



# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

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915 I Street, Sacramento, CA 95814-2671

CONSENT  
May 18, 2010

Honorable Members of the  
Law and Legislation Committee

**Subject:** Legislative Position: Support SB 1036 (Cedillo) related to tax administration:  
disclosure information

**Location/Council District:** Citywide

**Recommendation:** Adopt a support position on SB 1036 (Cedillo) related to tax  
administration: disclosure information.

**Contact:** Brad Wasson, Revenue Manager, Department of Finance, (916) 808-5844

**Presenters:** n/a

**Department:** Finance

**Division:** Revenue

**Organization No:** 09610

## **Description/Analysis**

**Issue:** This bill allows cities to contract with third parties to view taxpayer information received from the Franchise Tax Board (FTB). According to the bill's author's office, this bill is intended to assist FTB and cities in exchanging business taxpayer information in order to identify businesses that have not paid business license taxes and related fees. By authorizing cities to obtain the assistance of contractors in processing tax data, this bill will help cities improve tax collections, increase enforcement of city business tax laws, and thereby increase city revenue. The contractors authorized under this bill would be restricted to obtaining and filling out eight fields of data required by FTB from business tax records, cross referencing cities' business tax records with FTB income tax records, and validating a business's existence by providing additional business indicators. The bill does not propose to share taxpayer information other than for the purpose of collecting taxes. Contractors are precluded from using this information for any other purpose.

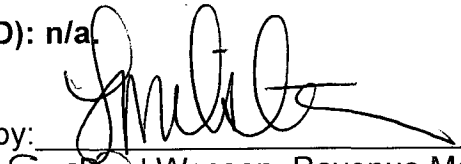
**Policy Considerations:** This bill represents an opportunity to increase Business Operations Tax collections which are deposited into the City's general fund.

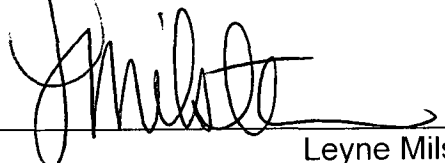
**Environmental Considerations: None.**

**Rationale for Recommendation:** In these difficult budgetary times, it is critical to recognize the benefits and efficiencies to the program for cities to obtain necessary technical expertise on this matter and establish requirements to ensure that the confidentiality of the data will be maintained.

**Financial Considerations: None.**

**Emerging Small Business Development (ESBD): n/a.**

Respectfully Submitted by:   
for Brad Wasson, Revenue Manager

Approved by:   
Leyne Milstein  
Director of Finance

Recommendation Approved:

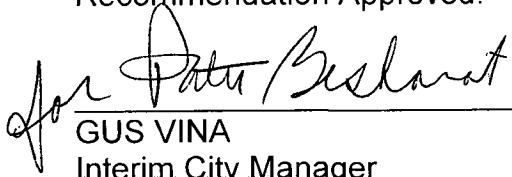
  
GUS VINA  
Interim City Manager

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Attachments

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May 18, 2010

The Honorable Gilbert Cedillo  
State Capitol, Room 5100  
Sacramento, CA 95814

**RE: SB 1036 (Cedillo). Tax administration: contracted assistance – NOTICE OF SUPPORT**

Dear Senator Cedillo:

The City of Sacramento is pleased to support SB 1036.

This bill establishes various requirements and conditions governing an agent retained by a city to assist with reviewing tax information supplied by the Franchise Tax Board (FTB) as part of a reciprocal tax information sharing agreement authorized by existing statute between a city and the FTB.

In these difficult budgetary times, it is critical to recognize the benefits and efficiencies to the program for cities to obtain necessary technical expertise on this matter and establish requirements to ensure that the confidentiality of the data will be maintained.

Thank you for your leadership on this important measure.

Sincerely,

**LAUREN HAMMOND**, Chair  
Law & Legislation Committee

cc: Chair and Members, Senate Revenue and Taxation Committee  
David Jones, Principal, Emanuels, Jones and Associates  
Cynthia Bryant, Director, Governor's Office of Planning and Research  
Michael Proso, Legislative Affairs Secretary, Governor's Office

AMENDED IN SENATE APRIL 20, 2010

AMENDED IN SENATE APRIL 6, 2010

**SENATE BILL**

**No. 1036**

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**Introduced by Senator Cedillo**  
(Coauthor: Assembly Member Huffman)

February 12, 2010

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An act to amend Section 19551.1 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 1036, as amended, Cedillo. Tax administration: disclosure information: Franchise Tax Board and cities.

Existing law authorizes a city that has entered into a reciprocal agreement, as defined, with the Franchise Tax Board to exchange tax information, as provided, but limits the use of that information to employees of the taxing authority of a city.

This bill would expand that limitation by authorizing any agent designated by resolution of the city to examine all of the tax information, provided that the resolution certifies that the designated agent satisfies specified conditions.

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

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

- 1 SECTION 1. Section 19551.1 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 19551.1. (a) (1) The Franchise Tax Board may permit the tax
- 4 officials of any city to enter into a reciprocal agreement with the

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1 Franchise Tax Board to obtain tax information from the Franchise  
2 Tax Board, as specified in subdivision (b).

3 (2) For purposes of this section, "reciprocal agreement" means  
4 a formal agreement to exchange information for tax administration  
5 purposes between tax officials of a city and the Franchise Tax  
6 Board.

7 (b) The information furnished to tax officials of a city under  
8 this section shall be limited as follows:

9 (1) The tax officials of a city are authorized to receive  
10 information only with respect to taxpayers with an address as  
11 reflected on the Franchise Tax Board's records within the  
12 jurisdictional boundaries of the city who report income from a  
13 trade or business to the Franchise Tax Board.

14 (2) The tax information that may be provided by the Franchise  
15 Tax Board to a city is limited to a taxpayer's name, address, social  
16 security or taxpayer identification number, and business activity  
17 code.

18 (3) (A) Tax information provided to the taxing authority of a  
19 city may not be furnished to, or used by, any person other than an  
20 employee of that taxing authority or agent designated by resolution  
21 of the city, to examine all of the tax information.

22 (B) The resolution shall certify that an agent designated by the  
23 resolution, meets all of the following conditions:

24 (i) Has an existing contract with the city to examine those tax  
25 records.

26 (ii) Is required by that contract to disclose information contained  
27 in, or derived from, those tax records only to an employee of the  
28 city or agent who is authorized by the resolution to examine the  
29 information.

30 (iii) Is prohibited by that contract from performing consulting  
31 services for private industry during the term of that contract.

32 (iv) Is prohibited by that contract from retaining the information  
33 contained in, or derived from, those tax records, after that contract  
34 has expired.

35 (v) Has executed a confidentiality statement, as provided by the  
36 Franchise Tax Board. Each executed confidentiality statement  
37 shall be retained by the city and made available to the Franchise  
38 Tax Board during its disclosure review of the city or as otherwise  
39 requested by the Franchise Tax Board. *The confidentiality*

1 *statement shall be executed by each agent authorized under this*  
2 *paragraph.*

3 (4) The information provided to the tax officials of the city by  
4 the Franchise Tax Board under this section is subject to Section  
5 19542, and may not be used for any purpose other than the city's  
6 tax enforcement, or as otherwise authorized by state or federal  
7 law.

8 (5) Section 19542.1 applies to this section.

9 (c) The Franchise Tax Board may not provide any information  
10 pursuant to this section until all of the following have occurred:

11 (1) An agreement has been executed between a city and the  
12 Franchise Tax Board, that provides that an amount equal to all  
13 first year costs necessary to furnish the city information pursuant  
14 to this section shall be received by the Franchise Tax Board before  
15 the Franchise Tax Board incurs any costs associated with the  
16 activity permitted by this section. For purposes of this section, first  
17 year costs include costs associated with, but not limited to, the  
18 purchasing of equipment, the development of processes, and labor.

19 (2) An agreement has been executed between a city and the  
20 Franchise Tax Board, that provides that the annual costs incurred  
21 by the Franchise Tax Board, as a result of the activity permitted  
22 by this section, shall be reimbursed by the city to the Franchise  
23 Tax Board.

24 (3) Pursuant to the agreement described in paragraph (1), the  
25 Franchise Tax Board has received an amount equal to the first year  
26 costs.

27 (d) Any information, other than the type of tax information  
28 specified in subdivision (b), may be requested by the tax officials  
29 of a city from the Franchise Tax Board by affidavit. At the time a  
30 tax official makes the request, he or she shall provide the person  
31 whose information is the subject of the request, with a copy of the  
32 affidavit and, upon request, make the information obtained  
33 available to that person.

34 (e) This section does not invalidate any other law. This section  
35 does not preclude any city or county from obtaining information  
36 about individual taxpayers, including those taxpayers not subject  
37 to this section, by any other means permitted by state or federal  
38 law.

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1 (f) Nothing in this section shall be construed to affect any  
2 obligations, rights, or remedies regarding personal information  
3 provided under state or federal law.

4 (g) Notwithstanding subdivision (c), the Franchise Tax Board  
5 shall waive a city's reimbursement of the Franchise Tax Board's  
6 cost if a city enters into a reciprocal agreement as defined in  
7 paragraph (2) of subdivision (a). The reciprocal agreement shall  
8 specify that each party shall bear its own costs to furnish the data  
9 involved in the exchange authorized by this section and Section  
10 19551.5, and a city shall be precluded from obtaining  
11 reimbursement as specified under Section 5 of the act adding this  
12 subdivision.

13 (h) This section shall remain in effect through and including  
14 December 31, 2013, and shall be repealed on January 1, 2014.

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BILL ANALYSIS

SENATE RULES COMMITTEE	SB 1036
Office of Senate Floor Analyses	
1020 N Street, Suite 524	
(916) 651-1520	Fax: (916)
327-4478	

THIRD READING

Bill No: SB 1036  
 Author: Cedillo (D), et al  
 Amended: 4/20/10  
 Vote: 21

SENATE REVENUE & TAXATION COMMITTEE : 4-1, 4/14/10  
 AYES: Wolk, Alquist, Ashburn, Padilla  
 NOES: Walters

SUBJECT : Tax administration: disclosure information  
SOURCE : Author

DIGEST : This bill allows cities to contract with third parties to view taxpayer information received from the Franchise Tax Board.

ANALYSIS : Existing law generally prohibits unlawful disclosure or inspection of any income tax return information except as specified in law. Criminal sanctions, including imprisonment, apply to Franchise Tax Board (FTB) personnel convicted of unlawful disclosure or inspection of tax records. FTB must notify a taxpayer if criminal charges have been filed for willful unauthorized inspection or disclosure of their tax data. However, FTB may publish statistical data related to taxpayer information so long as nothing specific to a single taxpayer is disclosed.

Existing law allows an exception to the above provisions by  
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authorizing FTB to provide tax information - name, address, social security number and business activity code to a city subject to a written agreement between the city and FTB. The city may request information only on taxpayers who file a tax return within its boundaries and report trade or business income. Only city employees may use this information; they are bound by the same confidentiality requirements as FTB employees. This statute is repealed on January 1, 2014.

This bill allows a city with a reciprocal agreement with FTB to adopt a resolution to enter into a contract with a third-party vendor to process the taxpayer data received by FTB.

This bill specifies that any agent designated by the resolution to examine tax records must meet certain conditions, including already having an existing contract with the city and executing a confidentiality statement as provided by FTB.

FISCAL EFFECT : Appropriation: No Fiscal Com.: No  
Local: No

SUPPORT : (Verified 4/28/10)

California Professional Firefighters  
Cities of Gilroy, Livermore, Newport Beach, Pleasanton,  
Roseville, San Rafael, and Visalia  
League of California Cities

OPPOSITION : (Verified 4/28/10)

Cal-Tax  
California Chamber of Commerce

ARGUMENTS IN SUPPORT : According to the author's office, this bill is intended to assist FTB and cities exchange business taxpayer information in order to identify businesses that have not paid business license taxes and related fees. By authorizing cities to obtain the assistance of contractors in processing tax data, this bill will help cities improve tax collections, increase enforcement of city business tax laws, and thereby increase

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city revenue.

The contractors authorized under this bill would be restricted to obtaining and filling out eight fields of data required by FTB from business tax records, cross referencing cities' business tax records with FTB income tax records, and validating a business's existence by providing additional business indicators.

The author's office in a rebuttal to the concerns raised at the policy hearing by the opposition would like to clarify that this bill does not propose to share taxpayer information for the purpose of collecting taxes but only for the purposes of identifying to the FTB or partnering city entities that have not paid their taxes and/or fees do. It does not affect the tax collection process once they are identified.

ARGUMENTS IN OPPOSITION : Opponents of this bill have expressed the concern that taxpayer confidentiality could be compromised if private individuals and consulting firms are permitted to access taxpayer information provided by the FTB. Cal-Tax states that "the mishandling of taxpayer records has been well-documented in the case of private debt collection firms assigned to handle state and local government tax collections, and we object to extending access to these records to other private firms hired by local governments to enhance local revenue."

DLW:mw 4/28/10 Senate Floor Analyses

SUPPORT/OPPOSITION: SEE ABOVE

\*\*\*\* END \*\*\*\*