

ASSEMBLY BILL

No. 152

Introduced by Assembly Member Yamada

January 18, 2013

An act to add Article 2.3 (commencing with Section 1301) to Chapter 5 of Division 1 of, and to repeal and add Section 1300 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 152, as introduced, Yamada. Unemployment: Self-Employment Assistance Program.

Existing law provides for the payment of unemployment compensation benefits during the period that a person is unemployed. Existing law imposes various requirements on the payments of benefits, including work search requirements. Existing law also establishes retraining programs for unemployed workers. Prior law, enacted in 1994 and repealed in 2005, established the Self-Employment Assistance Program for displaced workers.

This bill would establish a similar Self-Employment Assistance Program, to be administered by the Director of the Employment Development. The bill would provide for a weekly allowance for participants equal to regular unemployment benefits, subject to various limits, and would impose various eligibility requirements upon participants, and would waive requirements relating to job search and self-employment, as specified.

Since the benefits would be payable from the continuously appropriated Unemployment Fund, 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. Section 1300 of the Unemployment Insurance
2 Code is repealed.

3 ~~1300. The Legislature finds that the traditional system of~~
4 ~~unemployment compensation is primarily designed to provide~~
5 ~~income support for workers who are temporarily laid off or expect~~
6 ~~to be unemployed for only a short time. However, increasing~~
7 ~~numbers of workers are losing their jobs permanently due to rapid~~
8 ~~technological change, elimination of trade barriers, and similar~~
9 ~~causes. These workers need additional tools besides the basic~~
10 ~~income maintenance provided by the unemployment compensation~~
11 ~~system in order to reenter the workforce. For some of those~~
12 ~~workers, access to a self-employment program would be the best~~
13 ~~path for them to do so. Accordingly, it is the purpose of this article~~
14 ~~to authorize the payment of unemployment compensation benefits,~~
15 ~~and to provide appropriate training and support services, for eligible~~
16 ~~dislocated workers who wish to become self-employed in their~~
17 ~~transition back into the workforce.~~

18 SEC. 2. Section 1300 is added to the Unemployment Insurance
19 Code, to read:

20 1300. The Legislature finds and declares all of the following:

21 (a) California and the national economy are recovering from
22 the deepest recession since the Great Depression; recent data
23 indicates that approximately 700,000 Californians are currently
24 claiming unemployment insurance benefits.

25 (b) The demand for unemployment insurance benefits remains
26 unusually high because more people are staying unemployed
27 longer. Global competition and rapidly evolving technologies have
28 resulted in the dislocation of millions of workers from their jobs,
29 and even with the creation of new jobs, layoffs have become
30 permanent instead of a temporary experience during fluctuation
31 in the business cycle.

32 (c) As reported in the November 2012 California Labor Market
33 Review, 45.7 percent, or approximately 8887,00 of those

1 unemployed have been so for 27 weeks or more and approximately
2 34.6 percent of all unemployed, or 671,000, have been so for one
3 year or more.

4 (d) Currently, 73 weeks of benefits, regular unemployment
5 insurance combined with federal extensions, is the maximum
6 number of weeks a claimant may collect. As of December 17,
7 2012, over 923,000 unemployed workers in California have run
8 out of all benefits.

9 (e) There remains a critical need for California policies that will
10 create faster economic and job growth and support for those
11 struggling to find a job.

12 (f) In 1993, the federal government created the Self-Employment
13 Assistance Program for a five-year period, based on positive results
14 from experimental self-employment demonstration projects
15 conducted by the United States Department of Labor, in
16 collaboration with state employment agencies. Federal law made
17 the program permanent in 1998.

18 (g) Prior California law, enacted in 1994 and repealed in 2005,
19 established the state Self-Employment Assistance Program as an
20 alternative use of unemployment insurance. This program was an
21 important component of a broader workforce system strategy to
22 promote entrepreneurship and microbusiness development, both
23 as a reemployment strategy and to support economic development
24 through job creation.

25 (h) State unemployment insurance programs in Delaware,
26 Maine, New Jersey, New York, and Oregon actively offer
27 unemployed workers the option of reemployment through
28 self-employment assistance programs.

29 (I) The Middle Class Tax Relief and Job Creation Act of 2012
30 expanded Self-Employment Assistance Program eligibility,
31 provided funding for states to implement or improve these
32 programs, and directed the Department of Labor and the Small
33 Business Administration to coordinate efforts to help more
34 Americans start and grow small businesses.

35 (j) The Middle Class Tax Relief and Job Creation Act of 2012
36 provides thirty-five million dollars (\$35,000,000) for
37 Self-Employment Assistance Program grants. Of this amount,
38 California could receive approximately five million three hundred
39 thousand dollars (\$5,300,000). Of this amount, four million six
40 hundred thousand dollars (\$4,600,000) is available for

1 implementation and administration of the Self-Employment
2 Assistance Program. The remaining seven hundred sixty-nine
3 thousand seven hundred ninety-six dollars (\$769,796) is available
4 for the promotion of the Self-Employment Assistance Program.

5 (k) The Self-Employment Assistance Program is a voluntary
6 state-run program that provides unemployed individuals financial
7 support while they pursue full-time self-employment assistance
8 activities that lead to establishing a business and becoming
9 self-employed.

10 (l) The California Employment Development Department (EDD)
11 must identify an individual, through a worker profiling system, as
12 likely to exhaust benefits to receive, in lieu of unemployment
13 benefits, a weekly allowance equal to the individual’s weekly
14 unemployment compensation benefit without having to search for
15 full-time wage employment.

16 (m) The EDD monitors self-employment assistance activities
17 that include entrepreneurial training, business counseling, and
18 business technical assistance. A network of more than 125
19 organizations throughout the state provides these services.

20 (n) The Self-Employment Assistance Program is a limited
21 program appropriate to just a small fraction of unemployment
22 insurance benefit claimants. It can help some current
23 unemployment insurance benefit recipients and those who have
24 exhausted their unemployment insurance benefits, probably no
25 more than one or 2 percent.

26 (o) It is, therefore, the intent of the Legislature to enact
27 legislation that would authorize the establishment of a
28 Self-Employment Assistance Program administered by the Director
29 of Employment Development for the state to become eligible to
30 apply for federal funds by June 30, 2013, to establish, promote,
31 and operate the program.

32 SEC. 3. Article 2.3 (commencing with Section 1301) is added
33 to Chapter 5 of Part 1 of Division 1 of the Unemployment
34 Insurance Code, to read:

35
36 Article 2.3. Self-Employment Assistance Program
37

38 1301. As used in this article:

39 (a) “Full-time basis” shall have the same meaning as is contained
40 in regulations prescribed by the director.

1 (b) “Regular benefits” means benefits payable to an individual
2 under this part, including benefits payable to federal civilian
3 employees and to ex-service members pursuant to Chapter 85
4 (commencing with Section 8501) of Title 5 of the United States
5 Code, other than additional and extended benefits.

6 (c) “Self-employment assistance activities” means activities
7 approved by the director in which an individual, identified through
8 a worker profiling system as likely to exhaust regular benefits,
9 participates for the purpose of establishing a business and becoming
10 self-employed. These activities shall include, but are not limited
11 to, entrepreneurial training, business counseling, and technical
12 assistance.

13 (d) “Self-employment assistance allowance” means an allowance
14 payable in lieu of regular benefits and from the Unemployment
15 Fund established under Section 1521 to an individual participating
16 in self-employment assistance activities who meets the
17 requirements of this article.

18 (e) “Self-Employment Assistance Program” means the program
19 that enables an unemployed individual approved under this article
20 to engage in self-employment assistance activities on a full-time
21 basis that will lead to establishing a business and becoming
22 self-employed.

23 1302. The weekly allowance payable under this article to an
24 individual shall be equal to the weekly benefit amount for regular
25 benefits otherwise payable under Article 2 (commencing with
26 Section 1275). The sum of the allowance payable under this article
27 and the regular benefits paid under this part with respect to any
28 benefit year shall not exceed the maximum benefit amount as
29 established by Section 1281 with respect to that benefit year.

30 1303. The allowance described in Section 1302 shall be payable
31 to an individual at the same interval, on the same terms, and subject
32 to the same conditions as regular benefits under this part, except
33 as follows:

34 (a) The requirements relating to availability for work, active
35 search for work, and refusal to accept work shall not apply to any
36 week that the individual is in training or engaged in
37 self-employment activities as approved by this article.

38 (b) Income earned by an individual while engaged in
39 self-employment activities as approved under this article shall not
40 be construed to be wages or compensation for personal services

1 under this division, and benefits payable under this division shall
2 not be denied or reduced because of those payments.

3 (c) An individual who fails to participate in self-employment
4 assistance activities or who fails to actively engage on a full-time
5 basis in activities, which may include training, relating to the
6 establishment of a business and becoming self-employed shall be
7 disqualified for the week the failure occurs.

8 1304. An individual is eligible to be paid a self-employment
9 assistance allowance if he or she meets all of the following
10 conditions:

11 (a) Is eligible to receive regular unemployment compensation
12 under state law.

13 (b) Has been identified pursuant to an automated profiling
14 system as likely to exhaust regular unemployment compensation.

15 (c) Has been approved for participation in the Self-Employment
16 Assistance Program by the director.

17 (d) Is engaged on a full-time basis in self-employment assistance
18 activities, which may include, but not be limited to, entrepreneurial
19 training, business counseling, and technical assistance related to
20 establishing a business and becoming self-employed.

21 1305. The aggregate number of individuals receiving the
22 allowance under this article at any time shall not exceed 5 percent
23 of the number of individuals receiving regular benefits. The director
24 shall, through regulations, prescribe those actions necessary to
25 ensure the requirements of this section are met.

26 1306. (a) Self-employment assistance allowances paid under
27 this article shall be charged to employers as provided under
28 provisions of this part relating to the charging of regular benefits.
29 Costs of administering the self-employment assistance allowances
30 are payable from the Self-Employment Assistance Program grant
31 received from the federal Department of Labor, which allocates
32 approximately five million three hundred thousand dollars
33 (\$5,300,000) to California for such purposes. Costs of providing
34 self-employment assistance activities, such as business training,
35 business counseling, and technical assistance are payable from
36 federal Workforce Investment Act of 1998 funds and other
37 government and private grants.

38 (b) For purposes of this article, costs of administering the
39 program include marketing, staff training, review of applications,

1 assessment of applicants, payment of allowances, and relating
2 information technology costs.

3 1307. The provisions of this article shall become operative two
4 weeks beginning after the effective date of this article or two weeks
5 beginning after any plan required by the United State Department
6 of Labor relating to a Self-Employment Assistance Program is
7 approved by the United States Department of Labor, whichever
8 date is later. Immediately upon enactment of this article, the
9 director shall develop a Self-Employment Assistance Program
10 plan and seek approval from the United States Department of
11 Labor.

12 SEC. 4. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety within
14 the meaning of Article IV of the Constitution and shall go into
15 immediate effect. The facts constituting the necessity are:

16 In order to ensure that the Employment Development Department
17 postmark a completed application on or before June 30, 2013, in
18 order to receive grants from the United States Department of Labor
19 to develop, enhance, and promote a Self-Employment Assistance
20 Program, it is necessary that this act take effect immediately.