

## BILL ANALYSIS

Department, Board, Or Commission	Author	Bill Number
<b>Franchise Tax Board</b>	V. Manuel Perez	<b>AB 576</b>

### SUBJECT

Revenue Recovery and Collaborative Enforcement Team Act

### SUMMARY

This bill would establish, until January 1, 2019, a pilot program, named the Revenue Recovery and Collaborative Enforcement Team (Team) by adoption of the Revenue Recovery and Collaborative Enforcement Team Act, to create a multiagency team to collaborate in combating criminal tax evasion associated with the underground economy.

### 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

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, the Department of Consumer Affairs (Consumer Affairs), the Department of Industrial Relations (Industrial Relations), the Office of Criminal Justice Planning, the Franchise Tax Board, the Board of Equalization, the Department of Insurance, and the Department of Justice. The Strike Force is responsible for enhancing the development and sharing of information necessary to combat the underground economy, improve the coordination of enforcement activities, and develop methods to pool, focus, and target enforcement resources.

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 the Department of Industrial Relations, Division of Labor Standards Enforcement, Division of Occupational Safety and Health, Employment Development

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Department, Department of Consumer Affairs, and the Contractors' State License Board. In addition to these state agencies, the United States Department of 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 that utilize 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 Revenue Recovery and Collaborative Enforcement Team. The Team would include the Department of Justice, Franchise Tax Board, Board of Equalization, and the Employment Development Department. The following agencies may choose to participate in an advisory capacity to the Team:

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

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

The Team would be required to meet at least quarterly and would be required to do all of the following to combat criminal tax evasion associated with the underground economy:

- Develop a plan for a central intake process and organizational structure to document, review, and evaluate data and complaints.
- Evaluate the benefits of 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.

The bill would allow duly authorized Team members to exchange intelligence, data, documents, information, complaints, or lead referral for the purpose of investigating criminal tax evasion associated with underground economic activities. Information authorized to be exchanged by this bill would retain its confidential status.

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

The Team would be required to use existing funding to operate the pilot program and would be prohibited from requesting additional funding until after the report to the Legislature is released.

This provision would remain in effect only until January 1, 2019, and as of that date would be repealed, unless a later enacted statute, that is enacted before January 1, 2019, deletes or extends that date.

### **LEGISLATIVE HISTORY**

SB 1185 (Price 2011/2012) 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 not significantly impact the department's costs.

### **ECONOMIC IMPACT**

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 efforts of the Team are fully implemented.

### **APPOINTMENTS**

None.

**SUPPORT/OPPOSITION<sup>1</sup>**

Support: California State Board of Equalization; Association for Los Angeles Deputy Sheriffs; California Association of Professional Employees; California Attorney General; California Building Industry Association; California Chamber of Commerce; California Chapter of American Fence Contractors Association; California Construction and Industrial Materials Association; California Farm Bureau Federation; California Fence Contractors Association; California Manufacturers and Technology Association; California Municipal Revenue and Tax Association; California Professional Association of Specialty Contractors; California State Association of Electrical Workers; California State Council of Laborers; California State Pipe Trades Council Engineering Contractors Association; City of Bellflower; City of Lakewood; Flasher Barricade Association; Los Angeles Area Chamber of Commerce; Los Angeles Police Protective League; Marin Builders Association; Riverside Sheriffs' Association; UCLA Labor Center for Labor Research and Education; Western State Council of Sheet Metal Workers.

Opposition: None on file.

**VOTES**

Concurrence	09/12/13	Y: 77	N: 1
Assembly Floor	05/30/13	Y: 75	N: 3
Senate Floor	09/12/13	Y: 39	N: 0

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<sup>1</sup> As reported in the Senate Governance and Finance Committee analysis of the bill as amended May 1, 2013.