



Summary Analysis of Amended Bill

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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 June 24, 2019, amendments made technical changes to clarify the bill and added declarative language to demonstrate legislative intent to protect confidential tax records. As a result of the amendments, the "Technical Consideration" provided in the department's analysis of the bill as amended April 10, 2019, has been resolved. Additionally, the "Economic Impact" section has been modified for clarity. Except for the "This Bill," "Fiscal Impact," and "Economic Impact" sections, the remainder of that analysis still applies.

This Bill

On or after January 1, 2020, this bill would apply the False Claims Act to claims, records, or statements, 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.

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 Internal Revenue Service.

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

Fiscal Impact

This bill would not significantly impact the department's costs.

Economic Impact

Although the provisions of AB 1270 as amended June 24, 2019, could provide additional collection resources and may result in an impact on the general fund, the provisions do not change the computation of franchise or income tax under current law, and therefore, does not fall within the scope of FTB's revenue estimates.

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