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CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 880

Introduced by Assembly Member Gomez

February 22, 2013

An act to add Section 128372 to the Health and Safety Code, to add Section 230.9 to the Labor Code, to amend Sections 1088.5 and 1095 of, and to add ~~Section 976.7 to~~ Division 11 (commencing with Section 19000) 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, *commencing January 1, 2015*, 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, *upon appropriation*, the moneys in the fund be ~~continuously appropriated to~~ *used by* the State Department of Health Care Services to provide payment for the nonfederal share of Medi-Cal ~~expenditures~~ *costs* for covered employees, to increase reimbursement to providers of care *by providing supplemental Medi-Cal payments for specified benefits and providers*, to provide reimbursement to county health systems, community clinics, and other safety net providers, as defined, that provide care without expectation of compensation to those Californians who do not have minimum essential coverage, as defined, *to fund medical residency programs that meet certain criteria developed by the Office of Statewide Health Planning and Development*, 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, *commencing January 1, 2015*, 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 *advance* 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~~, and would provide that an employee is entitled to reinstatement and reimbursement of lost wages and work benefits if a large employer discharges or takes other action against an employee for those reasons. 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, of 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. *The bill would also authorize the director to provide to the State Department of Health Care Services employer information and employee wage information on individuals who are enrolled in the Medi-Cal program to determine the employer responsibility penalties that would owed by large employers.*

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-no~~. Fiscal committee: yes.
State-mandated local program: ~~yes-no~~.

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
20 employers whose employees receive coverage through the
21 taxpayer-funded Medi-Cal program.

22 (5) Employers who fail to provide affordable coverage to
23 low-wage workers who are covered by Medi-Cal shift the cost of
24 health care coverage from the employer to the taxpayer. Employers
25 can avoid the employer responsibility penalty of PPACA by
26 reducing wages, hours worked, or both, so that workers are no
27 longer full-time, full-year employees within the meaning of
28 PPACA. Workers who face low wages, work part time, or both,
29 are too often eligible for taxpayer-funded Medi-Cal instead of
30 affordable, employer-based coverage.

31 (6) Persons who are covered by health insurance have better
32 health outcomes than those who lack coverage. Persons without
33 health insurance coverage are more likely to be in poor health,
34 more likely to miss needed medications and treatment, and more
35 likely to have chronic conditions that are not properly managed.

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

1 (8) California provides health insurance coverage to low-income
2 workers through the Medi-Cal program. The taxpaying public pays
3 the cost of coverage for those working people who are not provided
4 health care coverage through employment. The number of working
5 people whose coverage is provided through the Medi-Cal program
6 is expected to increase because of PPACA.

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

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

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

20 (b) It is therefore the intent of the Legislature to do all of the
21 following:

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

26 (2) Encourage the provision of affordable employer-based
27 coverage to low-wage employees who would otherwise be covered
28 by the Medi-Cal program and to discourage employers from
29 reducing hours, wages, or both in order to avoid the employer
30 responsibility penalty of PPACA by extending an employer
31 responsibility penalty to employers with employees covered by
32 the Medi-Cal program.

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

36 (4) Pay the nonfederal share of costs for care provided to
37 working adults who lack affordable employer coverage and who
38 receive coverage through the Medi-Cal program, improve
39 reimbursement to the Medi-Cal providers who care for these
40 workers, and support the safety net of county hospitals and

1 community clinics that provide care for the remaining uninsured
2 adult workers, with due consideration for the needs of rural areas
3 workers.

4 *SEC. 2. Section 128372 is added to the Health and Safety Code,*
5 *immediately following Section 128370, to read:*

6 *128372. (a) The Office of Statewide Health Planning and*
7 *Development, in consultation with the Health Professions*
8 *Education Foundation Board, shall develop criteria for medical*
9 *residency programs. In developing the criteria, the office shall*
10 *give priority to programs that meet the following specifications:*

11 *(1) Are located in medically underserved areas, as defined in*
12 *Section 128552.*

13 *(2) Have a proven record of placing graduates in those*
14 *medically underserved areas.*

15 *(3) Place an emphasis on training primary care providers.*

16 *(4) Place an emphasis on training physician specialties that are*
17 *most needed in the community in which the program is located.*

18 *(5) Place graduates in settings in which at least 30 percent of*
19 *the patients are Medi-Cal beneficiaries or uninsured.*

20 *(6) Are accredited by the Accreditation Council for Graduate*
21 *Medical Education or the American Osteopathic Association.*

22 *(b) Moneys appropriated from the Employer Responsibility for*
23 *Medi-Cal Trust Fund pursuant to Section 14199.12 of the Welfare*
24 *and Institutions Code may be used to fund existing graduate*
25 *medical education residency positions as well as new graduate*
26 *medical education residency positions.*

27 *(c) When applicable, the office shall utilize moneys appropriated*
28 *from the Employer Responsibility for Medi-Cal Trust Fund to*
29 *provide a match for available federal funds for graduate medical*
30 *education.*

31 *(d) This section shall be implemented only to the extent that*
32 *moneys are appropriated for that purpose from the Employer*
33 *Responsibility for Medi-Cal Trust Fund.*

34 *(e) This section shall become operative on January 1, 2015.*

35 ~~SEC. 2.~~

36 *SEC. 3. Section 230.9 is added to the Labor Code, to read:*

37 ~~230.9. (a) It shall be unlawful for a large employer, as defined~~
38 ~~in Section 14199.1 of the Welfare and Institutions Code, to~~
39 ~~designate an employee as an independent contractor or temporary~~
40 ~~employee, reduce an employee's hours of work, or terminate an~~

1 employee if the purpose of the action is to avoid the employer's
2 obligations under Article 7 (commencing with Section 14199) of
3 Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
4 Code.

5 (b) A large employer shall not request or otherwise seek to
6 obtain information concerning income, family income, or other
7 eligibility requirements for public health benefit programs
8 regarding an employee, other than that information about the
9 employee's employment status otherwise known to the employer
10 consistent with state and federal law and regulation.

11 (c) A large employer shall not require as a condition of
12 employment that an employee not enroll in or disenroll from a
13 public health benefit program, including, but not limited to, the
14 Medi-Cal program, or advanced premium tax credits through the
15 California Health Benefit Exchange. A large employer shall not
16 encourage or discourage enrollment in a public health benefit
17 program for which an employee is otherwise eligible but may
18 provide information on the programs as otherwise provided by
19 state or federal law.

20 (d)

21 230.9. (a) A large employer, as defined in Section 14199.1 of
22 the Welfare and Institutions Code, may not discharge or in any
23 manner discriminate or retaliate against an employee who enrolls
24 in a public health benefit program, including, but not limited to,
25 the Medi-Cal program, or advanced *advance* premium tax credits
26 through the California Health Benefit Exchange.

27 (e)

28 (b) Any employee who is discharged, threatened with discharge,
29 demoted, suspended, or in any other manner discriminated or
30 retaliated against in the terms and conditions of employment by
31 his or her *large* employer because the employee has enrolled in a
32 public health benefit program or advanced *advance* premium tax
33 credits through the California Health Benefit Exchange shall be
34 entitled to reinstatement and reimbursement for lost wages and
35 work benefits caused by the acts of the employer.

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

1 ~~(g) An employer who violates this section shall be charged a~~
 2 ~~penalty of 200 percent of the amount of any penalty that would~~
 3 ~~have otherwise been paid by the employer for the period for~~
 4 ~~covered employees under Article 7 (commencing with Section~~
 5 ~~14199) of Chapter 7 of Part 3 of Division 9 of the Welfare and~~
 6 ~~Institutions Code.~~

7 ~~(h)~~

8 (c) An employee who is discharged, threatened with discharge,
 9 demoted, suspended, or in any other manner discriminated or
 10 retaliated against in the terms and conditions of employment by
 11 his or her employer in violation of *as described in* subdivision (a),
 12 (b), or (c), or for exercising his or her rights set out in subdivision
 13 (d), (a) or (b) may file a complaint with the Division of Labor
 14 Standards Enforcement of the Department of Industrial Relations
 15 pursuant to Section 98.7.

16 (d) *This section shall become operative on January 1, 2015.*

17 ~~SEC. 3. Section 976.7 is added to the Unemployment Insurance~~
 18 ~~Code, to read:~~

19 ~~976.7. (a) In addition to other contributions required by this~~
 20 ~~division and consistent with the requirements of Article 7~~
 21 ~~(commencing with Section 14199) of Chapter 7 of Part 3 of~~
 22 ~~Division 9 of the Welfare and Institutions Code, a large employer,~~
 23 ~~as defined in Section 14199.1 of the Welfare and Institution Code,~~
 24 ~~shall pay to the department, for deposit into the Employer~~
 25 ~~Responsibility for Medi-Cal Trust Fund, any penalties imposed~~
 26 ~~pursuant to Article 7 (commencing with Section 14199) of Chapter~~
 27 ~~7 of Part 3 of Division 9 of the Welfare and Institutions Code. The~~
 28 ~~penalty shall be collected in the same manner and at the same time~~
 29 ~~as any contributions required under Sections 976 and 1088.~~

30 ~~(b) A large employer shall provide information to all newly~~
 31 ~~hired and existing employees regarding the availability of Medi-Cal~~
 32 ~~coverage for low-income employees, including the availability of~~
 33 ~~Medi-Cal premium assistance as well as Medi-Cal coverage for~~
 34 ~~persons whose income is less than the modified adjusted gross~~
 35 ~~income threshold established for the Medi-Cal program 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). The~~
 39 ~~department, in consultation with the State Department of Health~~

1 Care Services, shall develop a simple, uniform notice containing
2 that information:

3 ~~(e) The department shall annually send a notice to each large~~
4 ~~employer subject to an employer responsibility penalty under~~
5 ~~Article 7 (commencing with Section 14199) of Chapter 7 of Part~~
6 ~~3 of Division 9 of the Welfare and Institutions Code of the amount~~
7 ~~of any employer responsibility penalties imposed and the date on~~
8 ~~which payment is due.~~

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

12 ~~(e) Interest shall be assessed on employer responsibility penalties~~
13 ~~not paid on or before payment is due at 10 percent per annum.~~
14 ~~Interest shall begin to accrue the day after the date the payment is~~
15 ~~due and shall be deposited in the Employer Responsibility for~~
16 ~~Medi-Cal Trust Fund.~~

17 ~~(f) If an employer responsibility penalty payment is more than~~
18 ~~60 days overdue, a penalty equal to the interest charged as~~
19 ~~described in subdivision (e) shall be assessed and due for each~~
20 ~~month, or part thereof, that the employer responsibility penalty~~
21 ~~payment is not received after 60 days. Penalties collected under~~
22 ~~this subdivision shall be deposited in the Employer Responsibility~~
23 ~~for Medi-Cal Trust Fund.~~

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

26 1088.5. (a) In addition to information reported in accordance
27 with Section 1088, effective July 1, 1998, each employer shall file,
28 with the department, the information provided for in subdivision
29 (b) on new employees.

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

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

37 (2) State agency employers shall not be required to report
38 employees performing intelligence or counterintelligence functions,
39 if the head of the agency has determined that reporting pursuant

1 to this section would endanger the safety of the employee or
2 compromise an ongoing investigation or intelligence mission.

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

6 (2) Notwithstanding subdivision (a), employers transmitting
7 reports magnetically or electronically shall submit the report by
8 two monthly transmissions not less than 12 days and not more
9 than 16 days apart.

10 (3) For purposes of this section, an employer that has employees
11 in two or more states and that transmits reports magnetically or
12 electronically may designate one state in which the employer has
13 employees to which the employer will transmit the report described
14 in paragraph (4). Any employer that transmits reports pursuant to
15 this paragraph shall notify the Secretary of Health and Human
16 Services in writing as to which state the employer designates for
17 the purpose of sending reports.

18 (4) The report shall contain the following:

19 (A) The name, address, and social security number of the
20 employees.

21 (B) The employer's name, address, state employer identification
22 number (if one has been issued), and identifying number assigned
23 to the employer under Section 6109 of the Internal Revenue Code
24 of 1986.

25 (C) The first date the employee worked.

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

30 (e) For each failure to report the hiring of an employee, as
31 required and within the time required by this section, unless the
32 failure is due to good cause, the department may assess a penalty
33 of twenty-four dollars (\$24), or four hundred ninety dollars (\$490)
34 if the failure is the result of conspiracy between the employer and
35 employee not to supply the required report or to supply a false or
36 incomplete report.

37 (f) (1) On and after January 1, 2013, and before January 1,
38 2019, information collected pursuant to this section may be used
39 for the following purposes:

1 (A) Administration of this code, including, but not limited to,
2 providing employer or employee information to participating
3 members of the Joint Enforcement Strike Force on the
4 Underground Economy pursuant to Section 329 for the purposes
5 of auditing, investigating, and prosecuting violations of tax and
6 cash-pay reporting laws.

7 (B) Locating individuals for purposes of establishing paternity
8 and establishing, modifying, and enforcing child support
9 obligations.

10 (C) Administration of employment security and workers'
11 compensation programs.

12 (D) Providing employer or employee information to the
13 Franchise Tax Board and the State Board of Equalization for the
14 purpose of tax or fee enforcement.

15 (E) Verification of eligibility of applicants for, or recipients of,
16 the public assistance programs listed in Section 1320b-7(b) of Title
17 42 of the United States Code.

18 (F) Providing employer or employee information to the
19 Contractors' State License Board and the State Compensation
20 Insurance Fund for the purpose of workers' compensation payroll
21 reporting.

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

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

38 (ii) Verifying or determining the eligibility of an applicant for,
39 or a recipient of, federal subsidies offered through the California
40 Health Benefit Exchange, provided pursuant to Title 22

1 (commencing with Section 100500) of the Government Code,
2 including federal tax credits and cost-sharing assistance pursuant
3 to the federal Patient Protection and Affordable Care Act, (Public
4 Law 111-148), as amended by the federal Health Care and
5 Education Reconciliation Act of 2010 (Public Law 111-152), where
6 the verification or determination is directly connected with, and
7 limited to, the administration of the California Health Benefit
8 Exchange.

9 (iii) Verifying or determining the eligibility of employees and
10 employers for health coverage through the Small Business Health
11 Options Program, provided pursuant to Section 100502 of the
12 Government Code, where the verification or determination is
13 directly connected with, and limited to, the administration of the
14 Small Business Health Options Program.

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

17 (A) Administration of this code.

18 (B) Locating individuals for purposes of establishing paternity
19 and establishing, modifying, and enforcing child support
20 obligations.

21 (C) Administration of employment security and workers'
22 compensation programs.

23 (D) Providing employer or employee information to the
24 Franchise Tax Board and to the State Board of Equalization for
25 the purposes of tax or fee enforcement.

26 (E) Verification of eligibility of applicants for, or recipients of,
27 the public assistance programs listed in Section 1320b-7(b) of Title
28 42 of the United States Code.

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

33 (i) Verifying or determining the eligibility of an applicant for,
34 or a recipient of, state health subsidy programs, limited to the
35 Medi-Cal program, provided pursuant to Chapter 7 (commencing
36 with Section 14000) of Part 3 of Division 9 of the Welfare and
37 Institutions Code, the Healthy Families Program, provided pursuant
38 to Part 6.2 (commencing with Section 12693) of Division 2 of the
39 Insurance Code, and the Access for Infants and Mothers Program,
40 provided pursuant to Part 6.3 (commencing with Section 12695)

1 of Division 2 of the Insurance Code, where the verification or
2 determination is directly connected with, and limited to, the
3 administration and funding of the state health subsidy programs
4 referenced in this clause.

5 (ii) Verifying or determining the eligibility of an applicant for,
6 or a recipient of, federal subsidies offered through the California
7 Health Benefit Exchange, provided pursuant to Title 22
8 (commencing with Section 100500) of the Government Code,
9 including federal tax credits and cost-sharing assistance pursuant
10 to the federal Patient Protection and Affordable Care Act, (Public
11 Law 111-148), as amended by the federal Health Care and
12 Education Reconciliation Act of 2010 (Public Law 111-152), where
13 the verification or determination is directly connected with, and
14 limited to, the administration of the California Health Benefit
15 Exchange.

16 (iii) Verifying or determining the eligibility of employees and
17 employers for health coverage through the Small Business Health
18 Options Program, provided pursuant to Section 100502 of the
19 Government Code, where the verification or determination is
20 directly connected with, and limited to, the administration of the
21 Small Business Health Options Program.

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

24 SEC. 5. Section 1095 of the Unemployment Insurance Code
25 is amended to read:

26 1095. The director shall permit the use of any information in
27 his or her possession to the extent necessary for any of the
28 following purposes and may require reimbursement for all direct
29 costs incurred in providing any and all information specified in
30 this section, except information specified in subdivisions (a) to
31 (e), inclusive:

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

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

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

37 (d) To furnish an employer or his or her authorized agent with
38 information to enable him or her to fully discharge his or her
39 obligations or safeguard his or her rights under this division or
40 Division 3 (commencing with Section 9000).

1 (e) To enable an employer to receive a reduction in contribution
2 rate.

3 (f) To enable federal, state, or local government departments
4 or agencies, subject to federal law, to verify or determine the
5 eligibility or entitlement of an applicant for, or a recipient of, public
6 social services provided pursuant to Division 9 (commencing with
7 Section 10000) of the Welfare and Institutions Code, or Part A of
8 Title IV of the Social Security Act, where the verification or
9 determination is directly connected with, and limited to, the
10 administration and funding of public social services.

11 (g) To enable county administrators of general relief or
12 assistance, or their representatives, to determine entitlement to
13 locally provided general relief or assistance, where the
14 determination is directly connected with, and limited to, the
15 administration of general relief or assistance.

16 (h) To enable state or local governmental departments or
17 agencies to seek criminal, civil, or administrative remedies in
18 connection with the unlawful application for, or receipt of, relief
19 provided under Division 9 (commencing with Section 10000) of
20 the Welfare and Institutions Code or to enable the collection of
21 expenditures for medical assistance services pursuant to Part 5
22 (commencing with Section 17000) of Division 9 of the Welfare
23 and Institutions Code.

24 (i) To provide any law enforcement agency with the name,
25 address, telephone number, birth date, social security number,
26 physical description, and names and addresses of present and past
27 employers, of any victim, suspect, missing person, potential
28 witness, or person for whom a felony arrest warrant has been
29 issued, when a request for this information is made by any
30 investigator or peace officer as defined by Sections 830.1 and
31 830.2 of the Penal Code, or by any federal law enforcement officer
32 to whom the Attorney General has delegated authority to enforce
33 federal search warrants, as defined under Sections 60.2 and 60.3
34 of Title 28 of the Code of Federal Regulations, as amended, and
35 when the requesting officer has been designated by the head of
36 the law enforcement agency and requests this information in the
37 course of and as a part of an investigation into the commission of
38 a crime when there is a reasonable suspicion that the crime is a
39 felony and that the information would lead to relevant evidence.
40 The information provided pursuant to this subdivision shall be

1 provided to the extent permitted by federal law and regulations,
2 and to the extent the information is available and accessible within
3 the constraints and configurations of existing department records.
4 Any person who receives any information under this subdivision
5 shall make a written report of the information to the law
6 enforcement agency that employs him or her, for filing under the
7 normal procedures of that agency.

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

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

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

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

22 (j) To provide public employee retirement systems in California
23 with information relating to the earnings of any person who has
24 applied for or is receiving a disability income, disability allowance,
25 or disability retirement allowance, from a public employee
26 retirement system. The earnings information shall be released only
27 upon written request from the governing board specifying that the
28 person has applied for or is receiving a disability allowance or
29 disability retirement allowance from its retirement system. The
30 request may be made by the chief executive officer of the system
31 or by an employee of the system so authorized and identified by
32 name and title by the chief executive officer in writing.

33 (k) To enable the Division of Labor Standards Enforcement in
34 the Department of Industrial Relations to seek criminal, civil, or
35 administrative remedies in connection with the failure to pay, or
36 the unlawful payment of, wages pursuant to Chapter 1
37 (commencing with Section 200) of Part 1 of Division 2 of, and
38 Chapter 1 (commencing with Section 1720) of Part 7 of Division
39 2 of, the Labor Code.

1 (l) To enable federal, state, or local governmental departments
2 or agencies to administer child support enforcement programs
3 under Title IV of the federal Social Security Act (42 U.S.C. Sec.
4 651 et seq.).

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

11 (n) To provide federal, state, or local governmental departments
12 or agencies with information concerning any individuals who are
13 or have been:

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

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

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

37 (p) To enable the Director of the Bureau for Private
38 Postsecondary Education, or his or her representatives, to access
39 unemployment insurance quarterly wage data on a case-by-case
40 basis to verify information on school administrators, school staff,

1 and students provided by those schools who are being investigated
2 for possible violations of Chapter 8 (commencing with Section
3 94800) of Part 59 of Division 10 of Title 3 of the Education Code.

4 (q) To provide employment tax information to the tax officials
5 of Mexico, if a reciprocal agreement exists. For purposes of this
6 subdivision, “reciprocal agreement” means a formal agreement to
7 exchange information between national taxing officials of Mexico
8 and taxing authorities of the State Board of Equalization, the
9 Franchise Tax Board, and the Employment Development
10 Department. Furthermore, the reciprocal agreement shall be limited
11 to the exchange of information that is essential for tax
12 administration purposes only. Taxing authorities of the State of
13 California shall be granted tax information only on California
14 residents. Taxing authorities of Mexico shall be granted tax
15 information only on Mexican nationals.

16 (r) To enable city and county planning agencies to develop
17 economic forecasts for planning purposes. The information shall
18 be limited to businesses within the jurisdiction of the city or county
19 whose planning agency is requesting the information, and shall
20 not include information regarding individual employees.

21 (s) To provide the State Department of Developmental Services
22 with wage and employer information that will assist in the
23 collection of moneys owed by the recipient, parent, or any other
24 legally liable individual for services and supports provided pursuant
25 to Chapter 9 (commencing with Section 4775) of Division 4.5 of,
26 and Chapter 2 (commencing with Section 7200) and Chapter 3
27 (commencing with Section 7500) of Division 7 of, the Welfare
28 and Institutions Code.

29 (t) To provide the State Board of Equalization with employment
30 tax information that will assist in the administration of tax
31 programs. The information shall be limited to the exchange of
32 employment tax information essential for tax administration
33 purposes to the extent permitted by federal law and regulations.

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

37 (v) The disclosure of the name and address of an individual or
38 business entity that was issued an assessment that included
39 penalties under Section 1128 or 1128.1 shall not be in violation

1 of Section 1094 if the assessment is final. The disclosure may also
2 include any of the following:

3 (1) The total amount of the assessment.

4 (2) The amount of the penalty imposed under Section 1128 or
5 1128.1 that is included in the assessment.

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

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

11 (x) To provide any peace officer with the Division of
12 Investigation in the Department of Consumer Affairs information
13 pursuant to subdivision (i) when the requesting peace officer has
14 been designated by the Chief of the Division of Investigation and
15 requests this information in the course of and as part of an
16 investigation into the commission of a crime or other unlawful act
17 when there is reasonable suspicion to believe that the crime or act
18 may be connected to the information requested and would lead to
19 relevant information regarding the crime or unlawful act.

20 (y) To enable the Labor Commissioner of the Division of Labor
21 Standards Enforcement in the Department of Industrial Relations
22 to identify, pursuant to Section 90.3 of the Labor Code, unlawfully
23 uninsured employers. The information shall be provided to the
24 extent permitted by federal law and regulations.

25 (z) To enable the Chancellor of the California Community
26 Colleges, in accordance with the requirements of Section 84754.5
27 of the Education Code, to obtain quarterly wage data, commencing
28 January 1, 1993, on students who have attended one or more
29 community colleges, to assess the impact of education on the
30 employment and earnings of students, to conduct the annual
31 evaluation of district-level and individual college performance in
32 achieving priority educational outcomes, and to submit the required
33 reports to the Legislature and the Governor. The information shall
34 be provided to the extent permitted by federal statutes and
35 regulations.

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

1 (ab) To enable the State Department of Education, the University
2 of California, the California State University, and the Chancellor
3 of the California Community Colleges, pursuant to the
4 requirements prescribed by the federal American Recovery and
5 Reinvestment Act of 2009 (Public Law 111-5), to obtain quarterly
6 wage data, commencing July 1, 2010, on students who have
7 attended their respective systems to assess the impact of education
8 on the employment and earnings of those students, to conduct the
9 annual analysis of district-level and individual district or
10 postsecondary education system performance in achieving priority
11 educational outcomes, and to submit the required reports to the
12 Legislature and the Governor. The information shall be provided
13 to the extent permitted by federal statutes and regulations.

14 (ac) To provide the Agricultural Labor Relations Board with
15 employee, wage, and employer information, for use in the
16 investigation or enforcement of the
17 Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations
18 Act of 1975 (Part 3.5 (commencing with Section 1140) of Division
19 2 of the Labor Code). The information shall be provided to the
20 extent permitted by federal statutes and regulations.

21 (ad) (1) To enable the State Department of Health Care
22 Services, the California Health Benefit Exchange, the Managed
23 Risk Medical Insurance Board, and county departments and
24 agencies to obtain information regarding employee wages,
25 California employer names and state employer identification
26 numbers, employer reports of wages and number of employees,
27 and disability insurance and unemployment insurance claim
28 information, for the purpose of:

29 (A) Verifying or determining the eligibility of an applicant for,
30 or a recipient of, state health subsidy programs, limited to the
31 Medi-Cal program, provided pursuant to Chapter 7 (commencing
32 with Section 14000) of Part 3 of Division 9 of the Welfare and
33 Institutions Code, the Healthy Families Program, provided pursuant
34 to Part 6.2 (commencing with Section 12693) of Division 2 of the
35 Insurance Code, and the Access for Infants and Mothers Program,
36 provided pursuant to Part 6.3 (commencing with Section 12695)
37 of Division 2 of the Insurance Code, where the verification or
38 determination is directly connected with, and limited to, the
39 administration and funding of the state health subsidy programs
40 referenced in this subparagraph.

1 (B) Verifying or determining the eligibility of an applicant for,
2 or a recipient of, federal subsidies offered through the California
3 Health Benefit Exchange, provided pursuant to Title 22
4 (commencing with Section 100500) of the Government Code,
5 including federal tax credits and cost-sharing assistance pursuant
6 to the federal Patient Protection and Affordable Care Act (Public
7 Law 111-148), as amended by the federal Health Care and
8 Education Reconciliation Act of 2010 (Public Law 111-152), where
9 the verification or determination is directly connected with, and
10 limited to, the administration of the California Health Benefit
11 Exchange.

12 (C) Verifying or determining the eligibility of employees and
13 employers for health coverage through the Small Business Health
14 Options Program, provided pursuant to Section 100502 of the
15 Government Code, where the verification or determination is
16 directly connected with, and limited to, the administration of the
17 Small Business Health Options Program.

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

22 *(ae) To enable the State Department of Health Care Services*
23 *to obtain employer information and employee wage information*
24 *on individuals who are enrolled in the Medi-Cal program, under*
25 *Chapter 7 (commencing with Section 14000) of Part 3 of Division*
26 *9 of the Welfare and Institutions Code, to determine the employer*
27 *responsibility penalty required pursuant to Article 7 (commencing*
28 *with Section 14199) of Chapter 7 of Part 3 of Division 9 of the*
29 *Welfare and Institutions Code. The information shall be provided*
30 *to the extent permitted by federal law and regulations.*

31 *SEC. 6. Division 11 (commencing with Section 19000) is added*
32 *to the Unemployment Insurance Code, to read:*

33

34 *DIVISION 11. EMPLOYER RESPONSIBILITY PENALTY FOR*
35 *THE MEDI-CAL PROGRAM*

36

37 *19000. The department shall have the power and duties*
38 *necessary to administer the collection and enforcement of employer*
39 *responsibility penalties required to be remitted by employers under*
40 *this division.*

1 19001. For purposes of this division, the following definitions
2 shall apply:

3 (a) “Department” means the Employment Development
4 Department.

5 (b) “Employee” means an individual who is a covered employee,
6 as defined in Section 14199.1 of the Welfare and Institutions Code.

7 (c) “Employer” means an employer as defined in Section
8 14199.1 of the Welfare and Institutions Code.

9 (d) “Employer Responsibility for Medi-Cal Trust Fund” means
10 the fund established under Section 14199.12 of the Welfare and
11 Institutions Code.

12 (e) “Large employer” means a large employer as defined in
13 Section 14199.1 of the Welfare and Institutions Code.

14 (f) “Wages” means wages as defined in subdivision (a) of
15 Section 200 of the Labor Code.

16 19002. (a) A large employer shall pay to the department, for
17 deposit into the Employer Responsibility for Medi-Cal Trust Fund,
18 any penalties imposed on the large employer pursuant to Article
19 7 (commencing with Section 14199) of Chapter 7 of Part 3 of
20 Division 9 of the Welfare and Institutions Code.

21 (b) 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 penalty imposed and the date on
26 which payment is due. The employer responsibility penalty shall
27 be paid by each large employer subject to the penalty to the
28 department for deposit in the Employer Responsibility for Medi-Cal
29 Trust Fund.

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

35 (d) 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 (c) 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 *(e) The provisions of Article 9 (commencing with Section 1176)*
4 *of Chapter 4 of Part 1 of Division 1 with respect to refunds, the*
5 *provisions of Chapter 7 (commencing with Section 1701) of Part*
6 *1 of Division 1 with respect to collections, and the provisions of*
7 *Article 11 (commencing with Section 1221) of Chapter 4 of Part*
8 *1 of Division 1 with the respect to administrative appellate review*
9 *shall apply to the assessments provided under this section.*

10 *19003. A large employer shall provide information to all newly*
11 *hired and existing employees regarding the availability of Medi-Cal*
12 *coverage for low-income employees, including the availability of*
13 *Medi-Cal premium assistance, as well as Medi-Cal coverage for*
14 *persons whose income is less than the modified adjusted gross*
15 *income threshold established for the Medi-Cal program pursuant*
16 *to the federal Patient Protection and Affordable Care Act (Public*
17 *Law 111-148), as amended by the federal Health Care and*
18 *Education Reconciliation Act of 2010 (Public Law 111-152). The*
19 *department, in consultation with the State Department of Health*
20 *Care Services, shall develop a simple, uniform notice containing*
21 *that information.*

22 *19004. The State Department of Health Care Services, pursuant*
23 *to Article 7 (commencing with Section 14199) of Chapter 7 of Part*
24 *3 of Division 9 of the Welfare and Institutions Code, shall provide*
25 *information about employees to the department to permit the*
26 *collection of the employer responsibility penalty imposed pursuant*
27 *to that article.*

28 *19005. All costs incurred by the department to implement this*
29 *division shall be paid, upon appropriation, from moneys deposited*
30 *in Employer Responsibility for Medi-Cal Trust Fund.*

31 *19006. Any employer that is assessed an employer*
32 *responsibility penalty under this division is liable for the amount*
33 *assessed. The department may waive all or part of the liability*
34 *established under this division if it is determined that it would*
35 *result in financial hardship to the employer as defined in*
36 *regulations promulgated by the department.*

37 *19007. This division shall become operative on January 1,*
38 *2015.*

1 ~~SEC. 6.~~

2 *SEC. 7.* Section 11025 of the Welfare and Institutions Code is
3 amended to read:

4 11025. (a) The State Department of Social Services and the
5 State Department of Health Care Services shall utilize the records
6 of the Franchise Tax Board to match unearned income against
7 reported income of applicants for and recipients of aid or public
8 social services and to match social security numbers of applicants
9 for and recipients of aid or public services with their employer’s
10 state employer identification number under this division. The
11 matching information shall then be forwarded to the appropriate
12 county welfare department or other appropriate state departments
13 for use in determining the eligibility of, and proper grant amount
14 for, applicants for, and recipients of, aid or public social services
15 under this division. Any and all documents and records that result
16 from the matching of records with the Franchise Tax Board shall
17 be subject to the confidentiality requirements of Section 10850.

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

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

25 ~~SEC. 7.~~

26 *SEC. 8.* Article 7 (commencing with Section 14199) is added
27 to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions
28 Code, to read:

29
30 Article 7. Employer Responsibility for Cost of Employees
31 Covered under the Medi-Cal program

32
33 14199. This article shall be known, and may be cited, as the
34 Employer Responsibility for Medi-Cal Cost of Employees Act of
35 2013.

36 14199.1. For purposes of this article, the following definitions
37 shall apply:

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

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

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

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

5 (D) He or she works more than ~~eight~~ 12 hours per week for the
6 employer.

7 (E) *He or she works more than 45 days during the calendar*
8 *year for the employer.*

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

11 (b) “Department” means the State Department of Health Care
12 Services.

13 (c) “Employer” means an employing unit as defined in Section
14 135 of the Unemployment Insurance Code. For purposes of this
15 article, an employer includes all of the members of a controlled
16 group of corporations. A “controlled group of corporations” means
17 controlled group of corporations as defined in Section 1563(a) of
18 the Internal Revenue Code, except that “more than 50 percent”
19 shall be substituted for “at least 80 percent” each place it appears
20 in Section 1563(a)(1) of the Internal Revenue Code, and the
21 determination shall be made without regard to Sections 1563(a)(4)
22 and 1563(e)(3)(C) of the Internal Revenue Code.

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

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

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

30 (3) For purposes of this article only, “large employer” shall
31 include employers who are nonprofit entities for purposes of state
32 or federal corporate income taxes, for purposes of state or local
33 property taxes, or for any other tax purpose.

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

38 (f) “PPACA” means the federal Patient Protection and
39 Affordable Care Act (Public Law 111-148), as amended by the

1 federal Health Care and Education Reconciliation Act of 2010
2 (Public Law 111-152).

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

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

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

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

15 14199.9. (a) (1) The amount of the employer responsibility
16 penalty shall be based on the average cost of employee-only health
17 care coverage provided by large employers to their employees,
18 including both the ~~employer~~ employer’s and ~~employee~~ employee’s
19 share of the premium.

20 (2) The amount of the employer responsibility penalty shall be
21 set at ~~H0~~ 90 percent of the average cost of coverage as determined
22 pursuant to subdivision (b) to cover the necessary costs of
23 administration incurred by the State Department of Health Care
24 Services, the Employment Development Department, the Franchise
25 Tax Board, or any other state government agency.

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

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

34 (2) If information about the average cost of large employer
35 health care coverage is not provided by the department that
36 regulates the majority of large employer plans or policies, the
37 average cost shall be determined using a statistically valid,
38 scientifically reliable survey of large employers, which may be
39 conducted by a nonprofit foundation established as a result of the

1 conversion of a health care service plan from a nonprofit to
2 for-profit tax status.

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

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

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

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

27 14199.10. The department shall provide notice to the
28 Employment Development Department of the amount of the
29 employer responsibility penalty in a time and manner that permits
30 the Employment Development Department to provide notice to
31 all large employers of the estimated penalty for the budget year
32 pursuant to Section ~~976.7 19002~~ of the Unemployment Insurance
33 Code.

34 14199.11. All moneys collected pursuant to this article shall
35 be deposited in the Employer Responsibility for Medi-Cal Trust
36 Fund created pursuant to Section 14199.12.

37 14199.12. (a) The Employer Responsibility for Medi-Cal Trust
38 Fund is hereby created in the State Treasury.

1 (b) The fund shall consist of moneys collected pursuant to this
2 article and ~~Section 976.7 Division 11 (commencing with Section~~
3 ~~19000)~~ of the Unemployment Insurance Code.

4 ~~(e) Notwithstanding Section 13340 of the Government Code,~~
5 ~~moneys in the fund are continuously appropriated to the State~~
6 ~~Department of Health Care Services for the following purposes:~~

7 (c) *Moneys in the fund shall, upon appropriation to the State*
8 *Department of Health Care Services, be used for the following*
9 *purposes:*

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

12 (2) To increase reimbursement to providers of care, ~~with due~~
13 ~~consideration for the needs of rural areas.~~ *care by providing*
14 *supplemental Medi-Cal payments for benefits specified in*
15 *subdivision (a) of Section 14132.02 to improve access to medically*
16 *underserved areas designated as health profession shortage areas*
17 *or medically underserved areas as defined by federal regulation.*
18 *The supplemental payments shall be for both fee-for-service*
19 *Medi-Cal and Medi-Cal managed care plans. In addition, there*
20 *shall be supplemental Medi-Cal payments for providers in practice*
21 *settings in which 30 percent or more of the patients are Medi-Cal*
22 *beneficiaries or uninsured.*

23 (3) To provide reimbursement to county health systems,
24 community clinics, and other safety net providers that provide care
25 without expectation of compensation to those Californians who
26 do not have minimum essential coverage as defined in Section
27 5000A of Title 26 of the United States ~~Code, with due~~
28 ~~consideration given to the needs of those in rural areas~~ *Code.*
29 “Safety net provider” means any provider of comprehensive
30 primary care or acute hospital inpatient services that provides these
31 services to a significant total number of Medi-Cal and charity
32 and/or medically indigent patients in relation to the total number
33 of patients served by the provider.

34 (4) *To fund medical residency programs consistent with Section*
35 *128372 of the Health and Safety Code.*

36 (d) All costs to implement this article shall be paid, *upon*
37 *appropriation*, from moneys deposited in the Employer
38 Responsibility for Medi-Cal Trust Fund, including any necessary
39 costs incurred by the department, the Employment Development

1 Department, the Franchise Tax Board, or any other state
2 government agency.

3 14199.13. (a) The department shall match social security
4 numbers of low-income individuals covered by the Medi-Cal
5 program with information provided by the Employment
6 Development Department to determine whether the individuals
7 are covered employees within the meaning of this article.

8 (b) The department shall provide information about covered
9 employees to the Employment Development Department in order
10 to permit the collection of the employer responsibility penalty
11 imposed pursuant to this article.

12 (c) Any and all documents and records that result from matching
13 records with or providing information to the Employment
14 Development Department shall be subject to the confidentiality
15 requirements of Section 14100.2.

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

21 *14199.14. This article shall become operative on January 1,*
22 *2015.*

23 ~~SEC. 8. No reimbursement is required by this act pursuant to~~
24 ~~Section 6 of Article XIII B of the California Constitution because~~
25 ~~the only costs that may be incurred by a local agency or school~~
26 ~~district will be incurred because this act creates a new crime or~~
27 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
28 ~~for a crime or infraction, within the meaning of Section 17556 of~~
29 ~~the Government Code, or changes the definition of a crime within~~
30 ~~the meaning of Section 6 of Article XIII B of the California~~
31 ~~Constitution.~~

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

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

O