

BILL ANALYSIS

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Department, Board, Or Commission	Author	Bill Number
Franchise Tax Board	Strickland	AB 1135

SUBJECT

State Agency Reports Required To Be Submitted To The Legislature Shall Include Signed Statement By The Head Of The Agency

SUMMARY

This bill would require the head of certain public entities to certify in a signed statement that the information in legislatively mandated reports is true, accurate, and complete to the best of his or her knowledge.

PURPOSE OF BILL

According to the author's staff, the purpose of this bill is to hold government officials accountable for the accuracy of the information they provide to the Legislature.

EFFECTIVE/OPERATIVE DATE

This bill would be effective on January 1, 2008, and become operative with respect to any reports submitted on or after that date.

ANALYSIS

STATE LAW

Under current state law, the department is required to produce the following six legislatively mandated reports on an annual basis:

- Summary of Federal Income Tax Changes (submitted to the Legislature),
- Annual Taxpayers' Bill of Rights Report (submitted to the Legislature),
- Audit and Collections Activities (submitted to the Legislative Analyst's Office (LAO) and the Legislature),
- Audit Protest Cases (submitted to the LAO, the Legislature, and Department of Finance),
- Disabled Veterans Business Enterprise Statistics (submitted to the Governor, the Legislature, the Department of General Services, and the Department of Veterans Affairs), and
- Enterprise Zones (submitted to the Legislature and the Department of Housing and Community Development).

Under current state law, the department is required to provide a report regarding requests for Innocent Spouse Relief. That report is to be submitted to the Legislature by January 1, 2008. It is a one-time report.

Brian Putler, FTB Contact Person (916) 845-6333 (Office)	Executive Officer Selvi Stanislaus	Date 9/06/07
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Additionally, under current state law, if a statute is enacted that establishes a new program or requires the issuance of a regulation, the state agency responsible for the new program or regulation must provide a report within six months of the operative date of the statute. The report will provide a summary of the actions taken by the state agency to implement the statute. The report is provided to the author of the legislation, the policy and fiscal committees of each house of the Legislature, and the Joint Legislative Budget Committee.

The three-member Franchise Tax Board (FTB) is comprised of the California State Controller, the Director of Finance, and the Chair of the State Board of Equalization. The Executive Officer of the department has the responsibility of overseeing the department's programs and operations in accordance with the FTB's direction. The Executive Officer is appointed by the FTB.

THIS BILL

This bill would require the head of any state agency or department that is required to submit a written report to the Legislature, a Member of the Legislature, or any state legislative or executive body, to sign a statement that to the best of his or her knowledge the information in the report is accurate, true, and correct. This bill specifies that the executive officer of FTB will be required to sign this statement.

The bill's requirements would be applicable to every state agency or department including, but not limited to, elected officials of state government and any state official whose duties are prescribed by the California Constitution.

The bill would define a written report to be one of the following:

- A document required by statute to be prepared and submitted to the Legislature or any state legislative or executive body, or
- A document, summary, or statement requested by a Member of the Legislature.

The bill would provide that the declaration attesting to the truth, accuracy, and completeness in the signed statement would not apply to any predictions, forecasts, recommendations, or opinions contained in the written report.

Additionally, this bill would provide that any person who signs a statement declaring information in a report to be true, but knows the information to be false, would be liable for a civil penalty not to exceed \$20,000. The civil penalty would be assessed and recovered in a civil action brought in the name of the people of the State of California in any court of competent jurisdiction by the Attorney General.

IMPLEMENTATION CONSIDERATIONS

Implementing this bill would not impact the department's programs or operations.

LEGISLATIVE HISTORY

AB 2404 (Klehs 2005/06) contained similar provisions to this bill but differed with a lesser amount for the penalty and was not applicable to elected officials. AB 2404 was vetoed by Governor Schwarzenegger. The veto message states in relevant part, "The Legislature already has the authority to question the accuracy of a report by requiring those responsible for submitting the report to attest to the accuracy of the report under oath." The complete veto message can be found in Appendix A.

AB 1625 (Klehs 2005/06) contained similar provisions to AB 2404 but did not include provisions for local agencies. AB 1625 was also vetoed by Governor Schwarzenegger. The veto message states in relevant part, "The law already protects against falsified reports to the Legislature... I will consider similar legislation that applies to all written materials used in the course of legislative deliberations that applies to any official of the State, elected or appointed by the Governor, the Legislature, or any other constitutional office." The complete veto message can be found in Appendix A.

FISCAL IMPACT

This bill would not significantly impact the department's operations or programs.

ECONOMIC IMPACT

This bill would not impact state income tax revenues.

VOTES

Assembly Floor – Ayes: 72, Noes: 0
Senate Floor – Ayes: 35, Noes: 2
Concurrence – Ayes: 73, Noes: 1

LEGISLATIVE STAFF CONTACT

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APPENDIX A
Veto Messages for prior related legislation

BILL NUMBER: AB 2404 VETOED DATE: 09/29/2006

To the Members of the California State Assembly:

I am returning Assembly Bill 2404 without my signature.

Although I agree that the Legislature should base their decisions on sound information that is true, accurate and complete, I believe that this bill is the wrong approach. By requiring that only mandatory reports submitted to the Legislature and State Controller contain signed statements attesting to their accuracy, this bill would create an inconsistent system in which some of the information considered in the legislative process is subject to declarations of truth, while the majority of the written material used in the legislative process is accepted as truth without such verification.

The Legislature already has the authority to question the accuracy of a report by requiring those responsible for submitting the report to attest to the accuracy of the report under oath. Given this legislative oversight and the fact that state law already makes it a misdemeanor for a state or local official to submit a written report containing false information to the State Controller, this measure is unnecessary.

Sincerely,

Arnold Schwarzenegger

BILL NUMBER: AB 1625 VETOED DATE: 10/07/2005

To the Members of the California State Assembly:

I am returning Assembly Bill 1625 without my signature.

I absolutely believe that the Legislature, indeed all elected officials, must base their decisions on information that is true, accurate, and complete. This bill, requiring legislative reports be submitted under penalty of perjury, only applies to individuals appointed by the Governor and confirmed by the Senate, and to the executive officer of the Franchise Tax Board and the executive director of the Board of Equalization.

The law already protects against falsified reports to the Legislature. Department heads must take oaths of office, and various Government and Penal Code provisions set forth duties, obligations, and penalties for the accurate and truthful execution of the operation of state government. Further, the Legislature may already require individuals appearing before it to testify under oath, and false testimony is a felony.

I will consider similar legislation that applies to all written materials used in the course of legislative deliberations that applies to any official of the State, elected or appointed by the Governor, the Legislature or any other constitutional officer.

Sincerely,

Arnold Schwarzenegger