

ASSEMBLY BILL

No. 1792

Introduced by Assembly Member Gomez

February 18, 2014

An act to amend Section 1088.5 of the Unemployment Insurance Code, relating to unemployment insurance, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1792, as introduced, Gomez. Unemployment contributions: reports.

Existing law requires each employer to file with the Employment Development Department specified information on new employees. Existing law authorizes the department to assess a penalty of \$24 for a failure to report the hiring of an employee, or \$490 if the failure to report is the result of conspiracy between the employer and the employee not to supply the required report or to supply a false or incomplete report.

This bill would change these penalty amounts to \$23 and \$499, respectively. This bill would increase the amount of that penalty and thus, the moneys deposited into the Employment Development Department Contingent Fund, a continuously appropriated fund, thereby making an appropriation.

Vote: $\frac{2}{3}$. 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 1088.5 of the Unemployment Insurance
2 Code is amended to read:

3 1088.5. (a) In addition to information reported in accordance
4 with Section 1088, effective July 1, 1998, each employer shall file,
5 with the department, the information provided for in subdivision
6 (b) on new employees.

7 (b) Each employer shall report the hiring of any employee who
8 works in this state and to whom the employer anticipates paying
9 wages, and also shall report the hiring of any employee who
10 previously worked for the employer but had been separated from
11 that prior employment for at least 60 consecutive days.

12 (c) (1) This section shall not apply to any department, agency,
13 or instrumentality of the United States.

14 (2) State agency employers shall not be required to report
15 employees performing intelligence or counterintelligence functions,
16 if the head of the agency has determined that reporting pursuant
17 to this section would endanger the safety of the employee or
18 compromise an ongoing investigation or intelligence mission.

19 (d) (1) Employers shall submit a report as described in
20 paragraph (4) within 20 days of hiring any employee whom the
21 employer is required to report pursuant to this section.

22 (2) Notwithstanding subdivision (a), employers transmitting
23 reports magnetically or electronically shall submit the report by
24 two monthly transmissions not less than 12 days and not more
25 than 16 days apart.

26 (3) For purposes of this section, an employer that has employees
27 in two or more states and that transmits reports magnetically or
28 electronically may designate one state in which the employer has
29 employees to which the employer will transmit the report described
30 in paragraph (4). Any employer that transmits reports pursuant to
31 this paragraph shall notify the Secretary of Health and Human
32 Services in writing as to which state the employer designates for
33 the purpose of sending reports.

34 (4) The report shall contain the following:

35 (A) The name, address, and social security number of the
36 employees.

37 (B) The employer's name, address, state employer identification
38 number (if one has been issued), and identifying number assigned

1 to the employer under Section 6109 of the Internal Revenue Code
2 of 1986.

3 (C) The first date the employee worked.

4 (5) Employers may report pursuant to this section by submitting
5 a copy of the employee's W-4 form, a form provided by the
6 department, or any other hiring document transmitted by first-class
7 mail, magnetically, or electronically.

8 (e) For each failure to report the hiring of an employee, as
9 required and within the time required by this section, unless the
10 failure is due to good cause, the department may assess a penalty
11 of ~~twenty-four dollars (\$24)~~ *twenty-three dollars (\$23)*, or ~~four~~
12 ~~hundred ninety dollars (\$490)~~ *four hundred ninety-nine dollars*
13 *(\$499)* if the failure is the result of conspiracy between the
14 employer and employee not to supply the required report or to
15 supply a false or incomplete report.

16 (f) (1) On and after January 1, 2013, and before January 1,
17 2019, information collected pursuant to this section may be used
18 for the following purposes:

19 (A) Administration of this code, including, but not limited to,
20 providing employer or employee information to participating
21 members of the Joint Enforcement Strike Force on the
22 Underground Economy pursuant to Section 329 for the purposes
23 of auditing, investigating, and prosecuting violations of tax and
24 cash-pay reporting laws.

25 (B) Locating individuals for purposes of establishing paternity
26 and establishing, modifying, and enforcing child support
27 obligations.

28 (C) Administration of employment security and workers'
29 compensation programs.

30 (D) Providing employer or employee information to the
31 Franchise Tax Board and the State Board of Equalization for the
32 purpose of tax or fee enforcement.

33 (E) Verification of eligibility of applicants for, or recipients of,
34 the public assistance programs listed in Section 1320b-7(b) of Title
35 42 of the United States Code.

36 (F) Providing employer or employee information to the
37 Contractors' State License Board and the State Compensation
38 Insurance Fund for the purpose of workers' compensation payroll
39 reporting.

1 (G) Providing employer or employee information to the State
2 Department of Health Care Services, the California Health Benefit
3 Exchange, the Managed Risk Medical Insurance Board, and county
4 departments and agencies for the purpose of:

5 (i) Verifying or determining the eligibility of an applicant for,
6 or a recipient of, state health subsidy programs, limited to the
7 Medi-Cal program, provided pursuant to Chapter 7 (commencing
8 with Section 14000) of Part 3 of Division 9 of the Welfare and
9 Institutions Code, the Healthy Families Program, provided pursuant
10 to Part 6.2 (commencing with Section 12693) of Division 2 of the
11 Insurance Code, and the Access for Infants and Mothers Program,
12 provided pursuant to Part 6.3 (commencing with Section 12695)
13 of Division 2 of the Insurance Code, where the verification or
14 determination is directly connected with, and limited to, the
15 administration of the state health subsidy programs referenced in
16 this clause.

17 (ii) Verifying or determining the eligibility of an applicant for,
18 or a recipient of, federal subsidies offered through the California
19 Health Benefit Exchange, provided pursuant to Title 22
20 (commencing with Section 100500) of the Government Code,
21 including federal tax credits and cost-sharing assistance pursuant
22 to the federal Patient Protection and Affordable Care Act, (Public
23 Law 111-148), as amended by the federal Health Care and
24 Education Reconciliation Act of 2010 (Public Law 111-152), where
25 the verification or determination is directly connected with, and
26 limited to, the administration of the California Health Benefit
27 Exchange.

28 (iii) Verifying or determining the eligibility of employees and
29 employers for health coverage through the Small Business Health
30 Options Program, provided pursuant to Section 100502 of the
31 Government Code, where the verification or determination is
32 directly connected with, and limited to, the administration of the
33 Small Business Health Options Program.

34 (2) On and after January 1, 2019, information collected pursuant
35 to this section may be used for the following purposes:

36 (A) Administration of this code.

37 (B) Locating individuals for purposes of establishing paternity
38 and establishing, modifying, and enforcing child support
39 obligations.

1 (C) Administration of employment security and workers'
2 compensation programs.

3 (D) Providing employer or employee information to the
4 Franchise Tax Board and to the State Board of Equalization for
5 the purposes of tax or fee enforcement.

6 (E) Verification of eligibility of applicants for, or recipients of,
7 the public assistance programs listed in Section 1320b-7(b) of Title
8 42 of the United States Code.

9 (F) Providing employer or employee information to the State
10 Department of Health Care Services, the California Health Benefit
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17 Institutions Code, the Healthy Families Program, provided pursuant
18 to Part 6.2 (commencing with Section 12693) of Division 2 of the
19 Insurance Code, and the Access for Infants and Mothers Program,
20 provided pursuant to Part 6.3 (commencing with Section 12695)
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34 limited to, the administration of the California Health Benefit
35 Exchange.

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37 employers for health coverage through the Small Business Health
38 Options Program, provided pursuant to Section 100502 of the
39 Government Code, where the verification or determination is

- 1 directly connected with, and limited to, the administration of the
- 2 Small Business Health Options Program.
- 3 (g) For purposes of this section, “employer” includes a labor
- 4 union hiring hall.
- 5 (h) This section shall become operative on July 1, 1998.