

**Assembly Bill No. 604**

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Passed the Assembly August 27, 1998

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*Chief Clerk of the Assembly*

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Passed the Senate August 26, 1998

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*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_ day  
of \_\_\_\_\_, 1998, at \_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_

An act to amend Section 1094 of, and to add and repeal Section 1095.2 of, the Unemployment Insurance Code, relating to employment.

## LEGISLATIVE COUNSEL'S DIGEST

AB 604, Kuykendall. Employment Development Department.

Existing law provides that information obtained by the department in the administration of the Unemployment Insurance Code is for the exclusive use of the director in the discharge of his or her duties, and is not open to the public except as may be specifically provided.

This bill would provide that an employee or his or her representative may receive his or her wage information upon request.

The bill would, until July 1, 2002, authorize the disclosure of wage information to private entities for the purpose of verifying information provided by an individual in connection with a specific credit transaction if certain conditions are met. It would provide for civil penalties and civil actions for violations.

This bill would incorporate additional amendments to Section 1094 of the Unemployment Insurance Code proposed by AB 2017, if both bills are enacted and this bill is enacted after AB 2017.

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

SECTION 1. Section 1094 of the Unemployment Insurance Code is amended to read:

1094. (a) Except as otherwise specifically provided in this code, the information obtained in the administration of this code shall be for the exclusive use and information of the director in discharge of his or her duties and shall not be open to the public, nor admissible in evidence in any action or special proceeding, other than one arising out of the provisions of this code, one



arising out of the provisions of Division 9 (commencing with Section 10000) of the Welfare and Institutions Code to determine entitlement to, and directly connected with and limited to the administration of, public social services, or a proceeding to determine entitlement to, and directly connected with and limited to the administration of, locally provided general relief or assistance benefits or medical assistance services. This information may be tabulated and published in statistical form for the use and information of state departments and the public, except that the name of the employing unit or of any worker shall never be divulged in the course of the tabulation or publication.

(b) Any employee or his or her representative may receive his or her wage information upon written request by the employee. The information shall be provided without charge.

SEC. 2. Section 1094 of the Unemployment Insurance Code is amended to read:

1094. (a) Except as otherwise specifically provided in this code, the information obtained in the administration of this code is confidential, not open to the public, and shall be for the exclusive use and information of the director in discharge of his or her duties.

(b) The information released to authorized entities pursuant to other provisions of the code shall not be admissible in evidence in any action or special proceeding, other than one arising out of the provisions of this code or one described in Section 1095.

(c) The information may be tabulated and published in statistical form for use by federal, state, and local governmental departments and agencies, and the public, except that the name of the employing unit or of any worker shall never be divulged in the course of the tabulation or publication.

(d) Wages as defined by Section 13009 and amounts required to be deducted and withheld under Section 13020 shall not be disclosed except as provided in Article 2 (commencing with Section 19542) of Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.



(e) Any employee or his or her representative may receive his or her wage information upon written request by the employee. The information shall be provided without charge.

(f) Any person who knowingly accesses, uses, or discloses any confidential information without authorization is in violation of this section and is guilty of a misdemeanor.

SEC. 3. Section 1095.2 is added to the Unemployment Insurance Code, to read:

1095.2. (a) Prior to implementing subdivisions (b) to (g), inclusive, the department shall evaluate the best practices and system weaknesses of similar programs in other states. This evaluation shall be completed no later than July 1, 1999.

(b) The director may disclose wage information to private entities for the purpose of verifying information provided by an individual in connection with a specific credit transaction. The manner and format in which this information shall be provided shall be designated by the director. To protect the integrity of the department's wage information, the private entity shall not have direct on-line access to any of the department's automated data bases. The wage information may be electronically requested by, or furnished to, the private entity. The wage information shall be furnished only if all of the following conditions are met:

(1) The individual to whom the information pertains provides written consent to the disclosure in accordance with the Information Practices Act of 1977 (Chapter 1 (commencing with Section 1798), of Title 1.8, of Part 4, of Division 3, of the Civil Code) before the information is released to the private entity.

(2) At a minimum the consent contains language disclosing the following information:

(A) The consent to disclose is voluntary and not required by law.

(B) Refusal to consent to disclosure of state wage information shall not be the basis for the denial of credit.



(C) If consent is granted, the individual's wage information shall be released.

(D) The release shall be only for the specific transaction identified in the individual's consent.

(E) The number of days the consent shall be valid following the execution of the consent by the individual.

(F) The wage information reported to the state by the individual's employers will be accessed.

(G) A statement indicating all of the parties who may receive the information released.

(3) The release of the information is for a purpose authorized by, and occurs in a manner permitted by, the United States Department of Labor.

(4) The release of information must occur within the period set forth within the written consent. The director shall designate the maximum number of days for which the written consent shall be valid following the execution of the consent by the individual.

(c) The private entity shall comply with all applicable duties and obligations of a credit reporting agency arising under state or federal law.

(d) The director shall establish minimum audit standards, security standards, technological requirements, and any other terms or conditions deemed necessary in the discretion of the director to safeguard the confidentiality of the information released pursuant to this section and to otherwise serve the public interest.

(e) The private entity shall, prior to the provision of any wage information, pay all development and other startup costs incurred by the state in connection with implementing systems and procedures for disclosure of the wage information.

The private entity shall also pay a transaction fee in an amount established by the director for providing this wage information. Proceeds from the transaction fee shall be used to offset expenditures for ongoing support of the disclosure of wage information to the private entity, and the remainder shall be deposited into a separate account and shall only be used for the proper and efficient administration of the unemployment compensation



program as allowed by the United States Department of Labor.

(f) The private entity shall post a bond in an amount specified by the director to indemnify the state from any and all liability arising from the illegal, unauthorized, or otherwise inappropriate use of the wage information released pursuant to this section.

(g) For purposes of this section, “wage information” means the amount of wages reported by employers as earned by the individual during the base period as defined in Section 1275, or any additional periods as agreed to by the director, and the name or names and address or addresses of record of the employers who paid those wages.

(h) Information obtained from the department by a private entity pursuant to this section shall be used only to (1) verify the accuracy of wage information previously provided to the creditor by an individual in connection with a specific credit transaction, (2) meet the private entity’s or creditor’s obligation under applicable fair credit laws, and (3) satisfy standard underwriting requirements imposed by the creditor or secondary market entities relating to that specific credit transaction. Any other use of wage information shall constitute a violation of this section.

(i) The private entity shall furnish to the individual to whom the wage information pertains (1) a copy of wage information that was furnished to any other entity, (2) an identification of all other entities to which the information was furnished, and (3) an explanation of the purpose for which the information was furnished.

(j) Any person or entity who violates any provision of this section shall be subject to a civil penalty of up to five thousand dollars (\$5,000). In addition, any person who is injured by a violation of this section may bring a civil action to recover damages, attorney fees, and costs of suit.

(k) This section shall remain in effect only until July 1, 2002, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2002, deletes or extends that date.



SEC. 4. Section 2 of this bill incorporates amendments to Section 1094 of the Unemployment Insurance Code proposed by both this bill and AB 2017. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 1999, (2) each bill amends Section 1094 of the Unemployment Insurance Code, and (3) this bill is enacted after AB 2017, in which case Section 1 of this bill shall not become operative.



Approved \_\_\_\_\_, 1998

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*Governor*

