

Author: Strickland Analyst: Matthew Cooling Bill Number: AB 1993
See Legislative May 11, 2010, &
 Related Bills: History Telephone: 845-5983 Amended Dates: May 20, 2010
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Agency Written Reports Required To Be Submitted To The Legislature, Any State Legislative Or Executive Body 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.

SUMMARY OF AMENDMENTS

The May 20, 2010, amendment added a provision that would require the Administrative Director of the Courts to sign the statement for reports submitted by the Judicial Council. This amendment does not impact the department's programs or operations.

The May 11, 2010, amendments removed the following:

- Provisions that would have exempted the Department of Justice or the Attorney General from providing the statement signed by the head of an entity submitting a report, and
- Language that would have provided a penalty for falsely declaring that the information provided to the Legislature is true.

This is the department's first analysis of the bill.

PURPOSE OF THE BILL

According to the author's office, the purpose of this bill is to ensure that the Legislature receives accurate and trustworthy information from the various State agencies, departments, and boards, so that they can be effective in their decision making.

EFFECTIVE/OPERATIVE DATE

Assuming enactment before September 30, 2010, this bill would be effective beginning on January 1, 2011, and become operative with respect to any reports submitted on or after that date.

POSITION

Pending.

Board Position:	Department Director	Date
_____ S		
_____ SA		
_____ N		
_____ NA		
_____ O		
_____ OUA		
_____ NP		
_____ NAR		
_____ X PENDING	Selvi Stanislaus	06/14/10

ANALYSIS

FEDERAL/STATE LAW

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

1. Annual Taxpayers' Bill of Rights Report
2. Enterprise Zones
3. Summary of Federal Income Tax Changes
4. Status of Liquidated and Delinquent Accounts
5. Assignment of California Tax Law Credits
6. Employers Child Care Assistance Credits
7. Qualified Dependent Care Credit Plan

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 (Board) 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 Board.

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 the Franchise Tax Board (FTB) will be required to sign this statement.

The bill's requirements would be applicable to every state agency or department including 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.

IMPLEMENTATION CONSIDERATIONS

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

LEGISLATIVE HISTORY

AB 1135 (Strickland, 2007/2008) was similar to this bill, but would have imposed a penalty for falsely declaring that the information provided to the Legislature is true. AB 1135 was vetoed by Governor Schwarzenegger. The complete veto message can be found in Appendix A.

AB 2404 (Klehs, 2005/2006) contained similar provisions to this bill but differed with a penalty and was not applicable to elected officials. AB 2404 was vetoed by Governor Schwarzenegger. The complete veto message can be found in Appendix A.

AB 1625 (Klehs, 2005/2006) contained similar provisions to AB 2404 but did not include provisions for local agencies. AB 1625 was also vetoed by Governor Schwarzenegger. The complete veto message can be found in Appendix A.

FISCAL IMPACT

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

ECONOMIC IMPACT

This bill would not impact the state's income tax revenue.

LEGISLATIVE STAFF CONTACT

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APPENDIX A
Veto Messages

BILL NUMBER: AB 1135
VETOED DATE: 10/13/2007

To the Members of the California State Assembly:

I am returning Assembly Bill 1135 without my signature.

This bill requires written reports submitted to the Legislature to include a signed statement by the head of the agency or department that the contents of the report are true, accurate, and complete.

As I stated when I vetoed similar legislation last year, I agree that the Legislature should base their decisions on sound information that is true, accurate and complete. To that end, I noted 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. Further, the Legislature already has the authority to question the accuracy of any information presented to it.

Finally, this bill would create an inconsistent system in which some of the information submitted by the Administration is subject to declarations of truth while all other information used in the legislature's deliberative process is not.

For these reasons, I am again returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger

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