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## FISCAL IMPACT REPORT

SPONSOR Sanchez, M. DATE TYPED 2/14/04 HB \_\_\_\_\_

SHORT TITLE Create Tax Fraud Investigations Division SB 496/aSJC

ANALYST Reynolds-Forte

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			\$1,000.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Conflicts SB 111 and HB 258 and duplicates HJCS/HB360/aHTRC/aHFI#1  
Relates to Appropriation in the General Appropriation Act

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of SJC Amendment

The Senate Judiciary Committee Amendment does the following: (This makes the bill a duplicate of HJCS/HB360/aHTRC/aHFI#1.)

1. Makes several technical changes,
2. Adds a new subsection which allows employees of the Taxation and Revenue Department to reveal information contained in the return of a taxpayer to representatives of the Worker's Compensation Administration and the Secretary of Labor, or the Secretary's delegate, to facilitate identification of taxpayers delinquent or noncompliant in payment of worker's compensation fees, and for use in enforcement of unemployment insurance collections. The new legislation makes these employees subject to the provisions regarding confidentiality of information contained in the Tax Administration Act,
3. Adds a new set of penalties for willful failure to collect and pay taxes. The penalty amount and degree of the offense is a function of the amount of tax due, with a second degree felony provided for tax due amounts over \$20 thousand.
4. Changes the time limit for initiating prosecution of criminal violations of the revenue laws of the state from the current three years to five years.

## **ADMINISTRATIVE IMPLICATIONS**

The Taxation and Revenue Department believes the proposed statute would provide an important enforcement tool to prosecute cases of criminal tax fraud in the state. Successful prosecution requires highly specialized knowledge, investigative techniques and experience. The creation of the new division will give the state more ability to successfully prosecute these types of crimes.

### Synopsis of Original Bill

Senate Bill 496 expands the duties and powers of the Taxation and Revenue Department to investigate possible criminal violations of the revenue laws including fraud or other crimes that may affect the taxes due the state, changes penalties for fraud and creates the Tax Fraud Division in the Taxation and Revenue Department.

## **FISCAL IMPLICATIONS**

Senate Bill 496 creates a new Tax Fraud Division in the Taxation and Revenue Department but provides no funding for the unit. Currently the Taxation and Revenue Department has non-recurring funding for FY04 to fund the Tax Fraud Unit; however, this funding ends June 30, 2004. The Taxation and Revenue Department has testified they will need 13.0 FTE and \$1 million to maintain the Tax Fraud Unit. The House Appropriations and Finance Committee has adopted a recommendation that contains \$1 million and 13.0 FTE for the Taxation and Revenue Department, Tax Administration Program budget to fund the Tax Fraud unit.

## **ADMINISTRATIVE IMPLICATIONS**

Senate Bill 496 creates the new Tax Fraud Unit and gives the Department the authority and responsibility to employ tax fraud enforcement officers who shall have completed basic law enforcement training. The bill gives the Department the responsibility to carry out these duties but does not provide funding. As noted in the fiscal implication section, the House Appropriations and Finance Committee has adopted a recommendation to provide funding; however, this recommendation is not law at this point in time.

## **CONFLICTS**

Senate Bill 496 conflicts with Senate Bill 111 and HB 258 which amend some, but not all, of the same language as Senate Bill 496.

Senate 496 duplicates House Bill 360 in all changes except House Bill 360 contains language that Senate Bill 496 does not. Page 15, Section 2, Subsection EE of HB 486 allows a department employee to provide a district attorney, a state district court grand jury or federal grand jury information relating to action in fraud or other crime which may affect taxes due to the state; SB 496 does not contain this language.

## **TECHNICAL ISSUES**

The Taxation and Revenue Department points out that Section 6(A) uses the term "shall" employ police officers. Does that mean non-police officers cannot be hired as tax fraud enforcement officers?

**POSSIBLE QUESTIONS**

Currently the Department has no recurring funding for a Tax Fraud Unit. Would the Taxation and Revenue Department be able to enforce this new law within current budget?

**PRF/yr:lg:dm**