

AMENDED IN ASSEMBLY MAY 28, 2013
AMENDED IN ASSEMBLY APRIL 24, 2013
AMENDED IN ASSEMBLY APRIL 11, 2013
AMENDED IN ASSEMBLY MARCH 21, 2013
CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 880

Introduced by Assembly Member Gomez

February 22, 2013

An act to add Section 230.9 to the Labor Code, to amend Sections 1088.5 and 1095 of, and to add Section 976.7 to, the Unemployment Insurance Code, and to amend Section 11025 of, and to add Article 7 (commencing with Section 14199) to Chapter 7 of Part 3 of Division 9 of, the Welfare and Institutions Code, relating to health care coverage, making an appropriation therefor, *and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 880, as amended, Gomez. Medi-Cal program costs: large employer responsibility.

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, to afford to qualifying individuals health care and related remedial or preventive services. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing law, the federal Patient Protection and Affordable Care Act, requires applicable large employers, as defined, who offer full-time employees and their dependents the opportunity to enroll in minimum essential coverage and for whom one full-time employee has

been certified as having enrolled in a qualified health plan for which a premium tax credit or cost-sharing reduction is allowed or paid, to pay a specified fee.

This bill would require a large employer, as defined, to pay the Employment Development Department an employer responsibility penalty for each covered employee, as defined, enrolled in Medi-Cal based on the average cost of coverage provided by large employers to their employees, including both the employer's and employee's share of the premiums, as specified. The bill would assess interest of 10% per annum on employer responsibility penalties not paid on or before the date payment is due, as specified, and would require a large employer subject to an employer responsibility penalty to pay a penalty, as specified, for any employer responsibility penalty payment that is more than 60 days overdue. The bill would establish the Employer Responsibility for Medi-Cal Trust Fund, which would consist of the penalty amounts and interest collected pursuant to these provisions and would require that the moneys in the fund be continuously appropriated to the State Department of Health Care Services to provide payment for the nonfederal share of Medi-Cal expenditures for covered employees, to increase reimbursement of providers of care, to provide reimbursement to county health systems, community clinics, and other entities that provide care without expectation of compensation to those Californians who do not have minimum essential coverage, as defined, and for all costs to implement the penalty provisions, as specified.

This bill would make it unlawful for a large employer to, among other things, designate an employee as an independent contractor or temporary employee, reduce an employee's hours or work, or terminate an employee if the purpose is to avoid the imposition of the penalty. A violation of those provisions would result in a penalty of 200% of the penalty amount the employer would have paid for the applicable period of time. The bill would prohibit a large employer from discharging or taking other action, as specified, against an employee who enrolls in a public health benefit program or advanced premium tax credits through the California Health Benefit Exchange and would make the willful refusal of the employer to rehire, promote, or otherwise restore the employee or former employee a misdemeanor. The bill would authorize an employee to file a complaint with the Division of Labor Standards Enforcement of the Department of Industrial Relations if the employee is discharged, threatened with discharge, demoted, suspended, or in any other manner discriminated or retaliated against in the terms and

conditions of employment by his or her employer because the employee exercised his or her rights under these provisions. By establishing a new crime, this bill would impose a state-mandated local program.

Existing law requires employers to file specified information with the Employment Development Department, upon hiring an employee, that may be used by specified state departments, exchanges, and boards, and county departments and agencies for specified purposes, including verifying or determining the eligibility of an applicant for, or a recipient of, state health subsidy programs, as specified, if the verification or determination is directly connected with, and limited to, the administration of the referenced state health subsidy programs.

This bill would expand these provisions to allow the information to be used if the verification or determination is directly connected with, and limited to, the administration or funding of the referenced state health subsidy programs.

Existing law authorizes the Director of the Employment Development Department to permit the use of information in his or her possession for specified purposes and to require reimbursement for all direct costs incurred in providing that information. Existing law provides that this information includes information provided 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 if the verification or determination is directly connected with, and limited to, the administration of public social services.

This bill would expand these provisions to allow the information to be used if the verification or determination is directly connected with, and limited to, the administration or funding of the public social services.

Existing law also authorizes the director to permit the use of information in his or her possession and to require reimbursement for all direct costs incurred in providing that information to enable specified state departments, exchanges, and boards, and county departments and agencies, to obtain information regarding employee wages, California employer names and account numbers, employer reports of wages and number of employees, and disability insurance and unemployment insurance claim information, for specified purposes.

This bill would authorize the director to provide information to enable these entities to obtain information regarding state employer identification numbers.

Existing law requires the State Department of Social Services and the State Department of Health *Care* Services to make use of the records of the Franchise Tax Board to match unearned income against reported income of applicants for, and recipients of, aid or public social services.

This bill would also require each department to use these records to match social security numbers of applicants for, and recipients of, aid or public services with their employer’s state employer identification number, which shall then be forwarded to the appropriate county welfare department or other appropriate state departments for use, as specified.

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.

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

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. (a) The Legislature finds and declares all of the
- 2 following:
- 3 (1) Working Californians should have affordable, comprehensive
- 4 health insurance coverage.
- 5 (2) Most working Californians obtain their health insurance
- 6 coverage through their employment, but some working Californians
- 7 are covered by Medi-Cal and, commencing in 2014, some will be
- 8 covered through Covered California, the California Health Benefit
- 9 Exchange (Exchange).
- 10 (3) In 2012, more than 7,000,000 Californians lacked health
- 11 insurance coverage at some time in the year. The federal Patient
- 12 Protection and Affordable Care Act (PPACA) is expected to reduce
- 13 the number of Californians without health insurance coverage by
- 14 providing coverage through changes to the Medi-Cal program and
- 15 the creation of the Exchange.
- 16 (4) PPACA sets a standard for what constitutes affordable,
- 17 employment-based coverage and imposes penalties on any large
- 18 employer whose full-time, nonseasonal employees receive coverage
- 19 through the Exchange. Federal law imposes no penalty on large

1 employers whose employees receive coverage through the
2 taxpayer-funded Medi-Cal program.

3 (5) Employers who fail to provide affordable coverage to
4 low-wage workers who are covered by Medi-Cal shift the cost of
5 health care coverage from the employer to the taxpayer. Employers
6 can avoid the employer responsibility penalty of PPACA by
7 reducing wages, hours worked, or both, so that workers are no
8 longer full-time, full-year employees within the meaning of
9 PPACA. Workers who face low wages, work part time, or both,
10 are too often eligible for taxpayer-funded Medi-Cal instead of
11 affordable, employer-based coverage.

12 (6) Persons who are covered by health insurance have better
13 health outcomes than those who lack coverage. Persons without
14 health insurance coverage are more likely to be in poor health,
15 more likely to miss needed medications and treatment, and more
16 likely to have chronic conditions that are not properly managed.

17 (7) Persons without health insurance coverage are at risk of
18 financial ruin. Medical debt is the second most common cause of
19 personal bankruptcy in the United States.

20 (8) California provides health insurance coverage to low-income
21 workers through the Medi-Cal program. The taxpaying public pays
22 the cost of coverage for those working people who are not provided
23 health care coverage through employment. The number of working
24 people whose coverage is provided through the Medi-Cal program
25 is expected to increase because of PPACA.

26 (9) Taxpayers, through state and local governments, fund county
27 hospitals and clinics, community clinics, and other safety net
28 providers that provide care to those working people whose
29 employers fail to provide affordable health care coverage to their
30 employees as well as to other uninsured persons.

31 (10) Controlling health care costs can be more readily achieved
32 if a greater share of working people and their families have health
33 benefits so that cost shifting is minimized.

34 (11) The social and economic burden created by the lack of
35 health care coverage for some workers and the coverage of other
36 workers through the Medi-Cal program creates a burden on other
37 employers, the state, affected workers, and the families of affected
38 workers who suffer ill health and risk financial ruin.

39 (b) It is therefore the intent of the Legislature to do all of the
40 following:

1 (1) Ensure that large employers pay a fair share penalty for
2 health coverage received by their employees through the Medi-Cal
3 program and to base that penalty on the cost of coverage provided
4 by other large employers to their employees.

5 (2) Encourage the provision of affordable employer-based
6 coverage to low-wage employees who would otherwise be covered
7 by the Medi-Cal program and to discourage employers from
8 reducing hours, wages, or both in order to avoid the employer
9 responsibility penalty of PPACA by extending an employer
10 responsibility penalty to employers with employees covered by
11 the Medi-Cal program.

12 (3) Ensure that employees who receive coverage through the
13 Medi-Cal program are protected from any possible retaliation by
14 their employer for seeking or obtaining that coverage.

15 (4) Pay the nonfederal share of costs for care provided to
16 working adults who lack affordable employer coverage and who
17 receive coverage through Medi-Cal, improve reimbursement for
18 the Medi-Cal providers who care for these workers, and support
19 the safety net of county hospitals and community clinics that
20 provide care for the remaining uninsured adult workers.

21 SEC. 2. Section 230.9 is added to the Labor Code, to read:

22 230.9. (a) It shall be unlawful for a large employer, as defined
23 in Section 14199.1 of the Welfare and Institutions Code, to
24 designate an employee as an independent contractor or temporary
25 employee, reduce an employee's hours of work, or terminate an
26 employee if the purpose of the action is to avoid the employer's
27 obligations under Article 7 (commencing with Section 14199) of
28 Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
29 Code.

30 (b) A large employer shall not request or otherwise seek to
31 obtain information concerning income, family income, or other
32 eligibility requirements for public health benefit programs
33 regarding an employee, other than that information about the
34 employee's employment status otherwise known to the employer
35 consistent with state and federal law and regulation.

36 (c) A large employer shall not require as a condition of
37 employment that an employee not enroll in or disenroll from a
38 public health benefit program, including, but not limited to, the
39 Medi-Cal program, or advanced premium tax credits through the
40 California Health Benefit Exchange. A large employer shall not

1 encourage or discourage enrollment in a public health benefit
2 program for which an employee is otherwise eligible but may
3 provide information on the programs as otherwise provided by
4 state or federal law.

5 (d) A large employer may not discharge or in any manner
6 discriminate or retaliate against an employee who enrolls in a
7 public health benefit program, including, but not limited to, the
8 Medi-Cal program, or advanced premium tax credits through the
9 California Health Benefit Exchange.

10 (e) Any employee who is discharged, threatened with discharge,
11 demoted, suspended, or in any other manner discriminated or
12 retaliated against in the terms and conditions of employment by
13 his or her employer because the employee has enrolled in a public
14 health benefit program or advanced premium tax credits through
15 the California Health Benefit Exchange shall be entitled to
16 reinstatement and reimbursement for lost wages and work benefits
17 caused by the acts of the employer.

18 (f) A large employer who willfully refuses to rehire, promote,
19 or otherwise restore an employee or former employee described
20 in this section who has been determined to be eligible for rehiring
21 or promotion by a grievance procedure or hearing authorized by
22 law is guilty of a misdemeanor.

23 (g) An employer who violates this section shall be charged a
24 penalty of 200 percent of the amount of any penalty that would
25 have otherwise been paid by the employer for the period for
26 covered employees under Article 7 (commencing with Section
27 14199) of Chapter 7 of Part 3 of Division 9 of the Welfare and
28 Institutions Code.

29 (h) An employee who is discharged, threatened with discharge,
30 demoted, suspended, or in any other manner discriminated or
31 retaliated against in the terms and conditions of employment by
32 his or her employer because the employee has exercised his or her
33 rights as set forth in subdivision (a), (b), (c), or (d) may file a
34 complaint with the Division of Labor Standards Enforcement of
35 the Department of Industrial Relations pursuant to Section 98.7.

36 SEC. 3. Section 976.7 is added to the Unemployment Insurance
37 Code, to read:

38 976.7. (a) In addition to other contributions required by this
39 division and consistent with the requirements of Article 7
40 (commencing with Section 14199) of Chapter 7 of Part 3 of

1 Division 9 of the Welfare and Institutions Code, a large employer,
2 as defined in Section 14199.1 of the Welfare and Institution Code,
3 shall pay to the department, for deposit into the Employer
4 Responsibility for Medi-Cal Trust Fund, any penalties imposed
5 pursuant to Article 7 (commencing with Section 14199) of Chapter
6 7 of Part 3 of Division 9 of the Welfare and Institutions Code. The
7 penalty shall be collected in the same manner and at the same time
8 as any contributions required under Sections 976 and 1088.

9 (b) A large employer shall provide information to all newly
10 hired and existing employees regarding the availability of Medi-Cal
11 coverage for low-income employees, including the availability of
12 Medi-Cal premium assistance as well as Medi-Cal coverage for
13 persons whose income is less than the modified adjusted gross
14 income threshold established for the Medi-Cal program pursuant
15 to the federal Patient Protection and Affordable Care Act (Public
16 Law 111-148), as amended by the federal Health Care and
17 Education Reconciliation Act of 2010 (Public Law 111-152). The
18 department, in consultation with the State Department of Health
19 Care Services, shall develop a simple, uniform notice containing
20 that information.

21 (c) The department shall annually send a notice to each large
22 employer subject to an employer responsibility penalty under
23 Article 7 (commencing with Section 14199) of Chapter 7 of Part
24 3 of Division 9 of the Welfare and Institutions Code of the amount
25 of any employer responsibility penalties imposed and the date on
26 which payment is due.

27 (d) The employer responsibility penalty shall be paid by each
28 large employer subject to the penalty to the department for deposit
29 into the Employer Responsibility for Medi-Cal Trust Fund.

30 (e) Interest shall be assessed on employer responsibility penalties
31 not paid on or before payment is due at 10 percent per annum.
32 Interest shall begin to accrue the day after the date the payment is
33 due and shall be deposited in the Employer Responsibility for
34 Medi-Cal Trust Fund.

35 (f) If an employer responsibility penalty payment is more than
36 60 days overdue, a penalty equal to the interest charged as
37 described in subdivision (e) shall be assessed and due for each
38 month, or part thereof, that the employer responsibility penalty
39 payment is not received after 60 days. Penalties collected under

1 this subdivision shall be deposited in the Employer Responsibility
2 for Medi-Cal Trust Fund.

3 SEC. 4. Section 1088.5 of the Unemployment Insurance Code
4 is amended to read:

5 1088.5. (a) In addition to information reported in accordance
6 with Section 1088, effective July 1, 1998, each employer shall file,
7 with the department, the information provided for in subdivision
8 (b) on new employees.

9 (b) Each employer shall report the hiring of any employee who
10 works in this state and to whom the employer anticipates paying
11 wages, and also shall report the hiring of any employee who
12 previously worked for the employer but had been separated from
13 that prior employment for at least 60 consecutive days.

14 (c) (1) This section shall not apply to any department, agency,
15 or instrumentality of the United States.

16 (2) State agency employers shall not be required to report
17 employees performing intelligence or counterintelligence functions,
18 if the head of the agency has determined that reporting pursuant
19 to this section would endanger the safety of the employee or
20 compromise an ongoing investigation or intelligence mission.

21 (d) (1) Employers shall submit a report as described in
22 paragraph (4) within 20 days of hiring any employee whom the
23 employer is required to report pursuant to this section.

24 (2) Notwithstanding subdivision (a), employers transmitting
25 reports magnetically or electronically shall submit the report by
26 two monthly transmissions not less than 12 days and not more
27 than 16 days apart.

28 (3) For purposes of this section, an employer that has employees
29 in two or more states and that transmits reports magnetically or
30 electronically may designate one state in which the employer has
31 employees to which the employer will transmit the report described
32 in paragraph (4). Any employer that transmits reports pursuant to
33 this paragraph shall notify the Secretary of Health and Human
34 Services in writing as to which state the employer designates for
35 the purpose of sending reports.

36 (4) The report shall contain the following:

37 (A) The name, address, and social security number of the
38 employees.

39 (B) The employer's name, address, state employer identification
40 number (if one has been issued), and identifying number assigned

1 to the employer under Section 6109 of the Internal Revenue Code
2 of 1986.

3 (C) The first date the employee worked.

4 (5) Employers may report pursuant to this section by submitting
5 a copy of the employee’s W-4 form, a form provided by the
6 department, or any other hiring document transmitted by first-class
7 mail, magnetically, or electronically.

8 (e) For each failure to report the hiring of an employee, as
9 required and within the time required by this section, unless the
10 failure is due to good cause, the department may assess a penalty
11 of twenty-four dollars (\$24), or four hundred ninety dollars (\$490)
12 if the failure is the result of conspiracy between the employer and
13 employee not to supply the required report or to supply a false or
14 incomplete report.

15 (f) (1) On and after January 1, 2013, and before January 1,
16 2019, information collected pursuant to this section may be used
17 for the following purposes:

18 (A) Administration of this code, including, but not limited to,
19 providing employer or employee information to participating
20 members of the Joint Enforcement Strike Force on the
21 Underground Economy pursuant to Section 329 for the purposes
22 of auditing, investigating, and prosecuting violations of tax and
23 cash-pay reporting laws.

24 (B) Locating individuals for purposes of establishing paternity
25 and establishing, modifying, and enforcing child support
26 obligations.

27 (C) Administration of employment security and workers’
28 compensation programs.

29 (D) Providing employer or employee information to the
30 Franchise Tax Board and the State Board of Equalization for the
31 purpose of tax or fee enforcement.

32 (E) Verification of eligibility of applicants for, or recipients of,
33 the public assistance programs listed in Section 1320b-7(b) of Title
34 42 of the United States Code.

35 (F) Providing employer or employee information to the
36 Contractors’ State License Board and the State Compensation
37 Insurance Fund for the purpose of workers’ compensation payroll
38 reporting.

39 (G) Providing employer or employee information to the State
40 Department of Health Care Services, the California Health Benefit

1 Exchange, the Managed Risk Medical Insurance Board, and county
2 departments and agencies for the purpose of:

3 (i) Verifying or determining the eligibility of an applicant for,
4 or a recipient of, state health subsidy programs, limited to the
5 Medi-Cal program, provided pursuant to Chapter 7 (commencing
6 with Section 14000) of Part 3 of Division 9 of the Welfare and
7 Institutions Code, the Healthy Families Program, provided pursuant
8 to Part 6.2 (commencing with Section 12693) of Division 2 of the
9 Insurance Code, and the Access for Infants and Mothers Program,
10 provided pursuant to Part 6.3 (commencing with Section 12695)
11 of Division 2 of the Insurance Code, where the verification or
12 determination is directly connected with, and limited to, the
13 administration and funding of the state health subsidy programs
14 referenced in this clause.

15 (ii) Verifying or determining the eligibility of an applicant for,
16 or a recipient of, federal subsidies offered through the California
17 Health Benefit Exchange, provided pursuant to Title 22
18 (commencing with Section 100500) of the Government Code,
19 including federal tax credits and cost-sharing assistance pursuant
20 to the federal Patient Protection and Affordable Care Act, (Public
21 Law 111-148), as amended by the federal Health Care and
22 Education Reconciliation Act of 2010 (Public Law 111-152), where
23 the verification or determination is directly connected with, and
24 limited to, the administration of the California Health Benefit
25 Exchange.

26 (iii) Verifying or determining the eligibility of employees and
27 employers for health coverage through the Small Business Health
28 Options Program, provided pursuant to Section 100502 of the
29 Government Code, where the verification or determination is
30 directly connected with, and limited to, the administration of the
31 Small Business Health Options Program.

32 (2) On and after January 1, 2019, information collected pursuant
33 to this section may be used for the following purposes:

34 (A) Administration of this code.

35 (B) Locating individuals for purposes of establishing paternity
36 and establishing, modifying, and enforcing child support
37 obligations.

38 (C) Administration of employment security and workers'
39 compensation programs.

1 (D) Providing employer or employee information to the
2 Franchise Tax Board and to the State Board of Equalization for
3 the purposes of tax or fee enforcement.

4 (E) Verification of eligibility of applicants for, or recipients of,
5 the public assistance programs listed in Section 1320b-7(b) of Title
6 42 of the United States Code.

7 (F) Providing employer or employee information to the State
8 Department of Health Care Services, the California Health Benefit
9 Exchange, the Managed Risk Medical Insurance Board, and county
10 departments and agencies for the purpose of:

11 (i) Verifying or determining the eligibility of an applicant for,
12 or a recipient of, state health subsidy programs, limited to the
13 Medi-Cal program, provided pursuant to Chapter 7 (commencing
14 with Section 14000) of Part 3 of Division 9 of the Welfare and
15 Institutions Code, the Healthy Families Program, provided pursuant
16 to Part 6.2 (commencing with Section 12693) of Division 2 of the
17 Insurance Code, and the Access for Infants and Mothers Program,
18 provided pursuant to Part 6.3 (commencing with Section 12695)
19 of Division 2 of the Insurance Code, where the verification or
20 determination is directly connected with, and limited to, the
21 administration and funding of the state health subsidy programs
22 referenced in this clause.

23 (ii) Verifying or determining the eligibility of an applicant for,
24 or a recipient of, federal subsidies offered through the California
25 Health Benefit Exchange, provided pursuant to Title 22
26 (commencing with Section 100500) of the Government Code,
27 including federal tax credits and cost-sharing assistance pursuant
28 to the federal Patient Protection and Affordable Care Act, (Public
29 Law 111-148), as amended by the federal Health Care and
30 Education Reconciliation Act of 2010 (Public Law 111-152), where
31 the verification or determination is directly connected with, and
32 limited to, the administration of the California Health Benefit
33 Exchange.

34 (iii) Verifying or determining the eligibility of employees and
35 employers for health coverage through the Small Business Health
36 Options Program, provided pursuant to Section 100502 of the
37 Government Code, where the verification or determination is
38 directly connected with, and limited to, the administration of the
39 Small Business Health Options Program.

1 (g) For purposes of this section, “employer” includes a labor
2 union hiring hall.

3 (h) This section shall become operative on July 1, 1998.

4 SEC. 5. Section 1095 of the Unemployment Insurance Code
5 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 and funding 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 federal Social Security Act (42 U.S.C. Sec.
24 651 et 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 with information concerning any individuals who are
33 or have been:

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

37 (2) Delinquent or in default on guaranteed student loans or who
38 owe repayment of funds received through other financial assistance
39 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 Contractors' State License Board, the
10 Department of Industrial Relations, and the Department of
11 Insurance. An authorized governmental agency may disclose this
12 information to the State Bar, the Medical Board of California, or
13 any other licensing board or department whose licensee is the
14 subject of a workers' compensation insurance fraud investigation.
15 This subdivision shall not prevent any authorized governmental
16 agency from reporting to any board or department the suspected
17 misconduct of any licensee of that body.

18 (p) To enable the Director of the Bureau for Private
19 Postsecondary Education, or his or her representatives, to access
20 unemployment insurance quarterly wage data on a case-by-case
21 basis to verify information on school administrators, school staff,
22 and students provided by those schools who are being investigated
23 for possible violations of Chapter 8 (commencing with Section
24 94800) of Part 59 of Division 10 of Title 3 of the Education 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.

35 (ac) To provide the Agricultural Labor Relations Board with
36 employee, wage, and employer information, for use in the
37 investigation or enforcement of the
38 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations
39 Act of 1975 (Part 3.5 (commencing with Section 1140) of Division

1 2 of the Labor Code). The information shall be provided to the
2 extent permitted by federal statutes and regulations.

3 (ad) (1) To enable the State Department of Health Care
4 Services, the California Health Benefit Exchange, the Managed
5 Risk Medical Insurance Board, and county departments and
6 agencies to obtain information regarding employee wages,
7 California employer names and state employer identification
8 numbers, employer reports of wages and number of employees,
9 and disability insurance and unemployment insurance claim
10 information, for the purpose of:

11 (A) Verifying or determining the eligibility of an applicant for,
12 or a recipient of, state health subsidy programs, limited to the
13 Medi-Cal program, provided pursuant to Chapter 7 (commencing
14 with Section 14000) of Part 3 of Division 9 of the Welfare and
15 Institutions Code, the Healthy Families Program, provided pursuant
16 to Part 6.2 (commencing with Section 12693) of Division 2 of the
17 Insurance Code, and the Access for Infants and Mothers Program,
18 provided pursuant to Part 6.3 (commencing with Section 12695)
19 of Division 2 of the Insurance Code, where the verification or
20 determination is directly connected with, and limited to, the
21 administration and funding of the state health subsidy programs
22 referenced in this subparagraph.

23 (B) Verifying or determining the eligibility of an applicant for,
24 or a recipient of, federal subsidies offered through the California
25 Health Benefit Exchange, provided pursuant to Title 22
26 (commencing with Section 100500) of the Government Code,
27 including federal tax credits and cost-sharing assistance pursuant
28 to the federal Patient Protection and Affordable Care Act (Public
29 Law 111-148), as amended by the federal Health Care and
30 Education Reconciliation Act of 2010 (Public Law 111-152), where
31 the verification or determination is directly connected with, and
32 limited to, the administration of the California Health Benefit
33 Exchange.

34 (C) Verifying or determining the eligibility of employees and
35 employers for health coverage through the Small Business Health
36 Options Program, provided pursuant to Section 100502 of the
37 Government Code, where the verification or determination is
38 directly connected with, and limited to, the administration of the
39 Small Business Health Options Program.

1 (2) The information provided under this subdivision shall be
2 subject to the requirements of, and provided to the extent permitted
3 by, federal law and regulations, including Part 603 of Title 20 of
4 the Code of Federal Regulations.

5 SEC. 6. Section 11025 of the Welfare and Institutions Code is
6 amended to read:

7 11025. (a) The State Department of Social Services and the
8 State Department of Health *Care* Services shall utilize the records
9 of the Franchise Tax Board to match unearned income against
10 reported income of applicants for and recipients of aid or public
11 social services and to match social security numbers of applicants
12 for and recipients of aid or public services with their employer’s
13 state employer identification number under this division. The
14 matching information shall then be forwarded to the appropriate
15 county welfare department or other appropriate state departments
16 for use in determining the eligibility of, and proper grant amount
17 for, applicants for, and recipients of, aid or public social services
18 under this division. Any and all documents and records that result
19 from the matching of records with the Franchise Tax Board shall
20 be subject to the confidentiality requirements of Section 10850.

21 (b) This section shall not be construed to supersede the
22 requirements and protections in the California Right to Financial
23 Privacy Act under Chapter 20 (commencing with Section 7460)
24 of Division 7 of Title 1 of the Government Code in obtaining
25 information in possession of any financial institution.

26 (c) This section shall be implemented only to the extent it is
27 funded in the annual Budget Act.

28 SEC. 7. Article 7 (commencing with Section 14199) is added
29 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
30 Code, to read:

31
32 Article 7. Employer Responsibility for Cost of Employees
33 Covered under the Medi-Cal program
34

35 14199. This article shall be known, and may be cited, as the
36 Employer Responsibility for Medi-Cal Cost of Employees Act of
37 2013.

38 14199.1. For purposes of this article, the following definitions
39 shall apply:

- 1 (a) (1) “Covered employee” means an individual who meets
2 all of the following:
- 3 (A) He or she is an employee of a large employer.
 - 4 (B) He or she is enrolled in Medi-Cal on the basis of his or her
5 modified adjusted gross income in accordance with PPACA.
 - 6 (C) He or she is not a person who is enrolled in Medi-Cal by
7 reason of disability or being over 65 years of age.
 - 8 (D) He or she works more than eight hours per week for the
9 employer.
- 10 (2) A “covered employee” includes a leased employee or other
11 individual under the direction and control of the employer.
- 12 (b) “Department” means the State Department of Health Care
13 Services.
- 14 (c) “Employer” means an employing unit as defined in Section
15 135 of the Unemployment Insurance Code. For purposes of this
16 article, an employer includes all of the members of a controlled
17 group of corporations. A “controlled group of corporations” means
18 controlled group of corporations as defined in Section 1563(a) of
19 the Internal Revenue Code, except that “more than 50 percent”
20 shall be substituted for “at least 80 percent” each place it appears
21 in Section 1563(a)(1) of the Internal Revenue Code, and the
22 determination shall be made without regard to Sections 1563(a)(4)
23 and 1563(e)(3)(C) of the Internal Revenue Code.
- 24 (d) “Fund” means a the Employer Responsibility for Medi-Cal
25 Trust Fund, established pursuant to Section 14199.12.
- 26 (e) (1) “Large employer” means an employer employing for
27 wages or salary 500 or more persons to work in this state.
- 28 (2) For purposes of this article only, “large employer” shall not
29 include a state, city, county, city and county, district or any other
30 governmental employer.
- 31 (3) For purposes of this article only, “large employer” shall
32 include employers who are nonprofit entities for purposes of state
33 or federal corporate income taxes, for purposes of state or local
34 property taxes, or for any other tax purpose.
- 35 (f) “PPACA” means the federal Patient Protection and
36 Affordable Care Act (Public Law 111-148), as amended by the
37 federal Health Care and Education Reconciliation Act of 2010
38 (Public Law 111-152).

1 (g) “Wages” means wages as defined in subdivision (a) of
2 Section 200 of the Labor Code paid directly to an individual by
3 his or her employer.

4 14199.8. (a) Except as otherwise provided in this article, every
5 large employer shall pay an employer responsibility penalty to the
6 Employment Development Department, as determined pursuant
7 to Section 14199.9.

8 (b) An employer responsibility penalty shall not be incurred by
9 a state, county, city, city and county, district, or any other
10 governmental entity.

11 (c) A large employer shall pay an employer responsibility
12 penalty for each covered employee as defined in this article.

13 14199.9. (a) (1) The amount of the employer responsibility
14 penalty shall be based on the average cost of health care coverage
15 provided by large employers to their employees, including both
16 the employer and employee share of the premium.

17 (2) The amount of the employer responsibility penalty shall be
18 set at 110 percent of the average cost of coverage as determined
19 pursuant to subdivision (b) to cover the necessary costs of
20 administration incurred by the State Department of Health Care
21 Services, the Employment Development Department, the Franchise
22 Tax Board, or any other state government agency.

23 (3) The amount of the employer responsibility penalty shall be
24 adjusted annually to reflect changes in the average cost of coverage
25 provided by large employers to their employees.

26 (b) (1) The average cost of health care coverage provided by
27 large employers shall be determined using the information provided
28 by health plans pursuant to Section 1385.04 of the Health and
29 Safety Code and by health insurers pursuant to Section 10181.4
30 of the Insurance Code.

31 (2) If information about the average cost of large employer
32 health care coverage is not provided by the department that
33 regulates the majority of large employer plans or policies, the
34 average cost shall be determined using a statistically valid,
35 scientifically reliable survey of large employers, which may be
36 conducted by a nonprofit foundation established as a result of the
37 conversion of a health care service plan from a nonprofit to
38 for-profit tax status.

39 (c) (1) The employer responsibility penalty shall be determined
40 by multiplying the employer’s total annual wage payments to all

1 covered employees by a fraction, with the numerator specified in
2 paragraph (2) and the denominator specified in paragraph (3). The
3 department shall obtain the wage and hour information necessary
4 to compute this paragraph from the Employment Development
5 Department.

6 (2) The numerator of the fraction described in paragraph (1)
7 shall be the amount described in paragraph (2) of subdivision (a)
8 multiplied by the share of a 40-hour work week that the average
9 California employee working for a large employer and enrolled
10 in the Medi-Cal program works per week. The department shall
11 obtain the data necessary to compute this paragraph from the
12 California Current Population Survey.

13 (3) The denominator of the fraction described in paragraph (1)
14 shall be the average annual wage of California employees that
15 work for large employers and that are enrolled in the Medi-Cal
16 program. The department shall, in 2014, obtain the wage
17 information necessary to compute this paragraph from the
18 California Current Population Survey, and shall, thereafter, obtain
19 the information from wage and enrollment data from the
20 Employment Development Department for the prior year.

21 (4) The employer responsibility penalty shall be adjusted
22 annually based on wage and enrollment data from the prior year.

23 14199.10. The department shall provide notice to the
24 Employment Development Department of the amount of the
25 employer responsibility penalty in a time and manner that permits
26 the Employment Development Department to provide notice to
27 all large employers of the estimated penalty for the budget year
28 pursuant to Section 976.7 of the Unemployment Insurance Code.

29 14199.11. All moneys collected pursuant to this article shall
30 be deposited in the Employer Responsibility for Medi-Cal Trust
31 Fund created pursuant to Section 14199.12.

32 14199.12. (a) The Employer Responsibility for Medi-Cal Trust
33 Fund is hereby created in the State Treasury.

34 (b) The fund shall consist of moneys collected pursuant to this
35 article and Section 976.7 of the Unemployment Insurance Code.

36 (c) Notwithstanding Section 13340 of the Government Code,
37 moneys in the fund are continuously appropriated to the State
38 Department of Health Care Services for the following purposes:

39 (1) To provide payment for the nonfederal share of Medi-Cal
40 costs for covered employees.

1 (2) To increase reimbursement of providers of care.

2 (3) To provide reimbursement to county health systems,
3 community clinics, and other entities that provide care without
4 expectation of compensation to those Californians who do not
5 have minimum essential coverage as defined in Section 5000A of
6 Title 26 of the United States Code.

7 (d) All costs to implement this article shall be paid from moneys
8 deposited in the Employer Responsibility for Medi-Cal Trust Fund,
9 including any necessary costs incurred by the department, the
10 Employment Development Department, the Franchise Tax Board,
11 or any other state government agency.

12 14199.13. (a) The department shall match social security
13 numbers of low-income individuals covered by the Medi-Cal
14 program with information provided by the Employment
15 Development Department to determine whether the individuals
16 are covered employees within the meaning of this article.

17 (b) The department shall provide information about covered
18 employees to the Employment Development Department in order
19 to permit the collection of the employer responsibility penalty
20 imposed pursuant to this article.

21 (c) Any and all documents and records that result from matching
22 records with or providing information to the Employment
23 Development Department shall be subject to the confidentiality
24 requirements of Section 14100.2.

25 (d) This section shall not be construed to supersede the
26 requirements and protections in the California Right to Financial
27 Privacy Act under Chapter 20 (commencing with Section 7460)
28 of Division 7 of Title 1 of the Government Code in obtaining
29 information in possession of any financial institution.

30 SEC. 8. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

39 SEC. 9. *This act is an urgency statute necessary for the*
40 *immediate preservation of the public peace, health, or safety within*

1 *the meaning of Article IV of the Constitution and shall go into*
2 *immediate effect. The facts constituting the necessity are:*
3 *In order to amend state law in a timely fashion to ensure*
4 *appropriate implementation of federal health reform, it is necessary*
5 *that this act take effect immediately.*

O