



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

DRAFT

Date	04/09/12	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

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 (1) authorize the CIP advisory committee to determine the appropriate agency to house the processing center for the partnership, (2) authorize members of the partnership to exchange information only for the purpose of investigating illegal underground operations, (3) limit the partnership to identified state entities, and (4) add a sunset date of January 1, 2020.

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 (CIP) 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 CIP shall include the following agencies, boards, departments, and offices:

- Board of Equalization
- Franchise Tax Board
- Department of Insurance
- Employment Development Department

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Department of Justice

Department of Health

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 from each participating entity. 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.

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.
- Allows 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 entity 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 jurisdictions.
- 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 each participating member entity on its activities and accomplishments.

This measure calls for the Department of Justice to house the partnership 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.

IN GENERAL

The underground economy is a threat to the health of California's economy, its business community, its workers, consumers, and the stability and fairness of the tax base. While

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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 would create a synergy among the various enforcement agencies and address issues of impacted California industries. This collaborative effort would 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. **April 9, 2012 amendments:**
 - Remove Department of Justice as the agency to house the CIP processing center.
 - Authorize the CIP advisory committee to determine the appropriate agency to house the CIP processing center.
 - Add the applicable non-disclosure code sections from a portion of the participating agency.
 - Add a sunset of date of January 1, 2020, unless a later enacted statute deletes or extends this date.
 - Requires that the partnership submit a report to the Legislature on or before December 1, 2018, that would include, but is not limited to, the following information:
 - The number of leads or complaints received by the partnership.
 - The number of cases investigated or prosecuted through civil action or criminal prosecution.
 - Recommendations for modifying, eliminating, or continuing the operation of any or all of the provisions of the bill.
 - Removes the inclusion of other state or local entities in the partnership.
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.

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.

6. Suggested amendments.

- Amend Section 1 to add a definition of the Underground Economy as follows: “For purposes of this section, “Underground Economy” shall be defined as the activities of individuals, businesses, or other entities that knowingly and intentionally use practices designed to conceal illegal or fraudulent activities that negatively impact legitimate businesses, workers and consumers, as well as deprive the State and local governments of vital resources.”
- Amend Section 1(b) as follows: According to the State Board of Equalization, an average estimated of eight billion dollars (\$8,000,000,000) in corporate, personal, and sales and use taxes goes uncollected in California each year, with unreported and underreported economic activity responsible for the vast majority of that total.
- Amend Section 15916(a) as follows: The advisory committee to the Centralized Intelligence Partnership is hereby established to provide guidance to, and advice on, the activities and operations of the partnership. This aligns the constitutional offices participating in the partnership with the executive branch of California’s government in their common goal to combat the underground economy.
- Amend Section 15920 to add the following:
 - (g) Department of Insurance: Section 11180 of the Government Code and Sections 1872.6, 1873, 1874.2, 1875.1, 1877.1, 1877.3, 1877.4, and 1877.5 of the Insurance Code.
 - (h) California Health and Human Services Agency: Section 14100.2 of the Welfare and Institutions Code and Section 6254(c) of the Government Code.
 - (l) Department of Industrial Relations: Sections 11181, 11183, and 15553 of the Government Code, Sections 92, 138.7, 1026, 3762, 6309, 6322, 6396, and 6412 of the Labor Code and Section 1877 of the Insurance Code.

COST ESTIMATE

The BOE would incur estimated costs of \$250,000 to \$1 million to fund the CIP central intake center. A detailed cost analysis is pending.

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. Accordingly, we estimate that the revenue associated with sales and use tax will increase by approximately \$15 million annually once fully implemented.

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