

Senate Bill No. 118

CHAPTER 562

An act to amend Sections 14000, 14005, 14010, 14013, and 14020 of the Unemployment Insurance Code, relating to unemployment insurance.

[Approved by Governor October 4, 2013. Filed with
Secretary of State October 4, 2013.]

LEGISLATIVE COUNSEL'S DIGEST

SB 118, Lieu. Unemployment insurance: education and workforce investment systems.

Existing law provides that the California Workforce Investment Board is responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system. Existing law further provides that the board must assist the Governor in targeting resources to specified high-wage industry sectors and providing guidance to ensure that services reflect the needs of those sectors.

This bill would provide that the board is also responsible for assisting the Governor in the alignment of the education and workforce investment systems to the needs of the 21st century workforce and the promotion of the development of a well-educated and highly skilled 21st century economy and workforce. This bill would require the board to assist the Governor in targeting resources to specified industry clusters that provide economic security and leverage state and federal funds to ensure that resources are invested in activities that meet the needs of specified industry sectors and advance the education and employment of students and workers so they can meet the specified needs of the state, its regional economies, and leading industry sectors.

Existing law requires the board, in collaboration with specified state and local partners, and the local workforce investment boards to develop a specified strategic workforce plan, updated at least every 5 years, to address the state's economic, demographic, and workplace needs and to meet the single state plan requirement of the Workforce Investment Act of 1998.

This bill would require, as part of the strategic workforce plan, the creation of a California Industry Sector Initiative that will accomplish specified tasks, including aligning and leveraging federal, state, and local Workforce Investment Act funding streams, identifying specified industry sectors and clusters, providing skills-gap analysis, and establishing specified eligibility criteria for the Workforce Investment Act eligible training provider list.

This bill would also make related changes.

This bill would incorporate additional changes to Section 14013 of the Unemployment Insurance Code proposed by AB 285 that would become operative if this bill and AB 285 are enacted and this bill is enacted last.

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

SECTION 1. Section 14000 of the Unemployment Insurance Code is amended to read:

14000. (a) The Legislature finds and declares that, in order for California to remain prosperous and globally competitive, it needs to have a well-educated and highly skilled workforce.

(b) The Legislature finds and declares that the following principles shall guide the state's workforce investment system:

(1) Workforce investment programs and services shall be responsive to the needs of employers, workers, and students by accomplishing the following:

(A) Preparing California's students and workers with the skills necessary to successfully compete in the global economy.

(B) Producing greater numbers of individuals who obtain industry-recognized certificates and degrees in competitive and emerging industry sectors and filling critical labor market skills gaps.

(C) Adapting to rapidly changing local and regional labor markets as specific workforce skill requirements change over time.

(D) Preparing workers for good-paying jobs that foster economic security and upward mobility.

(2) State and local workforce investment boards are encouraged to collaborate with other public and private institutions, including businesses, unions, nonprofit organizations, kindergarten and grades 1 to 12, inclusive, career technical education programs, adult career technical education and basic skills programs, community college career technical education and basic skills programs, entrepreneurship training programs, where appropriate, the California Community Colleges Economic and Workforce Development Program, and the Employment Training Panel, to better align resources across workforce education and training service delivery systems and build a well-articulated workforce investment system by accomplishing the following:

(A) Adopting local and regional training and education strategies that build on the strengths and fill the gaps in the education and workforce development pipeline in order to address the needs of job seekers, workers, and employers within regional labor markets by supporting sector strategies.

(B) Leveraging resources across education and workforce training delivery systems to build career pathways and fill critical skills gaps.

(3) Workforce investment programs and services shall be data driven and evidence based when setting priorities, investing resources, and adopting practices.

(4) Workforce investment programs and services shall develop strong partnerships with the private sector, ensuring industry involvement in needs assessment, planning, and program evaluation.

(A) Workforce investment programs and services shall encourage industry involvement by developing strong partnerships with an industry's employers and the unions that represent the industry's workers.

(B) Workforce investment programs and services may consider the needs of employers and businesses of all sizes, including large, medium, small, and microenterprises, when setting priorities, investing resources, and adopting practices.

(5) Workforce investment programs and services shall be outcome oriented and accountable, measuring results for program participants, including, but not limited to, outcomes related to program completion, employment, and earnings.

(6) Programs and services shall be accessible to employers, the self-employed, workers, and students who may benefit from their operation, including individuals with employment barriers, such as persons with economic, physical, or other barriers to employment.

SEC. 2. Section 14005 of the Unemployment Insurance Code is amended to read:

14005. For purposes of this division:

(a) “Board” means the California Workforce Investment Board.

(b) “Agency” means the Labor and Workforce Development Agency.

(c) “Career pathways,” “career ladders,” or “career lattices” mean an identified series of positions, work experiences, or educational benchmarks or credentials with multiple access points that offer occupational and financial advancement within a specified career field or related fields over time.

(d) “Cluster-based sector strategies” means methods of focusing workforce and economic development on those sectors that have demonstrated a capacity for economic growth and job creation in a particular geographic area.

(e) “Data driven” means a process of making decisions about investments and policies based on systematic analysis of data, which may include data pertaining to labor markets.

(f) “Economic security” means, with respect to a worker, earning a wage sufficient to support a family adequately, and, over time, to save for emergency expenses and adequate retirement income, based on factors such as household size, the cost of living in the worker’s community, and other factors that may vary by region.

(g) “Evidence-based” means making use of policy research as a basis for determining best policy practices. Evidence-based policymakers adopt policies that research has shown to produce positive outcomes, in a variety of settings, for a variety of populations over time. Successful, evidence-based programs deliver quantifiable and sustainable results. Evidence-based practices differ from approaches that are based on tradition, belief, convention, or anecdotal evidence.

(h) “High-priority occupations” mean occupations that have a significant presence in a targeted industry sector or industry cluster, are in demand by employers, and pay or lead to payment of a wage that provides economic security.

(i) “Individual with employment barriers” means an individual with any characteristic that substantially limits an individual’s ability to obtain

employment, including indicators of poor work history, lack of work experience, or access to employment in nontraditional occupations, long-term unemployment, lack of educational or occupational skills attainment, dislocation from high-wage and high-benefit employment, low levels of literacy or English proficiency, disability status, or welfare dependency.

(j) “Industry cluster” means a geographic concentration or emerging concentration of interdependent industries with direct service, supplier, and research relationships, or independent industries that share common resources in a given regional economy or labor market. An industry cluster is a group of employers closely linked by common product or services, workforce needs, similar technologies, and supply chains in a given regional economy or labor market.

(k) (1) “Industry or sector partnership” means a workforce collaborative that organizes key stakeholders in a targeted industry cluster into a working group that focuses on the workforce needs of the targeted industry cluster. An industry or sector partnership organizes the stakeholders connected with a specific local or regional industry—multiple firms, labor groups, education and training providers, and workforce and education systems—to develop workforce development strategies within the industry. Successful sector partnerships leverage partner resources to address both short-term and long-term human capital needs of a particular sector, including by analyzing current labor markets and identifying barriers to employment within the industry, developing cross-firm skill standards, curricula, and training programs, and developing occupational career ladders to ensure workers of all skill levels can advance within the industry.

(2) Industry or sector partnerships include, at the appropriate stage of development of the partnership, all of the following:

(A) Representatives of multiple firms or employers in the targeted industry cluster, including small-sized and medium-sized employers when practicable.

(B) One or more representatives of state labor organizations, central labor coalitions, or other labor organizations, except in instances where no labor representations exists.

(C) One or more representatives of local workforce investment boards.

(D) One or more representatives of kindergarten and grades 1 to 12, inclusive, and postsecondary educational institutions or other training providers, including, but not limited to, career technical educators.

(E) One or more representatives of state workforce agencies or other entities providing employment services.

(3) An industry or sector partnership may also include representatives from the following:

(A) State or local government.

(B) State or local economic development agencies.

(C) Other state or local agencies.

(D) Chambers of commerce.

(E) Nonprofit organizations.

(F) Philanthropic organizations.

(G) Economic development organizations.

(H) Industry associations.

(I) Other organizations, as determined necessary by the members comprising the industry or sector partnership.

(l) “Industry sector” means those firms that produce similar products or provide similar services using somewhat similar business processes, and are closely linked by workforce needs, within a regional labor market.

(m) “Local labor federation” means a central labor council that is an organization of local unions affiliated with the California Labor Federation or a local building and construction trades council affiliated with the State Building and Construction Trades Council.

(n) “Sector strategies” means methods of prioritizing investments in competitive and emerging industry sectors and industry clusters on the basis of labor market and other economic data indicating strategic growth potential, especially with regard to jobs and income, and exhibit the following characteristics:

(1) Focus workforce investment in education and workforce training programs that are likely to lead to jobs providing economic security or to an entry-level job with a well-articulated career pathway into a job providing economic security.

(2) Effectively boost labor productivity or reduce business barriers to growth and expansion stemming from workforce supply problems, including skills gaps and occupational shortages by directing resources and making investments to plug skills gaps and provide education and training programs for high-priority occupations.

(3) May be implemented using articulated career pathways or lattices and a system of stackable credentials.

(4) May target underserved communities, disconnected youths, incumbent workers, and recently separated military veterans.

(5) Frequently are implemented using industry or sector partnerships.

(6) Typically are implemented at the regional level where sector firms, those employers described in subdivisions (j) and (l), often share a common labor market and supply chains. However, sector strategies may also be implemented at the state or local level depending on sector needs and labor market conditions.

(o) “Workforce Investment Act of 1998” means the federal act enacted as Public Law 105-220.

SEC. 3. Section 14010 of the Unemployment Insurance Code is amended to read:

14010. The California Workforce Investment Board is the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California’s workforce investment system and the alignment of the education and workforce investment systems to the needs of the 21st century economy and workforce.

SEC. 4. Section 14013 of the Unemployment Insurance Code is amended to read:

14013. The board shall assist the Governor in the following:

(a) Promoting the development of a well-educated and highly skilled 21st century workforce.

(b) Developing the State Workforce Investment Plan.

(c) Developing guidelines for the continuous improvement and operation of the workforce investment system, including:

(1) Developing policies to guide the one-stop system.

(2) Providing technical assistance for the continuous improvement of the one-stop system.

(3) Recommending state investments in the one-stop system.

(4) Targeting resources to competitive and emerging industry sectors and industry clusters that provide economic security and are either high-growth sectors or critical to California's economy, or both. These industry sectors and clusters shall have significant economic impacts on the state and its regional and workforce development needs and have documented career opportunities.

(5) To the extent permissible under state and federal laws, recommending youth policies and strategies that support linkages between kindergarten and grades 1 to 12, inclusive, and community college educational systems and youth training opportunities in order to help youth secure educational and career advancement. These policies and strategies may be implemented using a sector strategies framework and should ultimately lead to placement in a job providing economic security or job placement in an entry-level job that has a well-articulated career pathway or career ladder to a job providing economic security.

(6) To the extent permissible under state and federal law, recommending adult and dislocated worker training policies and investments that offer a variety of career opportunities while upgrading the skills of California's workforce. These may include training policies and investments pertaining to any of the following:

(A) Occupational skills training, including training for nontraditional employment.

(B) On-the-job training.

(C) Programs that combine workplace training with related instruction, which may include cooperative education programs.

(D) Training programs operated by the private sector.

(E) Skill upgrading and retraining.

(F) Entrepreneurial training.

(G) Job readiness training.

(H) Adult education and literacy activities provided in combination with any of the services described in this paragraph.

(I) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

(d) Developing and continuously improving the statewide workforce investment system as delivered via the one-stop delivery system and via other programs and services supported by funding from the federal Workforce Investment Act of 1998, including:

(1) Developing linkages in order to ensure coordination and nonduplication among workforce programs and activities.

(2) Reviewing local workforce investment plans.

(3) Leveraging state and federal funds to ensure that resources are invested in activities that meet the needs of the state's competitive and emerging industry sectors and advance the education and employment needs of students and workers so they can keep pace with the education and skill needs of the state, its regional economies, and leading industry sectors.

(e) Commenting, at least once annually, on the measures taken pursuant to the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (Public Law 101-392; 20 U.S.C. Sec. 2301 et seq.).

(f) Designating local workforce investment areas within the state based on information derived from all of the following:

(1) Consultations with the Governor.

(2) Consultations with the chief local elected officials.

(3) Consideration of comments received through the public comment process, as described in Section 112(b)(9) of the federal Workforce Investment Act of 1998.

(g) Developing and modifying allocation formulas, as necessary, for the distribution of funds for adult employment and training activities, for youth activities to local workforce investment areas, and dislocated worker employment and training activities, as permitted by federal law.

(h) Coordinating the development and continuous improvement of comprehensive state performance measures, including state adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the state.

(i) Preparing the annual report to the United States Secretary of Labor.

(j) Recommending policy for the development of the statewide employment statistics system, including workforce and economic data, as described in Section 15 of Title 29 of the United States Code, and using, to the fullest extent possible, the Employment Development Department's existing labor market information systems.

(k) Recommending strategies to the Governor for strategic training investments of the Governor's 15-percent discretionary funds.

(l) Developing and recommending waivers, in conjunction with local workforce investment boards, to the Governor as provided for in the federal Workforce Investment Act of 1998.

(m) Recommending policy to the Governor for the use of the 25-percent rapid response funds, as authorized under the federal Workforce Investment Act of 1998.

(n) Developing an application to the United States Department of Labor for an incentive grant under Section 9273 of Title 20 of the United States Code.

SEC. 4.5. Section 14013 of the Unemployment Insurance Code is amended to read:

14013. The board shall assist the Governor in the following:

(a) Promoting the development of a well-educated and highly skilled 21st century workforce.

(b) Developing the State Workforce Investment Plan.

(c) Developing guidelines for the continuous improvement and operation of the workforce investment system, including:

(1) Developing policies to guide the one-stop system.

(2) Providing technical assistance for the continuous improvement of the one-stop system.

(3) Recommending state investments in the one-stop system.

(4) Targeting resources to competitive and emerging industry sectors and industry clusters that provide economic security and are either high-growth sectors or critical to California's economy, or both. These industry sectors and clusters shall have significant economic impacts on the state and its regional and workforce development needs and have documented career opportunities.

(5) Providing guidance to ensure services reflect the needs of high-wage industry sectors.

(6) To the extent permissible under state and federal laws, recommending youth policies and strategies that support linkages between kindergarten and grades 1 to 12, inclusive, and community college educational systems and youth training opportunities in order to help youth secure educational and career advancement. These policies and strategies may be implemented using a sector strategies framework and should ultimately lead to placement in a job providing economic security or job placement in an entry-level job that has a well-articulated career pathway or career ladder to a job providing economic security.

(7) To the extent permissible under state and federal law, recommending adult and dislocated worker training policies and investments that offer a variety of career opportunities while upgrading the skills of California's workforce. These may include training policies and investments pertaining to any of the following:

(A) Occupational skills training, including training for nontraditional employment.

(B) On-the-job training.

(C) Programs that combine workplace training with related instruction, which may include cooperative education programs.

(D) Training programs operated by the private sector.

(E) Skill upgrading and retraining.

(F) Entrepreneurial training.

(G) Job readiness training.

(H) Adult education and literacy activities provided in combination with any of the services described in this paragraph.

(I) Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.

(d) Developing and continuously improving the statewide workforce investment system as delivered via the one-stop delivery system and via

other programs and services supported by funding from the federal Workforce Investment Act of 1998, including:

(1) Developing linkages in order to ensure coordination and nonduplication among workforce programs and activities.

(2) Reviewing local workforce investment plans.

(3) Leveraging state and federal funds to ensure that resources are invested in activities that meet the needs of the state's competitive and emerging industry sectors and advance the education and employment needs of students and workers so they can keep pace with the education and skill needs of the state, its regional economies, and leading industry sectors.

(4) Making recommendations on how to target resources to high-wage industry sectors that are either high-growth sectors or critical to California's economy, or both.

(e) Commenting, at least once annually, on the measures taken pursuant to the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (Public Law 101-392; 20 U.S.C. Sec. 2301 et seq.).

(f) Designating local workforce investment areas within the state based on information derived from all of the following:

(1) Consultations with the board.

(2) Consultations with the chief local elected officials.

(3) Consideration of comments received through the public comment process, as described in Section 112(b)(9) of the federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2822(b)(9)).

(g) Developing and modifying allocation formulas, as necessary, for the distribution of funds for adult employment and training activities, for youth activities to local workforce investment areas, and dislocated worker employment and training activities, as permitted by federal law.

(h) Coordinating the development and continuous improvement of comprehensive state performance measures, including state adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the state.

(i) Preparing the annual report to the United States Secretary of Labor.

(j) Recommending policy for the development of the statewide employment statistics system, including workforce and economic data, as described in Section 15 of Title 29 of the United States Code, and using, to the fullest extent possible, the Employment Development Department's existing labor market information systems.

(k) Recommending strategies to the Governor for strategic training investments of the Governor's 15-percent discretionary funds.

(l) Developing and recommending waivers, in conjunction with local workforce investment boards, to the Governor as provided for in the federal Workforce Investment Act of 1998.

(m) Recommending policy to the Governor for the use of the 25-percent rapid response funds, as authorized under the federal Workforce Investment Act of 1998.

(n) Developing an application to the United States Department of Labor for an incentive grant under Section 9273 of Title 20 of the United States Code.

(o) Recommending policy and providing technical assistance on entrepreneurial training opportunities that could be made available through programs of local workforce investment boards as authorized under the federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2801 et seq.).

SEC. 5. Section 14020 of the Unemployment Insurance Code is amended to read:

14020. (a) The California Workforce Investment Board, in collaboration with state and local partners, including the Chancellor of the California Community Colleges, the State Department of Education, other appropriate state agencies, and local workforce investment boards, shall develop a strategic workforce plan to serve as a framework for the development of public policy, fiscal investment, and operation of all state labor exchange, workforce education, and training programs to address the state's economic, demographic, and workforce needs. The strategic workforce plan shall also serve as the framework for the single state plan required by the federal Workforce Investment Act of 1998. The plan shall be updated at least every five years.

(b) The state shall develop a California Industry Sector Initiative that will serve as the cornerstone of the state plan and provide a framework for state workforce investments and support for sector strategies.

(c) The California Workforce Investment Board shall work collaboratively with state and local partners to identify ways to eliminate systemwide barriers and better align and leverage federal, state, and local Workforce Investment Act funding streams and policies to develop, support, and sustain regional alliances of employers and workforce and education professionals who are working to improve the educational pipeline, establish well-articulated career pathways, provide industry-recognized credentials and certificates, and address the career advancement needs of current and future workers in competitive and emergent industry sectors and clusters. The California Workforce Investment Board and its partners shall work collaboratively to maximize state and local investments and pursue other resources to address the skills-gap needs identified pursuant to paragraph (3) of subdivision (d).

(d) In order to support the requirement of the plans in subdivision (a), the California Workforce Investment Board shall do the following:

(1) Annually identify industry sectors and industry clusters that have a competitive economic advantage and demonstrated economic importance to the state and its regional economies. In developing this analysis, the California Workforce Investment Board shall consider the expertise of local workforce investment boards in the state's respective regional economies and shall encourage the local workforce investment boards to identify industry sectors and industry clusters that have a competitive economic advantage and demonstrated economic importance in their respective local workforce investment areas.

(2) Annually identify new dynamic emergent industry sectors and industry clusters with substantial potential to generate new jobs and income growth for the state and its regional economies. In developing this analysis, the California Workforce Investment Board shall consider the expertise of local workforce investment boards in the state's respective regional economies and shall encourage the local workforce investment boards to identify new dynamic emergent industry sectors and industry clusters with substantial potential to generate new jobs and income growth in their respective local workforce investment areas.

(3) Provide an annual skills-gap analysis enumerating occupational and skills shortages in the industry sectors and industry clusters identified as having strategic importance to the state's economy and its regional economies. In developing this analysis, the California Workforce Investment Board shall consider the expertise of local workforce investment boards in the state's respective regional economies and shall encourage the local workforce investment boards to conduct skills-gap analysis for their respective local workforce investment areas. Skills-gap analysis for the state and its regional economies shall use labor market data to specify a list of high-priority, in-demand occupations for the state and its regional economies. This list shall be used to inform investment decisions and eligible training provider policies.

(4) Establish, with input from local workforce investment boards and other stakeholders, initial and subsequent eligibility criteria for the federal Workforce Investment Act of 1998 eligible training provider list that effectively directs training resources into training programs leading to employment in high-demand, high-priority, and occupations that provide economic security, particularly those facing a shortage of skilled workers. The subsequent eligibility criteria, to the extent feasible, shall use performance and outcome measures to determine whether a provider is qualified to remain on the list. At a minimum, initial and subsequent eligibility criteria shall consider the following:

(A) The relevance of the training program to the workforce needs of the state's strategic industry sectors and industry clusters.

(B) The need to plug skills gaps and skills shortages in the economy, including skills gaps and skills shortages at the state and regional level.

(C) The need to plug skills gaps and skills shortages in local workforce investment areas.

(D) The likelihood that the training program will lead to job placement in a job providing economic security or job placement in an entry-level job that has a well-articulated career pathway or career ladder to a job providing economic security.

(E) The need for basic skills and bridge training programs that provide access to occupational skills training for individuals with barriers to employment and those who would otherwise be unable to enter occupational skills training.

(F) To the extent feasible, utilize criteria that measure training and education provider performance, including, but not limited to, the following:

- (i) Measures of skills or competency attainment.
 - (ii) Measures relevant to program completion, including measures of course, certificate, degree, licensure, and program of study rate of completion.
 - (iii) For those entering the labor market, measures of employment placement and retention.
 - (iv) For those continuing in training or education, measures of educational or training progression.
 - (v) For those who have entered the labor market, measures of income, including wage measures.
- (G) The division of labor for making initial and subsequent eligibility determinations under this division shall be modeled on the division of labor envisioned in the federal Workforce Investment Act of 1998 in that the state board shall establish, with input from local workforce investment boards and other stakeholders, the initial and subsequent eligibility procedures and criteria utilized by local workforce investment boards to assess training provider performance. The local boards shall have the authority to place and retain training providers on the list, and shall provide relevant performance data pertaining to the training provider criteria established pursuant to this division to a state agency designated by the Governor. The relevant state agency shall also have the authority to remove training providers for nonperformance, provided they do not meet the performance criteria established pursuant to this division.
- (H) If the state receives a waiver from the federal subsequent eligibility provisions specified in the federal Workforce Investment Act of 1998, the state workforce investment board shall establish its own subsequent eligibility criteria that take into account all of the criteria specified in subparagraphs (A) to (G), inclusive.

SEC. 6. Section 4.5 of this bill incorporates amendments to Section 14013 of the Unemployment Insurance Code proposed by both this bill and Assembly Bill 285. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2014, (2) each bill amends Section 14013 of the Unemployment Insurance Code, and (3) this bill is enacted after Assembly Bill 285, in which case Section 4 of this bill shall not become operative.