

ASSEMBLY BILL

No. 2433

Introduced by Assembly Member Ruskin

February 19, 2010

An act to amend Section 1095 of the Unemployment Insurance Code, relating to unemployment insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2433, as introduced, Ruskin. Unemployment insurance: use of information for tax purposes.

Existing law provides for the payment of unemployment compensation benefits to eligible unemployed individuals, and requires that the Employment Development Department implement the unemployment insurance system in the state. Existing law authorizes the Director of Employment Development to permit the use of information in his or her possession for specified purposes, including, among other things, to enable various government agencies and local governments to maintain information and collect moneys, fines, and fees owed by applicants for, or recipients of, unemployment compensation benefits.

This bill would additionally authorize the director to release specified employment tax information, in his or her possession to the State Board of Equalization, that will assist in the administration of tax programs.

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 1095 of the Unemployment Insurance
- 2 Code is amended to read:

1 1095. The director shall permit the use of any information in
2 his or her possession to the extent necessary for any of the
3 following purposes and may require reimbursement for all direct
4 costs incurred in providing any and all information specified in
5 this section, except information specified in subdivisions (a) to
6 (e), inclusive:
7 (a) To enable the director or his or her representative to carry
8 out his or her responsibilities under this code.
9 (b) To properly present a claim for benefits.
10 (c) To acquaint a worker or his or her authorized agent with his
11 or her existing or prospective right to benefits.
12 (d) To furnish an employer or his or her authorized agent with
13 information to enable him or her to fully discharge his or her
14 obligations or safeguard his or her rights under this division or
15 Division 3 (commencing with Section 9000).
16 (e) To enable an employer to receive a reduction in contribution
17 rate.
18 (f) To enable federal, state, or local government departments
19 or agencies, subject to federal law, to verify or determine the
20 eligibility or entitlement of an applicant for, or a recipient of, public
21 social services provided pursuant to Division 9 (commencing with
22 Section 10000) of the Welfare and Institutions Code, or Part A of
23 Title IV of the Social Security Act, where the verification or
24 determination is directly connected with, and limited to, the
25 administration of public social services.
26 (g) To enable county administrators of general relief or
27 assistance, or their representatives, to determine entitlement to
28 locally provided general relief or assistance, where the
29 determination is directly connected with, and limited to, the
30 administration of general relief or assistance.
31 (h) To enable state or local governmental departments or
32 agencies to seek criminal, civil, or administrative remedies in
33 connection with the unlawful application for, or receipt of, relief
34 provided under Division 9 (commencing with Section 10000) of
35 the Welfare and Institutions Code or to enable the collection of
36 expenditures for medical assistance services pursuant to Part 5
37 (commencing with Section 17000) of Division 9 of the Welfare
38 and Institutions Code.
39 (i) To provide any law enforcement agency with the name,
40 address, telephone number, birth date, social security number,

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

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

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

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

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

37 (j) To provide public employee retirement systems in California
38 with information relating to the earnings of any person who has
39 applied for or is receiving a disability income, disability allowance,
40 or disability retirement allowance, from a public employee

1 retirement system. The earnings information shall be released only
2 upon written request from the governing board specifying that the
3 person has applied for or is receiving a disability allowance or
4 disability retirement allowance from its retirement system. The
5 request may be made by the chief executive officer of the system
6 or by an employee of the system so authorized and identified by
7 name and title by the chief executive officer in writing.

8 (k) To enable the Division of Labor Standards Enforcement in
9 the Department of Industrial Relations to seek criminal, civil, or
10 administrative remedies in connection with the failure to pay, or
11 the unlawful payment of, wages pursuant to Chapter 1
12 (commencing with Section 200) of Part 1 of Division 2 of, and
13 Chapter 1 (commencing with Section 1720) of Part 7 of Division
14 2 of, the Labor Code.

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

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

25 (n) To provide federal, state, or local governmental departments
26 or agencies with information concerning any individuals who are
27 or have been:

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

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

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

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

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

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

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

35 (s) To provide the State Department of Developmental Services
36 with wage and employer information that will assist in the
37 collection of moneys owed by the recipient, parent, or any other
38 legally liable individual for services and supports provided pursuant
39 to Chapter 9 (commencing with Section 4775) of Division 4.5 of,
40 and Chapter 2 (commencing with Section 7200) and Chapter 3

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

3 *(t) To provide the State Board of Equalization with employment*
 4 *tax information that will assist in the administration of tax*
 5 *programs. The information shall be limited to the exchange of*
 6 *employment tax information essential for tax administration*
 7 *purposes to the extent permitted by federal law and regulations.*

8 ~~(t)~~

9 (u) Nothing in this section shall be construed to authorize or
 10 permit the use of information obtained in the administration of this
 11 code by any private collection agency.

12 ~~(t)~~

13 (v) The disclosure of the name and address of an individual or
 14 business entity that was issued an assessment that included
 15 penalties under Section 1128 or 1128.1 shall not be in violation
 16 of Section 1094 if the assessment is final. The disclosure may also
 17 include any of the following:

- 18 (1) The total amount of the assessment.
- 19 (2) The amount of the penalty imposed under Section 1128 or
- 20 1128.1 that is included in the assessment.
- 21 (3) The facts that resulted in the charging of the penalty under
- 22 Section 1128 or 1128.1.

23 ~~(v)~~

24 (w) To enable the Contractors' State License Board to verify
 25 the employment history of an individual applying for licensure
 26 pursuant to Section 7068 of the Business and Professions Code.

27 ~~(w)~~

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

37 ~~(x)~~

38 (y) To enable the Labor Commissioner of the Division of Labor
 39 Standards Enforcement in the Department of Industrial Relations
 40 to identify, pursuant to Section 90.3 of the Labor Code, unlawfully

1 uninsured employers. The information shall be provided to the
2 extent permitted by federal law and regulations.

3 ~~(y)~~

4 (z) To enable the Chancellor of the California Community
5 Colleges, in accordance with the requirements of Section 84754.5
6 of the Education Code, to obtain quarterly wage data, commencing
7 January 1, 1993, on students who have attended one or more
8 community colleges, to assess the impact of education on the
9 employment and earnings of students, to conduct the annual
10 evaluation of district-level and individual college performance in
11 achieving priority educational outcomes, and to submit the required
12 reports to the Legislature and the Governor. The information shall
13 be provided to the extent permitted by federal statutes and
14 regulations.

15 ~~(z)~~

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

21 ~~(aa)~~

22 (ab) To enable the State Department of Education, the University
23 of California, the California State University, and the Chancellor
24 of the California Community Colleges, pursuant to the
25 requirements prescribed by the federal American Recovery and
26 Reinvestment Act of 2009 (Public Law 111-5), to obtain quarterly
27 wage data, commencing July 1, 2010, on students who have
28 attended their respective systems to assess the impact of education
29 on the employment and earnings of those students, to conduct the
30 annual analysis of district-level and individual district or
31 postsecondary education system performance in achieving priority
32 educational outcomes, and to submit the required reports to the
33 Legislature and the Governor. The information shall be provided
34 to the extent permitted by federal statutes and regulations.

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