

AMENDED IN SENATE AUGUST 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

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. An act to amend Sections 6252 and 6253.4 of, to add Section 6252.51 to, and to repeal Article 3.5 (commencing with Section 9070) of Chapter 1.5 of Part 1 of Division 2 of Title 2 of, the Government Code, relating to public records.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1129, as amended, Portantino. ~~Unemployment insurance: use of information: federally designated student loan guaranty agencies. Public records: legislative expenditure information.~~

(1) *Under the California Public Records Act, except for exempt records, every state and local agency, upon request, is required to make records available to any person.*

This bill would revise the definition of a state agency, for purposes of the act, to include the Assembly and the Senate. The bill would require that any budget, fund, or account of the Senate and Assembly, or other expenditure created in the annual Budget Act, as specified, constitutes a public document for purposes of the act.

(2) *The Legislative Open Records Act requires, among other things, that legislative records be open to inspection at all times and that any person has a right to inspect any legislative record, except as provided.*

The bill would repeal the Legislative Open Records Act.

~~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:

- 1 SECTION 1. Section 6252 of the Government Code is amended
- 2 to read:
- 3 6252. As used in this chapter:
- 4 (a) “Local agency” includes a county; city, whether general law
- 5 or chartered; city and county; school district; municipal
- 6 corporation; district; political subdivision; or any board,
- 7 commission or agency thereof; other local public agency; or entities
- 8 that are legislative bodies of a local agency pursuant to subdivisions
- 9 (c) and (d) of Section 54952.
- 10 (b) “Member of the public” means any person, ~~except a member,~~
- 11 ~~and an~~ agent, officer, or employee of a federal, state, or local
- 12 agency acting within the scope of his or her membership, agency,
- 13 office, or employment.
- 14 (c) “Person” includes any natural person, *Member of the*
- 15 *Legislature*, corporation, partnership, limited liability company,
- 16 firm, or association.
- 17 (d) “Public agency” means any state or local agency.
- 18 (e) “Public records” includes any writing containing information
- 19 relating to the conduct of the public’s business prepared, owned,
- 20 used, or retained by any state or local agency regardless of physical
- 21 form or characteristics. “Public records” in the custody of, or
- 22 maintained by, the Governor’s office means any writing prepared
- 23 on or after January 6, 1975.

1 (f) “State agency” means *the Assembly and Senate and every*
 2 *state office, officer, department, division, bureau, board, and*
 3 *commission or other state body or agency, except those agencies*
 4 *provided for in ~~Article IV (except Section 20 thereof) or~~ Article*
 5 *VI of the California Constitution.*

6 (g) “Writing” means any handwriting, typewriting, printing,
 7 photostating, photographing, photocopying, transmitting by
 8 electronic mail or facsimile, and every other means of recording
 9 upon any tangible thing any form of communication or
 10 representation, including letters, words, pictures, sounds, or
 11 symbols, or combinations thereof, and any record thereby created,
 12 regardless of the manner in which the record has been stored.

13 *SEC. 2. Section 6252.51 is added to the Government Code, to*
 14 *read:*

15 *6252.51. Any budget, fund, account, contingency fund of the*
 16 *Senate and Assembly, or other expenditures that are created or*
 17 *are made through moneys appropriated in the annual Budget Act*
 18 *under an item or successive budget items for the support of the*
 19 *Senate and Assembly shall be a disclosable public document.*

20 *SEC. 3. Section 6253.4 of the Government Code is amended*
 21 *to read:*

22 6253.4. (a) Every agency may adopt regulations stating the
 23 procedures to be followed when making its records available in
 24 accordance with this section.

25 The following state and local bodies shall establish written
 26 guidelines for accessibility of records. A copy of these guidelines
 27 shall be posted in a conspicuous public place at the offices of these
 28 bodies, and a copy of the guidelines shall be available upon request
 29 free of charge to any person requesting that body’s records:

- 30 Department of Motor Vehicles
- 31 Department of Consumer Affairs
- 32 Department of Transportation
- 33 Department of Real Estate
- 34 Department of Corrections *and Rehabilitation*
- 35 ~~Department of the Youth Authority~~
- 36 *Department of Corrections and Rehabilitation, Division of*
- 37 *Juvenile Facilities*
- 38 Department of Justice
- 39 Department of Insurance
- 40 Department of Corporations

1 Department of Managed Health Care
2 Secretary of State
3 State Air Resources Board
4 Department of Water Resources
5 Department of Parks and Recreation
6 San Francisco Bay Conservation and Development Commission
7 State Board of Equalization
8 State Department of Health Care Services
9 Employment Development Department
10 State Department of Public Health
11 State Department of Social Services
12 State Department of Mental Health
13 State Department of Developmental Services
14 State Department of Alcohol and Drug Abuse *Programs*
15 Office of Statewide Health Planning and Development
16 Public Employees' Retirement System
17 Teachers' Retirement Board
18 Department of Industrial Relations
19 Department of General Services
20 Department of Veterans Affairs
21 Public Utilities Commission
22 California Coastal Commission
23 State Water Resources Control Board
24 San Francisco Bay Area Rapid Transit District
25 All regional water quality control boards
26 Los Angeles County Air Pollution Control District
27 Bay Area Air Pollution Control District
28 Golden Gate Bridge, Highway and Transportation District
29 Department of Toxic Substances Control
30 Office of Environmental Health Hazard Assessment
31 *Assembly*
32 *Senate*
33 (b) Guidelines and regulations adopted pursuant to this section
34 shall be consistent with all other sections of this chapter and shall
35 reflect the intention of the Legislature to make the records
36 accessible to the public. The guidelines and regulations adopted
37 pursuant to this section shall not operate to limit the hours public
38 records are open for inspection as prescribed in Section 6253.

1 ~~SEC. 4. Article 3.5 (commencing with Section 9070) of Chapter~~
2 ~~1.5 of Part 1 of Division 2 of Title 2 of the Government Code is~~
3 ~~repealed.~~

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

6 ~~1095. The director shall permit the use of any information in~~
7 ~~his or her possession to the extent necessary for any of the~~
8 ~~following purposes and may require reimbursement for all direct~~
9 ~~costs incurred in providing any and all information specified in~~
10 ~~this section, except information specified in subdivisions (a) to~~
11 ~~(e), inclusive:~~

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

14 ~~(b) To properly present a claim for benefits.~~

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

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

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

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

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

36 ~~(h) To enable state or local governmental departments or~~
37 ~~agencies to seek criminal, civil, or administrative remedies in~~
38 ~~connection with the unlawful application for, or receipt of, relief~~
39 ~~provided under Division 9 (commencing with Section 10000) of~~
40 ~~the Welfare and Institutions Code or to enable the collection of~~

1 expenditures for medical assistance services pursuant to Part 5
2 (commencing with Section 17000) of Division 9 of the Welfare
3 and Institutions Code.

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

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

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

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

37 (4) The department shall notify all applicants for benefits that
38 release of confidential information from their records will not be
39 protected should there be a felony arrest warrant issued against

1 the applicant or in the event of an investigation by a law
2 enforcement agency into the commission of a felony.

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

14 (k) To enable the Division of Labor Standards Enforcement in
15 the Department of Industrial Relations to seek criminal, civil, or
16 administrative remedies in connection with the failure to pay, or
17 the unlawful payment of, wages pursuant to Chapter 1
18 (commencing with Section 200) of Part 1 of Division 2 of, and
19 Chapter 1 (commencing with Section 1720) of Part 7 of Division
20 2 of, the Labor Code.

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

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

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

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

39 (2) Delinquent or in default on guaranteed student loans or who
40 owe repayment of funds received through other financial assistance

1 programs administered by those agencies. The information released
2 by the director for the purposes of this paragraph shall not include
3 unemployment insurance benefit information.

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

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

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

38 ~~(r) To enable city and county planning agencies to develop
39 economic forecasts for planning purposes. The information shall
40 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.~~

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