

## **BILL ANALYSIS**

Department, Board, Or Commission	Author	Bill Number
<b>Franchise Tax Board</b>	<b>Jones-Sawyer</b>	<b>AB 769</b>

### **SUBJECT**

State Employment/Adverse Actions Against State Employees Are Not Valid Unless Notice & Investigation is Completed Within One Year After Cause for Discipline Arose Unless Specified

### **SUMMARY**

This bill would modify the statute of limitations on adverse actions served against state employees.

### **REASON FOR THE BILL**

The reason for the bill is to afford additional protections within the state's disciplinary process for state employees.

### **EFFECTIVE/OPERATIVE DATE**

This bill would be effective and operative January 1, 2017, and would apply to adverse actions served on or after that date.

### **STATE LAW**

The California Civil Service Act (Act) within the Government Code establishes procedures for taking disciplinary actions, called adverse actions, by the State Personnel Board. The Act provides a statute of limitations of three years to serve an adverse action on state employees. If the action is not served within three years after the cause for discipline, the action is deemed invalid. In a case where the adverse action is due to fraud, embezzlement, or falsification of records, the notice of adverse action must be served within three years after the discovery of the misconduct. Adverse actions served within the statute of limitations can result in dismissal, demotion, or reassignment.

Existing state law prohibits the disclosure of any taxpayer information, except as specifically authorized by statute. Any Franchise Tax Board (FTB) employee or member responsible for the unauthorized disclosure of state or federal tax information is subject to criminal prosecution. Improper disclosure of state tax information is a misdemeanor and improper disclosure of federal tax information is a felony. If the unauthorized disclosure involves the use of a state computer, it may be prosecuted as a felony. Additionally, the FTB may take disciplinary action against an employee who makes an unauthorized disclosure.

**THIS BILL**

This bill would prohibit adverse actions against state employees unless notice of the adverse action is served and the investigation is completed within one year of the date the cause for discipline arose.

Adverse actions based on fraud, embezzlement, the falsification of records, or the unauthorized accessing or disclosure of confidential tax information would be valid if notice of the adverse action is served within three years after the discovery of the fraud, embezzlement, falsification, or unauthorized accessing or disclosure.

**LEGISLATIVE HISTORY**

AB 811 (Salas, 2015/2016), contains language similar to this bill, but reduces the three-year statute for adverse actions for fraud, embezzlement, or falsification of records to one year. AB 811 failed to pass out of the Assembly Appropriations Committee by the constitutional deadline.

AB 872 (Dickinson, 2013/2014), among other provisions, contained language similar to this bill. AB 872 failed to pass out of the Assembly Appropriations Committee by the constitutional deadline.

AB 1161 (Buchanan, 2009/2010), contained language similar to this bill. AB 1161 failed to pass out of the Assembly Appropriations Committee by the constitutional deadline.

**OTHER STATES' INFORMATION**

A comparison with other states would not be meaningful as this bill pertains to administrative procedures that are specific to California.

**FISCAL IMPACT**

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

**ECONOMIC IMPACT**

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

**APPOINTMENTS**

None.

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

Support: Service Employees International Union, Local 1000 (Co-Sponsor)  
 American Federation of State, County and Municipal Employees (Co-Sponsor)  
 Association of California State Supervisors  
 California Association of Highway Patrolmen  
 California Association of Psychiatric Technicians  
 California Correctional Peace Officers Association  
 California Correctional Supervisors Organization  
 California Immigrant Policy Center

Opposition: None on file.

**VOTES**

	<b>Date</b>	<b>Yes</b>	<b>No</b>
Concurrence	08/23/16	55	22
Senate Floor	08/18/16	25	11
Assembly Floor	06/02/16	58	21

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<sup>1</sup> According to the April 22, 2015, Assembly Committee on Public Employees, Retirement, and Social Security analysis.