

AMENDED IN ASSEMBLY APRIL 21, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 1680

Introduced by Assembly Member Alquist

January 15, 1998

An act to amend Sections 1328, 1334, and 1376 of the Unemployment Insurance Code, relating to unemployment insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1680, as amended, Alquist. Unemployment insurance.

Existing law provides for the payment of unemployment compensation benefits to certain unemployed persons. Existing law provides for the review of initial claims by the Employment Development Department, for the appeal of the initial determination as to whether or not to provide unemployment compensation benefits, and the further review of the appeal by the California Unemployment Insurance Appeals Board.

This bill would require the department *and appeals board* to provide a claimant *who is determined to be ineligible or eligible for less benefits than claimed* with an appeal form after the initial determination and the initial appeal, and to provide the appellant with a list of public agencies that offer services for claimants who wish to file an appeal. This bill would impose similar requirements on the department in connection with a determination of an overpayment.

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

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

1 SECTION 1. Section 1328 of the Unemployment
2 Insurance Code is amended to read:
3 1328. The department shall consider the facts
4 submitted by an employer pursuant to Section 1327 and,
5 if benefits are claimed subsequent to the filing of the new
6 or additional claim, make a determination as to the
7 claimant’s eligibility for benefits. The department shall
8 promptly notify the claimant and any employer who
9 prior to the determination has submitted any facts or
10 given any notice pursuant to Section 1327 or this section
11 and authorized regulations of the determination or
12 reconsidered determination and the reasons therefor.

13 ~~The~~
14 *If the department determines the claimant is ineligible*
15 *for benefits or determines the claimant is eligible for less*
16 *benefits than claimed, the department shall also provide*
17 *the claimant, along with the notice of determination, an*
18 *appeal form. In addition to the appeal form, the*
19 *department shall be responsible for providing—~~the~~ that*
20 *claimant with a list of public agencies that offer services*
21 *for claimants who wish to file an appeal.*

22 If after notice of a determination or reconsidered
23 determination the employing unit acquires knowledge of
24 facts which may affect the eligibility of the claimant and
25 such facts could not reasonably have been known within
26 the 10-day period provided by Section 1327, the
27 employing unit shall within 10 days of acquiring such
28 knowledge submit such facts to the department, and such
29 10-day period may be extended for good cause. The
30 claimant and any such employer may appeal from a
31 determination or reconsidered determination to an
32 administrative law judge within 20 days from mailing or
33 personal service of notice of the determination or
34 reconsidered determination. The 20-day period may be
35 extended for good cause, which shall include, but not be



1 limited to, mistake, inadvertence, surprise, or excusable
2 neglect. The director shall be an interested party to any
3 appeal.

4 SEC. 2. Section 1334 of the Unemployment Insurance
5 Code is amended to read:

6 1334. An administrative law judge after affording a
7 reasonable opportunity for fair hearing, shall, unless that
8 appeal is withdrawn, affirm, reverse, modify, or set aside
9 any determination that is appealed under this article. The
10 claimant, any employer becoming a party to the appeal
11 by submitting a protest or information pursuant to
12 Sections 1326 to 1333, inclusive, and the director shall be
13 promptly notified in writing of the administrative law
14 judge's decision, together with his or her reasons therefor.
15 ~~The department~~ *If the administrative law judge decides*
16 *the claimant is ineligible for benefits or decides the*
17 *claimant is eligible for less benefits than claimed, the*
18 *Unemployment Insurance Appeals Board* shall also
19 provide the claimant, along with the notice of decision, an
20 appeal form. In addition to the appeal form, the
21 ~~department~~ *Unemployment Insurance Appeals Board*
22 shall be responsible for providing ~~the~~ *that* claimant with
23 a list of public agencies that offer services for claimants
24 who wish to file an appeal. The decision shall be final
25 unless, within 20 days after mailing of such decision,
26 further appeal is initiated to the appeals board pursuant
27 to Section 1336. The 20-day limitation may be extended
28 for good cause.

29 "Good cause," as used in this section, shall include, but
30 not be limited to, mistake, inadvertence, surprise, or
31 excusable neglect.

32 SEC. 3. Section 1376 of the Unemployment Insurance
33 Code is amended to read:

34 1376. The Director of Employment Development
35 shall determine the amount of the overpayment and any
36 assessment authorized under Section 1375.1 and shall
37 notify the liable person of the basis of the overpayment
38 determination. The department shall also provide the
39 liable person, along with the notice of overpayment, an
40 appeal form. In addition to the appeal form, the

1 department shall be responsible for providing the
2 claimant with a list of public agencies that offer services
3 for claimants who wish to file an appeal with the board.
4 In the absence of fraud, misrepresentation, or willful
5 nondisclosure, notice of the overpayment determination
6 shall be mailed or personally served within the latest of
7 the following periods:

8 (a) Not later than one year after the close of the
9 benefit year in which the overpayment was made.

10 (b) Not later than six months after the date a backpay
11 award was made.

