

**ASSEMBLY BILL**

**No. 524**

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**Introduced by Assembly Member Garrick**

February 15, 2011

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An act to amend Section 803 of the Unemployment Insurance Code, relating to unemployment insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 524, as introduced, Garrick. Unemployment insurance: employer contributions.

Existing law governing unemployment insurance benefits authorizes specified employing entities to elect a method of financing coverage, and in lieu of the contributions required of employers, to elect to follow one of specified alternative procedures.

This bill would make technical, nonsubstantive changes to those provisions.

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

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

- 1 SECTION 1. Section 803 of the Unemployment Insurance
- 2 Code is amended to read:
- 3 803. (a) As used in this section, "entity" means any employing
- 4 unit that is authorized by any provision of Article 4 (commencing
- 5 with Section 701) or by Section 801 or 802 to elect a method of
- 6 financing coverage permitted by this section.
- 7 (b) In lieu of the contributions required of employers, an entity
- 8 may elect any one of the following:

1 (1) To pay into the Unemployment Fund the cost of benefits,  
2 including extended duration benefits and federal-state extended  
3 benefits, paid based on base period wages with respect to  
4 employment for the entity and charged to its account in the manner  
5 provided ~~by~~ *in* Section 1026, pursuant to authorized regulations  
6 that shall prescribe the rate or amount, time, manner, and method  
7 of payment or advance payment or providing a good and sufficient  
8 bond to guarantee payment of contributions.

9 (2) Two or more entities may, pursuant to authorized regulations,  
10 file an application with the director for the establishment of a joint  
11 account for the purpose of determining the rate of contributions  
12 they shall pay into the Unemployment Fund to reimburse the fund  
13 for benefits paid with respect to employment for those entities.  
14 The members of the joint account may share the cost of benefits,  
15 including extended duration benefits and federal-state extended  
16 benefits, paid based on the base period wages with respect to  
17 employment for those members and charged to the joint account  
18 in the manner provided ~~by~~ *in* Section 1026. The director shall  
19 prescribe authorized regulations for the establishment, maintenance,  
20 and dissolution of joint accounts, and for the rate or amount, time,  
21 manner, and method of payment or advance payment or providing  
22 a good and sufficient bond to guarantee payment of contributions  
23 by the members of joint accounts, on the cost of benefits charged  
24 in the manner provided ~~by~~ *in* Section 1026.

25 (c) Sections 1030, 1031, 1032, and 1032.5, and any provision  
26 of this division for the noncharging of benefits to the account of  
27 an employer, shall not apply to an election ~~under~~ *pursuant to*  
28 subdivision (b). The cost of benefits charged to an entity under  
29 this section shall include, but not be limited to, benefits or  
30 payments improperly paid in excess of a weekly benefit amount,  
31 or in excess of a maximum benefit amount, or otherwise in excess  
32 of the amount that should have been paid, due to any computational  
33 or other error of any type by the Employment Development  
34 Department or the Department of Benefit Payments, whether or  
35 not the error could be anticipated.

36 (d) In making the payments prescribed by subdivision (b), there  
37 shall be paid or credited to the Unemployment Fund, either in  
38 advance or by way of reimbursement, as may be determined by  
39 the director, any sums he or she estimates the Unemployment Fund  
40 will be entitled to receive from each entity for each calendar

1 quarter, reduced or increased by any sum by which he or she finds  
2 that his or her estimates for any prior calendar quarter were greater  
3 or less than the amounts which should have been paid to the fund.  
4 The estimates may be made upon the basis of statistical sampling,  
5 or any other method as may be determined by the director.

6 Upon making that determination, the director shall give notice  
7 of the determination, pursuant to Section 1206, to the entity. The  
8 director may cancel any contributions or portion thereof that he  
9 or she finds has been erroneously determined.

10 The director shall charge to any special fund, that is responsible  
11 for the salary of any employee of an entity, the amount determined  
12 by the director for which the fund is liable pursuant to this section.  
13 The contributions due from the entity shall be paid from the liable  
14 special fund, the General Fund, or other liable fund to the  
15 Unemployment Fund by the Controller or other officer or person  
16 responsible for disbursements on behalf of the entity within 30  
17 days of the date of mailing of the director's notice of determination  
18 to the entity. The director for good cause may extend for not to  
19 exceed 60 days the time for paying without penalty the amount  
20 determined and required to be paid. Contributions are due upon  
21 the date of mailing of the notice of determination and are  
22 delinquent if not paid on or before the 30th day following the date  
23 of mailing of the notice.

24 (e) Any entity that fails to pay the contributions required within  
25 the time required shall be liable for interest on the contributions  
26 at the adjusted annual rate and by the method established pursuant  
27 to Section 19521 of the Revenue and Taxation Code from and after  
28 the date of delinquency until paid, and any entity that without good  
29 cause fails to pay any contributions required within the time  
30 required shall pay a penalty of 10 percent of the amount of the  
31 contributions. If the entity fails to pay the contributions required  
32 on or before the delinquency date, the director may assess the  
33 entity for the amount required by the notice of determination. This  
34 subdivision shall not apply to employers electing financing under  
35 Section 821, for amounts due after December 31, 1992.

36 (f) Article 8 (commencing with Section 1126) of Chapter 4 of  
37 Part 1 with respect to the assessment of contributions, and Chapter  
38 7 (commencing with Section 1701) of Part 1 with respect to the  
39 collection of contributions, shall apply to the assessments provided  
40 by this section. Sections 1177 to 1184, inclusive, relating to refunds

1 and overpayments, shall apply to amounts paid to the  
2 Unemployment Fund pursuant to this section. Sections 1222, 1223,  
3 1224, 1241, and 1242 shall apply to matters arising under this  
4 section.

5 (g) (1) The director may terminate the election of any entity  
6 for financing under this section if the entity is delinquent in the  
7 payment of advances or reimbursements required by the director  
8 under this section. After any termination the entity may again make  
9 an election pursuant to this section but only if it is not delinquent  
10 in the payment of contributions and not delinquent in the payment  
11 of advances or reimbursements required by the director under this  
12 section.

13 (2) In the case of an Indian tribe (as described by subsection (u)  
14 of Section 3306 of Title 26 of the United States Code), the director  
15 shall terminate all elections for the tribe and all subdivisions,  
16 subsidiaries, and business enterprises wholly owned by that tribe  
17 if the tribe or any subdivision, subsidiary, or business enterprise  
18 wholly owned by that tribe is more than 90 days delinquent in the  
19 payment of contributions, bonds, advances, reimbursements, or  
20 applicable penalties or interest required under this code, after notice  
21 to the tribe. After any termination the Indian tribe may again make  
22 an election pursuant to this section but only if it is not delinquent  
23 in the payment of contributions, bonds, advances, reimbursements,  
24 or applicable penalties or interest required under this code.

25 (h) Notwithstanding any other provision of this section, ~~no~~ *an*  
26 entity shall *not* be liable for that portion of any extended duration  
27 benefits or federal-state extended benefits that is reimbursed or  
28 reimbursable by the federal government to the State of California.

29 (i) After the termination of any election under this section, the  
30 entity shall remain liable for its proportionate share of the cost of  
31 benefits paid and charged to its account in the manner provided  
32 by Section 1026, which are based on wages paid for services during  
33 the period of the election. That liability may be charged against  
34 any remaining balance of a prior reserve account used by the entity  
35 pursuant to Section 712 or 713. Any portion of the remaining  
36 balance shall be included in the reserve account of the entity  
37 following any termination of an election under this section which  
38 occurs prior to the expiration of a period of three consecutive years  
39 commencing with the effective date of the election. For purposes  
40 of Section 982, the period of an election under Section 803 shall,

- 1 to the extent permitted by federal law, be included as a period
- 2 during which a reserve account has been subject to benefit charges.

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