All persons in the Department of Parks and Recreation employed with the class title of Park Ranger (Intermittent) (Class Code 0984) who have been designated as peace officers as defined in Sections 830.2 and 830.3 of the Penal Code.

(e) All persons in the Franchise Tax Board who have been designated as peace officers in subdivision (s) of Sections 830.2 or 830.3 of the Penal Code.

(f) A member who is employed in a position that is reclassified to state peace officer/firefighter pursuant to this section may make an irrevocable election in writing to remain subject to the service retirement benefit and the normal rate of contribution applicable prior to reclassification by filing a notice of election with the board within 90 days of notification by the board. A member who so elects shall be subject to the reduced benefit factors specified in Section 21353 or 21354.1, as applicable, only for service included in the federal system.

@@@ LEG. CO. Please renumber following sections accordingly.