

**ASSEMBLY BILL**

**No. 274**

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**Introduced by Assembly Member Garrick**

February 7, 2011

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An act to amend Sections 1030, 1327, and 1328 of the Unemployment Insurance Code, relating to unemployment insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 274, as introduced, Garrick. Unemployment insurance benefits: claims: right to respond.

Existing law requires the Employment Development Department to provide notice of the filing of an unemployment claim to the claimant's last employing unit, and requires the employing unit to submit, within 10 days after the mailing of the notice, any facts that may affect the claimant's eligibility for benefits, as specified.

This bill would extend the time in which the employing unit is required to submit those facts to 30 days and would make conforming changes to other related provisions.

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 1030 of the Unemployment Insurance  
2 Code is amended to read:  
3 1030. (a) Any employer who is entitled under Section 1327  
4 to receive notice of the filing of a new or additional claim may,  
5 within ~~10~~ 30 days after mailing of the notice, submit to the  
6 department any facts within its possession disclosing whether the

1 claimant left the employer’s employ voluntarily and without good  
2 cause or left under one of the following circumstances:

3 (1) The claimant was discharged from the employment for  
4 misconduct connected with his or her work.

5 (2) The claimant’s discharge or quitting from his or her most  
6 recent employer was the result of an irresistible compulsion to use  
7 or consume intoxicants including alcoholic beverages.

8 (3) The claimant was a student employed on a temporary basis  
9 and whose employment began within, and ended with his or her  
10 leaving to return to school at the close of, his or her vacation  
11 period.

12 (4) The claimant left the employer’s employ to accompany his  
13 or her spouse or domestic partner to a place or to join him or her  
14 at a place from which it is impractical to commute to the  
15 employment, and to which a transfer of the claimant by the  
16 employer is not available.

17 (5) The claimant left the employer’s employ to protect his or  
18 her family or himself or herself from domestic violence abuse.

19 The period during which the employer may submit these facts  
20 may be extended by the director for good cause.

21 (b) Any base period employer that is not entitled under Section  
22 1327 to receive notice of the filing of a new or additional claim  
23 and is entitled under Section 1329 to receive notice of computation  
24 may, within 15 days after mailing of the notice of computation,  
25 submit to the department any facts within its possession disclosing  
26 whether the claimant left the employer’s employ voluntarily and  
27 without good cause or left under one of the following  
28 circumstances:

29 (1) The claimant was discharged from the employment for  
30 misconduct connected with his or her work.

31 (2) The claimant was a student employed on a temporary basis  
32 and whose employment began within, and ended with his or her  
33 leaving to return to school at the close of, his or her vacation  
34 period.

35 (3) The claimant left the employer’s employ to accompany his  
36 or her spouse or domestic partner to a place or join him or her at  
37 a place from which it is impractical to commute to the employment,  
38 and to which a transfer of the claimant by the employer is not  
39 available.

1 (4) The claimant left the employer’s employ to protect his or  
2 her family or himself or herself from domestic violence abuse.

3 The period during which the employer may submit these facts  
4 may be extended by the director for good cause.

5 (c) The department shall consider these facts together with any  
6 information in its possession. If the employer is entitled to a ruling  
7 under subdivision (b) or to a determination under Section 1328,  
8 the department shall promptly notify the employer of its ruling as  
9 to the cause of the termination of the claimant’s employment. The  
10 employer may appeal from a ruling or reconsidered ruling to an  
11 administrative law judge within 20 days after mailing or personal  
12 service of notice of the ruling or reconsidered ruling. The 20-day  
13 period may be extended for good cause, which includes, but is not  
14 limited to, mistake, inadvertence, surprise, or excusable neglect.  
15 The director is an interested party to any appeal. The department  
16 may for good cause reconsider any ruling or reconsidered ruling  
17 within either five days after the date an appeal to an administrative  
18 law judge is filed or, if no appeal is filed, within 20 days after  
19 mailing or personal service of notice of the ruling or reconsidered  
20 ruling. However, a ruling or reconsidered ruling that relates to a  
21 determination that is reconsidered pursuant to subdivision (a) of  
22 Section 1332 may also be reconsidered by the department within  
23 the time provided for reconsideration of that determination.

24 (d) For purposes of this section only, if the claimant voluntarily  
25 leaves the employer’s employ without notification to the employer  
26 of the reasons for the leaving, and if the employer submits all of  
27 the facts within its possession concerning the leaving within the  
28 applicable time period referred to in this section, the leaving is  
29 presumed to be without good cause.

30 (e) An individual whose employment is terminated under the  
31 compulsory retirement provisions of a collective bargaining  
32 agreement to which the employer is a party shall not be deemed  
33 to have voluntarily left his or her employment without good cause.

34 (f) For purposes of this section “spouse” includes a person to  
35 whom marriage is imminent, and “domestic partner” includes a  
36 person to whom a domestic partnership, as described in Section  
37 297 of the Family Code, is imminent.

38 SEC. 2. Section 1327 of the Unemployment Insurance Code  
39 is amended to read:

1 1327. The department shall give a notice of the filing of a new  
2 or additional claim to the employing unit by which the claimant  
3 was last employed immediately preceding the filing of the claim  
4 unless the additional claim is the result of the filing of a partial  
5 claim as defined by the department, there has not been a subsequent  
6 employing unit which is designated as the last employer, and there  
7 is no separation issue. The employing unit so notified shall submit  
8 within ~~10~~ 30 days after the mailing of the notice any facts then  
9 known that may affect the claimant's eligibility for benefits,  
10 including, but not limited to, facts pertaining to eligibility under  
11 Section 1256. The ~~10-day~~ 30-day period may be extended for good  
12 cause. If after the ~~10-day~~ 30-day period the employing unit acquires  
13 knowledge of facts that may affect the eligibility of the claimant  
14 and facts could not reasonably have been known within the period,  
15 the employing unit shall, within ~~10~~ 30 days of acquiring the  
16 knowledge, submit the facts to the department, and the ~~10-day~~  
17 30-day period may also be extended for good cause.

18 SEC. 3. Section 1328 of the Unemployment Insurance Code  
19 is amended to read:

20 1328. The department shall consider the facts submitted by an  
21 employer pursuant to Section 1327 and make a determination as  
22 to the claimant's eligibility for benefits. The department shall  
23 promptly notify the claimant and any employer who prior to the  
24 determination has submitted any facts or given any notice pursuant  
25 to Section 1327 or this section and authorized regulations of the  
26 determination or reconsidered determination and the reasons  
27 therefor. If after notice of a determination or reconsidered  
28 determination the employing unit acquires knowledge of facts  
29 which may affect the eligibility of the claimant and those facts  
30 could not reasonably have been known within the ~~10-day~~ 30-day  
31 period provided by Section 1327, the employing unit shall within  
32 10 days of acquiring that knowledge submit those facts to the  
33 department, and the 10-day period may be extended for good cause.  
34 The claimant and any such employer may appeal from a  
35 determination or reconsidered determination to an administrative  
36 law judge within 20 days from mailing or personal service of notice  
37 of the determination or reconsidered determination. The 20-day  
38 period may be extended for good cause, which shall include, but

- 1 not be limited to, mistake, inadvertence, surprise, or excusable
- 2 neglect. The director shall be an interested party to any appeal.

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