

**SUMMARY ANALYSIS OF AMENDED BILL**

Author: Koretz, et.al. Analyst: Deborah Barrett Bill Number: AB 875  
 Related Bills: See Prior Analysis Telephone: 845-4301 Amended Date: 05-10-2005  
 Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Economic & Employment Enforcement Coalition In Consultation With FTB and Joint Enforcement Strike Force on the Underground Economy Develop & Implement Standards That If Met By Employer Will Trigger tax Audit

- \_\_\_\_\_ 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 DEPARTMENTS CONCERNS stated in the previous analysis of bill as amended April 28, 2005.
- \_\_\_\_\_ FURTHER AMENDMENTS NECESSARY.
- \_\_\_\_\_ DEPARTMENT POSITION CHANGED TO \_\_\_\_\_.
- REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED April 28, 2005, STILL APPLIES.
- \_\_\_\_\_ OTHER – See comments below.

**SUMMARY**

This bill would require the Franchise Tax Board (FTB) to assist in the development of criteria to prompt recommendations for audits or investigations between state tax agencies and the Labor Commission for employers violating tax or labor laws.

**SUMMARY OF AMENDMENTS**

The May 10, 2005, amendments changed language requiring the "referral" of employers that meet certain criteria to the Labor Commissioner for investigation of violations to "recommendations" to the Labor Commissioner to investigate violations of labor laws.

The implementation concerns provided in the prior analysis were not resolved by the April 28, 2005, amendments and are restated below for convenience. The remainder of the analysis of the bill as amended on April 28,2005, still applies.

**POSITION**

Pending.

|                 |                     |               |
|-----------------|---------------------|---------------|
| Board Position: | Department Director | Date          |
| _____ S         | _____ NA            | _____ NP      |
| _____ SA        | _____ O             | _____ NAR     |
| _____ N         | _____ OUA           | _____ PENDING |

## IMPLEMENTATION CONSIDERATIONS

The department has identified the following implementation concerns. Department staff is available to work with the author's office to resolve these and other concerns that may be identified.

The requirements in this bill for information sharing with the Labor Commission violate the current disclosure laws under which FTB is bound. While current law allows information sharing with other taxing agencies, such as the Board of Equalization and the Employment Development Department, current law prevents additional information sharing with the Labor Commission. To the extent that agencies that do not administer state tax laws are involved in the newly formed Economic and Employment Enforcement Coalition (EEEC), FTB would be prohibited from disclosing the information to those agencies required under this bill.

FTB has an Investigations Bureau that is responsible for all criminal enforcement activities within the department, including identifying, investigating, and pursuing prosecution on cases of tax evasion and tax fraud. If this bill included recommendations for potential investigations from the Labor Commission, in addition to recommendations for audits, FTB could leverage both civil and criminal sanctions against the most egregious violators and more effectively combat the underground economy.

## **LEGISLATIVE STAFF CONTACT**

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