

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 152

Introduced by Assembly Member Yamada

January 18, 2013

An act to add Article 2.3 (commencing with Section 1301) to Chapter 5 of *Part 1 of* Division 1 of, and to repeal and add Section 1300 of, the Unemployment Insurance Code, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 152, as amended, Yamada. Unemployment: Self-Employment Assistance Program.

Existing law provides for the payment of unemployment compensation benefits during the period that a person is unemployed. Existing law imposes various requirements on the payments of benefits, including work search requirements. Existing law also establishes retraining programs for unemployed workers. Prior law, enacted in 1994 and repealed in 2005, established the Self-Employment Assistance Program for displaced workers.

This bill would establish a similar Self-Employment Assistance Program, to be administered by the Director of the Employment Development. The bill would provide for a weekly allowance for participants equal to regular unemployment benefits, subject to various limits, and would impose various eligibility requirements upon participants, and would waive requirements relating to job search and self-employment, as specified.

Since the benefits would be payable from the continuously appropriated Unemployment Fund, the bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 1300 of the Unemployment Insurance
2 Code is repealed.

3 SEC. 2. Section 1300 is added to the Unemployment Insurance
4 Code, to read:

5 1300. The Legislature finds and declares all of the following:

6 (a) California and the national economy are recovering from
7 the deepest recession since the Great Depression; recent data
8 indicates that approximately 700,000 Californians are currently
9 claiming unemployment insurance benefits.

10 (b) The demand for unemployment insurance benefits remains
11 unusually high because more people are staying unemployed
12 longer. Global competition and rapidly evolving technologies have
13 resulted in the dislocation of millions of workers from their jobs,
14 and even with the creation of new jobs, layoffs have become
15 permanent instead of a temporary experience during fluctuation
16 in the business cycle.

17 (c) As reported in the November 2012 California Labor Market
18 Review, 45.7 percent, or approximately ~~8887,00~~ 888,700 of those
19 unemployed have been so for 27 weeks or more and approximately
20 34.6 percent of all unemployed, or 671,000, have been so for one
21 year or more.

22 (d) Currently, 73 weeks of benefits, regular unemployment
23 insurance combined with federal extensions, is the maximum
24 number of weeks a claimant may collect. As of December 17,
25 2012, over 923,000 unemployed workers in California have run
26 out of all benefits.

27 (e) There remains a critical need for California policies that will
28 create faster economic and job growth and support for those
29 struggling to find a job.

30 (f) In 1993, the federal government created the Self-Employment
31 Assistance Program for a five-year period, based on positive results

1 from experimental self-employment demonstration projects
2 conducted by the United States Department of Labor, in
3 collaboration with state employment agencies. Federal law made
4 the program permanent in 1998.

5 (g) Prior California law, enacted in 1994 and repealed in 2005,
6 established the state Self-Employment Assistance Program as an
7 alternative use of unemployment insurance. This program was an
8 important component of a broader workforce system strategy to
9 promote entrepreneurship and microbusiness development, both
10 as a reemployment strategy and to support economic development
11 through job creation.

12 (h) State unemployment insurance programs in Delaware,
13 Maine, New Jersey, New York, and Oregon actively offer
14 unemployed workers the option of reemployment through
15 self-employment assistance programs.

16 (⊕)

17 (i) The Middle Class Tax Relief and Job Creation Act of 2012
18 expanded Self-Employment Assistance Program eligibility,
19 provided funding for states to implement or improve these
20 programs, and directed the Department of Labor and the Small
21 Business Administration to coordinate efforts to help more
22 Americans start and grow small businesses.

23 (j) The Middle Class Tax Relief and Job Creation Act of 2012
24 provides thirty-five million dollars (\$35,000,000) for
25 Self-Employment Assistance Program grants. Of this amount,
26 California could receive approximately five million three hundred
27 thousand dollars (\$5,300,000). Of this amount, four million six
28 hundred thousand dollars (\$4,600,000) is available for
29 implementation and administration of the Self-Employment
30 Assistance Program. The remaining seven hundred sixty-nine
31 thousand seven hundred ninety-six dollars (\$769,796) is available
32 for the promotion of the Self-Employment Assistance Program.

33 (k) The Self-Employment Assistance Program is a voluntary
34 state-run program that provides unemployed individuals financial
35 support while they pursue full-time self-employment assistance
36 activities that lead to establishing a business and becoming
37 self-employed.

38 (l) The California Employment Development Department (EDD)
39 must identify an individual, through a worker profiling system, as
40 likely to exhaust benefits to receive, in lieu of unemployment

1 benefits, a weekly allowance equal to the individual’s weekly
 2 unemployment compensation benefit without having to search for
 3 full-time wage employment.

4 (m) The EDD monitors self-employment assistance activities
 5 that include entrepreneurial training, business counseling, and
 6 business technical assistance. A network of more than 125
 7 organizations throughout the state provides these services.

8 (n) The Self-Employment Assistance Program is a limited
 9 program appropriate to just a small fraction of unemployment
 10 insurance benefit claimants. It can help some current
 11 unemployment insurance benefit recipients and those who have
 12 exhausted their unemployment insurance benefits, probably no
 13 more than one or 2 percent.

14 (o) It is, therefore, the intent of the Legislature to enact
 15 legislation that would authorize the establishment of a
 16 Self-Employment Assistance Program administered by the Director
 17 of Employment Development for the state to become eligible to
 18 apply for federal funds by June 30, 2013, to establish, promote,
 19 and operate the program.

20 SEC. 3. Article 2.3 (commencing with Section 1301) is added
 21 to Chapter 5 of Part 1 of Division 1 of the Unemployment
 22 Insurance Code, to read:

23
 24 Article 2.3. Self-Employment Assistance Program
 25

26 1301. As used in this article:

27 (a) “Full-time basis” shall have the same meaning as is contained
 28 in regulations prescribed by the director.

29 (b) “Regular benefits” means benefits payable to an individual
 30 under this part, including benefits payable to federal civilian
 31 employees and to ex-service members pursuant to Chapter 85
 32 (commencing with Section 8501) of Title 5 of the United States
 33 Code, other than additional and extended benefits.

34 (c) “Self-employment assistance activities” means activities
 35 approved by the director in which an individual, ~~identified through~~
 36 ~~a worker profiling system as likely to exhaust regular benefits,~~
 37 participates for the purpose of establishing a business and becoming
 38 self-employed. These activities shall include, but are not limited
 39 to, entrepreneurial training, business counseling, and technical
 40 assistance.

1 (d) “Self-employment assistance allowance” means an allowance
2 payable in lieu of regular benefits and from the Unemployment
3 Fund established under Section 1521 to an individual participating
4 in self-employment assistance activities who meets the
5 requirements of this article.

6 (e) “Self-Employment Assistance Program” means the program
7 that enables an unemployed individual approved under this article
8 to engage in self-employment assistance activities on a full-time
9 basis that will lead to establishing a business and becoming
10 self-employed.

11 1302. The weekly allowance payable under this article to an
12 individual shall be equal to the weekly benefit amount for regular
13 benefits otherwise payable under Article 2 (commencing with
14 Section 1275). The sum of the allowance payable under this article
15 and the regular benefits paid under this part with respect to any
16 benefit year shall not exceed the maximum benefit amount as
17 established by Section 1281 with respect to that benefit year.

18 1303. The allowance described in Section 1302 shall be payable
19 to an individual at the same interval, on the same terms, and subject
20 to the same conditions as regular benefits under this part, except
21 as follows:

22 (a) The requirements relating to availability for work, active
23 search for work, and refusal to accept work shall not apply to any
24 week that the individual is in training or engaged in
25 self-employment activities as approved by this article.

26 (b) Income earned by an individual while engaged in
27 self-employment activities as approved under this article shall not
28 be construed to be wages or compensation for personal services
29 under this division, and benefits payable under this division shall
30 not be denied or reduced because of those payments.

31 (c) An individual who fails to participate in self-employment
32 assistance activities ~~or who fails to actively engage~~ on a full-time
33 basis in activities, which may include training, ~~relating~~ *related* to
34 the establishment of a business and becoming self-employed shall
35 be disqualified for the week the failure occurs.

36 1304. An individual is eligible to be paid a self-employment
37 assistance allowance if he or she meets all of the following
38 conditions:

39 (a) Is eligible to receive regular unemployment compensation
40 under state law.

1 (b) Has been identified pursuant to an automated profiling
 2 system as likely to exhaust regular unemployment compensation.

3 (c) Has been approved for participation in the Self-Employment
 4 Assistance Program by the director.

5 (d) Is engaged on a full-time basis in self-employment assistance
 6 activities, which may include, but not be limited to, entrepreneurial
 7 training, business counseling, and technical assistance related to
 8 establishing a business and becoming self-employed.

9 1305. The aggregate number of individuals receiving the
 10 allowance under this article ~~at any time~~ shall not exceed 5 percent
 11 of the number of individuals receiving regular benefits *in the same*
 12 *week*. The director shall, through regulations, prescribe those
 13 actions necessary to ensure the requirements of this section are
 14 met.

15 1306. (a) Self-employment assistance allowances paid under
 16 this article shall be charged to employers as provided under
 17 provisions of this part ~~relating~~ *related* to the charging of regular
 18 benefits. Costs of administering the self-employment assistance
 19 allowances are payable from the Self-Employment Assistance
 20 Program grant received from the federal Department of Labor,
 21 which allocates approximately five million three hundred thousand
 22 dollars (\$5,300,000) to California for such purposes. Costs of
 23 providing self-employment assistance activities, such as business
 24 training, business counseling, and technical assistance are payable
 25 from federal Workforce Investment Act of 1998 funds and other
 26 government and private grants.

27 (b) For purposes of this article, costs of administering the
 28 program include marketing, staff training, review of applications,
 29 assessment of applicants, payment of allowances, and relating
 30 information technology costs.

31 1307. The provisions of this article shall become operative two
 32 weeks beginning after the effective date of this article or two weeks
 33 beginning after any plan required by the United State Department
 34 of Labor relating to a Self-Employment Assistance Program is
 35 approved by the United States Department of Labor, whichever
 36 date is later. Immediately upon enactment of this article, the
 37 director shall develop a Self-Employment Assistance Program
 38 plan and seek approval from the United States Department of
 39 Labor.

1 SEC. 4. This act is an urgency statute necessary for the
2 immediate preservation of the public peace, health, or safety within
3 the meaning of Article IV of the Constitution and shall go into
4 immediate effect. The facts constituting the necessity are:

5 In order to ensure that the Employment Development Department
6 postmark a completed application on or before June 30, 2013, in
7 order to receive grants from the United States Department of Labor
8 to develop, enhance, and promote a Self-Employment Assistance
9 Program, it is necessary that this act take effect immediately.

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