

Franchise Tax Board

ANALYSIS OF ORIGINAL BILL

Author: Perez Analyst: Janet Jennings Bill Number: AB 576
Related Bills: See Legislative History Telephone: 845-3495 Introduced Date: February 20, 2013
Attorney: Patrick Kusiak Sponsor:

SUBJECT: Centralized Intelligence Partnership Act

SUMMARY

This bill would establish, until January 1, 2019, a pilot program, named the Centralized Intelligence Partnership (Partnership) 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.

REASON FOR THE BILL

The reason for the bill is to establish a pilot program for 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 enhance existing efforts to combat the underground economy.

EFFECTIVE/OPERATIVE DATE

Assuming enactment during the 2013 legislative session as an administrative measure, this bill would be effective on January 1, 2014.

ANALYSIS

STATE LAW

On October 26, 1993, Governor Wilson signed Executive Order W-66-93, which created the Joint Enforcement Strike Force (Strike Force) 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 Strike Force includes the Employment Development Department (EDD), the Department of Consumer Affairs (Consumer Affairs), the Department of Industrial Relations (Industrial Relations), the Office of Criminal Justice Planning, the Franchise Tax Board (FTB), the Board of Equalization (BOE), the Department of Insurance (Insurance), and the Department of Justice (Justice). The Strike Force is responsible for enhancing the development and sharing of information necessary to combat the underground economy, improving the coordination of enforcement activities, and developing methods to pool, focus, and target enforcement resources.

Table with Board Position (S, SA, N, NA, O, OUA, NP, NAR) and Executive Officer (Selvi Stanislaus) and Date (4/19/13).

In January 2005, Governor Schwarzenegger's Budget for the State's Fiscal Year 2005-2006 established the Economic and Employment Enforcement Coalition (Coalition), a targeted joint effort by state and federal agencies to combat the underground economy. This team consists of investigators and auditors from Industrial Relations, Division of Labor Standards Enforcement (Labor Standards), Division of Occupational Safety and Health (Occupational Safety), EDD, Consumer Affairs, and the Contractors' State License Board (Contractors License Board). In addition to these state agencies, the United States Department of Labor (US Labor) is also a strong partner in working to combat the underground economy. While there are some similarities between the Strike Force and the Coalition, the Coalition differs from the Strike Force 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, until January 1, 2019, a pilot program named the Centralized Intelligence Partnership (Partnership). The Partnership would be governed by an advisory committee composed of one representative from the EDD, the FTB, and the BOE, appointed by the head of each agency. The following agencies may choose to participate in an advisory capacity to the Partnership:

- The California Health and Human Services Agency
- The Department of Consumer Affairs
- The Department of Industrial Relations
- The Department of Insurance
- The Department of Justice
- The Department of Motor Vehicles

The bill states that when an agency with the option to participate in the Partnership, through the normal course of their investigation, discovers a violation of law that would result in increased tax revenues to the state, the agency must notify the appropriate tax agency in the partnership.

The bill states the advisory committee would determine the appropriate agency to house the processing center for the Partnership. The bill provides for the Partnership to hire an administrator and staff.

The advisory committee of the Partnership would be required to meet at least quarterly.

The Partnership shall do all of the following to combat illegal underground operations:

- Provide a central intake process and organizational structure to document, review, and evaluate data and complaints.
- Establish a processing center to receive and analyze data, share complaints, and research leads.
- Provide participating and nonparticipating agencies with investigative leads where collaboration opportunities exist for felony level criminal investigations, including, but not limited to, referring leads to agencies with appropriate enforcement jurisdiction.

- Provide that each participating and nonparticipating agency retain jurisdictional authority over whether to pursue partnership strategies or collaborative leads based upon the direction of their respective governing structures or available resources.
- Document and provide intake data analysis, findings, referrals, emerging evasion trends, and legislative opportunities.

The bill would allow duly authorized representatives of members of the Partnership and agencies participating in an advisory capacity, 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 bill would define underground economy as the activities of individuals, businesses, or other entities that knowingly and intentionally use practices designed to conceal illegal or fraudulent activities that negatively impact legitimate businesses, workers, and consumers, as well as deprive the state and local governments of vital resources.

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

The bill would require the Partnership to issue a report on its activities and accomplishments to the Legislature and each participating member entity on or before July 1, 2015, and annually thereafter.

The bill would require the Partnership to issue a report to the Legislature on or before December 1, 2017, of the pilot program that includes the number of leads or complaints received by the Partnership, the number of cases investigated or prosecuted either through civil action or criminal prosecution, and recommendations for modifying, eliminating, or continuing the operation of any or all of the provisions of this bill.

IMPLEMENTATION CONSIDERATIONS

Assuming that the department's resource commitment would be limited to the single representative on the advisory committee, implementing this bill would have a minor impact on the department's programs and operations.

It is further assumed that the Partnership's impact on the department would be the subject of on-going evaluation and discussion as the details of the pilot program are developed.

LEGISLATIVE HISTORY

SB 1185 (Price 2011/2012) bill was substantially similar to this bill. SB 1185 failed passage from the Assembly Appropriations Committee.

OTHER STATES' INFORMATION

The states surveyed include *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws.

A review of *Florida, Illinois and Minnesota* laws found no comparable joint enforcement efforts.

Massachusetts, Michigan, and New York has each formed a joint enforcement task force concentrating on the underground economy and employee misclassification.

FISCAL IMPACT

This bill would require one staff-member to serve as the FTB's representative on the Partnership's advisory committee, and, depending upon the Partnership's implementation plan, could require additional resources; for example, systems programming, testing, and revisions to implement an interface with the Partnership's central intake system. The additional costs will be developed as the bill moves through the legislative process.

ECONOMIC IMPACT

Revenue Estimate

It is estimated that revenue gains could reach approximately \$1 million per year in direct revenues and an additional \$11 million per year in revenues from deterrence once the Partnership is fully implemented.

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

SUPPORT/OPPOSITION

Support: None on file.

Opposition: None on file.

ARGUMENTS

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

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

LEGISLATIVE STAFF CONTACT

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