

**ASSEMBLY BILL**

**No. 2879**

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**Introduced by Assembly Member Leno**

February 22, 2008

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An act to add Section 559 to the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2879, as introduced, Leno. Employee wages and working hours: violators.

Existing law requires private employers to perform certain activities with regard to employee wages, hours, and working conditions.

This bill would require the Labor and Workforce Development Agency, in consultation with the Franchise Tax Board and the Joint Enforcement Strike Force on the Underground Economy, to develop and implement a set of standards that, if met by an employer, would trigger a recommendation for an audit or investigation by appropriate state tax authorities of employers in violation of statutes relating to employee wages, hours, and working conditions. After July 1, 2009, this bill would require the Labor Commissioner to take specified actions to facilitate audits and investigations of employers who meet the standards required by this bill. This bill also would state findings and declarations relating to the underground economy.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:

1 (1) Despite many targeted enforcement efforts in recent years,  
2 evidence indicates that the underground economy in California is  
3 flourishing.

4 (2) According to a 2003 report by the Joint Enforcement Strike  
5 Force on the Underground Economy, \$232 million in unreported  
6 wages and \$29 million in unpaid payroll taxes were identified in  
7 2003, which represent only that portion of the underground  
8 economy that we actually know about.

9 (3) The underground economy harms everyone—workers, the  
10 state through lost revenue, and the vast majority of law-abiding  
11 businesses that face unlawful competition from employers  
12 operating in the underground economy.

13 (4) It is therefore in the public interest to establish a coordinated  
14 approach to enforcement in the underground economy, which  
15 approach would include a nexus between the state’s enforcement  
16 of labor and tax laws.

17 (b) It is the intent of the Legislature in enacting this act to target  
18 those employers that operate in the underground economy in  
19 flagrant violation of law, and not employers that commit minor or  
20 inadvertent violations of existing law.

21 SEC. 2. Section 559 is added to the Labor Code, to read:

22 559. (a) The Labor and Workforce Development Agency, in  
23 consultation with the Franchise Tax Board and the Joint  
24 Enforcement Strike Force on the Underground Economy, shall,  
25 by July 1, 2009, develop and implement an appropriate set of  
26 standards that, if met by an employer, will trigger a  
27 recommendation for an audit or investigation by appropriate state  
28 tax authorities of employers in violation of this chapter, Chapter  
29 1 (commencing with Section 200) of Part 1, or Chapter 1  
30 (commencing with Section 1171) of Part 4. The set of standards  
31 shall take into account, among other things, the severity and  
32 number of violations committed by an employer.

33 (b) After July 1, 2009, the Labor Commissioner shall take all  
34 of the following actions with respect to an employer who has met  
35 the set of standards developed by the Labor and Workforce  
36 Development Agency pursuant to subdivision (a):

37 (1) Notify the appropriate state tax authorities each time the set  
38 of standards is met by an employer.

1 (2) Provide the appropriate state tax authorities with the name  
2 of the employer and all relevant and necessary information  
3 regarding the violations.

4 (3) Make a recommendation to the appropriate state tax  
5 authorities that the employer be audited or investigated.

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