



Analysis of Amended Bill

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Sponsor:

Bill Number: AB 1270

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Introduced February 21, 2019,
and Amended April 10, 2019

Attorney: Shane Hofeling

Related Bills: See Legislative
History

Subject: Expand False Claims Act to Include Tax Matters

Summary

This bill would, under the Government Code, expand the False Claims Act to apply to claims, records, or statements under the Revenue and Taxation Code (R&TC), if specified conditions are met.

Recommendation – No position.

Summary of Amendments

The February 21, 2019, amendments expanded the false claims act as discussed in this analysis.

The April 10, 2019, amendments provided clarifying amendments regarding who may receive confidential tax information.

This is the department's first analysis of the bill and only addresses the provisions of the bill that would impact the department.

Reason for the Bill

The reason for the bill is to allow the Attorney General, other prosecuting authorities, and whistleblowers the ability to pursue fraudulent claims made under the R&TC.

Effective/Operative Date

This bill would be effective and operative on January 1, 2020.

Program Background

The California False Claims Act permits the Attorney General to bring a civil law enforcement action to recover treble damages and civil penalties against any person who knowingly makes or uses false statements or documents to either obtain money or property from the state or to avoid paying or transmitting money or property to the state.

The California False Claims Act's qui tam¹ provision allows a whistleblower to file an action to enforce the act.²

Federal/State Law

Generally, the Franchise Tax Board (FTB) is prohibited under both federal law and an interagency agreement with the Internal Revenue Service (IRS) from disclosing taxpayer information that FTB receives from the IRS, which may include a taxpayer's address.

Under current state tax law, FTB is prohibited from disclosing any confidential taxpayer information unless an exception to the general disclosure law specifically authorizes the disclosure.

This Bill

This bill would apply the False Claims Act to claims, records, or statements made on or after January 1, 2020, under the R&TC if the following conditions are met:

- The taxable income of the person, other than a corporation against whom the action is brought, or the net income of any corporation or other person, other than an individual against whom the action is brought, equals or exceeds \$500,000 for any taxable year subject to any action brought pursuant to this article.
- Damages pleaded in an action under the act exceed \$200,000.

This bill would require the Attorney General or prosecuting authority to consult with the taxing authorities to whom the claim was submitted prior to filing or intervening in any action under the act that is based on the filing of false claims, records, or statements made under the R&TC.

¹ Qui tam lawsuits are a type of whistleblower lawsuit that is brought under the False Claims Act.

² [California False Claims Act](#)

The bill would specify that the Attorney General or prosecuting authority, but not the qui tam plaintiff, is authorized to obtain otherwise confidential records relating to taxes, fees, surcharges, or other obligations, under the R&TC needed to investigate or prosecute suspected violations, from state and local taxing and other governmental authorities in possession of such information and records. These authorities are authorized to make disclosures. However, the disclosures shall not include federal tax information without specific authorization from the IRS.

The bill states that any information received shall be kept confidential except as necessary to investigate and prosecute violations.

Implementation Considerations

Implementing this bill would occur during the department's normal annual update.

Technical Considerations

To correct a cross reference, on page 7, line 26, "paragraph (3)" should be amended to read "paragraph (4)"

Legislative History

No similar legislation has been identified.

Fiscal Impact

This bill would impact the department's programming, printing, and processing costs. As the bill continues to move through the legislative process, costs will be identified.

Economic Impact

Revenue Estimate

This bill as introduced February 21, 2019, and amended April 10, 2019, would not impact state income or franchise tax revenue.

This analysis does not account for changes in employment, personal income, or gross state product that could result from this bill or for the net final payment method of accrual.

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