

AMENDED IN SENATE JUNE 5, 2006

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

ASSEMBLY BILL

No. 2592

Introduced by Assembly Member Leno

February 24, 2006

An act to amend Sections 13995.20, 13995.40, 13995.49, ~~and 13995.54~~ 13995.53, 13995.54, 13995.60, 13995.65, and 13995.77 of the Government Code, to add Sections 7061 and 19559 to the Revenue and Taxation Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to California tourism.

LEGISLATIVE COUNSEL'S DIGEST

AB 2592, as amended, Leno. California Travel and Tourism Commission.

Existing law, the California Tourism Marketing Act, provides for the California Travel and Tourism Commission, a nonprofit mutual benefit corporation, and provides for a 37-member board of the commission, including 12 members appointed by the Governor and 24 elected members. The 12 appointed members are required to represent the 12 officially designated tourism regions.

This bill would specify that each appointed member of the commission shall represent only one of those designated tourism regions. The bill would also specify that appointed members are not limited to persons who are employed by or represent assessed businesses. The bill would provide that elected commissioners shall serve 4-year terms and that an appointed or elected commissioner would cease to be a commissioner 90 days following the date on which he or she ceases to meet the criteria for appointment or election as a commissioner, except as specified.

Existing law authorizes the commission to accept voluntary assessments from any person in a travel and tourism related business, except persons whose primary business is gaming.

This bill would delete that exception.

Existing law authorizes the Secretary of Business, Transportation and Housing to require assessed businesses, as defined, to maintain specified books and records, to provide requested information to the secretary, and to permit the secretary to inspect those books and records.

This bill would authorize the secretary also to require businesses that claim to be exempt from assessment to maintain certain records, to furnish information to the secretary, and to permit the secretary to inspect those books and records. The bill would also authorize the Board of Equalization, the Franchise Tax Board, and the Employment Development Department to permit the use of information by the secretary for the purpose of identifying persons or businesses that may owe assessments. The bill would make it a misdemeanor for persons associated with the Business, Transportation and Housing Agency and the California Travel and Tourism Commission to disclose or use the information, except as provided. By creating a new crime and expanding an existing crime, the bill would impose a state-mandated local program.

Existing law establishes procedures for imposing assessments on businesses within various tourism industry categories or segments. Existing law also exempts from assessment a small business, defined as a business location with less than \$1,000,000 in California gross annual revenue.

This bill would also set forth specified methods by which a business or person sharing common ownership, management, and control of more than one assessed business may calculate the assessment. The bill would also allow the exemption threshold amount to be lowered to not less than \$500,000 by referendum.

Existing law restricts the disclosure of information obtained pursuant to the act by the Secretary of Business, Transportation and Housing.

This bill would make that restriction applicable to the Business, Transportation and Housing Agency.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

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

1 SECTION 1. Section 13995.20 of the Government Code is
2 amended to read:
3 13995.20. Unless the context otherwise requires, the
4 definitions in this section govern the construction of this chapter.
5 (a) “Appointed commissioner” means a commissioner
6 appointed by the Governor pursuant to paragraph (2) of
7 subdivision (b) of Section 13995.40.
8 (b) “Assessed business” means a person required to pay an
9 assessment pursuant to this chapter, and until the first assessment
10 is levied, any person authorized to vote for the initial referendum.
11 An assessed business shall not include a public entity or a
12 corporation when a majority of the corporation’s board of
13 directors is appointed by a public official or public entity, or
14 serves on the corporation’s board of directors by virtue of being
15 elected to public office, or both.
16 (c) “Commission” means the California Travel and Tourism
17 Commission.
18 (d) “Elected commissioner” means a commissioner elected
19 pursuant to subdivision (d) of Section 13995.40.
20 (e) “Industry category” means the following classifications
21 within the tourism industry:
22 (1) Accommodations.
23 (2) Restaurants and retail.
24 (3) Attractions and recreation.
25 (4) Transportation and travel services.
26 (f) “Industry segment” means a portion of an industry
27 category. For example, rental cars are an industry segment of the
28 transportation and travel services industry category.
29 (g) “Office” means the Office of Tourism, also popularly
30 referred to as the Division of Tourism, within the Business,
31 Transportation and Housing Agency.

1 (h) “Person” means an individual, public entity, firm,
2 corporation, association, or any other business unit, whether
3 operating on a for-profit or nonprofit basis.

4 (i) “Referendum” means any vote by mailed ballot of
5 measures recommended by the commission and approved by the
6 secretary pursuant to Section 13995.60, except for the initial
7 referendum, which shall consist of measures contained in the
8 selection committee report, discussed in Section 13995.30.

9 (j) “Secretary” means the Secretary of Business,
10 Transportation and Housing.

11 (k) “Selection Committee” means the Tourism Selection
12 Committee described in Article 3 (commencing with Section
13 13995.30).

14 SEC. 2. Section 13995.40 of the Government Code is
15 amended to read:

16 13995.40. (a) Upon approval of the initial referendum, the
17 office shall establish a nonprofit mutual benefit corporation
18 named the California Travel and Tourism Commission. The
19 commission shall be under the direction of a board of
20 commissioners, which shall function as the board of directors for
21 purposes of the Nonprofit Corporation Law.

22 (b) The board of commissioners shall consist of 37
23 commissioners comprising the following:

24 (1) The secretary, who shall serve as chairperson.

25 (2) (A) Twelve members, who are professionally active in the
26 tourism industry, and whose primary business, trade, or
27 profession is directly related to the tourism industry, shall be
28 appointed by the Governor. Each appointed commissioner shall
29 represent only one of the 12 tourism regions designated by the
30 office, and the appointed commissioners shall be selected so as to
31 represent, to the greatest extent possible, the diverse elements of
32 the tourism industry. Appointed commissioners are not limited to
33 individuals who are employed by or represent assessed
34 businesses.

35 (B) If an appointed commissioner ceases to be professionally
36 active in the tourism industry or his or her primary business,
37 trade, or profession ceases to be directly related to the tourism
38 industry, he or she shall automatically cease to be an appointed
39 commissioner 90 days following the date on which he or she
40 ceases to meet both of the eligibility criteria specified in

1 subparagraph (A), unless the commissioner becomes eligible
2 again within that 90-day period.

3 (3) Twenty-four elected commissioners, including at least one
4 representative of a travel agency or tour operator that is an
5 assessed business.

6 (c) The commission established pursuant to Section 15364.52
7 shall be inoperative so long as the commission established
8 pursuant to this section is in existence.

9 (d) Elected commissioners shall be elected by industry
10 category in a referendum. Regardless of the number of ballots
11 received for a referendum, the nominee for each commissioner
12 slot with the most weighted votes from assessed businesses
13 within that industry category shall be elected commissioner. In
14 the event that an elected commissioner resigns, dies, or is
15 removed from office during his or her term, the commission shall
16 appoint a replacement from the same industry category that the
17 commissioner in question represented, and that commissioner
18 shall fill the remaining term of the commissioner in question. The
19 number of commissioners elected from each industry category
20 shall be determined by the weighted percentage of assessments
21 from that category.

22 (e) The secretary may remove any elected commissioner
23 following a hearing at which the commissioner is found guilty of
24 abuse of office or moral turpitude.

25 (f) (1) The term of each elected commissioner shall
26 commence ~~January~~ July 1 of the year next following his or her
27 election, and shall expire on ~~December 31~~ June 30 of the fourth
28 year following his or her election. If an elected commissioner
29 ceases to be employed by or with an assessed business in the
30 category and segment which he or she was representing, his or
31 her term as an elected commissioner shall automatically
32 terminate 90 days following the date on which he or she ceases to
33 be so employed, unless, within that 90-day period, the
34 commissioner again is employed by or with an assessed business
35 in the same category and segment.

36 (2) *Terms of elected commissioners that would otherwise*
37 *expire effective December 31 of the year during which legislation*
38 *adding this subdivision is enacted shall automatically be*
39 *extended until June 30 of the following year.*

1 (g) With the exception of the secretary, no commissioner shall
2 serve for more than two consecutive terms. For purposes of this
3 subdivision, the phrase “two consecutive terms” shall not include
4 partial terms.

5 (h) Except for the original commissioners, all commissioners
6 shall serve four-year terms. One-half of the commissioners
7 originally appointed or elected shall serve a two-year term, while
8 the remainder shall serve a four-year term. Every two years
9 thereafter, one-half of the commissioners shall be appointed or
10 elected by referendum.

11 (i) The selection committee shall determine the initial slate of
12 candidates for elected commissioners. Thereafter the
13 commissioners, by adopted resolution, shall nominate a slate of
14 candidates, and shall include any additional candidates
15 complying with the procedure described in Section 13995.62.

16 (j) The commissioners shall elect a vice chairperson from the
17 elected commissioners.

18 (k) The commission may lease space from the office.

19 (l) The commission and the office shall be the official state
20 representatives of California tourism.

21 (m) All commission meetings shall be held in California.

22 (n) No person shall receive compensation for serving as a
23 commissioner, but each commissioner shall receive
24 reimbursement for reasonable expenses incurred while on
25 authorized commission business.

26 (o) Assessed businesses shall vote only for commissioners
27 representing their industry category.

28 (p) Commissioners shall comply with the requirements of the
29 Political Reform Act of 1974 (Title 9 (commencing with Section
30 81000)). The Legislature finds and declares that commissioners
31 appointed or elected on the basis of membership in a particular
32 tourism segment are appointed or elected to represent and serve
33 the economic interests of those tourism segments and that the
34 economic interests of these members are the same as those of the
35 public generally.

36 (q) Commission meetings shall be subject to the requirements
37 of the Bagley-Keene Open Meeting Act (Article 9 (commencing
38 with Section 11120) of Chapter 1 of Part 1).

1 (r) The executive director of the commission shall serve as
2 secretary to the commission, a nonvoting position, and shall keep
3 the minutes and records of all commission meetings.

4 SEC. 3. Section 13995.49 of the Government Code is
5 amended to read:

6 13995.49. The commission may by written contract accept a
7 voluntary assessment from any person in a travel and tourism
8 related business who is not an assessed business. The contract
9 shall apply solely to the person in question and not to any other
10 person in a travel and tourism related business ~~who~~ that is not an
11 assessed business. The contract shall provide that the voluntary
12 assessment be *proportionately* equivalent to the assessment that
13 would be levied if the person were an assessed business under
14 this chapter, shall permit that business to vote on any referendum
15 conducted under this chapter as if that person were an assessed
16 business, and shall have a term concurrent with the effective
17 period of any referendum on which the person votes. Individual
18 voluntary assessments under this section shall be enforceable
19 only under the terms of the respective contracts to which they
20 pertain. This section shall not be construed to preclude donations
21 to, or cooperative marketing activities of any kind with, the
22 commission on the part of any person.

23 SEC. 4. Section 13995.53 of the Government Code is
24 amended to read:

25 13995.53. (a) The secretary may require ~~any~~ and all assessed
26 businesses to maintain books and records that reflect their
27 income or sales as reflected in the assessment, and to furnish the
28 secretary with any information that may, from time-to-time, be
29 requested by the secretary, and to permit the inspection by the
30 secretary of portions of books and records that relate to the
31 amount of assessment.

32 (b) *The secretary may also require any business that claims to*
33 *be exempt from assessment pursuant to this chapter to maintain*
34 *books and records that reflect its income and sales, as well as its*
35 *percentage of income and sales that are tourism related, and to*
36 *furnish the secretary with any information that may, from time to*
37 *time, be requested by the secretary, and to permit the inspection*
38 *by the secretary of portions of its books and records that pertain*
39 *to whether the business is subject to assessment pursuant to this*
40 *chapter and, if so, the amount of any assessments owing.*

1 ~~SEC. 4.~~

2 *SEC. 5.* Section 13995.54 of the Government Code is
3 amended to read:

4 13995.54. ~~Information~~*All information* pertaining to assessed
5 businesses obtained by the secretary or the Business,
6 Transportation, and Housing Agency pursuant to this chapter is
7 confidential and shall not be *subject to discovery, is exempt from*
8 *the California Public Records Act (Chapter 3.5 (commencing*
9 *with Section 6250) of Division 7 of Title 1), and shall not be*
10 *disclosed except to a person with the right to obtain the*
11 ~~information~~; any attorney hired by the secretary who is employed
12 to give legal advice upon it; or by court order. ~~Information~~
13 ~~obtained by the secretary in order to determine the assessment~~
14 ~~level for an assessed business is exempt from the California~~
15 ~~Public Records Act (Chapter 3.5 (commencing with Section~~
16 ~~6250) of Division 7 of Title 1).~~

17 *SEC. 6. Section 13995.60 of the Government Code is*
18 *amended to read:*

19 13995.60. (a) As used in this article and Article 7
20 (commencing with Section 13995.65), “assessment level” means
21 the estimated gross dollar amount received by assessment from
22 all assessed businesses on an annual basis, and “assessment
23 formula” means the allocation method used within each industry
24 segment (for example, percentage of gross revenue).

25 (b) Commencing on January 1, 2003, a referendum shall be
26 called every two years, and the commission, by adopted
27 resolution, shall determine the slate of individuals who will run
28 for commissioner. The resolution shall also cover, but not be
29 limited to, the proposed assessment level, based upon specified
30 assessment formulae, together with necessary information to
31 enable each assessed business to determine what its individual
32 assessment would be. Commencing with the referendum held in
33 2007 and every six years thereafter, the resolution shall also
34 cover the termination or continuation of the commission. The
35 resolution may also include an amended industry segment
36 allocation formula and the percentage allocation of assessments
37 between industry categories and segments. The commission may
38 specify in the resolution that a special, lower assessment rate that
39 was set pursuant to subdivision (c) of Section 13995.30 for a
40 particular business will no longer apply due to changes in the

1 unique circumstance that originally justified the lower rate. The
2 resolution may include up to three possible assessment levels,
3 from which the assessed businesses will select one assessment
4 level by plurality weighted vote.

5 (c) The commission shall deliver to the secretary the
6 resolution described in subdivision (b). The secretary shall call a
7 referendum containing the information required by subdivision
8 (b) plus any additional matters complying with the procedures of
9 subdivision (b) of Section 13995.62.

10 (d) When the secretary calls a referendum, all assessed
11 businesses shall be sent a ballot for the referendum. Every ballot
12 that the secretary receives by the ballot deadline shall be counted,
13 utilizing the weighted formula adopted initially by the selection
14 committee, and subsequently amended by referendum.

15 (e) If the referendum includes more than one possible
16 assessment rate, the rate with the plurality of weighted votes shall
17 be adopted.

18 (f) *Notwithstanding any other provision of this section, if the*
19 *commission delivers to the secretary a resolution pertaining to*
20 *any matter described in subdivision (b), the secretary shall call a*
21 *referendum at a time or times other than as specified in this*
22 *section. Each referendum shall contain only those matters*
23 *contained in the resolution.*

24 (g) *Notwithstanding any other provision of this section, the*
25 *secretary shall identify, to the extent reasonably feasible, those*
26 *businesses that would become newly assessed due to a change in*
27 *category, segment, threshold, or exemption status sought via*
28 *referendum, and provide those businesses the opportunity to vote*
29 *in that referendum.*

30 *SEC. 7. Section 13995.65 of the Government Code is*
31 *amended to read:*

32 13995.65. (a) Each industry category shall establish a
33 committee to determine the following within its industry
34 category: industry segments, assessment formula for each
35 industry segment, and any types of business exempt from
36 assessment. The initial segment committees shall consist of the
37 subcommittee for that category as described in subdivision (d) of
38 Section 13995.30. Following approval of the assessment by
39 referendum, the committees shall be selected by the commission,

1 based upon recommendations from the tourism industry.
2 Committee members need not be commission members.

3 (b) The committee recommendations shall be presented to the
4 commission or selection committee, as applicable. The selection
5 committee may adopt a resolution specifying some or all of the
6 items listed in subdivision (a), plus an allocation of the overall
7 assessment among industry categories. The commission may
8 adopt a resolution specifying one or more of the items listed in
9 subdivision (a), plus an allocation of the proposed assessment.
10 The selection committee and commission are not required to
11 adopt the findings of any committee.

12 (c) The initial industry category and industry segment
13 allocations shall be included in the selection committee report
14 required by subdivision (b) of Section 13995.30. Changes to the
15 industry segment allocation formula may be recommended to the
16 commission by a segment committee at the biennial commission
17 meeting scheduled to approve the referendum resolution pursuant
18 to Section 13995.60. At the same meeting, the commission may
19 amend the percentage allocations among industry categories.
20 Any item discussed in this section that is approved by resolution
21 of the commission, except amendments to the percentage
22 allocations among industry categories, shall be placed on the next
23 referendum, and adopted if approved by the majority of weighted
24 votes cast.

25 (d) Upon approval by referendum, the office shall mail an
26 assessment bill to each assessed business. The secretary shall
27 determine how often assessments are collected, based upon
28 available staffing resources. The secretary may stagger the
29 assessment collection throughout the year, and charge businesses
30 a prorated amount of assessment because of the staggered
31 assessment period. The secretary and office shall not divulge the
32 amount of assessment or weighted votes of any assessed
33 businesses, except as part of an assessment action.

34 (e) An assessed business may appeal an assessment to the
35 secretary based upon the fact that the business does not meet the
36 definition established for an assessed business within its industry
37 segment or that the level of assessment is incorrect. An appeal
38 brought under this subdivision shall be supported by substantial
39 evidence submitted under penalty of perjury by affidavit or
40 declaration as provided in Section 2015.5 of the Code of Civil

1 Procedure. If the error is based upon failure of the business to
2 provide the required information in a timely manner, the
3 secretary may impose a fee for reasonable costs incurred by the
4 secretary in correcting the assessment against the business as a
5 condition of correcting the assessment.

6 (f) Notwithstanding any other provision of law, an assessed
7 business may pass on some or all of the assessment to customers.
8 An assessed business that is passing on the assessment may, but
9 shall not be required to, separately identify or itemize the
10 assessment on any document provided to a customer.
11 Assessments levied pursuant to this chapter and passed on to
12 customers are not part of gross receipts or gross revenue for any
13 purpose, including the calculation of sales or use tax and income
14 pursuant to any lease. However, assessments that are passed on
15 to customers shall be included in gross receipts for purposes of
16 income and franchise taxes.

17 (g) For purposes of calculating the assessment for a business
18 with revenue in more than one industry category or industry
19 segment, that business may elect to be assessed based on either
20 of the following:

21 (1) The assessment methodology and rate of assessment
22 applicable to each category or segment, respectively, as it relates
23 to the revenue that it derives from that category or segment.

24 (2) With respect to its total revenue from all industry
25 categories or segments, the assessment methodology and rate of
26 assessment applicable to the revenue in the category and segment
27 in which it earns the most gross revenue.

28 (h) (1) *A person sharing common ownership, management, or*
29 *control of more than one assessed business may elect to*
30 *calculate, administer, and pay the assessment owed by each*
31 *business by any of the following methods:*

32 (A) *Calculated on the basis of each individual business*
33 *location.*

34 (B) *Calculated on the basis of each business, or each group of*
35 *businesses, possessing a single federal employer identification*
36 *number, regardless of the number of locations involved.*

37 (C) *Calculated on the basis of the average aggregate*
38 *percentage of tourism-related gross revenue received by all of*
39 *the person's businesses in a particular industry segment or*
40 *industry category during the period in question, multiplied by the*

1 *total aggregate tourism-related gross revenue received by all of*
2 *the businesses, and then multiplied by the appropriate*
3 *assessment formula. For example, if a person sharing common*
4 *ownership, management, or control of more than one assessed*
5 *business in the retail industry segment calculates that the*
6 *average percentage of tourism-related gross revenue received by*
7 *all of its locations equals 6 percent during the period in question,*
8 *that person may multiply all of the gross revenue received from*
9 *all of those locations by 6 percent, and then multiply that product*
10 *by the applicable assessment formula.*

11 *(D) Calculated on any other basis authorized by the secretary.*

12 *(2) Except as the secretary may otherwise authorize, the*
13 *methods in subparagraphs (B), (C), or (D) shall not be used if*
14 *the aggregate assessments paid would be less than the total*
15 *assessment revenues that would be paid if the method in*
16 *subparagraph (A) were used.*

17 *SEC. 8. Section 13995.77 of the Government Code is*
18 *amended to read:*

19 *13995.77. A business is exempt from the assessments*
20 *provided for in this chapter if any of the following apply:*

21 *(a) The business is a travel agency or tour operator that derives*
22 *less than 20 percent of its gross revenue annually from travel and*
23 *tourism occurring within the state. A travel agency or tour*
24 *operator that qualifies for this exemption may participate as an*
25 *assessed business by paying an assessment calculated on the*
26 *same basis applicable to other travel agencies or tour operators,*
27 *respectively, and by filing a written request with the secretary*
28 *indicating its desire to be categorized as an assessed business.*

29 *(b) The business is a small business. For purposes of this*
30 *section, "small business" means a business location with less*
31 *than—~~\$1,000,000~~ one million dollars (\$1,000,000) in total*
32 *California gross annual revenue from all sources. ~~A business~~*
33 *~~exempted pursuant to this subdivision may enter into a contract~~*
34 *~~for voluntary assessments pursuant to Section 13995.49 This~~*
35 *~~threshold amount may be lowered, but never to less than five~~*
36 *~~hundred thousand dollars (\$500,000), by means of a referendum~~*
37 *~~conducted pursuant to Section 13995.60; however, the secretary~~*
38 *~~may elect to forgo assessing a business for which the expense~~*
39 *~~incurred in collecting the assessment is not commensurate with~~*
40 *~~the assessment that would be collected.~~*

1 (c) The assessments provided for in this chapter shall not
2 apply to the revenue of regular route intrastate and interstate bus
3 service: provided, however, that this subdivision shall not be
4 deemed to exclude any revenue derived from bus service that is
5 of a type that requires authority, whether in the form of a
6 certificate of public convenience and necessity, or a permit, to
7 operate as a charter-party carrier of passengers pursuant to
8 Chapter 8 (commencing with Section 5351) of Division 2 of the
9 Public Utilities Code.

10 (d) *Any business exempted pursuant to this section may enter*
11 *into a contract for voluntary assessments pursuant to Section*
12 *13995.49.*

13 *SEC. 9. Section 7061 is added to the Revenue and Taxation*
14 *Code, to read:*

15 *7061. (a) Subject to the limitations of this section, the board*
16 *shall permit the use of information in its possession by the*
17 *Secretary of Business, Transportation and Housing for the*
18 *purpose of identifying persons or businesses that may owe*
19 *assessments pursuant to Chapter 1 (commencing with Section*
20 *13995) of Part 4.7 of Division 3 of Title 2 of the Government*
21 *Code, and for the purpose of collecting those assessments. The*
22 *board shall take reasonable steps to identify, collect, and present*
23 *the information in a format usable by the Secretary of Business,*
24 *Transportation and Housing, and it may require reimbursement*
25 *for direct costs incurred in providing the information. That*
26 *information shall include, but not be limited to, all of the*
27 *following:*

28 *(1) The names and addresses or other identification or*
29 *location information from sales and use tax returns or other*
30 *records required under Part 1 (commencing with Section 6051)*
31 *of Division 2, for the purposes of establishing and maintaining*
32 *an accurate list of businesses to be assessed pursuant to Chapter*
33 *1 (commencing with Section 13995) of Part 4.7 of Division 3 of*
34 *Title 2 of the Government Code.*

35 *(2) Financial data from sales and use tax returns for purposes*
36 *of verifying the basis upon which the assessment is determined.*

37 *(b) Neither the Business, Transportation and Housing Agency,*
38 *nor its agents, nor any of its current or former officers or*
39 *employees, nor any current or former members, employees, or*
40 *agents of the California Travel and Tourism Commission shall*

1 *disclose or use the information, except as provided in this*
2 *section. A violation of this subdivision is a misdemeanor.*

3 *SEC. 10. Section 19559 is added to the Revenue and Taxation*
4 *Code, to read:*

5 *19559. (a) Subject to the limitations of this section and*
6 *federal law, the Franchise Tax Board shall permit the use of*
7 *information in its possession by the Secretary of Business,*
8 *Transportation and Housing for the purpose of identifying*
9 *persons or businesses that may owe assessments pursuant to*
10 *Chapter 1 (commencing with Section 13995) of Part 4.7 of*
11 *Division 3 of Title 2 of the Government Code, and for the*
12 *purpose of collecting those assessments. The board shall take*
13 *reasonable steps to identify, collect, and present the information*
14 *in a format usable by the Secretary of Business, Transportation*
15 *and Housing, and it may require reimbursement for direct costs*
16 *incurred in providing the information. That information shall*
17 *include, but not be limited to, all of the following:*

18 *(1) The names and addresses or other identification or*
19 *location information from income and franchise tax returns or*
20 *other records required under Part 1 (commencing with Section*
21 *6051) of Division 2, for the purposes of establishing and*
22 *maintaining an accurate list of businesses to be assessed*
23 *pursuant to Chapter 1 (commencing with Section 13995) of Part*
24 *4.7 of Division 3 of Title 2 of the Government Code.*

25 *(2) Financial data from income and franchise tax returns for*
26 *purposes of verifying the basis upon which the assessment is*
27 *determined.*

28 *(b) Neither the Business, Transportation and Housing Agency,*
29 *nor its agents, nor any of its current or former officers or*
30 *employees, nor any current or former members, employees, or*
31 *agents of the California Travel and Tourism Commission shall*
32 *disclose or use the information, except as provided in this*
33 *section. A violation of this subdivision is a misdemeanor.*

34 *SEC. 11. Section 1095 of the Unemployment Insurance Code*
35 *is amended to read:*

36 *1095. The director shall permit the use of any information in*
37 *his or her possession to the extent necessary for any of the*
38 *following purposes and may require reimbursement for all direct*
39 *costs incurred in providing any and all information specified in*

1 this section, except information specified in subdivisions (a) to
2 (e), inclusive:

3 (a) To enable the director or his or her representative to carry
4 out his or her responsibilities under this code.

5 (b) To properly present a claim for benefits.

6 (c) To acquaint a worker or his or her authorized agent with
7 his or her existing or prospective right to benefits.

8 (d) To furnish an employer or his or her authorized agent with
9 information to enable him or her to fully discharge his or her
10 obligations or safeguard his or her rights under this division or
11 Division 3 (commencing with Section 9000).

12 (e) To enable an employer to receive a reduction in
13 contribution rate.

14 (f) To enable federal, state, or local government departments
15 or agencies, subject to federal law, to verify or determine the
16 eligibility or entitlement of an applicant for, or a recipient of,
17 public social services provided pursuant to Division 9
18 (commencing with Section 10000) of the Welfare and
19 Institutions Code, or Part A of Title IV of the Social Security
20 Act, where the verification or determination is directly connected
21 with, and limited to, the administration of public social services.

22 (g) To enable county administrators of general relief or
23 assistance, or their representatives, to determine entitlement to
24 locally provided general relief or assistance, where the
25 determination is directly connected with, and limited to, the
26 administration of general relief or assistance.

27 (h) To enable state or local governmental departments or
28 agencies to seek criminal, civil, or administrative remedies in
29 connection with the unlawful application for, or receipt of, relief
30 provided under Division 9 (commencing with Section 10000) of
31 the Welfare and Institutions Code or to enable the collection of
32 expenditures for medical assistance services pursuant to Part 5
33 (commencing with Section 17000) of Division 9 of the Welfare
34 and Institutions Code.

35 (i) To provide any law enforcement agency with the name,
36 address, telephone number, birth date, social security number,
37 physical description, and names and addresses of present and
38 past employers, of any victim, suspect, missing person, potential
39 witness, or person for whom a felony arrest warrant has been
40 issued, when a request for this information is made by any

1 investigator or peace officer as defined by Sections 830.1 and
2 830.2 of the Penal Code, or by any federal law enforcement
3 officer to whom the Attorney General has delegated authority to
4 enforce federal search warrants, as defined under Sections 60.2
5 and 60.3 of Title 28 of the Code of Federal Regulations, as
6 amended, and when the requesting officer has been designated by
7 the head of the law enforcement agency and requests this
8 information in the course of and as a part of an investigation into
9 the commission of a crime when there is a reasonable suspicion
10 that the crime is a felony and that the information would lead to
11 relevant evidence. The information provided pursuant to this
12 subdivision shall be provided to the extent permitted by federal
13 law and regulations, and to the extent the information is available
14 and accessible within the constraints and configurations of
15 existing department records. Any person who receives any
16 information under this subdivision shall make a written report of
17 the information to the law enforcement agency that employs him
18 or her, for filing under the normal procedures of that agency.

19 (1) This subdivision shall not be construed to authorize the
20 release to any law enforcement agency of a general list
21 identifying individuals applying for or receiving benefits.

22 (2) The department shall maintain records pursuant to this
23 subdivision only for periods required under regulations or
24 statutes enacted for the administration of its programs.

25 (3) This subdivision shall not be construed as limiting the
26 information provided to law enforcement agencies to that
27 pertaining only to applicants for, or recipients of, benefits.

28 (4) The department shall notify all applicants for benefits that
29 release of confidential information from their records will not be
30 protected should there be a felony arrest warrant issued against
31 the applicant or in the event of an investigation by a law
32 enforcement agency into the commission of a felony.

33 (j) To provide public employee retirement systems in
34 California with information relating to the earnings of any person
35 who has applied for or is receiving a disability income, disability
36 allowance, or disability retirement allowance, from a public
37 employee retirement system. The earnings information shall be
38 released only upon written request from the governing board
39 specifying that the person has applied for or is receiving a
40 disability allowance or disability retirement allowance from its

1 retirement system. The request may be made by the chief
2 executive officer of the system or by an employee of the system
3 so authorized and identified by name and title by the chief
4 executive officer in writing.

5 (k) To enable the Division of Labor Standards Enforcement in
6 the Department of Industrial Relations to seek criminal, civil, or
7 administrative remedies in connection with the failure to pay, or
8 the unlawful payment of, wages pursuant to Chapter 1
9 (commencing with Section 200) of Part 1 of Division 2 of, and
10 Chapter 1 (commencing with Section 1720) of Part 7 of Division
11 2 of, the Labor Code.

12 (l) To enable federal, state, or local governmental departments
13 or agencies to administer child support enforcement programs
14 under Title IV of the Social Security Act (42 U.S.C. Sec. 651 et
15 seq.).

16 (m) To provide federal, state, or local governmental
17 departments or agencies with wage and claim information in its
18 possession that will assist those departments and agencies in the
19 administration of the Victims of Crime Program or in the
20 location of victims of crime who, by state mandate or court order,
21 are entitled to restitution that has been or can be recovered.

22 (n) To provide federal, state, or local governmental
23 departments or agencies with information concerning any
24 individuals who are or have been:

25 (1) Directed by state mandate or court order to pay restitution,
26 fines, penalties, assessments, or fees as a result of a violation of
27 law.

28 (2) Delinquent or in default on guaranteed student loans or
29 who owe repayment of funds received through other financial
30 assistance programs administered by those agencies. The
31 information released by the director for the purposes of this
32 paragraph shall not include unemployment insurance benefit
33 information.

34 (o) To provide an authorized governmental agency with any or
35 all relevant information that relates to any specific workers'
36 compensation insurance fraud investigation. The information
37 shall be provided to the extent permitted by federal law and
38 regulations. For the purposes of this subdivision, "authorized
39 governmental agency" means the district attorney of any county,
40 the office of the Attorney General, the Department of Industrial

1 Relations, and the Department of Insurance. An authorized
2 governmental agency may disclose this information to the State
3 Bar, the Medical Board of California, or any other licensing
4 board or department whose licensee is the subject of a workers'
5 compensation insurance fraud investigation. This subdivision
6 shall not prevent any authorized governmental agency from
7 reporting to any board or department the suspected misconduct of
8 any licensee of that body.

9 (p) To enable the Director of the Bureau for Private
10 Postsecondary and Vocational Education, or his or her
11 representatives, to access unemployment insurance quarterly
12 wage data on a case-by-case basis to verify information on
13 school administrators, school staff, and students provided by
14 those schools who are being investigated for possible violations
15 of Chapter 7 (commencing with Section 94700) of Part 59 of the
16 Education Code.

17 (q) To provide employment tax information to the tax officials
18 of Mexico, if a reciprocal agreement exists. For purposes of this
19 subdivision, "reciprocal agreement" means a formal agreement to
20 exchange information between national taxing officials of
21 Mexico and taxing authorities of the State Board of Equalization,
22 the Franchise Tax Board, and the Employment Development
23 Department. Furthermore, the reciprocal agreement shall be
24 limited to the exchange of information that is essential for tax
25 administration purposes only. Taxing authorities of the State of
26 California shall be granted tax information only on California
27 residents. Taxing authorities of Mexico shall be granted tax
28 information only on Mexican nationals.

29 (r) To enable city and county planning agencies to develop
30 economic forecasts for planning purposes. The information shall
31 be limited to businesses within the jurisdiction of the city or
32 county whose planning agency is requesting the information, and
33 shall not include information regarding individual employees.

34 (s) To provide the State Department of Developmental
35 Services with wage and employer information that will assist in
36 the collection of moneys owed by the recipient, parent, or any
37 other legally liable individual for services and supports provided
38 pursuant to Chapter 9 (commencing with Section 4775) of
39 Division 4.5 of, and Chapter 2 (commencing with Section 7200)

1 and Chapter 3 (commencing with Section 7500) of Division 7 of,
2 the Welfare and Institutions Code.

3 (t) Nothing in this section shall be construed to authorize or
4 permit the use of information obtained in the administration of
5 this code by any private collection agency.

6 (u) The disclosure of the name and address of an individual or
7 business entity that was issued an assessment that included
8 penalties under Section 1128 or 1128.1 shall not be in violation
9 of Section 1094 if the assessment is final. The disclosure may
10 also include any of the following:

11 (1) The total amount of the assessment.

12 (2) The amount of the penalty imposed under Section 1128 or
13 1128.1 that is included in the assessment.

14 (3) The facts that resulted in the charging of the penalty under
15 Section 1128 or 1128.1.

16 (v) To enable the Contractors' State License Board to verify
17 the employment history of an individual applying for licensure
18 pursuant to Section 7068 of the Business and Professions Code.

19 (w) To provide any peace officer with the Division of
20 Investigation in the Department of Consumer Affairs information
21 pursuant to subdivision (i) when the requesting peace officer has
22 been designated by the Chief of the Division of Investigations
23 and requests this information in the course of and in part of an
24 investigation into the commission of a crime or other unlawful
25 act when there is reasonable suspicion to believe that the crime or
26 act may be connected to the information requested and would
27 lead to relevant information regarding the crime or unlawful act.

28 (x) *To enable the Secretary of Business, Transportation and*
29 *Housing to identify persons or businesses that may owe*
30 *assessments pursuant to Chapter 1 (commencing with Section*
31 *13995) of Part 4.7 of Division 3 of Title 2 of the Government*
32 *Code, and to collect those assessments.*

33 *SEC. 12. No reimbursement is required by this act pursuant*
34 *to Section 6 of Article XIII B of the California Constitution*
35 *because the only costs that may be incurred by a local agency or*
36 *school district will be incurred because this act creates a new*
37 *crime or infraction, eliminates a crime or infraction, or changes*
38 *the penalty for a crime or infraction, within the meaning of*
39 *Section 17556 of the Government Code, or changes the definition*

- 1 *of a crime within the meaning of Section 6 of Article XIII B of the*
- 2 *California Constitution.*

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