

AMENDED IN ASSEMBLY MARCH 23, 2009

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CALIFORNIA LEGISLATURE—2009–10 THIRD EXTRAORDINARY SESSION

ASSEMBLY BILL

No. 23

Introduced by Assembly Members Coto and Arambula
(Principal coauthor: Assembly Member Swanson)
(Coauthors: Assembly Members *Beall*, Carter, Feuer, Galgiani,
Hayashi, Jones, Nava, *Portantino*, and Torres)
(Coauthor: Senator *DeSaulnier* Coauthors: Senators *Cedillo,*
***DeSaulnier*, and *Ducheny*)**

January 15, 2009

An act to amend Sections 4003 ~~and 4004~~, 4004, and 4552 of the Unemployment Insurance Code, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 23, as amended, Coto. Unemployment insurance: extended benefits.

Existing law provides that, for purposes of eligibility for federal-state extended benefits, an individual have earnings that exceed either 40 times his or her most recent weekly benefit amount or 1.5 times the highest quarter in the base period, and precludes the implementation of the alternative eligibility requirement for federal-state extended benefits unless the Director of the Employment Development Department

determines that these provisions have been approved by the United States Department of Labor.

The federal Supplemental Appropriations Act of 2008, created the Emergency Unemployment Compensation (EUC) Program on June 30, 2008, which provides for the payment of up to 13 weeks of federally funded emergency unemployment compensation (EUC) benefits to eligible unemployed individuals nationwide who had already collected all regular state benefits for which they were eligible. The federal Unemployment Compensation Extension Act of 2008, which was enacted on November 21, 2008, further expanded the EUC Program to provide for the payment of 20 weeks of benefits nationwide, and provides for the payment of 13 more weeks of benefits to eligible unemployed individuals in states with high unemployment rates, as determined by specified criteria. The federal American Recovery and Reinvestment Act of 2009, which was enacted on February 17, 2009, extends to May 31, 2010, the period of time during which claims for EUC benefits can be filed and paid.

The bill would provide for the payment of temporary federal-state EUC benefits authorized under the Supplemental Appropriations Act of 2008, the Unemployment Compensation Extension Act of 2008, and the American Recovery and Reinvestment Act of 2009 to eligible individuals in this state *for weeks of unemployment on or after February 1, 2009, and continuing until the week ending 3 weeks prior to the last week for which specified provisions providing for 100% federal sharing authorized under the American Recovery and Reinvestment Act of 2009, except as provided, if specified economic indicators until December 6, 2009, or until a specified provision of federal law providing for the payment of those benefits expires, whichever is later trigger the payment of those benefits.* Because the bill would provide for the payment or additional amounts from the Unemployment Fund, a continuously appropriated special fund, it would make an appropriation.

The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 4003 of the Unemployment Insurance
2 Code is amended to read:

3 4003. (a) The provisions and definitions of terms in the
4 ~~“Federal-State Extended Unemployment Compensation Act of~~
5 ~~1970,”~~ *Federal-State Extended Unemployment Compensation Act*
6 *of 1970*, as amended by the federal Omnibus Budget Reconciliation
7 Act of 1981 (Public Law ~~97-35~~) 97-35), apply to this part.
8 “Federal-state extended benefits” means benefits payable under
9 this part.

10 (b) ~~There is an “on” indicator for purposes of federal-state~~
11 ~~extended benefits for a week in which the rate of insured~~
12 ~~unemployment for that week and the immediately preceding 12~~
13 ~~weeks equals or exceeds any of the following:~~

14 (1) ~~One hundred twenty percent of the average of the rates for~~
15 ~~the corresponding 13-week period ending in each of the preceding~~
16 ~~two calendar years, and equals or exceeds 5 percent.~~

17 (2) ~~Six percent.~~

18 (3) (A) ~~With respect to weeks of unemployment beginning on~~
19 ~~or after February 1, 2009, both of the following apply:~~

20 (i) ~~The average rate of total unemployment in the state,~~
21 ~~seasonally adjusted, as determined by the United States Secretary~~
22 ~~of Labor, for the period consisting of the most recent three months~~
23 ~~for which data for all states are published before the close of that~~
24 ~~week equals or exceeds 6.5 percent.~~

25 (ii) ~~The average rate of total unemployment in the state,~~
26 ~~seasonally adjusted, as determined by the United States Secretary~~
27 ~~of Labor, for the three month period referred to in clause (i) equals~~
28 ~~or exceeds 110 percent of that average for either or both of the~~
29 ~~corresponding three month periods ending in the two preceding~~
30 ~~calendar years.~~

31 (B) ~~This paragraph shall apply to benefits for weeks on or after~~
32 ~~February 1, 2009, and shall become inoperative on December 6,~~
33 ~~2009, or on the date the federal sharable extended compensation~~

1 and sharable regular compensation authorized by subdivision (a)
2 of Section 2005 of Public Law 111-5 expires, whichever is later.

3 (e) There is an “off” indicator for a week if, for the period
4 consisting of that week, and the immediately preceeding 12 weeks,
5 none of the criteria specified in subdivision (b) results in an “on”
6 indicator.

7 (d) For purposes of this section, the rate of insured
8 unemployment for a 13-week period shall be determined by
9 reference to the average monthly covered employment for the first
10 four of the most recent six calendar quarters ending before the
11 close of the period. This section shall be effective with respect to
12 compensation for weeks of unemployment after September 25,
13 1982.

14 (e) The indicators specified in subdivisions (b) and (c) shall be
15 operative only if mandated or permitted by federal law. Any
16 amendments to the Federal-State Extended Unemployment
17 Compensation Act of 1970, enacted before January 1, 1983, which
18 mandate or permit any reduction in the insured unemployment rate
19 indicator described in this section shall be operative on the effective
20 date of the amendment.

21 (f) Notwithstanding any other provision of this part, the
22 Governor may, if permitted by federal law, suspend the payment
23 of extended duration benefits under this part, to the extent
24 necessary to ensure that otherwise eligible individuals are not
25 denied, in whole or in part, the receipt of emergency unemployment
26 compensation benefits authorized by the federal Emergency
27 Unemployment Compensation Act of 1991 (Public Law 102-164)
28 or any extension of that act including, but not limited to, (Public
29 Law 102-244), and that the state receives maximum reimbursement
30 from the federal government for the payment of those emergency
31 benefits.

32 (b) *To the extent that the provisions and definitions of terms in*
33 *the American Recovery and Reinvestment Act of 2009 (Public Law*
34 *111-5) are in conflict with, or supplement the provisions and*
35 *definitions applicable pursuant to subdivision (a), the provisions*
36 *and definitions of the American Recovery and Reinvestment Act*
37 *of 2009 shall apply to this part.*

38 (c) *There is an “on” indicator for purposes of federal-state*
39 *extended benefits for a week if one of the following applies:*

1 (1) *The rate of insured unemployment under this part for the*
2 *period consisting of that week and the 12 weeks immediately*
3 *preceding the week equaled or exceeded 120 percent of the average*
4 *of the rates for the corresponding 13-week period ending in each*
5 *of the preceding two calendar years, and equaled or exceeded 5*
6 *percent.*

7 (2) *The rate of insured unemployment under this part for the*
8 *period consisting of that week and the 12 weeks immediately*
9 *preceding the week equaled or exceeded 6 percent, regardless of*
10 *the rate of insured unemployment in the two previous years.*

11 (3) *With respect to weeks of unemployment beginning on or*
12 *after February 1, 2009, and continuing until the week ending three*
13 *weeks prior to the last week for which 100 percent federal sharing*
14 *is authorized by subdivision (a) of Section 2005 of Public Law*
15 *111-5 for all claims, except for reimbursable entities described in*
16 *Section 3306(c)(7) of the Internal Revenue Code, both of the*
17 *following apply:*

18 (A) *The average rate of total unemployment in this state,*
19 *seasonally adjusted, as determined by the United States Secretary*
20 *of Labor, for the period consisting of the most recent three months*
21 *for which data for all states are published before the close of that*
22 *week, equals or exceeds 6.5 percent.*

23 (B) *The average rate of total unemployment in this state,*
24 *seasonally adjusted, as determined by the United States Secretary*
25 *of Labor, for the three month period referred to in subparagraph*
26 *(A) equals or exceeds 110 percent of that average rate of total*
27 *unemployment for either or both of the corresponding three-month*
28 *periods ending in the two preceding calendar years.*

29 (d) *There is an “off” indicator for a week if, for the period*
30 *consisting of that week, and the 12 weeks immediately preceding*
31 *the week, none of the criteria specified in subdivision (c) results*
32 *in an “on” indicator.*

33 (e) *For purposes of this section, the rate of insured*
34 *unemployment for a 13-week period shall be determined by*
35 *reference to the average monthly covered employment for the first*
36 *four of the most recent six calendar quarters ending before the*
37 *close of the period.*

38 (f) *The indicators specified in subdivisions (c) and (d) shall be*
39 *operative only if mandated or permitted by federal law.*

1 (g) Notwithstanding any other provision of this part, the
 2 Governor may, if permitted by federal law, suspend the payment
 3 of extended duration benefits under this part, to the extent
 4 necessary to ensure that otherwise eligible individuals are not
 5 denied, in whole or in part, the receipt of emergency unemployment
 6 compensation benefits authorized by the federal Supplemental
 7 Appropriations Act of 2008 (Public Law 110-252), the
 8 Unemployment Compensation Extension Act of 2008 (Public Law
 9 110-449), and the American Recovery and Reinvestment Act of
 10 2009 (Public Law 111-5), and that the state receives maximum
 11 reimbursement from the federal government for the payment of
 12 those emergency benefits.

13 SEC. 2. Section 4004 of the Unemployment Insurance Code
 14 is amended to read:

15 4004. (a) The department shall establish, for each eligible
 16 individual who files an application therefor, an extended
 17 compensation account with respect to such individual's benefit
 18 year. The amount established in that account, subject to subdivision
 19 (b) of this section, shall be not less than whichever of the following
 20 is the least:

21 (1) Fifty percent of the total amount of regular compensation
 22 payable to him or her during that benefit year under this division.

23 (2) Thirteen times his or her average weekly benefit amount.

24 (3) Thirty-nine times his or her average weekly benefit amount,
 25 reduced by the regular compensation paid to him or her during
 26 that benefit year under this division.

27 (b) The amount determined under subdivision (a) of this section
 28 shall be reduced by the aggregate amount of additional
 29 compensation paid to the individual under Part 3 (commencing
 30 with Section 3501) of this division for prior weeks of
 31 unemployment in such benefit year which did not begin in an
 32 extended benefit period.

33 (c) For purposes of subdivision (a) of this section, an
 34 individual's weekly benefit amount for a week is the amount of
 35 regular compensation under Part 1 (commencing with Section 100)
 36 of this division payable to such individual for such week of total
 37 unemployment.

38 ~~(d) (1) With respect to weeks beginning in a~~
 39 ~~high-unemployment period, the total extended compensation~~

1 amount payable to an eligible individual in the applicable benefit
2 year shall be not less than whichever of the following is the least:

3 (A) Eighty percent of the total amount of regular compensation
4 payable to him or her during that benefit year under this division.

5 (B) Twenty times his or her average weekly benefit amount.

6 (C) Forty-six times his or her average weekly benefit amount,
7 reduced by the regular compensation paid to him or her during
8 that benefit year under this division.

9 (2) For purposes of this section, “high-unemployment period”
10 means a period during which an extended benefit period would be
11 in effect if clause (i) of subparagraph (A) of paragraph (3) of
12 subdivision (b) of Section 4003 were applied by substituting 8
13 percent for 6.5 percent.

14 (3) To the extent permitted by federal law, if an individual
15 continues to meet all other applicable eligibility requirements, the
16 department shall not require that individual to reapply for benefits
17 to which he or she is entitled under this part.

18 (4) This subdivision shall apply to benefits for weeks on or after
19 February 1, 2009, and shall become inoperative on December 6,
20 2009, or on the date the federal sharable extended compensation
21 and sharable regular compensation authorized by subdivision (a)
22 of Section 2005 of Public Law 111-5 expires, whichever is later.

23 (d) With respect to weeks beginning in a high unemployment
24 period, subdivision (a) shall be applied in accordance with the
25 following percentages:

26 (1) In paragraph (1) of subdivision (a), 80 percent shall be
27 substituted for 50 percent.

28 (2) In paragraph (2) of subdivision (a), 20 times shall be
29 substituted for 13 times.

30 (3) In paragraph (3) of subdivision (a), 46 times shall be
31 substituted for 39 times.

32 (e) For purposes of subdivision (d), “high unemployment
33 period” means a period during which an extended benefit period
34 would be in effect if subparagraph (A) of paragraph (3) of
35 subdivision (c) of Section 4003 were applied by substituting 8
36 percent for 6.5 percent.

37 SEC. 3. Section 4552 of the Unemployment Insurance Code is
38 amended to read:

1 4552. An unemployed individual is eligible to receive
2 federal-state extended benefits with respect to any week only if
3 the director finds that:

4 (a) An extended compensation claim has been established for
5 him or her.

6 (b) The week is within an extended benefit period and his or
7 her eligibility period.

8 (c) He or she meets the eligibility requirements of Part 1
9 (commencing with Section 100), except those excluded under
10 subdivision (b) of Section 4002.

11 (d) He or she is not subject to disqualification for normal
12 benefits under any provision of Part 1 (commencing with Section
13 100). If the individual has been subject to disqualification under
14 subdivision (b) of Section 1257, he or she has satisfied subdivision
15 (b) of Section 1260 and, during a week following the first week
16 of disqualification, has done either of the following:

17 (1) Performed service in bona fide employment during a week
18 on a full-time basis.

19 (2) Performed service in bona fide employment during a week
20 from which service he or she earned remuneration at least equal
21 to his or her weekly benefit amount.

22 (e) With respect to compensation payable to any individual for
23 any week, he or she had earnings from employment subject to the
24 provisions of this division which exceed 40 times his or her most
25 recent weekly benefit amount or 1.5 times the highest quarter, in
26 the base period in which he or she exhausted all rights to regular
27 compensation.

28 (f) An individual subject to disqualification under subdivision
29 (a) of Section ~~1256.5~~ 1256.4 has satisfied subdivision (a) of Section
30 1260.

31 (g) The amendments to subdivision (e) made by the act adding
32 this subdivision shall not be implemented unless the director
33 determines that those amendments have been approved by the
34 United States Department of Labor. The director shall immediately
35 seek approval of the amendments to subdivision (e) from the United
36 States Department of Labor.

37 ~~SEC. 3.~~

38 *SEC. 4.* This act addresses the fiscal emergency declared by
39 the Governor by proclamation on December 19, 2008, pursuant

1 to subdivision (f) of Section 10 of Article IV of the California
2 Constitution.

3 ~~SEC. 4.~~

4 *SEC. 5.* This act is an urgency statute necessary for the
5 immediate preservation of the public peace, health, or safety within
6 the meaning of Article IV of the Constitution and shall go into
7 immediate effect. The facts constituting the necessity are:

8 In order to stimulate the state's weakening economy as soon as
9 possible, it is necessary that this act take effect immediately.

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