

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Price Analyst: Janet Jennings Bill Number: SB 1185

Related Bills: None Telephone: 845-3495 Introduced Date: February 22, 2012

Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Centralized Intelligence Partnership Act

SUMMARY

This bill would establish the Centralized Intelligence Partnership (CIP) by adoption of the Centralized Intelligence Partnership Act, to create a multiagency partnership to facilitate collaboration and information sharing to combat the underground economy.

RECOMMENDATION

No position.

PURPOSE OF THE BILL

According to the language of the bill, the purpose is to create a multiagency partnership to create a central intake process, facilitate collaboration and information sharing in an organizational structure that reviews, evaluates, and documents data and complaints in order to combat the underground economy.

EFFECTIVE/OPERATIVE DATE

Assumed enactment during the 2012 legislative session as an administrative measure, this bill would be effective on January 1, 2013.

ANALYSIS

STATE LAW

On October 26, 1993, Governor Wilson signed Executive Order W-66-93, which created the Joint Enforcement Strike Force (JESF) on the underground economy. On January 1, 1995, Section 329 was added to the California Unemployment Insurance Code. This section placed the provisions of the Executive Order into statutory law. The JESF includes the Employment Development Department (EDD), the Department of Consumer Affairs (DCA), the Department of Industrial Relations (DIR), the Office of Criminal Justice Planning, the Franchise Tax Board (FTB), the Board of Equalization (BOE), the Department of Insurance (DOI), and the Department of Justice (DOJ). The JESF is responsible for enhancing the development and sharing of information necessary to combat the underground economy, to improve the coordination of

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enforcement activities, and to develop methods to pool, focus, and target enforcement resources. In January 2005, Governor Schwarzenegger's Budget for State Fiscal Year 2005-2006 established the Economic and Employment Enforcement Coalition (EEEC), a targeted joint effort by state and federal agencies to combat the underground economy. This team consists of investigators and auditors from the DIR, Division of Labor Standards Enforcement (DLSE), Division of Occupational Safety and Health (DOSH), EDD, DCA, and Contractors' State License Board (CSLB). In addition to these State of California agencies, the United States Department of Labor (USDOL) is also a strong partner in working to combat the underground economy. While there are some similarities between the JESF and EEEEC, the EEEEC differs from JESF by focusing on specific low-wage industries and industries with high violation rates, and by utilizing a unique blend of geographical area joint enforcement compliance (known as "sweeps"), along with statewide education and outreach to both employers and employees.

THIS BILL

The bill would establish the Centralized Intelligence Partnership (CIP). The CIP would be governed by an advisory committee to be composed of one representative, appointed by the head of each agency, from the California Health and Human Services Agency, the DCA, the DIR, the DOI, the DOJ, the Department of Motor Vehicles (DMV), the EDD, the FTB, and the BOE. The bill states that the DOJ would house the processing center for the CIP. The bill provides for the CIP to hire an administrator and staff.

As a member of the advisory committee of the CIP, the representative of the FTB would be required to meet at least quarterly to:

- Provide a central intake process to document, review, and evaluate data and complaints.
- Establish a processing center to receive and analyze data, share complaints, and research leads.
- Provide agencies with investigative leads where collaboration opportunities exist for felony level criminal investigations.
- Document and provide intake data analysis, findings, referrals, emerging evasion trends, and legislative opportunities.

The bill unlike the JESF and the EEEEC provides for duly authorized representatives of members of the CIP, of which the FTB would be included, to exchange intelligence, data, documents, information, complaints, or lead referral for the purpose of investigating illegal underground operations. Information authorized to be exchanged by this bill would retain its confidential status.

The CIP would be limited in the activities and projects that it undertakes by the amount of funding appropriated by the Legislature.

The bill requires the CIP to issue a report on its activities and accomplishments to the Legislature and each participating member entity on or before July 1, 2014, and annually thereafter.

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 department utilizes information obtained from the IRS that would be of benefit to the CIP. Without the express authorization in the Internal Revenue Code, the FTB cannot share data received from the IRS with the CIP. The author may wish to pursue a federal legislative change to allow the FTB to share the IRS information received with the CIP.

The bill establishes the CIP as an advisory committee in state government but does not specify the reporting structure of the newly formed entity. Identifying such a reporting structure will facilitate the hiring of the administrator and staff contemplated in the bill, and provides the mechanism for requesting funding for the activities to be undertaken by the CIP. The author may wish to amend the bill to provide for a reporting structure or otherwise require the CIP to develop a governing structure that sets forth the rules, roles and responsibilities for the advisory committee of the CIP and staff.

OTHER STATES' INFORMATION

Because this bill would create an advisory committee specific to combat the underground economy within California, a review of other states' income tax laws is not relevant.

FISCAL IMPACT

Department staff is unable to determine the costs to administer this bill until the department's responsibilities are defined. As the bill continues to move through the legislative process, costs will be identified and an appropriation will be requested, if necessary.

ECONOMIC IMPACT

When the Centralized Intelligence Partnership would be fully implemented, it is estimated that it could result in revenue gains in personal income and corporation tax of approximately \$1 million per year in direct revenues and an additional \$11 million per year in revenues from deterrence.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill.

SUPPORT/OPPOSITION¹

Support: None provided.

Opposition: None provided.

¹ As reported on the Legislative Counsel's Web site at http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=sb_1185&sess=CUR&house=B&author=price [as of March 21, 2011]

ARGUMENTS

Pro: Some may argue that having a CIP develop one centralized place to report persons or business suspected of contributing to the multibillion dollar underground economy, the CIP would enhance reporting, detection, and enforcement opportunities.

Con: Some may argue that instituting another bureaucracy would be counterproductive to the current collaborative efforts underway to combat the underground economy.

LEGISLATIVE STAFF CONTACT

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