

AMENDED IN ASSEMBLY MARCH 16, 2009

AMENDED IN ASSEMBLY JANUARY 13, 2009

CALIFORNIA LEGISLATURE—2009—10 THIRD EXTRAORDINARY SESSION

**SENATE BILL**

**No. 3**

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**Introduced by Senator Ducheny DeSaulnier**

*(Principal coauthors: Assembly Members Coto and Arambula)*

*(Coauthors: Assembly Members Carter, Fuentes, Galgiani, Hayashi,  
Jones, Nava, Swanson, and Torres)*

January 5, 2009

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~~An act relating to the Budget Act of 2008.~~ *An act to amend Sections 1275 and 1277.5 of, and to add Sections 1277.1 and 1329.5 to, the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 3, as amended, ~~Ducheny DeSaulnier. Budget Act of 2008.~~ *Unemployment insurance: alternate base period.*

~~This bill would express the intent of the Legislature to make statutory changes relating to the Budget Act of 2008.~~

*Under existing law, unemployment compensation benefits are based on wages paid in a base period that is calculated according to the month within which the benefit year begins.*

*This bill would, for new claims filed on or after January 1, 2010, for which a valid claim or benefit year cannot be established under the currently defined base periods, establish alternative base periods, as provided. This bill would also require a claimant to submit specified information regarding wages to the Employment Development Department via an affidavit, under specified conditions.*

*Because this measure would increase the amount of unemployment compensation paid, it would make an additional amount payable from the Unemployment Fund, a continuously appropriated special fund, and thereby would make an appropriation.*

*Because this measure would require specified information to be submitted to the Employment Development Department on an affidavit, the submission of which, if false, is a misdemeanor under existing law, it would impose a state-mandated program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

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.

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

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

1     SECTION 1. Section 1275 of the Unemployment Insurance  
2     Code is amended to read:  
3     1275. (a) Unemployment compensation benefit award  
4     computations shall be based on wages paid in the base period.  
5     “Base period” means: for benefit years beginning in October,  
6     November, or December, the four calendar quarters ended in the  
7     next preceding month of June; for benefit years beginning in  
8     January, February, or March, the four calendar quarters ended in  
9     the next preceding month of September; for benefit years beginning  
10    in April, May, or June, the four calendar quarters ended in the next  
11    preceding month of December; for benefit years beginning in July,  
12    August, or September, the four calendar quarters ended with the  
13    next preceding month of March. Wages used in the determination

1 of benefits payable to an individual during any benefit year may  
2 not be used in determining that individual's benefits in any  
3 subsequent benefit year.

4 (b) For any new claim filed with an effective date on or after  
5 January 1, 2010, if an individual cannot establish a claim under  
6 subdivision (a), then "base period" means: for benefit years  
7 beginning in October, November, or December, the four calendar  
8 quarters ended in the next preceding month of September; for  
9 benefit years beginning in January, February, or March, the four  
10 calendar quarters ended in the next preceding month of December;  
11 for benefit years beginning in April, May, or June, the four  
12 calendar quarters ended in the next preceding month of March;  
13 for benefit years beginning in July, August, or September, the four  
14 calendar quarters ended in the next preceding month of June. As  
15 provided in Section 1280, the quarter with the highest wages shall  
16 be used to determine the individual's weekly benefit amount. Wages  
17 used in the determination of benefits payable to an individual  
18 during any benefit year may not be used in determining that  
19 individual's benefits in any subsequent benefit year.

20 SEC. 2. Section 1277.1 is added to the Unemployment  
21 Insurance Code, to read:

22 1277.1. (a) Notwithstanding Section 1277, if an individual has  
23 a subsequent new claim and the previous valid claim was filed  
24 under subdivision (b) of Section 1275, the new claim shall only be  
25 valid if, during the 52-week period beginning with the effective  
26 date of the previous claim, either of the following applies:

27 (1) The individual earned or was paid sufficient wages to meet  
28 eligibility requirements of subdivision (a) of Section 1281 and  
29 performed some work.

30 (2) The individual did not receive benefits under this part and  
31 was disabled and was entitled to receive wage loss benefits under  
32 Part 2 (commencing with Section 2601) of this code or under  
33 Division 4 (commencing with Section 3201) of the Labor Code,  
34 under any workers' compensation law, under employer's liability  
35 law, or under any disability insurance law of any other state or  
36 the federal government.

37 (b) For purposes of this section, "wages" includes any and all  
38 compensation for personal services performed as an employee for  
39 the purpose of meeting the eligibility requirements of subdivision

1 (a) of Section 1281. This subdivision is not applicable to the  
2 computation of an award for disability benefits.

3 SEC. 3. Section 1277.5 of the Unemployment Insurance Code  
4 is amended to read:

5 1277.5. In determining, under ~~Section 1277~~, Sections 1277 and  
6 1277.1, whether a new claim is valid, twice the amount ~~which that~~  
7 an individual was entitled to receive under Part 2 (commencing  
8 with Section 2601) of this division or under Division 4  
9 (commencing with Section 3201) of the Labor Code, or under any  
10 workers' compensation law, employer's liability law, or disability  
11 insurance law of any other state or of the federal government,  
12 during the 52-week period beginning with the effective date of the  
13 previous valid claim, shall be considered as wages earned or paid  
14 to the individual during that 52-week period for purposes of  
15 meeting the eligibility requirements of subdivision (a) of Section  
16 1281. The amounts so included shall not be considered wages for  
17 the purpose of computing the weekly benefit amount of the  
18 individual under Section 1280 or the maximum amount payable  
19 to the individual under Section 1281.

20 SEC. 4. Section 1329.5 is added to the Unemployment  
21 Insurance Code, to read:

22 1329.5. For purposes of a claim for unemployment benefits  
23 under subdivision (b) of Section 1275, all of the following apply:

24 (a) Computation using the last four completed calendar quarters  
25 shall be based on available wage information processed as of the  
26 close of business on the day preceding the date of application.

27 (b) If the wage information is not already in the department's  
28 system, the employer shall, within 10 days after the mailing of the  
29 request from the department, transmit to the department  
30 information on the employee's wages and any other information  
31 relevant to the request. The 10-day period may be extended for  
32 good cause.

33 (c) If the wage, and other relevant information, requested  
34 pursuant to subdivision (b) are not received by the department,  
35 the department shall accept an affidavit of wages and other  
36 relevant information from the claimant in accordance with  
37 authorized regulations. These regulations shall be adopted as  
38 emergency regulations.

39 (d) A determination of benefits made pursuant to subdivision  
40 (b) of Section 1275 shall be adjusted when the quarterly wage

1 report from the employer is received if that information causes a  
2 change in the determination.

3 (e) Except in the event of fraud, if it is determined that any  
4 information provided by the claimant on an affidavit is erroneous,  
5 no penalty or refund of benefits shall be imposed on the claimant  
6 for the period prior to the calendar week in which an employer  
7 provides subsequent wage information.

8 SEC. 5. No reimbursement is required by this act pursuant to  
9 Section 6 of Article XIII B of the California Constitution because  
10 the only costs that may be incurred by a local agency or school  
11 district will be incurred because this act creates a new crime or  
12 infraction, eliminates a crime or infraction, or changes the penalty  
13 for a crime or infraction, within the meaning of Section 17556 of  
14 the Government Code, or changes the definition of a crime within  
15 the meaning of Section 6 of Article XIII B of the California  
16 Constitution.

17 SEC. 6. This act addresses the fiscal emergency declared by  
18 the Governor by proclamation on December 19, 2008, pursuant  
19 to subdivision (f) of Section 10 of Article IV of the California  
20 Constitution.

21 SECTION 1. ~~It is the intent of the Legislature to make statutory~~  
22 ~~changes relating to the Budget Act of 2008.~~

23 SEC. 2. ~~This act addresses the fiscal emergency declared by~~  
24 ~~the Governor by proclamation on December 19, 2008, pursuant~~  
25 ~~to subdivision (f) of Section 10 of Article IV of the California~~  
26 ~~Constitution.~~

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