

AMENDED IN SENATE JANUARY 4, 2012

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 24, 2011

**SENATE BILL**

**No. 777**

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**Introduced by Senator Lieu**

February 18, 2011

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An act to ~~add Section 8546.9 to the Government~~ *amend Section 90.3 of the Labor Code, relating to state government workers' compensation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 777, as amended, Lieu. ~~State Auditor: financial and performance audits.~~ *Workers' compensation insurance: coverage program.*

*Existing law requires the Labor Commissioner to establish and maintain a program that systematically identifies unlawfully uninsured employers. Existing law requires all state departments and agencies and any rating organization, as specified, to cooperate with the Labor Commissioner and on reasonable request provide information and data in their possession reasonably necessary to carry out the program.*

*This bill would require the Director of Industrial Relations, in consultation with the state department or agency, or rating organization, in possession of the information or data, to determine the reasonableness of any request to provide the information and data.*

~~Existing law establishes the Bureau of State Audits, which is headed by the State Auditor and has specified statutory duties, including the performance of statutorily mandated audits. Existing law also provides that the Bureau of State Audits, in order to be free of organizational impairments to independence, is independent of the executive branch and legislative control.~~

~~This bill would authorize the State Auditor to establish a corrections audit program for the purpose of conducting, reporting on, and tracking the resolution of, financial and performance audits of the programs and functions of the Department of Corrections and Rehabilitation, as prescribed. The bill would require the State Auditor, upon the completion of these audits, to prepare a written report which would be disclosed to specified entities and posted on the State Auditor's Internet Web site, as specified.~~

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

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

1     SECTION 1. Section 90.3 of the Labor Code is amended to  
2     read:

3     90.3. (a) It is the policy of this state to vigorously enforce the  
4     laws requiring employers to secure the payment of compensation  
5     as required by Section 3700 and to protect employers who comply  
6     with the law from those who attempt to gain a competitive  
7     advantage at the expense of their workers by failing to secure the  
8     payment of compensation.

9     (b) In order to ensure that the laws requiring employers to secure  
10    the payment of compensation are adequately enforced, the Labor  
11    Commissioner shall establish and maintain a program that  
12    systematically identifies unlawfully uninsured employers. The  
13    Labor Commissioner, in consultation with the Administrative  
14    Director of the Division of Workers' Compensation and the  
15    director, may prioritize targets for the program in consideration  
16    of available resources. The employers shall be identified from data  
17    from the Uninsured Employers' Fund, the Employment  
18    Development Department, the rating organizations licensed by the  
19    Insurance Commissioner pursuant to Article 3 (commencing with  
20    Section 11750) of Chapter 3 of Part 3 of Division 2 of the Insurance  
21    Code, and any other sources deemed likely to lead to the  
22    identification of unlawfully uninsured employers. All state  
23    departments and agencies and any rating organization licensed by  
24    the Insurance Commissioner pursuant to Article 3 (commencing  
25    with Section 11750) of Chapter 3 of Part 3 of Division 2 of the  
26    Insurance Code shall cooperate with the Labor Commissioner and  
27    on reasonable request provide information and data in their

1 possession reasonably necessary to carry out the program. *For the*  
2 *purpose of this subdivision, the director, in consultation with the*  
3 *state department or agency, or rating organization, in possession*  
4 *of the information or data, shall determine the reasonableness of*  
5 *any request to provide information and data.*

6 (c) As part of the program, the Labor Commissioner shall  
7 establish procedures for ensuring that employers with payroll but  
8 with no record of workers' compensation coverage are contacted  
9 and, if no valid reason for the lack of record of coverage is shown,  
10 inspected on a priority basis.

11 (d) The Labor Commissioner shall annually, not later than March  
12 1, prepare a report concerning the effectiveness of the program,  
13 publish it on the Labor Commissioner's Web site, as well as notify  
14 the Legislature, the Governor, the Insurance Commissioner, and  
15 the Administrative Director of the Division of Workers'  
16 Compensation of the report's availability. The report shall include,  
17 but not be limited to, all of the following:

18 (1) The number of employers identified from records of the  
19 Employment Development Department who were screened for  
20 matching records of insurance coverage or self-insurance.

21 (2) The number of employers identified from records of the  
22 Employment Development Department that were matched to  
23 records of insurance coverage or self-insurance.

24 (3) The number of employers identified from records of the  
25 Employment Development Department that were notified that  
26 there was no record of their insurance coverage.

27 (4) The number of employers responding to the notices, and the  
28 nature of the responses, including the number of employers who  
29 failed to provide satisfactory proof of workers' compensation  
30 coverage and including information about the reasons that  
31 employers who provided satisfactory proof of coverage were not  
32 appropriately recognized in the comparison performed under  
33 subdivision (b). The report may include recommendations to  
34 improve the accuracy and efficiency of the program in screening  
35 for unlawfully uninsured employers.

36 (5) The number of employers identified as unlawfully uninsured  
37 from records of the Uninsured Employers' Benefits Trust Fund or  
38 from records of the Division of Workers' Compensation, and the  
39 number of those employers that are also identifiable from the  
40 records of the Employment Development Department. These

1 statistics shall be reported in a manner to permit analysis and  
2 estimation of the percentage of unlawfully uninsured employers  
3 that do not report wages to the Employment Development  
4 Department.

5 (6) The number of employers inspected.

6 (7) The number and amount of penalties assessed pursuant to  
7 Section 3722 as a result of the program.

8 (8) The number and amount of penalties collected pursuant to  
9 Section 3722 as a result of the program.

10 (e) The allocation of funds from the Workers' Compensation  
11 Administration Revolving Fund pursuant to subdivision (a) of  
12 Section 62.5 shall not increase the total amount of surcharges  
13 pursuant to subdivision (e) of Section 62.5. Startup costs for this  
14 program shall be allocated from the fiscal year 2007-08 surcharges  
15 collected. The total amount allocated for this program under  
16 subdivision (a) of Section 62.5 in subsequent years shall not exceed  
17 the amount of penalties collected pursuant to Section 3722 as a  
18 result of the program.

19 SECTION 1. Section 8546.9 is added to the Government Code,  
20 to read:

21 ~~8546.9. (a) The State Auditor may establish a corrections audit  
22 program for the purpose of conducting, reporting on, and tracking  
23 the resolution of, financial and performance audits of the programs  
24 and functions of the Department of Corrections and Rehabilitation.  
25 Financial audits shall examine financial statements and financially  
26 related activities and monitor expenditures made under the  
27 department's contracts, grants, and other agreements. Performance  
28 audits shall review the practices and programs of the department  
29 to determine whether the department is managing its resources in  
30 an effective, economical, and efficient manner consistent with the  
31 evidence-based correctional practices and public safety. Financial  
32 and performance audits conducted pursuant to this section shall  
33 be conducted in accordance with professional auditing standards  
34 and shall include recommended actions to correct deficiencies.~~

35 ~~(b) (1) Notwithstanding Section 10231.5, upon the completion  
36 of any audit conducted pursuant to this section, the State Auditor  
37 shall prepare a written report which shall be disclosed, along with  
38 any underlying materials that the State Auditor deems appropriate,  
39 to the Governor, the Legislature, the Secretary of the Department  
40 of Corrections and Rehabilitation, and the appropriate director,~~

1 ~~chair, or law enforcement agency. Copies of all written reports~~  
2 ~~shall be posted on the State Auditor's Internet Web site within 10~~  
3 ~~days of being disclosed as described in this subdivision.~~  
4 ~~(2) A report submitted to the Legislature pursuant to this~~  
5 ~~subdivision shall be submitted in compliance with the Section~~  
6 ~~9795.~~

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