

ASSEMBLY BILL

No. 2676

**Introduced by Committee on Labor and Employment (Assembly
Members Swanson (Chair), Alejo, Allen, Furutani, and Yamada)**

March 5, 2012

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

LEGISLATIVE COUNSEL'S DIGEST

AB 2676, as introduced, Committee on Labor and Employment.
Unemployment insurance: use of information.

Under existing law, the information obtained in the administration of the Unemployment Insurance Law 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 requires the director to permit the use of the specified 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 to provide the Agricultural Labor Relations Board with information for use in the investigation or enforcement of the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act. By providing this information to the Agricultural Labor Relations Board, this bill would expand the crime related to the unauthorized disclosure of this information, and 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 Social Security Act, where the verification or
26 determination is directly connected with, and limited to, the
27 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 Title IV of the Social Security Act (42 U.S.C. Sec. 651 et
30 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 Department of Industrial Relations, and
16 the Department of Insurance. An authorized governmental agency
17 may disclose this information to the State Bar, the Medical Board
18 of California, or any other licensing board or department whose
19 licensee is the subject of a workers' compensation insurance fraud
20 investigation. This subdivision shall not prevent any authorized
21 governmental agency from reporting to any board or department
22 the suspected misconduct of any licensee of that body.

23 (p) To enable the Director of the Bureau for Private
24 Postsecondary and Vocational Education, or his or her
25 representatives, to access unemployment insurance quarterly wage
26 data on a case-by-case basis to verify information on school
27 administrators, school staff, and students provided by those schools
28 who are being investigated for possible violations of Chapter ~~7 8~~
29 (commencing with Section ~~94700~~) 94800) of Part 59 of *Division*
30 *10 of Title 3 of the Education Code*.

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

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

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

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

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

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

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

29 (1) The total amount of the assessment.

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

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

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

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

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

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

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

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

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

1 (ac) To provide the Agricultural Labor Relations Board with
2 any information in the department's possession, including, but not
3 limited to, employee, wage, and employer information, for use in
4 the investigation or enforcement of the
5 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations
6 Act of 1975 (Part 3.5 (commencing with Section 1140) of Division
7 2 of the Labor Code). The information shall be provided to the
8 extent permitted by federal statutes and regulations.

9 SEC. 2. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 the only costs that may be incurred by a local agency or school
12 district will be incurred because this act creates a new crime or
13 infraction, eliminates a crime or infraction, or changes the penalty
14 for a crime or infraction, within the meaning of Section 17556 of
15 the Government Code, or changes the definition of a crime within
16 the meaning of Section 6 of Article XIII B of the California
17 Constitution.