

ASSEMBLY BILL

No. 1129

Introduced by Assembly Member Portantino

February 18, 2011

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1129, as introduced, Portantino. Unemployment insurance: use of information: federally designated student loan guaranty agencies.

Existing law provides for the payment of unemployment compensation benefits to eligible unemployed individuals, and requires that the Employment Development Department implement the unemployment insurance system in the state. Existing law authorizes the Director of Employment Development to permit the use of information in his or her possession for specified purposes, including, among other things, to provide federal, state, and local government agencies with information concerning any individuals who have been delinquent or in default on guaranteed student loans or who owe fines, penalties, assessments, or fees, as specified.

This bill would additionally authorize the director to release the above information to a federally designated student loan guaranty agency for California, pursuant to an operating agreement with the Student Aid Commission.

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

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

SECTION 1. Section 1095 of the Unemployment Insurance Code is amended to read:

1095. The director shall permit the use of any information in his or her possession to the extent necessary for any of the following purposes and may require reimbursement for all direct costs incurred in providing any and all information specified in this section, except information specified in subdivisions (a) to (e), inclusive:

(a) To enable the director or his or her representative to carry out his or her responsibilities under this code.

(b) To properly present a claim for benefits.

(c) To acquaint a worker or his or her authorized agent with his or her existing or prospective right to benefits.

(d) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her rights under this division or Division 3 (commencing with Section 9000).

(e) To enable an employer to receive a reduction in contribution rate.

(f) To enable federal, state, or local government departments or agencies, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services provided pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, or Part A of Title IV of the Social Security Act, where the verification or determination is directly connected with, and limited to, the administration of public social services.

(g) To enable county administrators of general relief or assistance, or their representatives, to determine entitlement to locally provided general relief or assistance, where the determination is directly connected with, and limited to, the administration of general relief or assistance.

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

1 (commencing with Section 17000) of Division 9 of the Welfare
2 and Institutions Code.

3 (i) To provide any law enforcement agency with the name,
4 address, telephone number, birth date, social security number,
5 physical description, and names and addresses of present and past
6 employers, of any victim, suspect, missing person, potential
7 witness, or person for whom a felony arrest warrant has been
8 issued, when a request for this information is made by any
9 investigator or peace officer as defined by Sections 830.1 and
10 830.2 of the Penal Code, or by any federal law enforcement officer
11 to whom the Attorney General has delegated authority to enforce
12 federal search warrants, as defined under Sections 60.2 and 60.3
13 of Title 28 of the Code of Federal Regulations, as amended, and
14 when the requesting officer has been designated by the head of
15 the law enforcement agency and requests this information in the
16 course of and as a part of an investigation into the commission of
17 a crime when there is a reasonable suspicion that the crime is a
18 felony and that the information would lead to relevant evidence.
19 The information provided pursuant to this subdivision shall be
20 provided to the extent permitted by federal law and regulations,
21 and to the extent the information is available and accessible within
22 the constraints and configurations of existing department records.
23 Any person who receives any information under this subdivision
24 shall make a written report of the information to the law
25 enforcement agency that employs him or her, for filing under the
26 normal procedures of that agency.

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

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

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

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

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

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

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

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

(n) To provide federal, state, or local governmental departments or agencies, *or a federally designated student loan guaranty agency for California pursuant to an operating agreement with the Student Aid Commission*, with information concerning any individuals who are or have been:

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

(2) Delinquent or in default on guaranteed student loans or who owe repayment of funds received through other financial assistance programs administered by those agencies. The information released

1 by the director for the purposes of this paragraph shall not include
2 unemployment insurance benefit information.

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

17 (p) To enable the Director of the Bureau for Private
18 Postsecondary and Vocational Education, or his or her
19 representatives, to access unemployment insurance quarterly wage
20 data on a case-by-case basis to verify information on school
21 administrators, school staff, and students provided by those schools
22 who are being investigated for possible violations of Chapter 7
23 (commencing with Section 94700) of Part 59 of the Education
24 Code.

25 (q) To provide employment tax information to the tax officials
26 of Mexico, if a reciprocal agreement exists. For purposes of this
27 subdivision, "reciprocal agreement" means a formal agreement to
28 exchange information between national taxing officials of Mexico
29 and taxing authorities of the State Board of Equalization, the
30 Franchise Tax Board, and the Employment Development
31 Department. Furthermore, the reciprocal agreement shall be limited
32 to the exchange of information that is essential for tax
33 administration purposes only. Taxing authorities of the State of
34 California shall be granted tax information only on California
35 residents. Taxing authorities of Mexico shall be granted tax
36 information only on Mexican nationals.

37 (r) To enable city and county planning agencies to develop
38 economic forecasts for planning purposes. The information shall
39 be limited to businesses within the jurisdiction of the city or county

1 whose planning agency is requesting the information, and shall
2 not include information regarding individual employees.

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

11 (t) To provide the State Board of Equalization with employment
12 tax information that will assist in the administration of tax
13 programs. The information shall be limited to the exchange of
14 employment tax information essential for tax administration
15 purposes to the extent permitted by federal law and regulations.

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

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

24 (1) The total amount of the assessment.

25 (2) The amount of the penalty imposed under Section 1128 or
26 1128.1 that is included in the assessment.

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

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

32 (x) To provide any peace officer with the Division of
33 Investigation in the Department of Consumer Affairs information
34 pursuant to subdivision (i) when the requesting peace officer has
35 been designated by the Chief of the Division of Investigation and
36 requests this information in the course of and as part of an
37 investigation into the commission of a crime or other unlawful act
38 when there is reasonable suspicion to believe that the crime or act
39 may be connected to the information requested and would lead to
40 relevant information regarding the crime or unlawful act.

1 (y) To enable the Labor Commissioner of the Division of Labor
2 Standards Enforcement in the Department of Industrial Relations
3 to identify, pursuant to Section 90.3 of the Labor Code, unlawfully
4 uninsured employers. The information shall be provided to the
5 extent permitted by federal law and regulations.

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

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

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