ASSEMBLY BILL   No. 908

Introduced by Assembly Member Bonilla

February 22, 2013

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

LEGISLATIVE COUNSEL'S DIGEST

AB 908, as introduced, Bonilla. Unemployment insurance: use of information.

Under existing law, the information obtained in the administration of the Unemployment Insurance Code is for the exclusive use and information of the Director of Employment Development in the discharge of his or her duties and is not open to the public. However, existing law permits the use of the information for specified purposes, and allows the director to require reimbursement for direct costs incurred. Existing law provides that a person who knowingly accesses, uses, or discloses this confidential information without authorization is guilty of a misdemeanor.

This bill would require the Director of Employment Development to permit the use of any information in his or her possession to provide any peace officer with the Investigations Division of the Department of Motor Vehicles information when the requesting peace officer has been designated by the Chief of Investigations Division and requests this information in the course of an investigation into identity theft, counterfeiting, document fraud, or consumer fraud, as provided. By requiring this information to be provided to peace officers with the Investigations Division of the Department of Motor Vehicles for these purposes, this bill would expand the crime of unauthorized access, use,

or disclosure of this information, and would impose a state-mandated local 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.

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

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:
3 　1095. The director shall permit the use of any information in
4 his or her possession to the extent necessary for any of the
5 following purposes and may require reimbursement for all direct
6 costs incurred in providing any and all information specified in
7 this section, except information specified in subdivisions (a) to
8 (e), inclusive:
9 　(a) To enable the director or his or her representative to carry
10 out his or her responsibilities under this code.
11 　(b) To properly present a claim for benefits.
12 　(c) To acquaint a worker or his or her authorized agent with his
13 or her existing or prospective right to benefits.
14 　(d) To furnish an employer or his or her authorized agent with
15 information to enable him or her to fully discharge his or her
16 obligations or safeguard his or her rights under this division or
17 Division 3 (commencing with Section 9000).
18 　(e) To enable an employer to receive a reduction in contribution
19 rate.
20 　(f) To enable federal, state, or local government departments
21 or agencies, subject to federal law, to verify or determine the
22 eligibility or entitlement of an applicant for, or a recipient of, public
23 social services provided pursuant to Division 9 (commencing with
24 Section 10000) of the Welfare and Institutions Code, or Part A of
25 Title IV of the Social Security Act, where the verification or
26 determination is directly connected with, and limited to, the
27 administration of public social services.

1   (g) To enable county administrators of general relief or
2 assistance, or their representatives, to determine entitlement to
3 locally provided general relief or assistance, where the
4 determination is directly connected with, and limited to, the
5 administration of general relief or assistance.
6   (h) To enable state or local governmental departments or
7 agencies to seek criminal, civil, or administrative remedies in
8 connection with the unlawful application for, or receipt of, relief
9 provided under Division 9 (commencing with Section 10000) of
10 the Welfare and Institutions Code or to enable the collection of
11 expenditures for medical assistance services pursuant to Part 5
12 (commencing with Section 17000) of Division 9 of the Welfare
13 and Institutions Code.
14   (i) To provide any law enforcement agency with the name,
15 address, telephone number, birth date, social security number,
16 physical description, and names and addresses of present and past
17 employers, of any victim, suspect, missing person, potential
18 witness, or person for whom a felony arrest warrant has been
19 issued, when a request for this information is made by any
20 investigator or peace officer as defined by Sections 830.1 and
21 830.2 of the Penal Code, or by any federal law enforcement officer
22 to whom the Attorney General has delegated authority to enforce
23 federal search warrants, as defined under Sections 60.2 and 60.3
24 of Title 28 of the Code of Federal Regulations, as amended, and
25 when the requesting officer has been designated by the head of
26 the law enforcement agency and requests this information in the
27 course of and as a part of an investigation into the commission of
28 a crime when there is a reasonable suspicion that the crime is a
29 felony and that the information would lead to relevant evidence.
30 The information provided pursuant to this subdivision shall be
31 provided to the extent permitted by federal law and regulations,
32 and to the extent the information is available and accessible within
33 the constraints and configurations of existing department records.
34 Any person who receives any information under this subdivision
35 shall make a written report of the information to the law
36 enforcement agency that employs him or her, for filing under the
37 normal procedures of that agency.
38   (1) This subdivision shall not be construed to authorize the
39 release to any law enforcement agency of a general list identifying
40 individuals applying for or receiving benefits.

1   (2) The department shall maintain records pursuant to this
2 subdivision only for periods required under regulations or statutes
3 enacted for the administration of its programs.
4   (3) This subdivision shall not be construed as limiting the
5 information provided to law enforcement agencies to that pertaining
6 only to applicants for, or recipients of, benefits.
7   (4) The department shall notify all applicants for benefits that
8 release of confidential information from their records will not be
9 protected should there be a felony arrest warrant issued against
10 the applicant or in the event of an investigation by a law
11 enforcement agency into the commission of a felony.
12   (j) To provide public employee retirement systems in California
13 with information relating to the earnings of any person who has
14 applied for or is receiving a disability income, disability allowance,
15 or disability retirement allowance, from a public employee
16 retirement system. The earnings information shall be released only
17 upon written request from the governing board specifying that the
18 person has applied for or is receiving a disability allowance or
19 disability retirement allowance from its retirement system. The
20 request may be made by the chief executive officer of the system
21 or by an employee of the system so authorized and identified by
22 name and title by the chief executive officer in writing.
23   (k) To enable the Division of Labor Standards Enforcement in
24 the Department of Industrial Relations to seek criminal, civil, or
25 administrative remedies in connection with the failure to pay, or
26 the unlawful payment of, wages pursuant to Chapter 1
27 (commencing with Section 200) of Part 1 of Division 2 of, and
28 Chapter 1 (commencing with Section 1720) of Part 7 of Division
29 2 of, the Labor Code.
30   (*l*) To enable federal, state, or local governmental departments
31 or agencies to administer child support enforcement programs
32 under Title IV of the federal Social Security Act (42 U.S.C. Sec.
33 651 et seq.).
34   (m) To provide federal, state, or local governmental departments
35 or agencies with wage and claim information in its possession that
36 will assist those departments and agencies in the administration
37 of the Victims of Crime Program or in the location of victims of
38 crime who, by state mandate or court order, are entitled to
39 restitution that has been or can be recovered.

1   (n) To provide federal, state, or local governmental departments
2 or agencies with information concerning any individuals who are
3 or have been:
4   (1) Directed by state mandate or court order to pay restitution,
5 fines, penalties, assessments, or fees as a result of a violation of
6 law.
7   (2) Delinquent or in default on guaranteed student loans or who
8 owe repayment of funds received through other financial assistance
9 programs administered by those agencies. The information released
10 by the director for the purposes of this paragraph shall not include
11 unemployment insurance benefit information.
12   (o) To provide an authorized governmental agency with any or
13 all relevant information that relates to any specific workers'
14 compensation insurance fraud investigation. The information shall
15 be provided to the extent permitted by federal law and regulations.
16 For the purposes of this subdivision, "authorized governmental
17 agency" means the district attorney of any county, the office of
18 the Attorney General, the Contractors' State License Board, the
19 Department of Industrial Relations, and the Department of
20 Insurance. An authorized governmental agency may disclose this
21 information to the State Bar, the Medical Board of California, or
22 any other licensing board or department whose licensee is the
23 subject of a workers' compensation insurance fraud investigation.
24 This subdivision shall not prevent any authorized governmental
25 agency from reporting to any board or department the suspected
26 misconduct of any licensee of that body.
27   (p) To enable the Director of the Bureau for Private
28 Postsecondary Education, or his or her representatives, to access
29 unemployment insurance quarterly wage data on a case-by-case
30 basis to verify information on school administrators, school staff,
31 and students provided by those schools who are being investigated
32 for possible violations of Chapter 8 (commencing with Section
33 94800) of Part 59 of Division 10 of Title 3 of the Education Code.
34   (q) To provide employment tax information to the tax officials
35 of Mexico, if a reciprocal agreement exists. For purposes of this
36 subdivision, "reciprocal agreement" means a formal agreement to
37 exchange information between national taxing officials of Mexico
38 and taxing authorities of the State Board of Equalization, the
39 Franchise Tax Board, and the Employment Development
40 Department. Furthermore, the reciprocal agreement shall be limited

1 to the exchange of information that is essential for tax
2 administration purposes only. Taxing authorities of the State of
3 California shall be granted tax information only on California
4 residents. Taxing authorities of Mexico shall be granted tax
5 information only on Mexican nationals.
6   (r) To enable city and county planning agencies to develop
7 economic forecasts for planning purposes. The information shall
8 be limited to businesses within the jurisdiction of the city or county
9 whose planning agency is requesting the information, and shall
10 not include information regarding individual employees.
11   (s) To provide the State Department of Developmental Services
12 with wage and employer information that will assist in the
13 collection of moneys owed by the recipient, parent, or any other
14 legally liable individual for services and supports provided pursuant
15 to Chapter 9 (commencing with Section 4775) of Division 4.5 of,
16 and Chapter 2 (commencing with Section 7200) and Chapter 3
17 (commencing with Section 7500) of Division 7 of, the Welfare
18 and Institutions Code.
19   (t) To provide the State Board of Equalization with employment
20 tax information that will assist in the administration of tax
21 programs. The information shall be limited to the exchange of
22 employment tax information essential for tax administration
23 purposes to the extent permitted by federal law and regulations.
24   (u) Nothing in this section shall be construed to authorize or
25 permit the use of information obtained in the administration of this
26 code by any private collection agency.
27   (v) The disclosure of the name and address of an individual or
28 business entity that was issued an assessment that included
29 penalties under Section 1128 or 1128.1 shall not be in violation
30 of Section 1094 if the assessment is final. The disclosure may also
31 include any of the following:
32   (1) The total amount of the assessment.
33   (2) The amount of the penalty imposed under Section 1128 or
34 1128.1 that is included in the assessment.
35   (3) The facts that resulted in the charging of the penalty under
36 Section 1128 or 1128.1.
37   (w) To enable the Contractors' State License Board to verify
38 the employment history of an individual applying for licensure
39 pursuant to Section 7068 of the Business and Professions Code.

1   (x) To provide any peace officer with the Division of
2 Investigation in the Department of Consumer Affairs information
3 pursuant to subdivision (i) when the requesting peace officer has
4 been designated by the Chief of the Division of Investigation and
5 requests this information in the course of and as part of an
6 investigation into the commission of a crime or other unlawful act
7 when there is reasonable suspicion to believe that the crime or act
8 may be connected to the information requested and would lead to
9 relevant information regarding the crime or unlawful act.
10   (y) To enable the Labor Commissioner of the Division of Labor
11 Standards Enforcement in the Department of Industrial Relations
12 to identify, pursuant to Section 90.3 of the Labor Code, unlawfully
13 uninsured employers. The information shall be provided to the
14 extent permitted by federal law and regulations.
15   (z) To enable the Chancellor of the California Community
16 Colleges, in accordance with the requirements of Section 84754.5
17 of the Education Code, to obtain quarterly wage data, commencing
18 January 1, 1993, on students who have attended one or more
19 community colleges, to assess the impact of education on the
20 employment and earnings of students, to conduct the annual
21 evaluation of district-level and individual college performance in
22 achieving priority educational outcomes, and to submit the required
23 reports to the Legislature and the Governor. The information shall
24 be provided to the extent permitted by federal statutes and
25 regulations.
26   (aa) To enable the Public Employees' Retirement System to
27 seek criminal, civil, or administrative remedies in connection with
28 the unlawful application for, or receipt of, benefits provided under
29 Part 3 (commencing with Section 20000) of Division 5 of Title 2
30 of the Government Code.
31   (ab) To enable the State Department of Education, the University
32 of California, the California State University, and the Chancellor
33 of the California Community Colleges, pursuant to the
34 requirements prescribed by the federal American Recovery and
35 Reinvestment Act of 2009 (Public Law 111-5), to obtain quarterly
36 wage data, commencing July 1, 2010, on students who have
37 attended their respective systems to assess the impact of education
38 on the employment and earnings of those students, to conduct the
39 annual analysis of district-level and individual district or
40 postsecondary education system performance in achieving priority

1 educational outcomes, and to submit the required reports to the
2 Legislature and the Governor. The information shall be provided
3 to the extent permitted by federal statutes and regulations.
4 (ac) To provide the Agricultural Labor Relations Board with
5 employee, wage, and employer information, for use in the
6 investigation or enforcement of the
7 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations
8 Act of 1975 (Part 3.5 (commencing with Section 1140) of Division
9 2 of the Labor Code). The information shall be provided to the
10 extent permitted by federal statutes and regulations.
11 (ad) (1) To enable the State Department of Health Care
12 Services, the California Health Benefit Exchange, the Managed
13 Risk Medical Insurance Board, and county departments and
14 agencies to obtain information regarding employee wages,
15 California employer names and account numbers, employer reports
16 of wages and number of employees, and disability insurance and
17 unemployment insurance claim information, for the purpose of:
18 (A) Verifying or determining the eligibility of an applicant for,
19 or a recipient of, state health subsidy programs, limited to the
20 Medi-Cal Program, provided pursuant to Chapter 7 (commencing
21 with Section 14000) of Part 3 of Division 9 of the Welfare and
22 Institutions Code, the Healthy Families Program, provided pursuant
23 to Part 6.2 (commencing with Section 12693) of Division 2 of the
24 Insurance Code, and the Access for Infants and Mothers Program,
25 provided pursuant to Part 6.3 (commencing with Section 12695)
26 of Division 2 of the Insurance Code, where the verification or
27 determination is directly connected with, and limited to, the
28 administration of the state health subsidy programs referenced in
29 this subparagraph.
30 (B) Verifying or determining the eligibility of an applicant for,
31 or a recipient of, federal subsidies offered through the California
32 Health Benefit Exchange, provided pursuant to Title 22
33 (commencing with Section 100500) of the Government Code,
34 including federal tax credits and cost-sharing assistance pursuant
35 to the federal Patient Protection and Affordable Care Act (Public
36 Law 111-148), as amended by the federal Health Care and
37 Education Reconciliation Act of 2010 (Public Law 111-152), where
38 the verification or determination is directly connected with, and
39 limited to, the administration of the California Health Benefit
40 Exchange.

1   (C) Verifying or determining the eligibility of employees and
2 employers for health coverage through the Small Business Health
3 Options Program, provided pursuant to Section 100502 of the
4 Government Code, where the verification or determination is
5 directly connected with, and limited to, the administration of the
6 Small Business Health Options Program.
7   (2) The information provided under this subdivision shall be
8 subject to the requirements of, and provided to the extent permitted
9 by, federal law and regulations, including Part 603 of Title 20 of
10 the Code of Federal Regulations.
11   *(ae) To provide any peace officer with the Investigations*
12 *Division of the Department of Motor Vehicles with information*
13 *pursuant to subdivision (i), when the requesting peace officer has*
14 *been designated by the Chief of the Investigations Division and*
15 *requests this information in the course of, and as part of, an*
16 *investigation into identity theft, counterfeiting, document fraud,*
17 *or consumer fraud, and there is reasonable suspicion that the*
18 *information requested is relevant to the investigation and may lead*
19 *to other information regarding the identity theft, counterfeiting,*
20 *document fraud, or consumer fraud.*
21   SEC. 2. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

O