



**STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS**

DRAFT

Date	05/29/12	Bill No:	<u>Senate Bill 1185</u>
Tax Program:	Administration	Author:	Price
Sponsor:	BOE	Code Sections:	GC 15920
Related Bills:		Effective Date:	01/01/13

This analysis only addresses the provisions that impact the BOE.

BILL SUMMARY

This bill creates a multiagency partnership, to be known as the Centralized Intelligence Partnership, to collaborate in combating illegal underground operations by creating a central intake process and organizational structure to document, review, evaluate, and share information and complaints. This bill also creates an advisory committee, comprised of one representative from each participating entity to provide guidance on the activities and operations of the partnership.

Summary of Amendments

Since the previous analysis, this bill was amended to, among other things, (1) limit the Centralized Intelligence Partnership (CIP) to the Board of Equalization (BOE), Franchise Tax Board (FTB), and the Employment Development Department (EDD); (2) implement the CIP as a pilot program; (3) allow the other specified agencies to voluntarily act in an advisory capacity to the CIP; and (4) change the sunset date to January 1, 2018.

ANALYSIS

CURRENT LAW

Under existing law, various joint agency enforcement efforts have been undertaken to combat the underground economy, including the creation of the Joint Enforcement Strike Force in 1993 (codified in Section 329 of the Unemployment Insurance Code) and the Economic and Employment Enforcement Coalition (EEEC) in 2005. Effective January 2, 2012, the EEEEC was consolidated into the Department of Industrial Relations as the newly formed Labor Enforcement Task Force. Further, various individual agency efforts such as the BOE’s Statewide Compliance and Outreach Program and the Contractor State License Board’s Statewide Investigative Fraud Team have been instituted.

PROPOSED LAW

This bill would add Section 12.2 (commencing with Section 15910) to the Government Code to establish a Centralized Intelligence Partnership Act (CIP), a pilot program that includes BOE, FTB, and EDD, to serve as a centralized information intake center for the receipt, analysis, gathering, strategic planning, and sharing of data related to potential violation of labor, tax, and other laws by organized criminal entities and/or serial offenders.

The following agencies may participate in the pilot program in an advisory capacity to the partnership.

Department of Insurance

Department of Justice

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California Health and Human Services Agency

Department of Motor Vehicles

Department of Consumer Affairs

Department of Industrial Relations

An advisory committee to the CIP shall be established comprised of one representative each from the BOE, FTB, and EDD. Each representative shall be appointed by the head of the participating entity and serve at the pleasure of the appointing authority. The advisory committee will provide guidance to, and advice on, the activities and operations of the CIP. Agencies participating in an advisory capacity may provide a representative to the advisory committee to offer guidance and advice to the partnership.

In addition, this bill will:

- Establish a processing center to receive and analyze data, share complaints, and research leads from the input of each impacted agency.
- Allow duly authorized representatives of the partnership to exchange intelligence, data, documents, information, complaints, or lead referrals, related to illegal underground operations, notwithstanding any other law.
- Provide participating and nonparticipating entities with value-added 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 entity retain jurisdictional authority over whether to pursue partnership strategies or collaborative investigative leads based upon the direction of their respective governing structures or available resources.
- Provide that the participating entity shall document and provide intake data analysis, analytic data findings, referrals, collaborative opportunities, outcomes, emerging evasion trends, lessons learned, as well as additional enforcement, administrative, and legislative opportunities.
- Require the CIP to report on or before July 1, 2014, and annually thereafter, to the Legislature and to each participating member entity on its activities and accomplishments.
- Require the CIP to provide a report to the Legislature by December 1, 2016, to include the number of complaints received by the partnership and cases investigated or prosecuted as specified.

This measure calls for the advisory committee to the CIP to determine the appropriate agency to house the central intake and processing center and provides that the partnership may hire an administrator and staff. However, funding is not provided in this bill. The scope of activities and projects undertaken by the partnership shall be consistent with the amount of funds appropriated by the Legislature.

This act is intended to enhance existing efforts to combat the underground economy by institutionalizing collaboration among state agencies. This collaborative effort to combat

the underground economy will, in turn, further aid the state in its progress toward preventing human trafficking.

The provisions of this statute would sunset on January 1, 2018.

IN GENERAL

The underground economy is a threat to the health of California's economy, its business community, workers, and consumers, and the stability and fairness of the tax base. While there are several different entities and task forces currently working on various aspects of the underground economy, no one entity is responsible for coordinating these efforts. As a result, there is a lack of synergy in the collection and analysis of data and in the development of strategic and focused investigation and prosecution efforts.

A collaborative, strategic, and focused effort to comprehensively analyze available data and resources to combat the underground economy will create a synergy among the various enforcement agencies and address issues of impacted California industries. This collaborative effort will significantly increase the State's efficiency and effectiveness in recapturing revenue lost to businesses operating illegally in the State of California, thereby contributing to a more robust legitimate economy.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the BOE to create the CIP to combat the illegal underground economy by creating a centralized intake center for the collection, review, and analysis of information related to complaints, prosecutions, and arrests pertaining to illegal underground operations, and require that the participating agencies share pertinent information and data with each other.
2. **The May 29, 2012, amendments:**
 - Limit the partnership agencies to the BOE, FTB and EDD;
 - Identify the CIP as a pilot program;
 - Allow other specified agencies to voluntarily participate in the pilot program in an advisory capacity;
 - Require the other specified agencies to refer violations which would result in increased tax revenue to the CIP;
 - Add the applicable non-disclosure code sections for the other specified agencies;
 - Change the due date for the report of the pilot project to the Legislature to December 1, 2016; and
 - Change the sunset date of the legislation to January 1, 2018.
3. **The underground economy hurts all Californians.** Tax revenues to support government services are lost, workers are forced to go without basic employment protections, and legitimate businesses are confronted with unfair competition. Furthermore, the presence of the underground economy allows human traffickers to operate and victimize individuals who are trapped into forced labor conditions.
4. **Illegal underground activities span across multiple jurisdictions.** Many collaborative efforts are already under-way, in which investigators periodically meet to discuss current investigations, team up to conduct sting operations, and collaborate on best practices. However, despite these significant efforts, California continues to lose revenue due to the underground economy.

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- 5. The CIP will focus on criminal prosecution.** Businesses that are in compliance with our state employment, safety, licensing, and tax laws that are found to have committed minor or inadvertent violations of existing law are to be addressed through other administrative procedures.

COST ESTIMATE

The CIP would incur estimated costs of approximately \$245,000 in FY 12-13, \$584,000 in FY 13-14 and \$679,000 in ongoing fiscal years to fund the central intake center.

REVENUE ESTIMATE

The implementation of the CIP will enhance the efficiencies for all agencies participating, including the BOE. Moreover, our research indicates that cooperative enforcement activities allow the leveraging of resources such that the BOE could expand its capabilities to larger cases that provide higher recovery per investigative hour. Under a proof of concept plan, BOE investigators reviewed EDD employment data for one industry group for several geographic areas in California. In addition to identifying potentially fraudulent activity, the data provided new high value leads for administrative audit and collection activities. Pursuing these high value administrative leads will allow the BOE to achieve new revenue in the first and second years of the CIP, with revenue from criminal investigations in the third year. Accordingly, we estimate that the revenue associated with sales and use tax will increase by approximately \$550,000 in FY 12-13, \$1.1 million in FY 13-14, and up to \$15 million annually once fully implemented.

Analysis prepared by:	Larry Bergkamp	916-322-7281	6/27/12
Revenue estimate by:	Robert Ingenito	916-445-0840	
Contact:	Robert Ingenito	916-445-0840	
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