

AMENDED IN ASSEMBLY MAY 1, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 576

Introduced by Assembly Member V. Manuel Pérez

February 20, 2013

An act to add and repeal Part 12.2 (commencing with Section 15910) of Division 3 of Title 2 of the Government Code, relating to *the underground operations economy*.

LEGISLATIVE COUNSEL'S DIGEST

AB 576, as amended, V. Manuel Pérez. ~~Centralized Intelligence Partnership Revenue Recovery and Collaborative Enforcement Team~~ Act: pilot program.

Existing law requires various state entities, including, but not limited to, the State Board of Equalization, the Franchise Tax Board, and the Department of Justice, to enforce laws relating to the taxation and legal operation of businesses throughout the state under their respective jurisdictions.

This bill would establish, until January 1, 2019, a pilot program to create a multiagency ~~partnership~~ *team* consisting of the ~~Employment Development Department~~, Franchise Tax Board, *Department of Justice*, and State Board of Equalization, to be known as the ~~Centralized Intelligence Partnership Revenue Recovery and Collaborative Enforcement Team~~, to collaborate in combating ~~illegal underground operations~~ *criminal tax evasion associated with the underground economy* by, among other activities, ~~providing~~ *developing a plan for a central intake process and organizational structure, with an administrator and support staff*, to document, review, and evaluate data and complaints. The bill would authorize other specified state entities to

participate in the pilot program in an advisory capacity. ~~The bill would create an advisory committee, comprised of one representative from each entity in the partnership, and those serving in an advisory capacity, as specified, to provide guidance on the activities and operations of the partnership. The bill would require the advisory committee to the partnership to determine the appropriate agency to house the processing center for the partnership. The bill would authorize duly authorized representatives of members of the partnership team members and representatives of other participating agencies to exchange information for the purpose of investigating illegal underground operations criminal tax evasion associated with the underground economy. The bill would require the partnership team, on or before July 1, 2015, to annually report to the Legislature and entities participating in the partnership each participating agency on its activities. The bill would require an additional report to be filed with the Legislature by December 1, 2017, to include the number of complaints received by the partnership team and cases investigated or prosecuted, as specified as a result of team collaboration.~~

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. The Legislature finds and declares all of the
2 following:
3 (a) ~~According to the Employment Development Department's~~
4 ~~analysis of findings made by the Internal Revenue Service, the~~
5 ~~underground economy in California is estimated to be between~~
6 ~~sixty billion dollars (\$60,000,000,000) and one hundred forty~~
7 ~~billion dollars (\$140,000,000,000) each year.~~
8 (b)
9 (a) According to the State Board of Equalization, an estimate
10 ~~of eight estimated nine billion dollars (\$8,000,000,000)~~
11 ~~(\$9,000,000,000) in corporate, personal, and sales and use taxes~~
12 ~~goes uncollected in California each year, with unreported and~~
13 ~~underreported economic activity responsible for the vast majority~~
14 ~~of that total.~~
15 (c) ~~For purposes of this section, "underground economy" means~~
16 ~~the activities of individuals, businesses, or other entities that~~
17 ~~knowingly and intentionally use practices designed to conceal~~

1 ~~illegal or fraudulent activities that negatively impact legitimate~~
2 ~~businesses, workers, and consumers, as well as deprive the state~~
3 ~~and local governments of vital resources.~~

4 ~~(d) The underground economy~~

5 ~~(b) Criminal tax evasion associated with underground economic~~
6 ~~activities hurts all Californians. Revenues to support government~~
7 ~~services are lost, workers are forced to go without basic~~
8 ~~employment protections, and legitimate businesses are confronted~~
9 ~~with unfair competition. Despite significant statewide efforts,~~
10 ~~California continues to lose billions of dollars in annual tax~~
11 ~~revenues due to the underground economy.~~

12 ~~(c) The mission of the Labor Enforcement Task Force (LETF)~~
13 ~~and the Joint Enforcement Strike Force (JESF) is to combat the~~
14 ~~underground economy to ensure a level playing field for California~~
15 ~~businesses. However, these programs focus on labor violations~~
16 ~~while often overlooking or disregarding criminal tax evasion.~~

17 ~~(e) Since the activities of many operating in the underground~~
18 ~~economy span across multiple jurisdictions, various joint agency~~
19 ~~enforcement efforts have been undertaken to combat the~~
20 ~~underground economy, including, but not limited to, the creation~~
21 ~~of the Joint Enforcement Strike Force on the Underground~~
22 ~~Economy in 1993, and the creation of the Economic and~~
23 ~~Employment Enforcement Coalition in 2005. Furthermore, various~~
24 ~~individual agency efforts have been created, including, but not~~
25 ~~limited to, the State Board of Equalization's Statewide Compliance~~
26 ~~and Outreach Program and the Contractors' State License Board's~~
27 ~~Statewide Investigative Fraud Team. Thus, investigative~~
28 ~~collaboration among state agencies is not a new concept in~~
29 ~~California. Many collaborative efforts are already under way,~~
30 ~~pursuant to which investigators periodically meet to discuss current~~
31 ~~investigations, collaborate to conduct sting operations, and develop~~
32 ~~best practices policies.~~

33 ~~(f) Despite significant statewide efforts, California continues~~
34 ~~to lose billions of dollars in annual revenue due to the underground~~
35 ~~economy.~~

36 ~~(g)~~

37 ~~(d) The Legislature intends this act to enhance existing efforts~~
38 ~~to combat the underground economy criminal tax evasion~~
39 ~~associated with underground economic activities by~~
40 ~~institutionalizing collaboration among state agencies through a~~

1 ~~Centralized Intelligence Partnership, a pilot program that acquires~~
 2 ~~relevant data for collaborative data analysis, economic threat~~
 3 ~~assessment, strategic planning, and provides a referral tracking~~
 4 ~~and value-added referral disbursement process to monitor the~~
 5 ~~progress and measure the success of the partnership activities. This~~
 6 ~~collaborative effort to combat the underground economy will, in~~
 7 ~~turn, criminal tax evasion will further aid the state in its progress~~
 8 ~~toward protecting consumers from counterfeit products, increasing~~
 9 ~~public services, and preventing human trafficking by enhancing~~
 10 ~~the state's ability to identify and punish offenders. The Legislature~~
 11 ~~recognizes that the state needs to comprehensively address the~~
 12 ~~underground economy and capitalize on each agency's enforcement~~
 13 ~~efforts and investigative resources by creating the Centralized~~
 14 ~~Intelligence Partnership Revenue Recovery and Collaborative~~
 15 ~~Enforcement Team. A key element of this effort is to authorize~~
 16 ~~and facilitate data and intelligence sharing among the Centralized~~
 17 ~~Intelligence Partnership and participating state agencies. It is the~~
 18 ~~intent of the Legislature in enacting this act to focus on the criminal~~
 19 ~~and civil prosecution of those operating in the underground~~
 20 ~~economy in flagrant violation of the law. Businesses that are in~~
 21 ~~compliance with state employment, safety, licensing, and tax laws~~
 22 ~~that are found to have committed minor or inadvertent violations~~
 23 ~~of existing law are to be addressed through other administrative~~
 24 ~~procedures who operate in the underground economy and~~
 25 ~~flagrantly violate the tax laws.~~

26 (h) ~~It is the intent of the Legislature that this act be part of~~
 27 ~~ongoing efforts by the Legislature to combat the underground~~
 28 ~~economy in this state through legislation.~~

29 SEC. 2. Part 12.2 (commencing with Section 15910) is added
 30 to Division 3 of Title 2 of the Government Code, to read:

31
 32 **PART 12.2. CENTRALIZED INTELLIGENCE PARTNERSHIP**
 33 **REVENUE RECOVERY AND COLLABORATIVE**
 34 **ENFORCEMENT TEAM ACT**
 35

36 15910. This part shall be known, and may be cited, as the
 37 ~~Centralized Intelligence Partnership Revenue Recovery and~~
 38 ~~Collaborative Enforcement Team Act.~~

1 15912. (a) ~~The Centralized Intelligence Partnership Revenue~~
2 ~~Recovery and Collaborative Enforcement Team~~ is hereby
3 established in state government as a pilot program.

4 (b) For purposes of this part, the term ~~“partnership”~~ *“team”*
5 shall refer to the ~~Centralized Intelligence Partnership Revenue~~
6 ~~Recovery and Collaborative Enforcement Team~~.

7 15914. (a) ~~The partnership team~~ shall include all of the
8 following state entities:

9 ~~(1) Employment Development Department.~~

10 ~~(2)~~

11 ~~(1) Franchise Tax Board.~~

12 ~~(2) Department of Justice.~~

13 ~~(3) State Board of Equalization.~~

14 (b) In addition to the agencies listed in subdivision (a), the
15 following agencies may participate in the pilot program in an
16 advisory capacity to the ~~partnership~~ *team*:

17 (1) California Health and Human Services Agency.

18 (2) Department of Consumer Affairs.

19 (3) Department of Industrial Relations.

20 (4) Department of Insurance.

21 ~~(5) Department of Justice.~~ *Employment Development*
22 *Department.*

23 (6) Department of Motor Vehicles.

24 (c) If, in its normal course of investigation, an agency listed in
25 subdivision (b) discovers a violation of law that would result in
26 increased tax revenues to the state, that agency ~~shall~~ *may* notify
27 the appropriate tax agency listed in subdivision (a).

28 15916. ~~(a) The advisory committee to the Centralized~~
29 ~~Intelligence Partnership is hereby established to provide guidance~~
30 ~~to, and advice on, the activities and operations of the partnership.~~

31 ~~(b) The advisory committee shall be comprised of one~~
32 ~~representative from each of the entities in the partnership listed~~
33 ~~under subdivision (a) of Section 15914. Each representative shall~~
34 ~~be appointed by the head of the entity in the partnership and serve~~
35 ~~at the pleasure of the appointing authority. An agency participating~~
36 ~~in an advisory capacity may provide a representative to the advisory~~
37 ~~committee to offer guidance and advice to the partnership.~~

38 ~~(c) The advisory committee~~

39 15916. *The team* shall meet as needed, but at least quarterly,
40 to conduct its business.

1 15918. ~~(a)~~ To serve the best interests of the state by combating
 2 *criminal tax evasion associated with* the underground economy,
 3 ~~the partnership shall do all of the following to combat illegal~~
 4 ~~underground operations:~~ *participating agencies shall do all of the*
 5 *following:*
 6 ~~(1) Provide~~
 7 *(a) Develop a plan for* a central intake process and
 8 organizational structure to document, review, and evaluate data
 9 and complaints.
 10 ~~(2) Establish~~
 11 *(b) Evaluate the benefits of* a processing center to receive and
 12 analyze data, share complaints, and research leads from the input
 13 of each impacted agency.
 14 ~~(3)~~
 15 *(c) Provide* participating and nonparticipating agencies with
 16 ~~value-added~~ investigative leads where collaboration opportunities
 17 exist for felony-level criminal investigations, including, but not
 18 limited to, referring leads to agencies with appropriate enforcement
 19 jurisdiction.
 20 ~~(4) Provide that each participating and nonparticipating agency~~
 21 ~~retain jurisdictional authority over whether to pursue partnership~~
 22 ~~strategies or collaborative investigative leads based upon the~~
 23 ~~direction of their respective governing structures or available~~
 24 ~~resources.~~
 25 ~~(5) Document and provide intake data analysis, analytic data~~
 26 ~~findings, referrals, collaborative opportunities, outcomes, emerging~~
 27 ~~evasion trends, lessons learned, as well as additional enforcement,~~
 28 ~~administrative, and legislative opportunities.~~
 29 ~~(b) The scope of activities and projects undertaken by the~~
 30 ~~partnership shall be consistent with the amount of funds~~
 31 ~~appropriated by the Legislature.~~
 32 ~~(e) The advisory committee to the partnership shall determine~~
 33 ~~the appropriate agency to house the processing center for the~~
 34 ~~partnership.~~
 35 ~~(d) The partnership may hire an administrator and staff.~~
 36 15920. Duly authorized ~~representatives of team~~ members of
 37 the partnership, and agencies participating in an advisory capacity,
 38 *and representatives of other participating agencies* may exchange
 39 intelligence, data, documents, information, complaints, or lead
 40 referrals for the purpose of investigating ~~illegal underground~~

1 ~~operations~~ *criminal tax evasion associated with underground*
2 *economic activities.* Any member or ex-member of the ~~partnership~~
3 *team*, any agent employed by any member ~~of the partnership~~
4 *agency*, or any person who has at any time obtained such
5 knowledge from any of the foregoing ~~partners~~ *agencies* or persons;
6 shall not divulge, or make known in any manner not provided by
7 law, any of the confidential information received by, or reported
8 to, the ~~partnership~~ *team*. Information exchanged pursuant to this
9 section shall retain its confidential status and shall remain subject
10 to the confidentiality provisions contained in the following
11 provisions:

12 (a) California Health and Human Services Agency: Subdivision
13 (c) of Section 6254 of this code and Section 14100.2 of the Welfare
14 and Institutions Code.

15 (b) Department of Consumer Affairs: Section 30 of the Business
16 and Professions Code and Section 56.29 of the Civil Code.

17 (c) Department of Industrial Relations: Sections 11181, 11183,
18 and 15553 of this code, Article 7 (commencing with Section 1877)
19 of Chapter 12 of Part 2 of Division 1 of the Insurance Code, and
20 Sections 92, 138.7, 1026, 3762, 6309, 6322, 6396, and 6412 of
21 the Labor Code.

22 (d) Department of Insurance: Section 11180 of this code and
23 Sections 1872.6, 1873, 1874.2, 1875.1, 1877.1, 1877.3, 1877.4,
24 and 1877.5 of the Insurance Code.

25 (e) Department of Justice: Section 11183.

26 (f) Department of Motor Vehicles: Sections 1808.2, 1808.4,
27 1808.5, 1808.6, 1808.21, 1808.24, and 12800.5 of the Vehicle
28 Code.

29 (g) Employment Development Department: Sections 1094 and
30 1095 of the Unemployment Insurance Code.

31 (h) Franchise Tax Board: Sections 19542, 19542.1, and 19542.3
32 of the Revenue and Taxation Code.

33 (i) State Board of Equalization: Section 15619 of this code,
34 Section 42464.8 of the Public Resources Code, and Sections 7056,
35 7056.5, 8255, 9255, 9255.1, 30455, 38705, 38706, 43651, 45981,
36 45982, 45983, 45984, 46751, 50159, 50160, 50161, 55381, 60608,
37 and 60609 of the Revenue and Taxation Code.

38 15922. On or before July 1, 2015, and annually thereafter, the
39 ~~partnership~~ *team* shall report on its activities and accomplishments

1 to the Legislature in compliance with Section 9795, and to each
2 entity in the partnership *participating agency*.

3 15923. The ~~partnership~~ *team* shall submit to the Legislature
4 on or before December 1, 2017, and in compliance with Section
5 9795, a report of the pilot program that includes, but is not limited
6 to, the following information:

7 (a) The number of leads or complaints received by the
8 ~~partnership~~ *team*.

9 (b) The number of cases investigated or prosecuted through
10 civil action or criminal prosecution *as a result of team*
11 *collaboration*.

12 (c) Recommendations for modifying, eliminating, or continuing
13 the operation of any or all of the provisions of this part.

14 15924. This part shall remain in effect only until January 1,
15 2019, and as of that date is repealed, unless a later enacted statute,
16 that is enacted before January 1, 2019, deletes or extends that date.