

AMENDED IN SENATE AUGUST 16, 2010

AMENDED IN ASSEMBLY APRIL 13, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2055

Introduced by Assembly Member De La Torre

February 18, 2010

An act to amend Sections 1030, 1032, 1256, 3701, and 4701 of the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 2055, as amended, De La Torre. Unemployment insurance: benefits: eligibility: reserve accounts: domestic partners.

Existing law provides for the payment of unemployment compensation benefits to eligible individuals who are unemployed through no fault of their own. Existing law specifies that an individual is disqualified from receiving benefits if the Director of Employment Development finds that he or she left his or her most recent work voluntarily without cause or that he or she has been discharged for misconduct connected with his or her most recent work. Under existing law, an individual may be deemed to have left his or her most recent work with good cause if he or she leaves employment to accompany his or her spouse or domestic partner to a place from which it is impracticable to commute to the employment, and specifies that, for purposes of those provisions, "spouse" includes a person to whom marriage is imminent.

Existing law authorizes any employer who is entitled to receive specified notice of an unemployment claim to, within 10 days after mailing of the notice, submit to the Employment Development

Department specified facts disclosing whether the claimant for benefits left the employer’s employ voluntarily and with good cause under certain circumstances. Existing law provides that if a claimant left under specified circumstances, including, among others, if he or she left the employer’s employ to accompany his or her spouse or domestic partner to a place from which it is impracticable to commute to the employment, the benefits paid to the claimant are not charged to the employer’s reserve account, as specified.

This bill would specify that, for purposes of those provisions governing eligibility for benefits and employer’s reserve accounts, “domestic partner” also includes a person to whom domestic partnership, as described, is imminent. Because the bill would provide for additional amounts payable for unemployment benefits from the Unemployment Fund, a continuously appropriated fund, the bill would make an appropriation.

This bill would incorporate additional changes in Sections 1030, 1032, and 1256 of the Unemployment Insurance Code, proposed by AB 2364, to be operative only if AB 2364 and this bill are both chaptered and become effective January 1, 2011, and this bill is chaptered last.

Vote: majority. 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 1030 of the Unemployment Insurance
- 2 Code is amended to read:
- 3 1030. (a) Any employer who is entitled under Section 1327
- 4 to receive notice of the filing of a new or additional claim may,
- 5 within 10 days after mailing of the notice, submit to the department
- 6 any facts within its possession disclosing whether the claimant left
- 7 the employer’s employ voluntarily and without good cause or left
- 8 under one of the following circumstances:
- 9 (1) The claimant was discharged from the employment for
- 10 misconduct connected with his or her work.
- 11 (2) The claimant’s discharge or quitting from his or her most
- 12 recent employer was the result of an irresistible compulsion to use
- 13 or consume intoxicants including alcoholic beverages.
- 14 (3) The claimant was a student employed on a temporary basis
- 15 and whose employment began within, and ended with his or her

1 leaving to return to school at the close of, his or her vacation
2 period.

3 (4) The claimant left the employer's employ to accompany his
4 or her spouse or domestic partner to a place or to join him or her
5 at a place from which it is impractical to commute to the
6 employment, and to which a transfer of the claimant by the
7 employer is not available.

8 (5) The claimant left the employer's employ to protect his or
9 her children or himself or herself from domestic violence abuse.

10 The period during which the employer may submit these facts
11 may be extended by the director for good cause.

12 (b) Any base period employer that is not entitled under Section
13 1327 to receive notice of the filing of a new or additional claim
14 and is entitled under Section 1329 to receive notice of computation
15 may, within 15 days after mailing of the notice of computation,
16 submit to the department any facts within its possession disclosing
17 whether the claimant left the employer's employ voluntarily and
18 without good cause or left under one of the following
19 circumstances:

20 (1) The claimant was discharged from the employment for
21 misconduct connected with his or her work.

22 (2) The claimant was a student employed on a temporary basis
23 and whose employment began within, and ended with his or her
24 leaving to return to school at the close of, his or her vacation
25 period.

26 (3) The claimant left the employer's employ to accompany his
27 or her spouse or domestic partner to a place or join him or her at
28 a place from which it is impractical to commute to the employment,
29 and to which a transfer of the claimant by the employer is not
30 available.

31 (4) The claimant left the employer's employ to protect his or
32 her children or himself or herself from domestic violence abuse.

33 The period during which the employer may submit these facts
34 may be extended by the director for good cause.

35 (c) The department shall consider these facts together with any
36 information in its possession. If the employer is entitled to a ruling
37 under subdivision (b) or to a determination under Section 1328,
38 the department shall promptly notify the employer of its ruling as
39 to the cause of the termination of the claimant's employment. The
40 employer may appeal from a ruling or reconsidered ruling to an

1 administrative law judge within 20 days after mailing or personal
2 service of notice of the ruling or reconsidered ruling. The 20-day
3 period may be extended for good cause, which includes, but is not
4 limited to, mistake, inadvertence, surprise, or excusable neglect.
5 The director is an interested party to any appeal. The department
6 may for good cause reconsider any ruling or reconsidered ruling
7 within either five days after the date an appeal to an administrative
8 law judge is filed or, if no appeal is filed, within 20 days after
9 mailing or personal service of notice of the ruling or reconsidered
10 ruling. However, a ruling or reconsidered ruling that relates to a
11 determination that is reconsidered pursuant to subdivision (a) of
12 Section 1332 may also be reconsidered by the department within
13 the time provided for reconsideration of that determination.

14 (d) For purposes of this section only, if the claimant voluntarily
15 leaves the employer's employ without notification to the employer
16 of the reasons for the leaving, and if the employer submits all of
17 the facts within its possession concerning the leaving within the
18 applicable time period referred to in this section, the leaving is
19 presumed to be without good cause.

20 (e) An individual whose employment is terminated under the
21 compulsory retirement provisions of a collective bargaining
22 agreement to which the employer is a party shall not be deemed
23 to have voluntarily left his or her employment without good cause.

24 (f) For purposes of this section "spouse" includes a person to
25 whom marriage is imminent, and "domestic partner" includes a
26 person to whom a domestic partnership, as described in Section
27 297 of the Family Code, is imminent.

28 *SEC. 1.5. Section 1030 of the Unemployment Insurance Code*
29 *is amended to read:*

30 1030. (a) Any employer who is entitled under Section 1327
31 to receive notice of the filing of a new or additional claim may,
32 within 10 days after mailing of the notice, submit to the department
33 any facts within its possession disclosing whether the claimant left
34 the employer's employ voluntarily and without good cause or left
35 under one of the following circumstances:

36 (1) The claimant was discharged from the employment for
37 misconduct connected with his or her work.

38 (2) The claimant's discharge or quitting from his or her most
39 recent employer was the result of an irresistible compulsion to use
40 or consume intoxicants including alcoholic beverages.

1 (3) The claimant was a student employed on a temporary basis
2 and whose employment began within, and ended with his or her
3 leaving to return to school at the close of, his or her vacation
4 period.

5 (4) The claimant left the employer's employ to accompany his
6 or her spouse or domestic partner to *a place* or *to join her him* or
7 ~~him~~ *her* at a place from which it is impractical to commute to the
8 employment, *and* to which a transfer of the claimant by the
9 employer is not available.

10 (5) The claimant left the employer's employ to protect his or
11 her ~~children~~ *family* or himself or herself from domestic violence
12 abuse.

13 The period during which the employer may submit these facts
14 may be extended by the director for good cause.

15 (b) Any base period employer that is not entitled under Section
16 1327 to receive notice of the filing of a new or additional claim
17 and is entitled under Section 1329 to receive notice of computation
18 may, within 15 days after mailing of the notice of computation,
19 submit to the department any facts within its possession disclosing
20 whether the claimant left the employer's employ voluntarily and
21 without good cause or left under one of the following
22 circumstances:

23 (1) The claimant was discharged from the employment for
24 misconduct connected with his or her work.

25 (2) The claimant was a student employed on a temporary basis
26 and whose employment began within, and ended with his or her
27 leaving to return to school at the close of, his or her vacation
28 period.

29 (3) The claimant left the employer's employ to accompany his
30 or her spouse or domestic partner to *a place* or *to join her him* or ~~him~~
31 *her* at a place from which it is impractical to commute to the
32 employment, *and* to which a transfer of the claimant by the
33 employer is not available.

34 (4) The claimant left the employer's employ to protect his or
35 her ~~children~~ *family* or himself or herself from domestic violence
36 abuse.

37 The period during which the employer may submit these facts
38 may be extended by the director for good cause.

39 (c) The department shall consider these facts together with any
40 information in its possession. If the employer is entitled to a ruling

1 under subdivision (b) or to a determination under Section 1328,
2 the department shall promptly notify the employer of its ruling as
3 to the cause of the termination of the claimant's employment. The
4 employer may appeal from a ruling or reconsidered ruling to an
5 administrative law judge within 20 days after mailing or personal
6 service of notice of the ruling or reconsidered ruling. The 20-day
7 period may be extended for good cause, which includes, but is not
8 limited to, mistake, inadvertence, surprise, or excusable neglect.
9 The director is an interested party to any appeal. The department
10 may for good cause reconsider any ruling or reconsidered ruling
11 within either five days after the date an appeal to an administrative
12 law judge is filed or, if no appeal is filed, within 20 days after
13 mailing or personal service of notice of the ruling or reconsidered
14 ruling. However, a ruling or reconsidered ruling that relates to a
15 determination that is reconsidered pursuant to subdivision (a) of
16 Section 1332 may also be reconsidered by the department within
17 the time provided for reconsideration of that determination.

18 (d) For purposes of this section only, if the claimant voluntarily
19 leaves the employer's employ without notification to the employer
20 of the reasons for the leaving, and if the employer submits all of
21 the facts within its possession concerning the leaving within the
22 applicable time period referred to in this section, the leaving is
23 presumed to be without good cause.

24 (e) An individual whose employment is terminated under the
25 compulsory retirement provisions of a collective bargaining
26 agreement to which the employer is a party shall not be deemed
27 to have voluntarily left his or her employment without good cause.

28 (f) *For purposes of this section "spouse" includes a person to*
29 *whom marriage is imminent, and "domestic partner" includes a*
30 *person to whom a domestic partnership, as described in Section*
31 *297 of the Family Code, is imminent.*

32 SEC. 2. Section 1032 of the Unemployment Insurance Code
33 is amended to read:

34 1032. If it is ruled under Section 1030 or 1328 that the claimant
35 left the employer's employ voluntarily and without good cause,
36 or left under one of the following circumstances, benefits paid to
37 the claimant subsequent to the termination of employment that are
38 based upon wages earned from the employer prior to the date of
39 the termination of employment shall not be charged to the account
40 of the employer, except as provided by Section 1026, unless the

1 employer failed to furnish the information specified in Section
2 1030 within the time limit prescribed in that section or unless that
3 ruling is reversed by a reconsidered ruling:

4 (a) The claimant was discharged by reason of misconduct
5 connected with his or her work.

6 (b) The claimant was a student employed on a temporary basis
7 and whose employment began within, and ended with his or her
8 leaving to return to school at the close of, his or her vacation
9 period.

10 (c) The claimant left the employer's employ to accompany his
11 or her spouse or domestic partner to a place or to join him or her
12 at a place from which it is impractical to commute to the
13 employment, and to which a transfer of the claimant by the
14 employer is not available.

15 (d) The claimant left the employer's employ to protect his or
16 her children or himself or herself from domestic violence abuse.

17 (e) The claimant left the employer's employ to take a
18 substantially better job.

19 (f) The claimant's discharge or quitting from his or her most
20 recent employer was the result of an irresistible compulsion to use
21 or consume intoxicants including alcoholic beverages.

22 (g) For purposes of this section "spouse" includes a person to
23 whom marriage is imminent, and "domestic partner" includes a
24 person to whom a domestic partnership, as described in Section
25 297 of the Family Code, is imminent.

26 *SEC. 2.5. Section 1032 of the Unemployment Insurance Code*
27 *is amended to read:*

28 1032. If it is ruled under Section 1030 or 1328 that the claimant
29 left the employer's employ voluntarily and without good cause,
30 or left under one of the following circumstances, benefits paid to
31 the claimant subsequent to the termination of employment that are
32 based upon wages earned from the employer prior to the date of
33 the termination of employment shall not be charged to the account
34 of the employer, except as provided by Section 1026, unless the
35 employer failed to furnish the information specified in Section
36 1030 within the time limit prescribed in that section or unless that
37 ruling is reversed by a reconsidered ruling:

38 (a) The claimant was discharged by reason of misconduct
39 connected with his or her work.

1 (b) The claimant was a student employed on a temporary basis
2 and whose employment began within, and ended with his or her
3 leaving to return to school at the close of, his or her vacation
4 period.

5 (c) The claimant left the employer's employ to accompany his
6 or her spouse or domestic partner to *a place* or ~~join her him or him~~
7 *her* at a place from which it is impractical to commute to the
8 employment, *and* to which a transfer of the claimant by the
9 employer is not available.

10 (d) The claimant left the employer's employ to protect his or
11 her ~~children~~ *family* or himself or herself from domestic violence
12 abuse.

13 (e) The claimant left the employer's employ to take a
14 substantially better job.

15 (f) The claimant's discharge or quitting from his or her most
16 recent employer was the result of an irresistible compulsion to use
17 or consume intoxicants including alcoholic beverages.

18 (g) For purposes of this section ~~and Section 1030~~ "spouse"
19 includes a person to whom marriage is imminent, *and* "*domestic*
20 *partner*" *includes a person to whom a domestic partnership, as*
21 *described in Section 297 of the Family Code, is imminent.*

22 SEC. 3. Section 1256 of the Unemployment Insurance Code
23 is amended to read:

24 1256. An individual is disqualified for unemployment
25 compensation benefits if the director finds that he or she left his
26 or her most recent work voluntarily without good cause or that he
27 or she has been discharged for misconduct connected with his or
28 her most recent work.

29 An individual is presumed to have been discharged for reasons
30 other than misconduct in connection with his or her work and not
31 to have voluntarily left his or her work without good cause unless
32 his or her employer has given written notice to the contrary to the
33 department as provided in Section 1327, setting forth facts
34 sufficient to overcome the presumption. The presumption provided
35 by this section is rebuttable.

36 An individual whose employment is terminated under the
37 compulsory retirement provisions of a collective bargaining
38 agreement to which the employer is a party, shall not be deemed
39 to have left his or her work without good cause.

1 An individual may be deemed to have left his or her most recent
2 work with good cause if he or she leaves employment to
3 accompany his or her spouse or domestic partner to a place or to
4 join him or her at a place from which it is impractical to commute
5 to the employment. For purposes of this section “spouse” includes
6 a person to whom marriage is imminent, and “domestic partner”
7 includes a person to whom a domestic partnership, as described
8 in Section 297 of the Family Code, is imminent.

9 An individual may be deemed to have left his or her most recent
10 work with good cause if he or she leaves employment to protect
11 his or her children, or himself or herself, from domestic violence
12 abuse.

13 An individual shall be deemed to have left his or her most recent
14 work with good cause if he or she elects to be laid off in place of
15 an employee with less seniority pursuant to a provision in a
16 collective bargaining agreement that provides that an employee
17 with more seniority may elect to be laid off in place of an employee
18 with less seniority when the employer has decided to lay off
19 employees.

20 *SEC. 3.5. Section 1256 of the Unemployment Insurance Code*
21 *is amended to read:*

22 1256. An individual is disqualified for unemployment
23 compensation benefits if the director finds that he or she left his
24 or her most recent work voluntarily without good cause or that he
25 or she has been discharged for misconduct connected with his or
26 her most recent work.

27 An individual is presumed to have been discharged for reasons
28 other than misconduct in connection with his or her work and not
29 to have voluntarily left his or her work without good cause unless
30 his or her employer has given written notice to the contrary to the
31 department as provided in Section 1327, setting forth facts
32 sufficient to overcome the presumption. The presumption provided
33 by this section is rebuttable.

34 An individual whose employment is terminated under the
35 compulsory retirement provisions of a collective bargaining
36 agreement to which the employer is a party, shall not be deemed
37 to have left his or her work without good cause.

38 An individual may be deemed to have left his or her most recent
39 work with good cause if he or she leaves employment to
40 accompany his or her spouse or domestic partner to a place *or to*

1 *join him or her at a place* from which it is impractical to commute
2 to the employment. For purposes of this section “spouse” includes
3 a person to whom marriage is imminent, *and “domestic partner”*
4 *includes a person to whom a domestic partnership, as described*
5 *in Section 297 of the Family Code, is imminent.*

6 An individual may be deemed to have left his or her most recent
7 work with good cause if he or she leaves employment to protect
8 his or her ~~children~~ *family*, or himself or herself, from domestic
9 violence abuse.

10 An individual shall be deemed to have left his or her most recent
11 work with good cause if he or she elects to be laid off in place of
12 an employee with less seniority pursuant to a provision in a
13 collective bargaining agreement that provides that an employee
14 with more seniority may elect to be laid off in place of an employee
15 with less seniority when the employer has decided to lay off
16 employees.

17 SEC. 4. Section 3701 of the Unemployment Insurance Code
18 is amended to read:

19 3701. (a) (1) Any employer who is entitled under Section
20 3654 to notice of the filing of a primary claim or additional claim
21 and who, within 10 days after mailing of the notice, submits to the
22 department any facts within its possession disclosing whether the
23 exhaustee left the most recent employment with the employer
24 voluntarily and without good cause or was discharged from the
25 employment for misconduct connected with his or her work, or
26 whether the claimant was a student employed on a temporary basis
27 and whose employment began within, and ended with his or her
28 leaving to return to school at the close of, his or her vacation
29 period, or whether the claimant left the employer’s employ to
30 accompany his or her spouse or domestic partner to a place or join
31 him or her at a place from which it is impractical to commute to
32 the employment, and to which a transfer of the claimant by the
33 employer is not available or whether the claimant’s discharge or
34 quit from his or her most recent employer was the result of an
35 irresistible compulsion to use or consume intoxicants including
36 alcoholic beverages, shall be entitled to a ruling as prescribed by
37 this section. The period during which the employer may submit
38 these facts may be extended by the director for good cause.

39 (2) For purposes of this section, “spouse” includes a person to
40 whom marriage is imminent, and “domestic partner” includes a

1 person to whom a domestic partnership, as described in Section
2 297 of the Family Code, is imminent.

3 (b) The department shall consider these facts together with any
4 information in its possession. If the employer is entitled to a
5 determination pursuant to Section 3655, the department shall
6 promptly notify the employer of its ruling as to the cause of the
7 termination of the exhaustee's most recent employment. The
8 employer may appeal from a ruling or reconsidered ruling to an
9 administrative law judge within 20 days after mailing or personal
10 service of notice of the ruling or reconsidered ruling. The 20-day
11 period may be extended for good cause, which shall include, but
12 not be limited to, mistake, inadvertence, surprise, or excusable
13 neglect. The director shall be an interested party to any appeal.
14 The department may for good cause reconsider any ruling or
15 reconsidered ruling within either five days after the date an appeal
16 to an administrative law judge is filed or, if no appeal is filed,
17 within 20 days after mailing or personal service of notice of the
18 ruling or reconsidered ruling, except that any ruling or reconsidered
19 ruling which related to a determination is reconsidered pursuant
20 to subdivision (a) of Section 1332 may also be reconsidered by
21 the department within the time provided for reconsideration of that
22 determination.

23 (c) For purposes of this section only, if the claimant voluntarily
24 leaves the employer's employ without notification to the employer
25 of the reasons therefor, and if the employer submits all of the facts
26 within its possession concerning the leaving within the applicable
27 time period referred to in this section, the leaving shall be presumed
28 to be without good cause.

29 (d) An individual whose employment is terminated under the
30 compulsory retirement provisions of a collective bargaining
31 agreement to which the employer is a party shall not be deemed
32 to have voluntarily left his or her employment without good cause.

33 (e) Rulings under this section shall have the effect prescribed
34 by Section 1032.

35 SEC. 5. Section 4701 of the Unemployment Insurance Code
36 is amended to read:

37 4701. (a) (1) Any employer who is entitled under Section
38 4654 to notice of the filing of an application or additional claim
39 and who, within 10 days after mailing of the notice, submits to the
40 department any facts within its possession disclosing whether the

1 individual left the most recent employment with the employer
2 voluntarily and without good cause or was discharged from the
3 employment for misconduct connected with his or her work, or
4 whether the claimant was a student employed on a temporary basis
5 and whose employment began within, and ended with his or her
6 leaving to return to school at the close of, his or her vacation
7 period, or whether the claimant left the employer's employ to
8 accompany his or her spouse or domestic partner to a place or to
9 join him or her at a place from which it is impractical to commute
10 to the employment, and to which a transfer of the claimant by the
11 employer is not available or whether the claimant's discharge or
12 quit from his or her most recent employer was the result of an
13 irresistible compulsion to use or consume intoxicants including
14 alcoholic beverages, shall be entitled to a ruling as prescribed by
15 this section. The period during which the employer may submit
16 these facts may be extended by the director for good cause.

17 (2) For purposes of this section, "spouse" includes a person to
18 whom marriage is imminent, and "domestic partner" includes a
19 person to whom a domestic partnership, as described in Section
20 297 of the Family Code, is imminent.

21 (b) The department shall consider the facts together with any
22 information in its possession. If the employer is entitled to a
23 determination pursuant to Section 4655, the department shall
24 promptly issue to the employer its ruling as to the cause of the
25 termination of the individual's most recent employment. The
26 employer may appeal from a ruling or reconsidered ruling to an
27 administrative law judge within 20 days after mailing or personal
28 service of notice of the ruling or reconsidered ruling. The 20-day
29 period may be extended for good cause, which shall include, but
30 not be limited to, mistake, inadvertence, surprise, or excusable
31 neglect. The director shall be an interested party to any appeal.
32 The department may for good cause reconsider any ruling or
33 reconsidered ruling within either five days after the date an appeal
34 to an administrative law judge is filed or, if no appeal is filed,
35 within 20 days after mailing or personal service of notice of the
36 ruling or reconsidered ruling, except that any ruling or reconsidered
37 ruling that relates to a determination that is reconsidered pursuant
38 to subdivision (a) of Section 1332 may also be reconsidered by
39 the department within the time provided for reconsideration of that
40 determination.

1 (c) For purposes of this section only, if the claimant voluntarily
2 leaves the employer's employ without notification to the employer
3 of the reasons therefor, and if the employer submits all of the facts
4 within its possession concerning the leaving within the applicable
5 time period referred to in this section, the leaving shall be presumed
6 to be without good cause.

7 (d) An individual whose employment is terminated under the
8 compulsory retirement provisions of a collective bargaining
9 agreement to which the employer is a party shall not be deemed
10 to have voluntarily left his or her employment without good cause.

11 (e) Rulings under this section shall have the effect prescribed
12 by Section 1032.

13 *SEC. 6. Section 1.5 of this bill incorporates amendments to*
14 *Section 1030 of the Unemployment Insurance Code proposed by*
15 *both this bill and AB 2364. It shall only become operative if (1)*
16 *both bills are enacted and become effective on or before January*
17 *1, 2011, (2) each bill amends Section 1030 of the Unemployment*
18 *Insurance Code, and (3) this bill is enacted after AB 2364, in which*
19 *case Section 1 of this bill shall not become operative.*

20 *SEC. 7. Section 2.5 of this bill incorporates amendments to*
21 *Section 1032 of the Unemployment Insurance Code proposed by*
22 *both this bill and AB 2364. It shall only become operative if (1)*
23 *both bills are enacted and become effective on or before January*
24 *1, 2011, (2) each bill amends Section 1032 of the Unemployment*
25 *Insurance Code, and (3) this bill is enacted after AB 2364, in which*
26 *case Section 2 of this bill shall not become operative.*

27 *SEC. 8. Section 3.5 of this bill incorporates amendments to*
28 *Section 1256 of the Unemployment Insurance Code proposed by*
29 *both this bill and AB 2364. It shall only become operative if (1)*
30 *both bills are enacted and become effective on or before January*
31 *1, 2011, (2) each bill amends Section 1256 of the Unemployment*
32 *Insurance Code, and (3) this bill is enacted after AB 2364, in which*
33 *case Section 3 of this bill shall not become operative.*

O