

Introduced by Senator HancockFebruary 20, 2014

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

LEGISLATIVE COUNSEL'S DIGEST

SB 1141, as introduced, Hancock. 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 enable the Department of Corrections and Rehabilitation to obtain quarterly wage data of former inmates who have been incarcerated within the prison system in order to assess the impact of rehabilitation services or the lack of these services on the employment and earnings of these former inmates. By requiring this information to be provided to the Department of Corrections and Rehabilitation 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 *federal* Social Security Act (*42 U.S.C. Sec. 601 et*
26 *seq.*), where the verification or determination is directly connected
27 with, and limited to, the administration of public social services.

28 (g) To enable county administrators of general relief or
29 assistance, or their representatives, to determine entitlement to
30 locally provided general relief or assistance, where the

1 determination is directly connected with, and limited to, the
2 administration of general relief or assistance.

3 (h) To enable state or local governmental departments or
4 agencies to seek criminal, civil, or administrative remedies in
5 connection with the unlawful application for, or receipt of, relief
6 provided under Division 9 (commencing with Section 10000) of
7 the Welfare and Institutions Code or to enable the collection of
8 expenditures for medical assistance services pursuant to Part 5
9 (commencing with Section 17000) of Division 9 of the Welfare
10 and Institutions Code.

11 (i) To provide any law enforcement agency with the name,
12 address, telephone number, birth date, social security number,
13 physical description, and names and addresses of present and past
14 employers, of any victim, suspect, missing person, potential
15 witness, or person for whom a felony arrest warrant has been
16 issued, when a request for this information is made by any
17 investigator or peace officer as defined by Sections 830.1 and
18 830.2 of the Penal Code, or by any federal law enforcement officer
19 to whom the Attorney General has delegated authority to enforce
20 federal search warrants, as defined under Sections 60.2 and 60.3
21 of Title 28 of the Code of Federal Regulations, as amended, and
22 when the requesting officer has been designated by the head of
23 the law enforcement agency and requests this information in the
24 course of and as a part of an investigation into the commission of
25 a crime when there is a reasonable suspicion that the crime is a
26 felony and that the information would lead to relevant evidence.
27 The information provided pursuant to this subdivision shall be
28 provided to the extent permitted by federal law and regulations,
29 and to the extent the information is available and accessible within
30 the constraints and configurations of existing department records.
31 Any person who receives any information under this subdivision
32 shall make a written report of the information to the law
33 enforcement agency that employs him or her, for filing under the
34 normal procedures of that agency.

35 (1) This subdivision shall not be construed to authorize the
36 release to any law enforcement agency of a general list identifying
37 individuals applying for or receiving benefits.

38 (2) The department shall maintain records pursuant to this
39 subdivision only for periods required under regulations or statutes
40 enacted for the administration of its programs.

1 (3) This subdivision shall not be construed as limiting the
2 information provided to law enforcement agencies to that pertaining
3 only to applicants for, or recipients of, benefits.

4 (4) The department shall notify all applicants for benefits that
5 release of confidential information from their records will not be
6 protected should there be a felony arrest warrant issued against
7 the applicant or in the event of an investigation by a law
8 enforcement agency into the commission of a felony.

9 (j) To provide public employee retirement systems in California
10 with information relating to the earnings of any person who has
11 applied for or is receiving a disability income, disability allowance,
12 or disability retirement allowance, from a public employee
13 retirement system. The earnings information shall be released only
14 upon written request from the governing board specifying that the
15 person has applied for or is receiving a disability allowance or
16 disability retirement allowance from its retirement system. The
17 request may be made by the chief executive officer of the system
18 or by an employee of the system so authorized and identified by
19 name and title by the chief executive officer in writing.

20 (k) To enable the Division of Labor Standards Enforcement in
21 the Department of Industrial Relations to seek criminal, civil, or
22 administrative remedies in connection with the failure to pay, or
23 the unlawful payment of, wages pursuant to Chapter 1
24 (commencing with Section 200) of Part 1 of Division 2 of, and
25 Chapter 1 (commencing with Section 1720) of Part 7 of Division
26 2 of, the Labor Code.

27 (l) To enable federal, state, or local governmental departments
28 or agencies to administer child support enforcement programs
29 under *Part D of* Title IV of the federal Social Security Act (42
30 U.S.C. Sec. 651 et seq.).

31 (m) To provide federal, state, or local governmental departments
32 or agencies with wage and claim information in its possession that
33 will assist those departments and agencies in the administration
34 of the Victims of Crime Program or in the location of victims of
35 crime who, by state mandate or court order, are entitled to
36 restitution that has been or can be recovered.

37 (n) To provide federal, state, or local governmental departments
38 or agencies with information concerning any individuals who are
39 or have been:

1 (1) Directed by state mandate or court order to pay restitution,
2 fines, penalties, assessments, or fees as a result of a violation of
3 law.

4 (2) Delinquent or in default on guaranteed student loans or who
5 owe repayment of funds received through other financial assistance
6 programs administered by those agencies. The information released
7 by the director for the purposes of this paragraph shall not include
8 unemployment insurance benefit information.

9 (o) To provide an authorized governmental agency with any or
10 all relevant information that relates to any specific workers'
11 compensation insurance fraud investigation. The information shall
12 be provided to the extent permitted by federal law and regulations.
13 For the purposes of this subdivision, "authorized governmental
14 agency" means the district attorney of any county, the office of
15 the Attorney General, the Contractors' State License Board, the
16 Department of Industrial Relations, and the Department of
17 Insurance. An authorized governmental agency may disclose this
18 information to the State Bar, the Medical Board of California, or
19 any other licensing board or department whose licensee is the
20 subject of a workers' compensation insurance fraud investigation.
21 This subdivision shall not prevent any authorized governmental
22 agency from reporting to any board or department the suspected
23 misconduct of any licensee of that body.

24 (p) To enable the Director of ~~the Bureau for Private~~
25 ~~Postsecondary Education, Consumer Affairs,~~ or his or her
26 representatives, to access unemployment insurance quarterly wage
27 data on a case-by-case basis to verify information on school
28 administrators, school staff, and students provided by those schools
29 who are being investigated for possible violations of Chapter 8
30 (commencing with Section 94800) of Part 59 of Division 10 of
31 Title 3 of the Education Code.

32 (q) To provide employment tax information to the tax officials
33 of Mexico, if a reciprocal agreement exists. For purposes of this
34 subdivision, "reciprocal agreement" means a formal agreement to
35 exchange information between national taxing officials of Mexico
36 and taxing authorities of the State Board of Equalization, the
37 Franchise Tax Board, and the Employment Development
38 Department. Furthermore, the reciprocal agreement shall be limited
39 to the exchange of information that is essential for tax
40 administration purposes only. Taxing authorities of the State of

1 California shall be granted tax information only on California
2 residents. Taxing authorities of Mexico shall be granted tax
3 information only on Mexican nationals.

4 (r) To enable city and county planning agencies to develop
5 economic forecasts for planning purposes. The information shall
6 be limited to businesses within the jurisdiction of the city or county
7 whose planning agency is requesting the information, and shall
8 not include information regarding individual employees.

9 (s) To provide the State Department of Developmental Services
10 with wage and employer information that will assist in the
11 collection of moneys owed by the recipient, parent, or any other
12 legally liable individual for services and supports provided pursuant
13 to Chapter 9 (commencing with Section 4775) of Division 4.5 of,
14 and Chapter 2 (commencing with Section 7200) and Chapter 3
15 (commencing with Section 7500) of Division 7 of, the Welfare
16 and Institutions Code.

17 (t) To provide the State Board of Equalization with employment
18 tax information that will assist in the administration of tax
19 programs. The information shall be limited to the exchange of
20 employment tax information essential for tax administration
21 purposes to the extent permitted by federal law and regulations.

22 (u) Nothing in this section shall be construed to authorize or
23 permit the use of information obtained in the administration of this
24 code by any private collection agency.

25 (v) The disclosure of the name and address of an individual or
26 business entity that was issued an assessment that included
27 penalties under Section 1128 or 1128.1 shall not be in violation
28 of Section 1094 if the assessment is final. The disclosure may also
29 include any of the following:

30 (1) The total amount of the assessment.

31 (2) The amount of the penalty imposed under Section 1128 or
32 1128.1 that is included in the assessment.

33 (3) The facts that resulted in the charging of the penalty under
34 Section 1128 or 1128.1.

35 (w) To enable the Contractors' State License Board to verify
36 the employment history of an individual applying for licensure
37 pursuant to Section 7068 of the Business and Professions Code.

38 (x) To provide any peace officer with the Division of
39 Investigation in the Department of Consumer Affairs information
40 pursuant to subdivision (i) when the requesting peace officer has

1 been designated by the ~~Chief~~ *chief* of the Division of Investigation
2 and requests this information in the course of and as part of an
3 investigation into the commission of a crime or other unlawful act
4 when there is reasonable suspicion to believe that the crime or act
5 may be connected to the information requested and would lead to
6 relevant information regarding the crime or unlawful act.

7 (y) To enable the Labor Commissioner of the Division of Labor
8 Standards Enforcement in the Department of Industrial Relations
9 to identify, pursuant to Section 90.3 of the Labor Code, unlawfully
10 uninsured employers. The information shall be provided to the
11 extent permitted by federal law and regulations.

12 (z) To enable the Chancellor of the California Community
13 Colleges, in accordance with the requirements of Section 84754.5
14 of the Education Code, to obtain quarterly wage data, commencing
15 January 1, 1993, on students who have attended one or more
16 community colleges, to assess the impact of education on the
17 employment and earnings of students, to conduct the annual
18 evaluation of district-level and individual college performance in
19 achieving priority educational outcomes, and to submit the required
20 reports to the Legislature and the Governor. The information shall
21 be provided to the extent permitted by federal statutes and
22 regulations.

23 (aa) To enable the Public Employees' Retirement System to
24 seek criminal, civil, or administrative remedies in connection with
25 the unlawful application for, or receipt of, benefits provided under
26 Part 3 (commencing with Section 20000) of Division 5 of Title 2
27 of the Government Code.

28 (ab) To enable the State Department of Education, the University
29 of California, the California State University, and the Chancellor
30 of the California Community Colleges, pursuant to the
31 requirements prescribed by the federal American Recovery and
32 Reinvestment Act of 2009 (Public Law 111-5), to obtain quarterly
33 wage data, commencing July 1, 2010, on students who have
34 attended their respective systems to assess the impact of education
35 on the employment and earnings of those students, to conduct the
36 annual analysis of district-level and individual district or
37 postsecondary education system performance in achieving priority
38 educational outcomes, and to submit the required reports to the
39 Legislature and the Governor. The information shall be provided
40 to the extent permitted by federal statutes and regulations.

1 (ac) To provide the Agricultural Labor Relations Board with
2 employee, wage, and employer information, for use in the
3 investigation or enforcement of the
4 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations
5 Act of 1975 (Part 3.5 (commencing with Section 1140) of Division
6 2 of the Labor Code). The information shall be provided to the
7 extent permitted by federal statutes and regulations.

8 (ad) (1) To enable the State Department of Health Care
9 Services, the California Health Benefit Exchange, the Managed
10 Risk Medical Insurance Board, and county departments and
11 agencies to obtain information regarding employee wages,
12 California employer names and account numbers, employer reports
13 of wages and number of employees, and disability insurance and
14 unemployment insurance claim information, for the purpose of:

15 (A) Verifying or determining the eligibility of an applicant for,
16 or a recipient of, state health subsidy programs, limited to the
17 Medi-Cal Program, provided pursuant to Chapter 7 (commencing
18 with Section 14000) of Part 3 of Division 9 of the Welfare and
19 Institutions Code; the Healthy Families Program, provided pursuant
20 to Part 6.2 (commencing with Section 12693) of Division 2 of the
21 Insurance Code; and the Access for Infants and Mothers Program,
22 provided pursuant to Part 6.3 (commencing with Section 12695)
23 of Division 2 of the Insurance Code; where the verification or
24 determination is directly connected with, and limited to, the
25 administration of the state health subsidy programs referenced in
26 this subparagraph.

27 (B) Verifying or determining the eligibility of an applicant for,
28 or a recipient of, federal subsidies offered through the California
29 Health Benefit Exchange, provided pursuant to Title 22
30 (commencing with Section 100500) of the Government Code,
31 including federal tax credits and cost-sharing assistance pursuant
32 to the federal Patient Protection and Affordable Care Act (Public
33 Law 111-148), as amended by the federal Health Care and
34 Education Reconciliation Act of 2010 (Public Law 111-152), where
35 the verification or determination is directly connected with, and
36 limited to, the administration of the California Health Benefit
37 Exchange.

38 (C) Verifying or determining the eligibility of employees and
39 employers for health coverage through the Small Business Health
40 Options Program, provided pursuant to Section 100502 of the

1 Government Code, where the verification or determination is
2 directly connected with, and limited to, the administration of the
3 Small Business Health Options Program.

4 (2) The information provided under this subdivision shall be
5 subject to the requirements of, and provided to the extent permitted
6 by, federal law and regulations, including Part 603 of Title 20 of
7 the Code of Federal Regulations.

8 (ae) To provide any peace officer with the Investigations
9 Division of the Department of Motor Vehicles with information
10 pursuant to subdivision (i), when the requesting peace officer has
11 been designated by the Chief of the Investigations Division and
12 requests this information in the course of, and as part of, an
13 investigation into identity theft, counterfeiting, document fraud,
14 or consumer fraud, and there is reasonable suspicion that the crime
15 is a felony and that the information would lead to relevant evidence
16 regarding the identity theft, counterfeiting, document fraud, or
17 consumer fraud. The information provided pursuant to this
18 subdivision shall be provided to the extent permitted by federal
19 law and regulations, and to the extent the information is available
20 and accessible within the constraints and configurations of existing
21 department records. Any person who receives any information
22 under this subdivision shall make a written report of the
23 information to the Investigations Division of the Department of
24 Motor Vehicles, for filing under the normal procedures of that
25 division.

26 *(af) To enable the Department of Corrections and Rehabilitation*
27 *to obtain quarterly wage data of former inmates who have been*
28 *incarcerated within the prison system in order to assess the impact*
29 *of rehabilitation services or the lack of these services on the*
30 *employment and earnings of these former inmates. Quarterly data*
31 *for a former inmate's employment status and wage history shall*
32 *be provided for a period of one year, three years, and five years*
33 *following release. The data shall only be used for the purpose of*
34 *tracking outcomes for former inmates in order to assess the*
35 *effectiveness of rehabilitation strategies on the wages and*
36 *employment histories of those formerly incarcerated. The*
37 *information shall be provided to the department to the extent not*
38 *prohibited by federal law.*

39 SEC. 2. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district will be incurred because this act creates a new crime or
3 infraction, eliminates a crime or infraction, or changes the penalty
4 for a crime or infraction, within the meaning of Section 17556 of
5 the Government Code, or changes the definition of a crime within
6 the meaning of Section 6 of Article XIII B of the California
7 Constitution.

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