

AMENDED IN ASSEMBLY APRIL 29, 2010

AMENDED IN ASSEMBLY APRIL 6, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2058

Introduced by Assembly Member Block
(Coauthors: Assembly Members Arambula, Blumenfield, Hayashi,
Bonnie Lowenthal, Solorio, and Torrico)
(Coauthors: Senators Correa and DeSaulnier)

February 18, 2010

An act to amend Sections 1266, 1267, 1268, 1271, 1271.5, and 1272.5 of, to amend the heading of Article 1.5 (commencing with Section 1266) of Chapter 5 of Part 1 of Division 1 of, to add Sections 1266.1 and 1266.2 to, to repeal Sections 1270, 1272, and 1273 of, and to repeal and add Section 1269 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 2058, as amended, Block. Unemployment insurance: retraining benefits.

Existing law provides unemployment compensation benefits to eligible persons who are unemployed through no fault of their own. Existing law, until January 1, 2015, provides for retraining benefits to eligible individuals pursuant to the federal Trade Act of 1974, as amended by

the federal Trade Act of 2002. Existing law authorizes an unemployed individual who files a claim for unemployment compensation benefits or extended duration benefits, or an application for federal-state extended benefits or any federally funded unemployment compensation benefits, to apply to the Employment Development Department for benefits during a period of training or retraining. Existing law also requires that a determination of potential eligibility for specified training and retraining benefits be issued to an unemployed individual if the Director of Employment Development finds that specified conditions apply.

This bill would establish the California Training Benefits Program, which, among other things, would revise those eligibility requirements to, instead, specify that an unemployed individual who qualifies for unemployment compensation benefits, extended duration benefits, or federal-state extended benefits or any federally funded unemployment compensation benefits, and applies for the program shall be deemed to automatically be eligible for the program during a period of training or retraining. ~~The bill would require that if the director determines that the average state unemployment rate, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent 3 months for which data for all states are published for the close of that week equals or exceeds 8.5%, recipients of unemployment compensation benefits also be eligible to participate in training or retraining programs.~~

~~Existing law specifies that any unemployed individual receiving certain unemployment compensation benefits, who applies for a determination of potential eligibility for those benefits no later than the 16th week of his or her receiving those benefits, and is determined to be eligible for those benefits, is entitled to a training extension on his or her unemployment claim, if necessary, to complete approved training.~~

~~This bill would eliminate that requirement that an individual apply for a determination of potential eligibility no later than the 16th week of his or her receiving those benefits. The bill would instead specify that any unemployed individual compensation benefits who applies for a determination of eligibility for the training program, and who requires a training extension in order to complete the training, is entitled to all extension on his or her unemployment claim, and would require that any training extension granted pursuant to those provisions provide the claimant with a specified weekly benefit amount, as prescribed.~~

Existing law requires that a determination of potential eligibility for training or retraining benefits be issued to an unemployed individual if the director makes a specified finding.

This bill would, instead, require that a determination of automatic eligibility for training or retraining be issued to an unemployed individual if any of specified conditions apply. The bill would also require that, if training or retraining is not authorized under those provisions governing automatic eligibility for those benefits, a determination of potential eligibility for benefits be issued to the unemployed individual if the director finds that specified criteria apply.

Existing law requires the department to inform all individuals who claim unemployment compensation benefits in this state of the benefits potentially available, and permits the department to convey this information verbally or in written form, as provided.

This bill would, instead, require the department to convey that information verbally, in written form, ~~and on-line or online~~, and would require that the information be made available on the department's Internet Web site in close proximity to information on unemployment compensation claim forms.

Existing law makes an individual ineligible for benefits in any week during a period of training or retraining if he or she fails to submit a specified certification.

This bill would make an individual ineligible for benefits in any week during a period of training or retraining if he or she fails to submit biweekly information documenting his or her eligibility for benefits for any week during a period of training or retraining.

~~Existing law prohibits the payment of benefits during a period of training or retraining to any individual for any week or part of any week with respect to which he or she receives training or retraining benefits, allowances, or stipends pursuant to specified federal laws that provide for the payment of those benefits.~~

~~This bill would eliminate that prohibition on the payment of those benefits.~~

Because the bill would make various changes to existing eligibility requirements for training and retraining benefits, which would result in additional amounts being payable from the Unemployment Fund for those benefits, the bill would make an appropriation.

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

Vote: 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. The heading of Article 1.5 (commencing with
2 Section 1266) of Chapter 5 of Part 1 of Division 1 of the
3 Unemployment Insurance Code is amended to read:

4
5 Article 1.5. California Training Benefits Program
6

7 SEC. 2. Section 1266 of the Unemployment Insurance Code
8 is amended to read:

9 1266. This article shall be known, and may be cited, as the
10 California Training Benefits Program.

11 SEC. 3. Section 1266.1 is added to the Unemployment
12 Insurance Code, to read:

13 1266.1. Experience has shown that the ability of a large number
14 of the population of California to compete for jobs in the labor
15 market is impaired by advancement in technological improvements,
16 the widespread effects of automation and relocation in our
17 economy, and foreign competition as set forth in petitions certified
18 under the federal Trade Act of 1974, as amended (Title 19, United
19 States Code, Sections 2101 et seq.). The Legislature finds that
20 many individuals in California are lacking in skills that would
21 make them competitive in the labor market. They are in need of
22 training or retraining to upgrade their skills. It is the policy of this
23 state to assist these individuals by providing unemployment
24 compensation benefits, extended duration benefits, and other
25 federally funded unemployment compensation benefits, including
26 those available under the federal Trade Act of 1974 (Public Law
27 93-618), as amended by the federal Trade Act of 2002 (Public Law
28 107-210), during a period of retraining to qualify them for jobs
29 and thus avoid long-term unemployment.

30 ~~SEC. 4. Section 1266.2 is added to the Unemployment~~
31 ~~Insurance Code, to read:~~

32 ~~1266.2. If the director determines that the average state~~
33 ~~unemployment rate, seasonally adjusted, as determined by the~~
34 ~~United States Secretary of Labor, for the period consisting of the~~
35 ~~most recent three months for which data for all states are published~~

1 for the close of that week, equals or exceeds 8.5 percent, recipients
2 of unemployment compensation benefits shall also be eligible to
3 participate in the California Training Benefits Program.

4 ~~SEC. 5.~~

5 *SEC. 4.* Section 1267 of the Unemployment Insurance Code
6 is amended to read:

7 1267. Notwithstanding any other provision of this division,
8 with respect to an unemployed individual otherwise eligible for
9 benefits, those benefits shall not be denied to an individual for any
10 week because he or she is in ~~training or retraining~~ *eligible training*
11 *or retraining, as described in Section 1269 or 1269.5*, or because
12 of the application to any such week in training or retraining of any
13 law of this state relating to availability for work, active search for
14 work, refusal to accept work, or for leaving his or her most recent
15 work, if continuing the most recent work would require the
16 individual to terminate his or her training or retraining course of
17 instruction. The individual is considered to be in training or
18 retraining during regularly scheduled vacation or recess periods,
19 such as Christmas and Thanksgiving holidays, or semester breaks,
20 but not during a summer vacation period. As used in this article,
21 “individual” includes an exhaustee as defined in Section 3503, and
22 any individual claiming federal-state extended benefits under Part
23 4 (commencing with Section 4001), and anyone receiving federally
24 funded unemployment compensation benefits.

25 ~~SEC. 6.~~ Section 1268 of the Unemployment Insurance Code
26 is amended to read:

27 1268. ~~An individual who qualifies for unemployment~~
28 ~~compensation benefits, extended duration benefits, federal-state~~
29 ~~extended benefits, or any federally funded unemployment benefits~~
30 ~~under this division, and who then applies for the California~~
31 ~~Training Benefits Program under this article, shall be deemed to~~
32 ~~be automatically eligible for the program during the period of~~
33 ~~training or retraining allowed under this article.~~

34 ~~SEC. 7.~~ Section 1269 of the Unemployment Insurance Code
35 is repealed.

36 ~~SEC. 8.~~ Section 1269 is added to the Unemployment Insurance
37 Code, to read:

38 1269. Notwithstanding subdivision (c) of Section 1253, an
39 unemployed individual who initially qualifies for unemployment
40 compensation benefits is eligible to participate in the California

1 ~~Training Benefits Program if he or she certifies on the~~
 2 ~~unemployment insurance claim form that he or she is enrolled in~~
 3 ~~a training program designed to improve his or her job skills, and~~
 4 ~~a responsible person connected with the training program certifies~~
 5 ~~that the individual is enrolled and is satisfactorily pursuing the~~
 6 ~~training or retraining course of instruction.~~

7 ~~SEC. 9. Section 1270 of the Unemployment Insurance Code~~
 8 ~~is repealed.~~

9 ~~SEC. 10. Section 1271 of the Unemployment Insurance Code~~
 10 ~~is amended to read:~~

11 ~~1271. (a) Any unemployed individual receiving unemployment~~
 12 ~~insurance compensation benefits payable under this division who~~
 13 ~~applies for a determination of eligibility for the California Training~~
 14 ~~Benefits Program, and who requires a training extension in order~~
 15 ~~to complete the training, is entitled to a training extension on his~~
 16 ~~or her unemployment insurance compensation claim.~~

17 ~~(b) A training extension granted under this article shall provide~~
 18 ~~the claimant with a maximum of 52 times the weekly benefit~~
 19 ~~amount, which shall include the maximum benefit award on the~~
 20 ~~parent unemployment compensation claim.~~

21 ~~(c) The parent unemployment compensation claim shall be the~~
 22 ~~unemployment compensation claim in existence at the time the~~
 23 ~~claimant is determined eligible for benefits pursuant to subdivision~~
 24 ~~(a).~~

25 ~~(d) Benefits payable under this section are subject to the~~
 26 ~~following limitations:~~

27 ~~(1) The individual shall remain eligible for benefits under this~~
 28 ~~article for all weeks potentially payable under this section.~~

29 ~~(2) The individual shall file any unemployment compensation~~
 30 ~~claim to which he or she becomes entitled under state or federal~~
 31 ~~law, and shall draw any unemployment compensation benefits on~~
 32 ~~that claim until it has expired or has been exhausted, in order to~~
 33 ~~maintain his or her eligibility under this article.~~

34 ~~(3) To the extent permitted by federal law, benefits payable~~
 35 ~~under any federal unemployment compensation law shall be~~
 36 ~~included as benefits payable under this section.~~

37 ~~SEC. 9. Section 1271.5 of the Unemployment Insurance Code~~
 38 ~~is amended to read:~~

39 ~~1271.5. (a) The department shall inform all individuals who~~
 40 ~~claim unemployment compensation benefits in this state of the~~

1 ~~benefits potentially available under this article and Section 1271.~~
2 ~~The department shall convey this information verbally or in written~~
3 ~~form, and online. Information required by this section shall be~~
4 ~~made available on the department's Internet Web site in close~~
5 ~~proximity to information on unemployment compensation claim~~
6 ~~forms.~~

7 ~~(b) Benefits paid shall be charged to individual employer reserve~~
8 ~~accounts, consistent with the provisions of this code.~~

9 ~~SEC. 10. Section 1272 of the Unemployment Insurance Code~~
10 ~~is repealed.~~

11 ~~SEC. 11. Section 1272.5 of the Unemployment Insurance Code~~
12 ~~is amended to read:~~

13 ~~1272.5. If an individual fails to submit biweekly information~~
14 ~~documenting eligibility for any week during a period of training~~
15 ~~or retraining, he or she shall be ineligible to receive any benefits~~
16 ~~for that week. This section shall not render an individual ineligible~~
17 ~~for benefits for any week during the period of training or retraining~~
18 ~~if on or before Monday of that week he or she notifies the~~
19 ~~department that his or her training or retraining course of~~
20 ~~instruction has been or is being discontinued or terminated prior~~
21 ~~to that week.~~

22 ~~SEC. 12. Section 1273 of the Unemployment Insurance Code~~
23 ~~is repealed.~~

24 ~~SEC. 5. Section 1269 of the Unemployment Insurance Code~~
25 ~~is amended to read:~~

26 ~~1269. A determination of potential automatic eligibility for~~
27 ~~benefits under this article shall be issued to an unemployed~~
28 ~~individual if the director finds that any of the following apply:~~

29 ~~(a) The training is authorized by the federal Workforce~~
30 ~~Investment Act (*Public Law 106-220*) or by the Employment~~
31 ~~Training Panel established pursuant to Chapter 3.5 (commencing~~
32 ~~with Section 10200) of Part 1 of Division 3.~~

33 ~~(b) The training is on the state's Eligible Training Provider List~~
34 ~~(ETPL), as authorized by the federal Workforce Investment Act~~
35 ~~(*Public Law 106-220*).~~

36 ~~(b)~~

37 ~~(c) The training is authorized by the federal Trade Act of 1974,~~
38 ~~(19 U.S.C. Sec. 2101 et seq.), as amended by the federal Trade~~
39 ~~Act of 2002 (*Public Law 107-210*), and as those acts may be~~
40 ~~amended by the Trade and Globalization Adjustment Assistance~~

1 Act of 2009, enacted under the American Recovery and
2 Reinvestment Act of 2009 (Public Law 111-5), pursuant to a
3 certified petition.

4 (e)

5 (d) The individual is a participant in the California Work
6 Opportunity and Responsibility to Kids (CalWORKs) program
7 pursuant to Article 3.2 (commencing with Section 11320) or Article
8 3.3 (commencing with Section 11330) of Chapter 2 of Part 3 of
9 Division 9 of the Welfare and Institutions Code, and has entered
10 into a contract with the county welfare department to participate
11 in an education or training program.

12 ~~(d) That all of the following apply:~~

13 ~~(1) The individual has been unemployed for four or more~~
14 ~~continuous weeks, or the individual is unemployed and unlikely~~
15 ~~to return to his or her most recent workplace because work~~
16 ~~opportunities in the individual's job classification are impaired by~~
17 ~~a plant closure or a substantial reduction in employment at the~~
18 ~~individual's most recent workplace, by advancement in~~
19 ~~technological improvements, by the effects of automation and~~
20 ~~relocation in the economy, or because of a mental or physical~~
21 ~~disability which prohibits the individual from utilizing existing~~
22 ~~occupational skills.~~

23 ~~(2) One of the substantial causes of the individual's~~
24 ~~unemployment is a lack of sufficient current demand in the~~
25 ~~individual's labor market area for the occupational skills for which~~
26 ~~the individual is fitted by training and experience or current~~
27 ~~physical or mental capacity and that the lack of employment~~
28 ~~opportunities is expected to continue for an extended period of~~
29 ~~time, or, if the individual's occupation is one for which there is a~~
30 ~~seasonal variation in demand in the labor market and the individual~~
31 ~~has no other skill for which there is current demand.~~

32 ~~(3) The training or retraining course of instruction relates to an~~
33 ~~occupation or skill for which there are, or are expected to be in the~~
34 ~~immediate future, reasonable employment opportunities in the~~
35 ~~labor market area in this state in which the individual intends to~~
36 ~~seek work and there is not a substantial surplus of workers with~~
37 ~~requisite skills in the occupation in that area.~~

38 ~~(4) If the individual is a journey level union member, the training~~
39 ~~or retraining course of instruction is specific job-related training~~
40 ~~necessary due to changes in technology, or necessary to retain~~

1 ~~employment or to become more competitive in obtaining~~
2 ~~employment.~~

3 ~~(5) The training or retraining course of instruction is one~~
4 ~~approved by the director and can be completed within one year.~~

5 ~~(6) The training or retraining course is a full-time course~~
6 ~~prescribed for the primary purpose of training the applicant in~~
7 ~~skills that will allow him or her to obtain immediate employment~~
8 ~~in a demand occupation and is not primarily intended to meet the~~
9 ~~requirements of any degree from a college, community college,~~
10 ~~or university.~~

11 ~~(7) The individual can be reasonably expected to complete the~~
12 ~~training or retraining successfully.~~

13 ~~(8) The beginning date of training is more than three years after~~
14 ~~the beginning date of training last approved for the individual~~
15 ~~under this subdivision.~~

16 *(e) The individual is a journey level union member and the*
17 *training or retraining course of instruction is industry-related*
18 *training necessary due to changes in technology, or industry*
19 *demands, or is necessary to retain employment or to become more*
20 *competitive in obtaining employment.*

21 *SEC. 6. Section 1269.5 is added to the Unemployment*
22 *Insurance Code, to read:*

23 *1269.5. If the training is not authorized under Section 1269,*
24 *a determination of potential eligibility for benefits under this article*
25 *shall be issued to an unemployed individual if the director finds*
26 *that all of the follow apply:*

27 *(a) The individual has been unemployed for four or more*
28 *continuous weeks, or the individual is unemployed and unlikely to*
29 *return to his or her most recent workplace because work*
30 *opportunities in the individual's job classification are impaired*
31 *by a plant closure or a substantial reduction in employment at the*
32 *individual's most recent workplace, by advancement in*
33 *technological improvements, by the effects of automation and*
34 *relocation in the economy, or because of mental or physical*
35 *disability that prohibits the individual from utilizing existing*
36 *occupational skills.*

37 *(b) One of the substantial causes of the individual's*
38 *unemployment is a lack of sufficient current demand in the*
39 *individual's labor market area for the occupational skills for which*
40 *the individual is fitted by training and experience or current*

1 *physical or mental capacity, and that the lack of employment*
2 *opportunities is expected to continue for an extended period of*
3 *time, or, if the individual's occupation is one for which there is a*
4 *seasonal variation in demand in the labor market and the*
5 *individual has no other skill for which there is current demand.*

6 *(c) The training or retraining course of instruction relates to*
7 *an occupation or skill for which there are, or are expected to be*
8 *in the immediate future, reasonable employment opportunities in*
9 *the labor market area in this state in which the individual intends*
10 *to seek work and there is not a substantial surplus of workers with*
11 *requisite skills in the occupation in that area.*

12 *(d) The training or retraining course of instruction is one*
13 *approved by the director and can be completed within a reasonable*
14 *period of time.*

15 *(e) The training or retraining course is a full-time course*
16 *prescribed for the primary purpose of training the applicant in*
17 *skills that will allow him or her to obtain employment.*

18 *(f) The individual can be reasonably expected to complete the*
19 *training or retraining successfully.*

20 *(g) The beginning date of training is more than three years after*
21 *the beginning date of training last approved for the individual*
22 *under this subdivision.*

23 *(h) If a determination of potential eligibility for benefits is issued*
24 *under this section and federal extended unemployment insurance*
25 *benefits are in effect, the director may find that an unemployed*
26 *individual is eligible for training benefits if the individual is*
27 *enrolled in a community college or other public postsecondary*
28 *education program with the purpose of preparing the applicant*
29 *in academic or job skills, including remedial training, that will*
30 *increase employment opportunities or that leads to an*
31 *industry-recognized credential or certificate designed for a specific*
32 *occupation.*

33 *SEC. 7. Section 1270 of the Unemployment Insurance Code is*
34 *amended to read:*

35 1270. As used in this article:

36 (a) "Demand occupation" means an occupation in a labor market
37 area in which the director determines work opportunities *with*
38 *career advancement opportunities and living wages* are available
39 and there is not a surplus of qualified applicants.

1 (b) “Labor market area” means a county, or aggregation of
2 counties designated by the department that meets criteria of
3 population, population density, commute patterns, and social and
4 economic integration specified by the department.

5 *SEC. 8. Section 1271.5 of the Unemployment Insurance Code*
6 *is amended to read:*

7 1271.5. (a) The department shall inform all individuals who
8 claim unemployment compensation benefits in this state of the
9 benefits potentially available under this article and Section 1271.
10 The department ~~may~~ shall convey this information verbally ~~or~~, in
11 written form, *or online*. If in written form, the department may
12 utilize publications or handbooks that inform individuals of their
13 rights and duties in regard to unemployment compensation benefits.
14 These publications, issued by the department pursuant to authorized
15 regulations, may be used to satisfy the requirements of this section.
16 *Information required by this section shall be made available on*
17 *the department’s Internet Web site in close proximity to information*
18 *on unemployment compensation claim forms.*

19 (b) Benefits paid under Section 1271 shall be charged to
20 individual employer reserve accounts, consistent with the
21 provisions of this code.

22 *SEC. 9. Section 1272 of the Unemployment Insurance Code is*
23 *amended to read:*

24 1272. Notwithstanding subdivision (c) of Section 1253, an
25 unemployed individual who is able to work is eligible to receive
26 benefits under this article with respect to any week during a period
27 of training or retraining only if the director finds both of the
28 following:

29 (a) He or she has been determined potentially eligible under
30 Section 1269, 1269.5, or 1271.

31 (b) He or she submits with each claim a written certification
32 executed by a responsible person connected with the training or
33 retraining program certifying that he or she is enrolled in and
34 satisfactorily pursuing the training or retraining course of
35 instruction.

36 *SEC. 10. Section 1272.5 of the Unemployment Insurance Code*
37 *is amended to read:*

38 1272.5. If an individual fails to submit *biweekly information*
39 *documenting eligibility* for any week during a period of training
40 or retraining the certification required by Section 1272, he or she

1 shall be ineligible to receive any benefits for that week. This section
2 shall not render an individual ineligible for benefits for any week
3 during the period of training or retraining if on or before Monday
4 of that week he or she notifies the department that his or her
5 training or retraining course of instruction has been or is being
6 discontinued or terminated prior to that week.

7 ~~SEC. 13.~~

8 *SEC. 11.* This act is an urgency statute necessary for the
9 immediate preservation of the public peace, health, or safety within
10 the meaning of Article IV of the Constitution and shall go into
11 immediate effect. The facts constituting the necessity are:

12 In order to address the fiscal crisis facing the unemployment
13 insurance system in this state, it is necessary that this act take effect
14 immediately.