

AMENDED IN ASSEMBLY JUNE 6, 2013  
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**

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**Introduced by Assembly Member Gomez**

February 22, 2013

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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 *employee-only* 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~~ *safety net providers, as defined*, 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 *in violation of, or* because the employee exercised his or her rights ~~under~~ *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: 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.

1 (4) PPACA sets a standard for what constitutes affordable,  
2 employment-based coverage and imposes penalties on any large  
3 employer whose full-time, nonseasonal employees receive coverage  
4 through the Exchange. Federal law imposes no penalty on large  
5 employers whose employees receive coverage through the  
6 taxpayer-funded Medi-Cal program.

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

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

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

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

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

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

38 (11) The social and economic burden created by the lack of  
39 health care coverage for some workers and the coverage of other  
40 workers through the Medi-Cal program creates a burden on other

1 employers, the state, affected workers, and the families of affected  
2 workers who suffer ill health and risk financial ruin.

3 (b) It is therefore the intent of the Legislature to do all of the  
4 following:

5 (1) Ensure that large employers pay a fair share penalty for  
6 health coverage received by their employees through the Medi-Cal  
7 program and to base that penalty on the cost of *employee-only*  
8 coverage provided by other large employers to their employees.

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

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

19 (4) Pay the nonfederal share of costs for care provided to  
20 working adults who lack affordable employer coverage and who  
21 receive coverage through *the Medi-Cal program*, improve  
22 reimbursement ~~for~~ to the Medi-Cal providers who care for these  
23 workers, and support the safety net of county hospitals and  
24 community clinics that provide care for the remaining uninsured  
25 adult workers, *with due consideration for the needs of rural areas*.

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

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

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

1 (c) A large employer shall not require as a condition of  
2 employment that an employee not enroll in or disenroll from a  
3 public health benefit program, including, but not limited to, the  
4 Medi-Cal program, or advanced premium tax credits through the  
5 California Health Benefit Exchange. A large employer shall not  
6 encourage or discourage enrollment in a public health benefit  
7 program for which an employee is otherwise eligible but may  
8 provide information on the programs as otherwise provided by  
9 state or federal law.

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

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

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

28 (g) An employer who violates this section shall be charged a  
29 penalty of 200 percent of the amount of any penalty that would  
30 have otherwise been paid by the employer for the period for  
31 covered employees under Article 7 (commencing with Section  
32 14199) of Chapter 7 of Part 3 of Division 9 of the Welfare and  
33 Institutions Code.

34 (h) An employee who is discharged, threatened with discharge,  
35 demoted, suspended, or in any other manner discriminated or  
36 retaliated against in the terms and conditions of employment by  
37 his or her employer ~~because the employee has exercised his or her~~  
38 ~~rights as set forth~~ *in violation of subdivision (a), (b), or (c), or for*  
39 *exercising his or her rights set out in subdivision (d), may file a*

1 complaint with the Division of Labor Standards Enforcement of  
2 the Department of Industrial Relations pursuant to Section 98.7.

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

5 976.7. (a) In addition to other contributions required by this  
6 division and consistent with the requirements of Article 7  
7 (commencing with Section 14199) of Chapter 7 of Part 3 of  
8 Division 9 of the Welfare and Institutions Code, a large employer,  
9 as defined in Section 14199.1 of the Welfare and Institution Code,  
10 shall pay to the department, for deposit into the Employer  
11 Responsibility for Medi-Cal Trust Fund, any penalties imposed  
12 pursuant to Article 7 (commencing with Section 14199) of Chapter  
13 7 of Part 3 of Division 9 of the Welfare and Institutions Code. The  
14 penalty shall be collected in the same manner and at the same time  
15 as any contributions required under Sections 976 and 1088.

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

28 (c) The department shall annually send a notice to each large  
29 employer subject to an employer responsibility penalty under  
30 Article 7 (commencing with Section 14199) of Chapter 7 of Part  
31 3 of Division 9 of the Welfare and Institutions Code of the amount  
32 of any employer responsibility penalties imposed and the date on  
33 which payment is due.

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

37 (e) Interest shall be assessed on employer responsibility penalties  
38 not paid on or before payment is due at 10 percent per annum.  
39 Interest shall begin to accrue the day after the date the payment is

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

3 (f) If an employer responsibility penalty payment is more than  
4 60 days overdue, a penalty equal to the interest charged as  
5 described in subdivision (e) shall be assessed and due for each  
6 month, or part thereof, that the employer responsibility penalty  
7 payment is not received after 60 days. Penalties collected under  
8 this subdivision shall be deposited in the Employer Responsibility  
9 for Medi-Cal Trust Fund.

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

12 1088.5. (a) In addition to information reported in accordance  
13 with Section 1088, effective July 1, 1998, each employer shall file,  
14 with the department, the information provided for in subdivision  
15 (b) on new employees.

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

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

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

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

31 (2) Notwithstanding subdivision (a), employers transmitting  
32 reports magnetically or electronically shall submit the report by  
33 two monthly transmissions not less than 12 days and not more  
34 than 16 days apart.

35 (3) For purposes of this section, an employer that has employees  
36 in two or more states and that transmits reports magnetically or  
37 electronically may designate one state in which the employer has  
38 employees to which the employer will transmit the report described  
39 in paragraph (4). Any employer that transmits reports pursuant to  
40 this paragraph shall notify the Secretary of Health and Human

1 Services in writing as to which state the employer designates for  
2 the purpose of sending reports.  
3 (4) The report shall contain the following:  
4 (A) The name, address, and social security number of the  
5 employees.  
6 (B) The employer's name, address, state employer identification  
7 number (if one has been issued), and identifying number assigned  
8 to the employer under Section 6109 of the Internal Revenue Code  
9 of 1986.  
10 (C) The first date the employee worked.  
11 (5) Employers may report pursuant to this section by submitting  
12 a copy of the employee's W-4 form, a form provided by the  
13 department, or any other hiring document transmitted by first-class  
14 mail, magnetically, or electronically.  
15 (e) For each failure to report the hiring of an employee, as  
16 required and within the time required by this section, unless the  
17 failure is due to good cause, the department may assess a penalty  
18 of twenty-four dollars (\$24), or four hundred ninety dollars (\$490)  
19 if the failure is the result of conspiracy between the employer and  
20 employee not to supply the required report or to supply a false or  
21 incomplete report.  
22 (f) (1) On and after January 1, 2013, and before January 1,  
23 2019, information collected pursuant to this section may be used  
24 for the following purposes:  
25 (A) Administration of this code, including, but not limited to,  
26 providing employer or employee information to participating  
27 members of the Joint Enforcement Strike Force on the  
28 Underground Economy pursuant to Section 329 for the purposes  
29 of auditing, investigating, and prosecuting violations of tax and  
30 cash-pay reporting laws.  
31 (B) Locating individuals for purposes of establishing paternity  
32 and establishing, modifying, and enforcing child support  
33 obligations.  
34 (C) Administration of employment security and workers'  
35 compensation programs.  
36 (D) Providing employer or employee information to the  
37 Franchise Tax Board and the State Board of Equalization for the  
38 purpose of tax or fee enforcement.

1 (E) Verification of eligibility of applicants for, or recipients of,  
2 the public assistance programs listed in Section 1320b-7(b) of Title  
3 42 of the United States Code.

4 (F) Providing employer or employee information to the  
5 Contractors' State License Board and the State Compensation  
6 Insurance Fund for the purpose of workers' compensation payroll  
7 reporting.

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

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

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

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

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

3 (A) Administration of this code.

4 (B) Locating individuals for purposes of establishing paternity  
5 and establishing, modifying, and enforcing child support  
6 obligations.

7 (C) Administration of employment security and workers'  
8 compensation programs.

9 (D) Providing employer or employee information to the  
10 Franchise Tax Board and to the State Board of Equalization for  
11 the purposes of tax or fee enforcement.

12 (E) Verification of eligibility of applicants for, or recipients of,  
13 the public assistance programs listed in Section 1320b-7(b) of Title  
14 42 of the United States Code.

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

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

31 (ii) Verifying or determining the eligibility of an applicant for,  
32 or a recipient of, federal subsidies offered through the California  
33 Health Benefit Exchange, provided pursuant to Title 22  
34 (commencing with Section 100500) of the Government Code,  
35 including federal tax credits and cost-sharing assistance pursuant  
36 to the federal Patient Protection and Affordable Care Act, (Public  
37 Law 111-148), as amended by the federal Health Care and  
38 Education Reconciliation Act of 2010 (Public Law 111-152), where  
39 the verification or determination is directly connected with, and

1 limited to, the administration of the California Health Benefit  
2 Exchange.

3 (iii) Verifying or determining the eligibility of employees and  
4 employers for health coverage through the Small Business Health  
5 Options Program, provided pursuant to Section 100502 of the  
6 Government Code, where the verification or determination is  
7 directly connected with, and limited to, the administration of the  
8 Small Business Health Options Program.

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

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

12 SEC. 5. Section 1095 of the Unemployment Insurance Code  
13 is amended to read:

14 1095. The director shall permit the use of any information in  
15 his or her possession to the extent necessary for any of the  
16 following purposes and may require reimbursement for all direct  
17 costs incurred in providing any and all information specified in  
18 this section, except information specified in subdivisions (a) to  
19 (e), inclusive:

20 (a) To enable the director or his or her representative to carry  
21 out his or her responsibilities under this code.

22 (b) To properly present a claim for benefits.

23 (c) To acquaint a worker or his or her authorized agent with his  
24 or her existing or prospective right to benefits.

25 (d) To furnish an employer or his or her authorized agent with  
26 information to enable him or her to fully discharge his or her  
27 obligations or safeguard his or her rights under this division or  
28 Division 3 (commencing with Section 9000).

29 (e) To enable an employer to receive a reduction in contribution  
30 rate.

31 (f) To enable federal, state, or local government departments  
32 or agencies, subject to federal law, to verify or determine the  
33 eligibility or entitlement of an applicant for, or a recipient of, public  
34 social services provided pursuant to Division 9 (commencing with  
35 Section 10000) of the Welfare and Institutions Code, or Part A of  
36 Title IV of the Social Security Act, where the verification or  
37 determination is directly connected with, and limited to, the  
38 administration and funding of public social services.

39 (g) To enable county administrators of general relief or  
40 assistance, or their representatives, to determine entitlement to

1 locally provided general relief or assistance, where the  
2 determination is directly connected with, and limited to, the  
3 administration of general relief or assistance.

4 (h) To enable state or local governmental departments or  
5 agencies to seek criminal, civil, or administrative remedies in  
6 connection with the unlawful application for, or receipt of, relief  
7 provided under Division 9 (commencing with Section 10000) of  
8 the Welfare and Institutions Code or to enable the collection of  
9 expenditures for medical assistance services pursuant to Part 5  
10 (commencing with Section 17000) of Division 9 of the Welfare  
11 and Institutions Code.

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

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

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

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

7 (4) The department shall notify all applicants for benefits that  
8 release of confidential information from their records will not be  
9 protected should there be a felony arrest warrant issued against  
10 the applicant or in the event of an investigation by a law  
11 enforcement agency into the commission of a felony.

12 (j) To provide public employee retirement systems in California  
13 with information relating to the earnings of any person who has  
14 applied for or is receiving a disability income, disability allowance,  
15 or disability retirement allowance, from a public employee  
16 retirement system. The earnings information shall be released only  
17 upon written request from the governing board specifying that the  
18 person has applied for or is receiving a disability allowance or  
19 disability retirement allowance from its retirement system. The  
20 request may be made by the chief executive officer of the system  
21 or by an employee of the system so authorized and identified by  
22 name and title by the chief executive officer in writing.

23 (k) To enable the Division of Labor Standards Enforcement in  
24 the Department of Industrial Relations to seek criminal, civil, or  
25 administrative remedies in connection with the failure to pay, or  
26 the unlawful payment of, wages pursuant to Chapter 1  
27 (commencing with Section 200) of Part 1 of Division 2 of, and  
28 Chapter 1 (commencing with Section 1720) of Part 7 of Division  
29 2 of, the Labor Code.

30 (l) To enable federal, state, or local governmental departments  
31 or agencies to administer child support enforcement programs  
32 under Title IV of the federal Social Security Act (42 U.S.C. Sec.  
33 651 et seq.).

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

1 (n) To provide federal, state, or local governmental departments  
2 or agencies with information concerning any individuals who are  
3 or have been:

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

7 (2) Delinquent or in default on guaranteed student loans or who  
8 owe repayment of funds received through other financial assistance  
9 programs administered by those agencies. The information released  
10 by the director for the purposes of this paragraph shall not include  
11 unemployment insurance benefit information.

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

27 (p) To enable the Director of the Bureau for Private  
28 Postsecondary Education, or his or her representatives, to access  
29 unemployment insurance quarterly wage data on a case-by-case  
30 basis to verify information on school administrators, school staff,  
31 and students provided by those schools who are being investigated  
32 for possible violations of Chapter 8 (commencing with Section  
33 94800) of Part 59 of Division 10 of Title 3 of the Education Code.

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

1 to the exchange of information that is essential for tax  
2 administration purposes only. Taxing authorities of the State of  
3 California shall be granted tax information only on California  
4 residents. Taxing authorities of Mexico shall be granted tax  
5 information only on Mexican nationals.

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

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

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

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

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

32 (1) The total amount of the assessment.

33 (2) The amount of the penalty imposed under Section 1128 or  
34 1128.1 that is included in the assessment.

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

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

1 (x) To provide any peace officer with the Division of  
2 Investigation in the Department of Consumer Affairs information  
3 pursuant to subdivision (i) when the requesting peace officer has  
4 been designated by the Chief of the Division of Investigation and  
5 requests this information in the course of and as part of an  
6 investigation into the commission of a crime or other unlawful act  
7 when there is reasonable suspicion to believe that the crime or act  
8 may be connected to the information requested and would lead to  
9 relevant information regarding the crime or unlawful act.

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

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

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

31 (ab) To enable the State Department of Education, the University  
32 of California, the California State University, and the Chancellor  
33 of the California Community Colleges, pursuant to the  
34 requirements prescribed by the federal American Recovery and  
35 Reinvestment Act of 2009 (Public Law 111-5), to obtain quarterly  
36 wage data, commencing July 1, 2010, on students who have  
37 attended their respective systems to assess the impact of education  
38 on the employment and earnings of those students, to conduct the  
39 annual analysis of district-level and individual district or  
40 postsecondary education system performance in achieving priority

1 educational outcomes, and to submit the required reports to the  
2 Legislature and the Governor. The information shall be provided  
3 to the extent permitted by federal statutes and regulations.

4 (ac) To provide the Agricultural Labor Relations Board with  
5 employee, wage, and employer information, for use in the  
6 investigation or enforcement of the  
7 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations  
8 Act of 1975 (Part 3.5 (commencing with Section 1140) of Division  
9 2 of the Labor Code). The information shall be provided to the  
10 extent permitted by federal statutes and regulations.

11 (ad) (1) To enable the State Department of Health Care  
12 Services, the California Health Benefit Exchange, the Managed  
13 Risk Medical Insurance Board, and county departments and  
14 agencies to obtain information regarding employee wages,  
15 California employer names and state employer identification  
16 numbers, employer reports of wages and number of employees,  
17 and disability insurance and unemployment insurance claim  
18 information, for the purpose of:

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

31 (B) Verifying or determining the eligibility of an applicant for,  
32 or a recipient of, federal subsidies offered through the California  
33 Health Benefit Exchange, provided pursuant to Title 22  
34 (commencing with Section 100500) of the Government Code,  
35 including federal tax credits and cost-sharing assistance pursuant  
36 to the federal Patient Protection and Affordable Care Act (Public  
37 Law 111-148), as amended by the federal Health Care and  
38 Education Reconciliation Act of 2010 (Public Law 111-152), where  
39 the verification or determination is directly connected with, and

1 limited to, the administration of the California Health Benefit  
2 Exchange.

3 (C) Verifying or determining the eligibility of employees and  
4 employers for health coverage through the Small Business Health  
5 Options Program, provided pursuant to Section 100502 of the  
6 Government Code, where the verification or determination is  
7 directly connected with, and limited to, the administration of the  
8 Small Business Health Options Program.

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

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

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

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

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

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

1 Article 7. Employer Responsibility for Cost of Employees  
2 Covered under the Medi-Cal program  
3

4 14199. This article shall be known, and may be cited, as the  
5 Employer Responsibility for Medi-Cal Cost of Employees Act of  
6 2013.

7 14199.1. For purposes of this article, the following definitions  
8 shall apply:

9 (a) (1) “Covered employee” means an individual who meets  
10 all of the following:

11 (A) He or she is an employee of a large employer.

12 (B) He or she is enrolled in Medi-Cal on the basis of his or her  
13 modified adjusted gross income in accordance with PPACA.

14 (C) He or she is not a person who is enrolled in Medi-Cal by  
15 reason of disability or being over 65 years of age.

16 (D) He or she works more than eight hours per week for the  
17 employer.

18 (2) A “covered employee” includes a leased employee or other  
19 individual under the direction and control of the employer.

20 (b) “Department” means the State Department of Health Care  
21 Services.

22 (c) “Employer” means an employing unit as defined in Section  
23 135 of the Unemployment Insurance Code. For purposes of this  
24 article, an employer includes all of the members of a controlled  
25 group of corporations. A “controlled group of corporations” means  
26 controlled group of corporations as defined in Section 1563(a) of  
27 the Internal Revenue Code, except that “more than 50 percent”  
28 shall be substituted for “at least 80 percent” each place it appears  
29 in Section 1563(a)(1) of the Internal Revenue Code, and the  
30 determination shall be made without regard to Sections 1563(a)(4)  
31 and 1563(e)(3)(C) of the Internal Revenue Code.

32 (d) “Fund” means the Employer Responsibility for Medi-Cal  
33 Trust Fund, established pursuant to Section 14199.12.

34 (e) (1) “Large employer” means an employer employing for  
35 wages or salary 500 or more persons to work in this state.

36 (2) For purposes of this article only, “large employer” shall not  
37 include a state, city, county, city and county, district or any other  
38 governmental employer.

39 (3) For purposes of this article only, “large employer” shall  
40 include employers who are nonprofit entities for purposes of state

1 or federal corporate income taxes, for purposes of state or local  
2 property taxes, or for any other tax purpose.

3 (4) *For purposes of determining whether an employer is a large*  
4 *employer within the meaning of this subdivision, clients of a*  
5 *regional center who are persons with disabilities and who are*  
6 *employees of the employer shall not be counted.*

7 (f) “PPACA” means the federal Patient Protection and  
8 Affordable Care Act (Public Law 111-148), as amended by the  
9 federal Health Care and Education Reconciliation Act of 2010  
10 (Public Law 111-152).

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

14 14199.8. (a) Except as otherwise provided in this article, every  
15 large employer shall pay an employer responsibility penalty to the  
16 Employment Development Department, as determined pursuant  
17 to Section 14199.9.

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

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

23 14199.9. (a) (1) The amount of the employer responsibility  
24 penalty shall be based on the average cost of *employee-only* health  
25 care coverage provided by large employers to their employees,  
26 including both the employer and employee share of the premium.

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

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

36 (b) (1) The average cost of health care coverage provided by  
37 large employers shall be determined using the information provided  
38 by health plans pursuant to Section 1385.04 of the Health and  
39 Safety Code and by health insurers pursuant to Section 10181.4  
40 of the Insurance Code.

1 (2) If information about the average cost of large employer  
2 health care coverage is not provided by the department that  
3 regulates the majority of large employer plans or policies, the  
4 average cost shall be determined using a statistically valid,  
5 scientifically reliable survey of large employers, which may be  
6 conducted by a nonprofit foundation established as a result of the  
7 conversion of a health care service plan from a nonprofit to  
8 for-profit tax status.

9 (c) (1) The employer responsibility penalty shall be determined  
10 by multiplying the employer's total annual wage payments to all  
11 covered employees by a fraction, with the numerator specified in  
12 paragraph (2) and the denominator specified in paragraph (3). The  
13 department shall obtain the wage and hour information necessary  
14 to compute this paragraph from the Employment Development  
15 Department.

16 (2) The numerator of the fraction described in paragraph (1)  
17 shall be the amount described in paragraph (2) of subdivision (a)  
18 multiplied by the share of a 40-hour work week that the average  
19 California employee working for a large employer and enrolled  
20 in the Medi-Cal program works per week. The department shall  
21 obtain the data necessary to compute this paragraph from the  
22 California Current Population Survey.

23 (3) The denominator of the fraction described in paragraph (1)  
24 shall be the average annual wage of California employees that  
25 work for large employers and that are enrolled in the Medi-Cal  
26 program. The department shall, in 2014, obtain the wage  
27 information necessary to compute this paragraph from the  
28 California Current Population Survey, and shall, thereafter, obtain  
29 the information from wage and enrollment data from the  
30 Employment Development Department for the prior year.

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

33 14199.10. The department shall provide notice to the  
34 Employment Development Department of the amount of the  
35 employer responsibility penalty in a time and manner that permits  
36 the Employment Development Department to provide notice to  
37 all large employers of the estimated penalty for the budget year  
38 pursuant to Section 976.7 of the Unemployment Insurance Code.

1 14199.11. All moneys collected pursuant to this article shall  
2 be deposited in the Employer Responsibility for Medi-Cal Trust  
3 Fund created pursuant to Section 14199.12.

4 14199.12. (a) The Employer Responsibility for Medi-Cal Trust  
5 Fund is hereby created in the State Treasury.

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

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

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

13 (2) To increase reimbursement ~~of to~~ providers of ~~care~~ care,  
14 *with due consideration for the needs of rural areas.*

15 (3) To provide reimbursement to county health systems,  
16 community clinics, and other ~~entities~~ *safety net providers* that  
17 provide care without expectation of compensation to those  
18 Californians who do not have minimum essential coverage as  
19 defined in Section 5000A of Title 26 of the United States Code,  
20 *with due consideration given to the needs of those in rural areas.*

21 *“Safety net provider” means any provider of comprehensive*  
22 *primary care or acute hospital inpatient services that provides*  
23 *these services to a significant total number of Medi-Cal and charity*  
24 *and/or medically indigent patients in relation to the total number*  
25 *of patients served by the provider.*

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

31 14199.13. (a) The department shall match social security  
32 numbers of low-income individuals covered by the Medi-Cal  
33 program with information provided by the Employment  
34 Development Department to determine whether the individuals  
35 are covered employees within the meaning of this article.

36 (b) The department shall provide information about covered  
37 employees to the Employment Development Department in order  
38 to permit the collection of the employer responsibility penalty  
39 imposed pursuant to this article.

1 (c) Any and all documents and records that result from matching  
2 records with or providing information to the Employment  
3 Development Department shall be subject to the confidentiality  
4 requirements of Section 14100.2.

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

10 SEC. 8. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.

19 SEC. 9. This act is an urgency statute necessary for the  
20 immediate preservation of the public peace, health, or safety within  
21 the meaning of Article IV of the Constitution and shall go into  
22 immediate effect. The facts constituting the necessity are:

23 In order to amend state law in a timely fashion to ensure  
24 appropriate implementation of federal health reform, it is necessary  
25 that this act take effect immediately.

O