

AMENDED IN ASSEMBLY AUGUST 6, 2012

AMENDED IN ASSEMBLY MAY 30, 2012

AMENDED IN SENATE APRIL 18, 2012

SENATE BILL

No. 1401

Introduced by Senator Lieu

February 24, 2012

An act to amend Sections 14000, 14005, 14010, 14013, and 14020 of the Unemployment Insurance Code, relating to unemployment insurance.

LEGISLATIVE COUNSEL'S DIGEST

SB 1401, as amended, Lieu. Unemployment insurance: education and workforce investment systems.

Existing law provides that the California Workforce Investment Board is responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system. Existing law further provides that the board must assist the Governor in targeting resources to specified high-wage industry sectors and providing guidance to ensure that services reflect the needs of those sectors.

This bill would provide that the board is also responsible for assisting the Governor in the alignment of the education and workforce investment systems to the needs of the 21st century workforce and the promotion and development of a well-educated and highly skilled 21st century economy and workforce. This bill would require the board to assist the Governor in targeting resources to specified industry clusters that provide economic security and leverage state and federal funds to ensure that resources are invested in activities that meet the needs of

specified industry sectors and advance the education and employment of students and workers so they can meet the specified needs of the state, its regional economies, and leading industry sectors.

Existing law requires the board, in collaboration with specified state and local partners, and the local workforce investment boards to develop a specified strategic workforce plan, updated at least every 5 years, to address the state's economic, demographic, and workplace needs and to meet the single state plan requirement of the Workforce Investment Act of 1998.

This bill would require, as part of the strategic workforce plan, the creation of a California Industry Sector Initiative that will accomplish specified tasks, including aligning and leveraging federal, state, and local Workforce Investment Act funding streams, identifying specified industry sectors and clusters, providing skills-gap analysis, and establishing specified eligibility criteria for the Workforce Investment Act eligible training provider list.

This bill would also make related changes.

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 14000 of the Unemployment Insurance
- 2 Code is amended to read:
- 3 14000. (a) The Legislature finds and declares that, in order
- 4 for California to remain prosperous and globally competitive, it
- 5 needs to have a well-educated and highly skilled workforce.
- 6 (b) The Legislature finds and declares that the following
- 7 principles shall guide the state's workforce investment system:
- 8 (1) Workforce investment programs and services shall be
- 9 responsive to the needs of employers, workers, and students by
- 10 accomplishing the following:
- 11 (A) Preparing California's students and workers with the skills
- 12 necessary to successfully compete in the global economy.
- 13 (B) Producing greater numbers of individuals who obtain
- 14 industry-recognized certificates and degrees in competitive and
- 15 emerging industry sectors and filling critical labor market skills
- 16 gaps.
- 17 (C) Adapting to rapidly changing local and regional labor
- 18 markets as specific workforce skill requirements change over time.

1 (D) Preparing workers for good-paying jobs that foster economic
2 security and upward mobility.

3 (2) State and local workforce investment boards are encouraged
4 to collaborate with other public and private institutions, including
5 businesses, unions, nonprofit organizations, kindergarten and
6 grades 1 to 12, inclusive, career technical education programs,
7 adult *career technical education and basic—education skills*
8 programs, community college career technical education and basic
9 skills programs, the California Community Colleges Economic
10 and Workforce Development Program, and the Employment
11 Training Panel, to better align resources across workforce education
12 and training service delivery systems and build a well-articulated
13 workforce investment system by accomplishing the following:

14 (A) Adopting local and regional training and education strategies
15 that build on the strengths and fill the gaps in the education and
16 workforce development pipeline in order to address the needs of
17 job seekers, workers, and employers within regional labor markets
18 by supporting sector strategies.

19 (B) Leveraging resources across education and workforce
20 training delivery systems to build career pathways and fill critical
21 skills gaps.

22 (3) Workforce investment programs and services shall be data
23 driven and evidence based when setting priorities, investing
24 resources, and adopting practices.

25 (4) Workforce investment programs and services shall develop
26 strong partnerships with the private sector, ensuring industry
27 involvement in needs assessment, planning, and program
28 evaluation, ~~and by encouraging industry involvement by developing~~
29 ~~strong partnerships with an industry's employers and the unions~~
30 ~~that represent the industry's workers.~~

31 *(A) Workforce investment programs and services shall*
32 *encourage industry involvement by developing strong partnerships*
33 *with an industry's employers and the unions that represent the*
34 *industry's workers.*

35 *(B) Workforce investment programs and services may consider*
36 *the needs of employers of all sizes, including large, medium, small,*
37 *and microenterprise employers, when setting priorities, investing*
38 *resources, and adopting practices.*

39 (5) Workforce investment programs and services shall be
40 outcome oriented and accountable, measuring results for program

1 participants, including, but not limited to, outcomes related to
2 program completion, employment, and earnings.

3 (6) Programs and services shall be accessible to employers,
4 workers, and students who may benefit from their operation,
5 including individuals with employment barriers, such as persons
6 with economic, physical, or other barriers to employment.

7 SEC. 2. Section 14005 of the Unemployment Insurance Code
8 is amended to read:

9 14005. For purposes of this division:

10 (a) “Board” shall mean the California Workforce Investment
11 Board.

12 (b) “Agency” means the Labor and Workforce Development
13 Agency.

14 (c) “Career pathways,” “career ladders,” or “career lattices”
15 mean an identified series of positions, work experiences, or
16 educational benchmarks or credentials with multiple access points
17 that offer occupational and financial advancement within a
18 specified career field or related fields over time.

19 (d) “Cluster-based sector strategies” means methods of focusing
20 workforce and economic development on those sectors that have
21 demonstrated a capacity for economic growth and job creation in
22 a particular geographic area.

23 (e) “Data driven” means a process of making decisions about
24 investments and policies based on systematic analysis of data,
25 which may include data pertaining to labor markets.

26 (f) “Economic security” means, with respect to a worker, earning
27 a wage sufficient to support a family adequately, and, over time,
28 to save for emergency expenses and adequate retirement income,
29 based on factors such as household size, the cost of living in the
30 worker’s community, and other factors that may vary by region.

31 (g) “Evidence-based” means making use of policy research as
32 a basis for determining best policy practices. Evidence-based
33 policymakers adopt policies that research has shown to produce
34 positive outcomes, in a variety of settings, for a variety of
35 populations over time. Successful, evidence-based programs deliver
36 quantifiable and sustainable results. Evidence-based practices
37 differ from approaches that are based on tradition, belief,
38 convention, or anecdotal evidence.

39 (h) “High-priority occupations” mean occupations that have a
40 significant presence in a targeted industry sector or industry cluster,

1 are in demand by employers, and pay or lead to payment of a wage
2 that provides economic security.

3 (i) “Individual with employment barriers” means an individual
4 with any characteristic that substantially limits an individual’s
5 ability to obtain employment, including indicators of poor work
6 history, lack of work experience, or access to employment in
7 nontraditional occupations, long-term unemployment, lack of
8 educational or occupational skills attainment, dislocation from
9 high-wage and high-benefit employment, low levels of literacy or
10 English proficiency, disability status, or welfare dependency.

11 (j) “Industry cluster” means a geographic concentration or
12 emerging concentration of interdependent industries with direct
13 service, supplier, and research relationships, or independent
14 industries that share common resources in a given regional
15 economy or labor market. An industry cluster is a group of
16 employers closely linked by common product or services,
17 workforce needs, similar technologies, and supply chains in a given
18 regional economy or labor market.

19 (k) (1) “Industry or sector partnership” means a workforce
20 collaborative that organizes key stakeholders in a targeted industry
21 cluster into a working group that focuses on the workforce needs
22 of the targeted industry cluster. An industry or sector partnership
23 organizes the stakeholders connected with a specific local or
24 regional industry—multiple firms, labor groups, education and
25 training providers, and workforce and education systems—to
26 develop workforce development strategies within the industry.
27 Successful sector partnerships leverage partner resources to address
28 both short-term and long-term human capital needs of a particular
29 sector, including by analyzing current labor markets and identifying
30 barriers to employment within the industry, developing cross-firm
31 skill standards, curricula, and training programs, and developing
32 occupational career ladders to ensure workers of all skill levels
33 can advance within the industry.

34 (2) Industry or sector partnerships include, at the appropriate
35 stage of development of the partnership, all of the following:

36 (A) Representatives of multiple firms or employers in the
37 targeted industry cluster, including small-sized and medium-sized
38 employers when practicable.

1 (B) One or more representatives of state labor organizations,
2 central labor coalitions, or other labor organizations, except in
3 instances where no labor representations exists.

4 (C) One or more representatives of local workforce investment
5 boards.

6 (D) One or more representatives of kindergarten and grades 1
7 to 12, inclusive, and postsecondary educational institutions or other
8 training providers, including, but not limited to, career technical
9 educators.

10 (E) One or more representatives of state workforce agencies or
11 other entities providing employment services.

12 (3) An industry or sector partnership may also include
13 representatives from the following:

14 (A) State or local government.

15 (B) State or local economic development agencies.

16 (C) Other state or local agencies.

17 (D) Chambers of commerce.

18 (E) Nonprofit organizations.

19 (F) Philanthropic organizations.

20 (G) Economic development organizations.

21 (H) Industry associations.

22 (I) Other organizations, as determined necessary by the members
23 comprising the industry or sector partnership.

24 (l) “Industry sector” means those firms that produce similar
25 products or provide similar services using somewhat similar
26 business processes, and are closely linked by workforce needs,
27 within a regional labor market.

28 (m) “Local labor federation” means a central labor council that
29 is an organization of local unions affiliated with the California
30 Labor Federation or a local building and construction trades council
31 affiliated with the State Building and Construction Trades Council.

32 (n) “Sector strategies” means methods of prioritizing
33 investments in competitive and emerging industry sectors and
34 industry clusters on the basis of labor market and other economic
35 data indicating strategic growth potential, especially with regard
36 to jobs and income, and exhibit the following characteristics:

37 (1) Focus workforce investment in education and workforce
38 training programs that are likely to lead to jobs providing economic
39 security or to an entry-level job with a well-articulated career
40 pathway into a job providing economic security.

(2) Effectively boost labor productivity or reduce business barriers to growth and expansion stemming from workforce supply problems, including skills gaps and occupational shortages by directing resources and making investments to plug skills gaps and provide education and training programs for high-priority occupations.

(3) May be implemented using articulated career pathways or lattices and a system of stackable credentials.

(4) May target underserved communities, disconnected youths, incumbent workers, and recently separated military veterans.

(5) Frequently are implemented using industry or sector partnerships.

(6) *Typically are implemented at the regional level where sector firms, those employers described in subdivisions (j) and (l), often share a common labor market and supply chains. However, sector strategies may also be implemented at the state or local level depending on sector needs and labor market conditions.*

(o) “Workforce Investment Act of 1998” means the federal act enacted as Public Law 105-220.

SEC. 3. Section 14010 of the Unemployment Insurance Code is amended to read:

14010. The California Workforce Investment Board is the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California’s workforce investment system and the alignment of the education and workforce investment systems to the needs of the 21st century economy and workforce.

SEC. 4. Section 14013 of the Unemployment Insurance Code is amended to read:

14013. The board shall assist the Governor in the following:

(a) Promoting the development of a well-educated and highly skilled 21st century workforce.

(b) Developing the State Workforce Investment Plan.

(c) Developing guidelines for the continuous improvement and operation of the workforce investment system, including:

(1) Developing policies to guide the one-stop system.

(2) Providing technical assistance for the continuous improvement of the one-stop system.

(3) Recommending state investments in the one-stop system.

(4) Targeting resources to competitive and emerging industry sectors and industry clusters that provide economic security and are either high-growth sectors or critical to California's economy, or both. These industry sectors and clusters shall have significant economic impacts on the state and its regional and local areas, have immediate education and workforce development needs, and have documented career opportunities.

(5) *To the extent permissible under state and federal laws, recommending youth policies and strategies that support linkages between kindergarten and grades 1 to 12, inclusive, and community college educational systems and youth training opportunities in order to help youth secure educational and career advancement. These policies and strategies may be implemented using a sector strategies framework and should ultimately lead to placement in a job providing economic security or job placement in an entry-level job that has a well-articulated career pathway or career ladder to a job providing economic security.*

(6) *To the extent permissible under state and federal law, recommending adult and dislocated worker training policies and investments that offer a variety of career opportunities while upgrading the skills of California's workforce. These may include training policies and investments pertaining to any of the following:*

(A) *Occupational skills training, including training for nontraditional employment.*

(B) *On-the-job training.*

(C) *Programs that combine workplace training with related instruction, which may include cooperative education programs.*

(D) *Training programs operated by the private sector.*

(E) *Skill upgrading and retraining.*

(F) *Entrepreneurial training.*

(G) *Job readiness training.*

(H) *Adult education and literacy activities provided in combination with any of the services described in this paragraph.*

(I) *Customized training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of the training.*

(d) Developing and continuously improving the statewide workforce investment system as delivered via the one-stop delivery system and via other programs and services supported by funding from the federal Workforce Investment Act of 1998, including:

1 (1) Developing linkages in order to ~~assure~~ *ensure* coordination
2 and nonduplication among workforce programs and activities.

3 (2) Reviewing local workforce investment plans.

4 (3) Leveraging state and federal funds to ensure that resources
5 are invested in activities that meet the needs of the state's
6 competitive and emerging industry sectors and advance the
7 education and employment needs of students and workers so they
8 can keep pace with the education and skill needs of the state, its
9 regional economies, and leading industry sectors.

10 (e) Commenting, at least once annually, on the measures taken
11 pursuant to the Carl D. Perkins Vocational and Applied Technology
12 Education Act Amendments of 1990 (Public Law 101-392; 20
13 U.S.C. Sec. 2301 et seq.).

14 (f) Designating local workforce investment areas within the
15 state based on information derived from all of the following:

16 (1) Consultations with the Governor.

17 (2) Consultations with the chief local elected officials.

18 (3) Consideration of comments received through the public
19 comment process, as described in Section 112(b)(9) of the federal
20 Workforce Investment Act of 1998.

21 (g) Developing and modifying allocation formulas, as necessary,
22 for the distribution of funds for adult employment and training
23 activities, for youth activities to local workforce investment areas,
24 and dislocated worker employment and training activities, as
25 permitted by federal law.

26 (h) Coordinating the development and continuous improvement
27 of comprehensive state performance measures, including state
28 adjusted levels of performance, to assess the effectiveness of the
29 workforce investment activities in the state.

30 (i) Preparing the annual report to the United States Secretary of
31 Labor.

32 (j) Recommending policy for the development of the statewide
33 employment statistics system, including workforce and economic
34 data, as described in Section 15 of Title 29 of the United States
35 Code, and using, to the fullest extent possible, the Employment
36 Development Department's existing labor market information
37 systems.

38 (k) Recommending strategies to the Governor for strategic
39 training investments of the Governor's 15-percent discretionary
40 funds.

1 (l) Developing and recommending waivers, in conjunction with
2 local workforce investment boards, to the Governor as provided
3 for in the federal Workforce Investment Act of 1998.

4 (m) Recommending policy to the Governor for the use of the
5 25-percent rapid response funds, as authorized under the federal
6 Workforce Investment Act of 1998.

7 (n) Developing an application to the United States Department
8 of Labor for an incentive grant under Section 9273 of Title 20 of
9 the United States Code.

10 SEC. 5. Section 14020 of the Unemployment Insurance Code
11 is amended to read:

12 14020. (a) The California Workforce Investment Board, in
13 collaboration with state and local partners, including the Chancellor
14 of the California Community Colleges, the State Department of
15 Education, other appropriate state agencies, and local workforce
16 investment boards, shall develop a strategic workforce plan to
17 serve as a framework for the development of public policy, fiscal
18 investment, and operation of all state labor exchange, workforce
19 education, and training programs to address the state's economic,
20 demographic, and workforce needs. The strategic workforce plan
21 shall also serve as the framework for the single state plan required
22 by the federal Workforce Investment Act of 1998. The plan shall
23 be updated at least every five years.

24 (b) The state shall develop a California Industry Sector Initiative
25 that will serve as the cornerstone of the state plan and provide a
26 framework for state workforce investments and support for sector
27 strategies.

28 (c) The California Workforce Investment Board shall work
29 collaboratively with state and local partners to identify ways to
30 eliminate systemwide barriers and better align and leverage federal,
31 state, and local Workforce Investment Act funding streams and
32 policies to develop, support, and sustain regional alliances of
33 employers and workforce and education professionals who are
34 working to improve the educational pipeline, establish
35 well-articulated career pathways, provide industry-recognized
36 credentials and certificates, and address the career advancement
37 needs of current and future workers in competitive and emergent
38 industry sectors and clusters. The California Workforce Investment
39 Board and its partners shall work collaboratively to maximize state
40 and local investments and pursue other resources to address the

1 skills-gap needs identified pursuant to paragraph (3) of subdivision
2 (d).

3 (d) In order to support the requirement of the plans in
4 subdivision (a), the California Workforce Investment Board shall
5 do the following:

6 (1) Annually identify industry sectors and industry clusters that
7 have a competitive economic advantage and demonstrated
8 economic importance to the state and its regional economies. In
9 developing this analysis, the California Workforce Investment
10 Board shall consider the expertise of local workforce investment
11 boards in the state's respective regional economies and shall
12 encourage the local workforce investment boards to identify
13 industry sectors and industry clusters that have a competitive
14 economic advantage and demonstrated economic importance in
15 their respective local workforce investment areas.

16 (2) Annually identify new dynamic emergent industry sectors
17 and industry clusters with substantial potential to generate new
18 jobs and income growth for the state and its regional economies.
19 In developing this analysis, the California Workforce Investment
20 Board shall consider the expertise of local workforce investment
21 boards in the state's respective regional economies and shall
22 encourage the local workforce investment boards to identify new
23 dynamic emergent industry sectors and industry clusters with
24 substantial potential to generate new jobs and income growth in
25 their respective local workforce investment areas.

26 (3) Provide an annual skills-gap analysis enumerating
27 occupational and skills shortages in the industry sectors and
28 industry clusters identified as having strategic importance to the
29 state's economy and its regional economies. In developing this
30 analysis, the California Workforce Investment Board shall consider
31 the expertise of local workforce investment boards in the state's
32 respective regional economies and shall encourage the local
33 workforce investment boards to conduct skills-gap analysis for
34 their respective local workforce investment areas. Skills-gap
35 analysis for the state and its regional economies shall use labor
36 market data to specify a list of high-priority, in-demand occupations
37 for the state and its regional economies. This list shall be used to
38 inform investment decisions and eligible training provider policies.

39 (4) Establish, with input from local workforce investment boards
40 and other stakeholders, initial and subsequent eligibility criteria

1 for the federal Workforce Investment Act of 1998 eligible training
2 provider list that effectively directs training resources into training
3 programs leading to employment in high-demand, high-priority,
4 and occupations that provide economic security, particularly those
5 facing a shortage of skilled workers. The subsequent eligibility
6 criteria, to the extent feasible, shall use performance and outcome
7 measures to determine whether a provider is qualified to remain
8 on the list. At a minimum, initial and subsequent eligibility criteria
9 shall consider the following:

10 (A) The relevance of the training program to the workforce
11 needs of the state's strategic industry sectors and industry clusters.

12 (B) The need to plug skills gaps and skills shortages in the
13 economy, including skills gaps and skills shortages at the state and
14 regional level.

15 (C) The need to plug skills gaps and skills shortages in local
16 workforce investment areas.

17 (D) The likelihood that the training program will lead to job
18 placement in a job providing economic security or job placement
19 in an entry-level job that has a well-articulated career pathway or
20 career ladder to a job providing economic security.

21 (E) The need for basic skills and bridge training programs that
22 provide access to occupational skills training for individuals with
23 barriers to employment and those who would otherwise be unable
24 to enter occupational skills training.

25 (F) To the extent feasible, utilize criteria that measure training
26 and education provider performance, including, but not limited to,
27 the following:

28 (i) Measures of skills or competency attainment.

29 (ii) Measures relevant to program completion, including
30 measures of course, certificate, degree, licensure, and program of
31 study rate of completion.

32 (iii) For those entering the labor market, measures of
33 employment placement and retention.

34 (iv) For those continuing in training or education, measures of
35 educational or training progression.

36 (v) For those who have entered the labor market, measures of
37 income, including wage measures.

38 (G) The division of labor for making initial and subsequent
39 eligibility determinations under this division shall be modeled on
40 the division of labor envisioned in the federal Workforce

1 Investment Act of 1998 in that the state board shall establish, with
2 input from local workforce investment boards and other
3 stakeholders, the initial and subsequent eligibility procedures and
4 criteria utilized by local workforce investment boards to assess
5 training provider performance. The local boards shall have the
6 authority to place and retain training providers on the list, and shall
7 provide relevant performance data pertaining to the training
8 provider criteria established pursuant to this division to a state
9 agency designated by the Governor. The relevant state agency
10 shall also have the authority to remove training providers for
11 nonperformance, provided they do not meet the performance
12 criteria established pursuant to this division.

13 (H) If the state receives a waiver from the federal subsequent
14 eligibility provisions specified in the federal Workforce Investment
15 Act of 1998, the state workforce investment board shall establish
16 its own subsequent eligibility criteria that take into account all of
17 the criteria specified in ~~subparagraphs (A), (B), (C), (D), (E), (F),~~
18 ~~and (G)~~ *this paragraph*.