

ASSEMBLY BILL

No. 545

Introduced by Assembly Member Walters

February 21, 2007

An act to amend Section 1877.1 of, and to add Section 1877.35 to, the Insurance Code, and to amend Section 1095 of the Unemployment Insurance Code, relating to insurance fraud.

LEGISLATIVE COUNSEL'S DIGEST

AB 545, as introduced, Walters. Insurance fraud.

(1) Existing law requires an insurer, upon written request of an authorized governmental agency, as defined, to release to the agency all relevant information deemed important to the agency that the insurer may possess relating to any specific workers' compensation insurance fraud investigation.

This bill would authorize the Public Employees' Retirement System to obtain information from an insurer for purposes of determining the eligibility of a member, or unlawful application or receipt of benefits, under the Public Employees' Retirement System, and would add the Public Employees' Retirement System to the list of authorized governmental agencies to which an insurer is required to release that information, as specified.

(2) Existing law authorizes the Director of the Employment Development Department to permit the use of information in his or her possession for specified purposes.

This bill would additionally authorize the director to release specified information to the Public Employees' Retirement System. The bill would also make nonsubstantive changes.

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. Section 1877.1 of the Insurance Code is amended
2 to read:
3 1877.1. The following definitions govern the construction of
4 this article, unless the context requires otherwise:
5 (a) "Authorized governmental agency" means the district
6 attorney of any county, any city attorney whose duties include
7 criminal prosecutions, any law enforcement agency investigating
8 workers' compensation fraud, the office of the Attorney General,
9 the Department of Insurance, the Department of Industrial
10 Relations, the Employment Development Department, the
11 Department of Corrections *and Rehabilitation, the Public*
12 *Employees' Retirement System*, and any licensing agency governed
13 by the Business and Professions Code.
14 (b) "Relevant" means having a tendency to make the existence
15 of any fact that is of consequence to the investigation or
16 determination of an issue more probable or less probable than it
17 would be without the information.
18 (c) "Insurer" means an insurer admitted to transact workers'
19 compensation insurance in this state, the State Compensation
20 Insurance Fund, an employer that has secured a certificate of
21 consent to self-insure pursuant to subdivision (b) or (c) of Section
22 3700 of the Labor Code, or a third-party administrator that has
23 secured a certificate pursuant to Section 3702.1 of the Labor Code.
24 (d) "Licensed rating organization" means a rating organization
25 licensed by the Insurance Commissioner pursuant to Section
26 11750.1.
27 (e) Information shall be deemed important if, within the sole
28 discretion of the authorized governmental agency, that information
29 is requested by that authorized governmental agency.
30 SEC. 2. Section 1877.35 is added to the Insurance Code, to
31 read:
32 1877.35. (a) The Public Employees' Retirement System may
33 request information from an insurer for any specific investigation
34 of eligibility for, and unlawful application or receipt of, benefits

1 provided under Part 3 (commencing with Section 20000) of
2 Division 5 of Title 2 of the Government Code.

3 (b) Information received by the Public Employees' Retirement
4 System pursuant to this article may be used for purposes of
5 determining eligibility for, and unlawful application or receipt of,
6 benefits provided under Part 3 (commencing with Section 20000)
7 of Division 5 of Title 2 of the Government Code.

8 SEC. 3. Section 1095 of the Unemployment Insurance Code
9 is amended to read:

10 1095. The director shall permit the use of any information in
11 his or her possession to the extent necessary for any of the
12 following purposes and may require reimbursement for all direct
13 costs incurred in providing any and all information specified in
14 this section, except information specified in subdivisions (a) to
15 (e), inclusive:

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

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

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

21 (d) To furnish an employer or his or her authorized agent with
22 information to enable him or her to fully discharge his or her
23 obligations or safeguard his or her rights under this division or
24 Division 3 (commencing with Section 9000).

25 (e) To enable an employer to receive a reduction in contribution
26 rate.

27 (f) To enable federal, state, or local government departments
28 or agencies, subject to federal law, to verify or determine the
29 eligibility or entitlement of an applicant for, or a recipient of, public
30 social services provided pursuant to Division 9 (commencing with
31 Section 10000) of the Welfare and Institutions Code, or Part A of
32 Title IV of the Social Security Act, where the verification or
33 determination is directly connected with, and limited to, the
34 administration of public social services.

35 (g) To enable county administrators of general relief or
36 assistance, or their representatives, to determine entitlement to
37 locally provided general relief or assistance, where the
38 determination is directly connected with, and limited to, the
39 administration of general relief or assistance.

1 (h) To enable state or local governmental departments or
2 agencies to seek criminal, civil, or administrative remedies in
3 connection with the unlawful application for, or receipt of, relief
4 provided under Division 9 (commencing with Section 10000) of
5 the Welfare and Institutions Code or to enable the collection of
6 expenditures for medical assistance services pursuant to Part 5
7 (commencing with Section 17000) of Division 9 of the Welfare
8 and Institutions Code.

9 (i) To provide any law enforcement agency with the name,
10 address, telephone number, birth date, social security number,
11 physical description, and names and addresses of present and past
12 employers, of any victim, suspect, missing person, potential
13 witness, or person for whom a felony arrest warrant has been
14 issued, when a request for this information is made by any
15 investigator or peace officer as defined by Sections 830.1 and
16 830.2 of the Penal Code, or by any federal law enforcement officer
17 to whom the Attorney General has delegated authority to enforce
18 federal search warrants, as defined under Sections 60.2 and 60.3
19 of Title 28 of the Code of Federal Regulations, as amended, and
20 when the requesting officer has been designated by the head of
21 the law enforcement agency and requests this information in the
22 course of and as a part of an investigation into the commission of
23 a crime when there is a reasonable suspicion that the crime is a
24 felony and that the information would lead to relevant evidence.
25 The information provided pursuant to this subdivision shall be
26 provided to the extent permitted by federal law and regulations,
27 and to the extent the information is available and accessible within
28 the constraints and configurations of existing department records.
29 Any person who receives any information under this subdivision
30 shall make a written report of the information to the law
31 enforcement agency that employs him or her, for filing under the
32 normal procedures of that agency.

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

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

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

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

9 (j) To provide public employee retirement systems in California
10 with information relating to the earnings of any person who has
11 applied for or is receiving a disability income, disability allowance,
12 or disability retirement allowance, from a public employee
13 retirement system. The earnings information shall be released only
14 upon written request from the governing board specifying that the
15 person has applied for or is receiving a disability allowance or
16 disability retirement allowance from its retirement system. The
17 request may be made by the chief executive officer of the system
18 or by an employee of the system so authorized and identified by
19 name and title by the chief executive officer in writing.

20 (k) To enable the Division of Labor Standards Enforcement in
21 the Department of Industrial Relations to seek criminal, civil, or
22 administrative remedies in connection with the failure to pay, or
23 the unlawful payment of, wages pursuant to Chapter 1
24 (commencing with Section 200) of Part 1 of Division 2 of, and
25 Chapter 1 (commencing with Section 1720) of Part 7 of Division
26 2 of, the Labor Code.

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

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

37 (n) To provide federal, state, or local governmental departments
38 or agencies with information concerning any individuals who are
39 or have been:

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

4 (2) Delinquent or in default on guaranteed student loans or who
5 owe repayment of funds received through other financial assistance
6 programs administered by those agencies. The information released
7 by the director for the purposes of this paragraph shall not include
8 unemployment insurance benefit information.

9 (o) To provide an authorized governmental agency with any or
10 all relevant information that relates to any specific workers'
11 compensation insurance fraud investigation. The information shall
12 be provided to the extent permitted by federal law and regulations.
13 For the purposes of this subdivision, "authorized governmental
14 agency" means the district attorney of any county, the office of
15 the Attorney General, the Department of Industrial Relations, and
16 the Department of Insurance. An authorized governmental agency
17 may disclose this information to the State Bar, the Medical Board
18 of California, or any other licensing board or department whose
19 licensee is the subject of a workers' compensation insurance fraud
20 investigation. This subdivision shall not prevent any authorized
21 governmental agency from reporting to any board or department
22 the suspected misconduct of any licensee of that body.

23 (p) To enable the Director of the Bureau for Private
24 Postsecondary and Vocational Education, or his or her
25 representatives, to access unemployment insurance quarterly wage
26 data on a case-by-case basis to verify information on school
27 administrators, school staff, and students provided by those schools
28 who are being investigated for possible violations of Chapter 7
29 (commencing with Section 94700) of Part 59 of the Education
30 Code.

31 (q) To provide employment tax information to the tax officials
32 of Mexico, if a reciprocal agreement exists. For purposes of this
33 subdivision, "reciprocal agreement" means a formal agreement to
34 exchange information between national taxing officials of Mexico
35 and taxing authorities of the State Board of Equalization, the
36 Franchise Tax Board, and the Employment Development
37 Department. Furthermore, the reciprocal agreement shall be limited
38 to the exchange of information that is essential for tax
39 administration purposes only. Taxing authorities of the State of
40 California shall be granted tax information only on California

1 residents. Taxing authorities of Mexico shall be granted tax
2 information only on Mexican nationals.

3 (r) To enable city and county planning agencies to develop
4 economic forecasts for planning purposes. The information shall
5 be limited to businesses within the jurisdiction of the city or county
6 whose planning agency is requesting the information, and shall
7 not include information regarding individual employees.

8 (s) To provide the State Department of Developmental Services
9 with wage and employer information that will assist in the
10 collection of moneys owed by the recipient, parent, or any other
11 legally liable individual for services and supports provided pursuant
12 to Chapter 9 (commencing with Section 4775) of Division 4.5 of,
13 and Chapter 2 (commencing with Section 7200) and Chapter 3
14 (commencing with Section 7500) of Division 7 of, the Welfare
15 and Institutions Code.

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

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

24 (1) The total amount of the assessment.

25 (2) The amount of the penalty imposed under Section 1128 or
26 1128.1 that is included in the assessment.

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

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

32 (w) To provide any peace officer with the Division of
33 Investigation in the Department of Consumer Affairs information
34 pursuant to subdivision (i) when the requesting peace officer has
35 been designated by the Chief of the Division of Investigations and
36 requests this information in the course of and in part of an
37 investigation into the commission of a crime or other unlawful act
38 when there is reasonable suspicion to believe that the crime or act
39 may be connected to the information requested and would lead to
40 relevant information regarding the crime or unlawful act.

1 *(x) To enable the Public Employees' Retirement System to seek*
2 *criminal, civil, or administrative remedies in connection with the*
3 *unlawful application for, or receipt of, benefits provided under*
4 *Part 3 (commencing with Section 20000) of Division 5 of Title 2*
5 *of the Government Code.*

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