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An act to amend Section 100014 of the Government Code, and to amend Sections 1088.9 and 1095 of the Unemployment Insurance Code, relating to retirement savings, and making an appropriation therefor.



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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 100014 of the Government Code is amended to read:

100014. (a) Prior to opening the CalSavers Retirement Savings Program for enrollment, the board shall design and disseminate to employers through the ~~Employment Development Department (EDD)~~ an employee information packet that shall be available in an electronic format. The packet shall include background information on the program and appropriate disclosures for employees.

(b) The disclosure form shall include, but not be limited to, all of the following:

- (1) The benefits and risks associated with making contributions to the program.
- (2) The mechanics of how to make contributions to the program.
- (3) How to opt out of the program.
- (4) The process for withdrawal of retirement savings.
- (5) How to obtain additional information on the program.

(c) In addition, the disclosure form shall clearly articulate the following:

(1) Employees seeking financial advice should contact financial advisors, that employers do not provide financial advice, that employees are not to contact their employers for financial advice, and that employers are not liable for decisions employees make pursuant to Section 100034.

(2) This retirement program is not sponsored by the employer, and therefore the employer is not responsible for the plan or liable as a plan sponsor.

(3) The program fund is not guaranteed by the State of California.

(d) The disclosure form shall include a method for the employee to acknowledge that the employee has read all of the disclosures and understands their content.

(e) The employee information packet shall also include an opt-out form for an eligible employee to note ~~his or her~~ their decision to opt out of participation in the program. The opt-out notation shall be simple and concise and drafted in a manner that the board deems necessary to appropriately evidence the employee's understanding that ~~he or she is~~ they are choosing not to automatically deduct earnings to save for retirement.

(f) The employee information packet with the disclosure and opt-out forms shall be made available to ~~employers through EDD~~ eligible employees by the CalSavers Retirement Savings Program and supplied to employees at the time of hiring. All new employees shall review the packet and acknowledge having received it.

(g) The employee information packet with the disclosure and opt-out forms shall be supplied to existing employees when the program is initially launched for that participating employer pursuant to Section 100032.

SEC. 2. Section 1088.9 of the Unemployment Insurance Code is amended to read:

1088.9. (a) The department shall have the power and duties necessary to administer the enforcement of employer compliance with Title 21 (commencing with Section 100000) of the Government Code.

~~(b) An eligible employer shall use the opt-out form in the employee information packet disseminated by the department to create an option for an eligible employee to note his or her decision to opt out of utilizing the CalSavers Retirement Savings Program.~~

(e)



(b) Each eligible employer that, without good cause, fails to allow its eligible employees to participate in the CalSavers Retirement Savings Program pursuant to Sections 100014 and 100032 of the Government Code, on or before 90 days after service of notice by the director pursuant to Section 1206 of its failure to comply, shall pay a penalty of two hundred fifty dollars (\$250) per eligible employee if noncompliance extends 90 days or more after the notice, and if found to be in noncompliance 180 days or more after the notice, an additional penalty of five hundred dollars (\$500) per eligible employee.

(d)

(c) The department shall enforce this penalty as part of its existing investigation and audit function.

(e)

(d) The provisions of this article, the provisions of Article 9 (commencing with Section 1176), with respect to refunds and overpayments, and the provisions of Article 11 (commencing with Section 1221), with respect to administrative appellate review shall apply to the penalty imposed by this section. Penalties collected pursuant to this section shall be deposited in the contingent fund.

~~(f) This section shall become operative six months after the board notifies the Director of Employment Development that the full implementation of Title 21 (commencing with Section 100000) of the Government Code will proceed. Upon receipt of the notification from the board, the department shall immediately post on its Internet Web site a notice stating that this section is operative, and the date that it is first operative.~~

(g)

(e) If the department participates in the implementation and administration of the program, it may charge the board a reasonable fee for costs it incurs for implementing and administering the program.

(f) This section shall only become operative when both of the following occur:

(1) The board notifies the Director of Employment Development that enforcement should proceed.

(2) The board and the Director of Employment Development agree to a reasonable implementation timeline.

(g) Upon satisfaction of the conditions in subdivision (f), the department shall post on its internet website a notice of the operative date of the section.

SEC. 3. Section 1095 of the Unemployment Insurance Code is amended to read:

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

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

(b) To properly present a claim for benefits.

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

(d) To furnish an employer or ~~his or her~~ their authorized agent with information to enable ~~him or her~~ them to fully discharge ~~his or her~~ their obligations or safeguard



~~his or her~~ their rights under this division or Division 3 (commencing with Section 9000).

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

(f) To enable federal, state, or local governmental 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 provided pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, or Part A of Subchapter IV of the federal Social Security Act (42 U.S.C. Sec. 601 et seq.), when the verification or determination is directly connected with, and limited to, the administration of public social services.

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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



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

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

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

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

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

(u) This section shall not be construed to authorize or permit the use of information obtained in the administration of this code by any private collection agency.

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

- (1) The total amount of the assessment.
- (2) The amount of the penalty imposed under Section 1128 or 1128.1 that is included in the assessment.
- (3) The facts that resulted in the charging of the penalty under Section 1128 or 1128.1.

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

(x) To provide any peace officer with the Division of Investigation in the Department of Consumer Affairs information pursuant to subdivision (i) when the requesting peace officer has been designated by the chief of the Division of Investigation and requests this information in the course of and as part of an investigation into the



commission of a crime or other unlawful act when there is reasonable suspicion to believe that the crime or act may be connected to the information requested and would lead to relevant information regarding the crime or unlawful act.

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

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

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

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

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

(ad) (1) To enable the State Department of Health Care Services, the California Health Benefit Exchange, the Managed Risk Medical Insurance Board, 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 the purpose of:

(A) Verifying or determining the eligibility of an applicant for, or a recipient of, state health subsidy programs, limited to the Medi-Cal program, provided pursuant to Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, and the Access for Infants and Mothers Program, provided pursuant to Part 6.3 (commencing with Section 12695) of Division 2 of the Insurance Code, when the verification or determination is directly connected with, and limited



to, the administration of the state health subsidy programs referenced in this subparagraph.

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

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

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

(ae) To provide any peace officer with the Investigations Division of the Department of Motor Vehicles with information pursuant to subdivision (i), when the requesting peace officer has been designated by the Chief of the Investigations Division and requests this information in the course of, and as part of, an investigation into identity theft, counterfeiting, document fraud, or consumer fraud, and there is reasonable suspicion that the crime is a felony and that the information would lead to relevant evidence regarding the identity theft, counterfeiting, document fraud, or consumer fraud. The information provided pursuant to this subdivision shall be provided to the extent permitted by federal law and regulations, and to the extent the information is available and accessible within the constraints and configurations of existing department records. Any person who receives any information under this subdivision shall make a written report of the information to the Investigations Division of the Department of Motor Vehicles, for filing under the normal procedures of that division.

(af) Until January 1, 2020, to enable the Department of Finance to prepare and submit the report required by Section 13084 of the Government Code that identifies all employers in California that employ 100 or more employees who receive benefits from the Medi-Cal program (Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code). The information used for this purpose shall be limited to information obtained pursuant to Section 11026.5 of the Welfare and Institutions Code and from the administration of personal income tax wage withholding pursuant to Division 6 (commencing with Section 13000) and the disability insurance program and may be disclosed to the Department of Finance only for the purpose of preparing and submitting the report and only to the extent not prohibited by federal law.

(ag) To provide, to the extent permitted by federal law and regulations, the Student Aid Commission with wage information in order to verify the employment status of an individual applying for a Cal Grant C award pursuant to subdivision (c) of Section 69439 of the Education Code.



(ah) To enable the Department of Corrections and Rehabilitation to obtain quarterly wage data of former inmates who have been incarcerated within the prison system in order to assess the impact of rehabilitation services or the lack of these services on the employment and earnings of these former inmates. Quarterly data for a former inmate's employment status and wage history shall be provided for a period of one year, three years, and five years following release. The data shall only be used for the purpose of tracking outcomes for former inmates in order to assess the effectiveness of rehabilitation strategies on the wages and employment histories of those formerly incarcerated. The information shall be provided to the department to the extent not prohibited by federal law.

(ai) To enable federal, state, or local government departments or agencies, or their contracted agencies, subject to federal law, including the confidentiality, disclosure, and other requirements set forth in Part 603 of Title 20 of the Code of Federal Regulations, to evaluate, research, or forecast the effectiveness of public social services programs administered pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, or Part A of Subchapter IV of Chapter 7 of the federal Social Security Act (42 U.S.C. Sec. 601 et seq.), when the evaluation, research, or forecast is directly connected with, and limited to, the administration of the public social services programs.

(aj) To enable the California Workforce Development Board, the Chancellor of the California Community Colleges, the Superintendent of Public Instruction, the Department of Rehabilitation, the State Department of Social Services, the Bureau for Private Postsecondary Education, the Department of Industrial Relations, the Division of Apprenticeship Standards, and the Employment Training Panel to access any relevant quarterly wage data necessary for the evaluation and reporting of their respective program performance outcomes as required and permitted by various state and federal laws pertaining to performance measurement and program evaluation under the federal Workforce Innovation and Opportunity Act (Public Law 113-128); the workforce performance metrics dashboard pursuant to paragraph (1) of subdivision (i) of Section 14013; the Adult Education Block Grant Program consortia performance metrics pursuant to Section 84920 of the Education Code; the economic and workforce development program performance measures pursuant to Section 88650 of the Education Code; and the California Community Colleges Economic and Workforce Development Program performance measures established in Part 52.5 (commencing with Section 88600) of Division 7 of Title 3 of the Education Code.

(ak) (1) To provide any peace officer with the Enforcement Branch of the Department of Insurance with both of the following:

(A) Information provided pursuant to subdivision (i) that relates to a specific insurance fraud investigation involving automobile insurance fraud, life insurance and annuity fraud, property and casualty insurance fraud, and organized automobile insurance fraud. That information shall be provided when the requesting peace officer has been designated by the Chief of the Fraud Division of the Department of Insurance and requests the information in the course of, and as part of, an investigation into the commission of a crime or other unlawful act when there is reasonable suspicion to believe that the crime or act may be connected to the information requested and would lead to relevant information regarding the crime or unlawful act.



(B) Employee, wage, employer, and state disability insurance claim information that relates to a specific insurance fraud investigation involving health or disability insurance fraud when the requesting peace officer has been designated by the Chief of the Fraud Division of the Department of Insurance and requests the information in the course of, and as part of, an investigation into the commission of a crime or other unlawful act when there is reasonable suspicion to believe that the crime or act may be connected to the information requested and would lead to relevant information regarding the crime or unlawful act.

(2) To enable the State Department of Developmental Services to obtain quarterly wage data of consumers served by that department for the purposes of monitoring and evaluating employment outcomes to determine the effectiveness of the Employment First Policy, established pursuant to Section 4869 of the Welfare and Institutions Code.

(3) The information provided pursuant to this subdivision shall be provided to the extent permitted by federal statutes and regulations.

(al) To provide the California Secure Choice Retirement Savings Investment Board with employer tax information for use in the administration of, and to facilitate compliance with, the California Secure Choice Retirement Savings Trust Act (Title 21 of the Government Code). The information should be limited to the tax information the director deems appropriate and shall be provided to the extent permitted by federal laws and regulations.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.



LEGISLATIVE COUNSEL'S DIGEST

Bill No.
as introduced, _____.
General Subject: CalSavers Retirement Savings Program.

(1) The California Secure Choice Retirement Savings Trust Act establishes the California Secure Choice Retirement Savings Investment Board and the California Secure Choice Retirement Savings Trust, which is continuously appropriated. Pursuant to the act, employees may participate in the CalSavers Retirement Savings Program, which is designed to promote retirement savings in a convenient, voluntary, and low-cost manner.

Existing law requires the Employment Development Department (EDD) to assess a penalty on any eligible employer that fails to make the program available to employees. Existing law makes these provisions operative 6 months after the board notifies the Director of Employment Development that the act will be implemented, based on specified factors. Existing law requires the EDD, upon receipt of notification from the board, to immediately post on its internet website a notice regarding the operative date.

This bill would instead make these provisions operative only when the board notifies the Director of Employment Development that enforcement should proceed and the board and the Director of Employment Development agree to a reasonable implementation timeline.

(2) Existing law requires the board, before opening the CalSavers Retirement Savings Program for enrollment, to design and disseminate to employers through the EDD an employee information packet that includes background information on the program and disclosures. Existing law requires the employee information packet with the disclosure and opt-out forms to be available to employers through EDD and supplied to employees at the time of hiring.

This bill would instead require the board to design and disseminate to employers an employee information packet. The bill would also require the employee information packet with the disclosure and opt-out forms to be made available to eligible employees by the CalSavers Retirement Savings Program. By providing for the expenditure of funds in the Secure Choice Retirement Savings Trust by the board for a purpose that was previously the responsibility of EDD, the bill would make an appropriation.

(3) Existing law establishes that information obtained in administering the Unemployment Insurance Law is confidential and for the exclusive use of the Director



of Employment Development in discharging the director's duties. Existing law, however, requires the director to permit the use of information in the director's possession for specified purposes and allows the director to require reimbursement for direct costs incurred. Existing law provides that a person who knowingly accesses, uses, or discloses confidential information without authorization is guilty of a misdemeanor.

This bill would require the director to provide the California Secure Choice Retirement Savings Investment Board with employer tax information for use in administering and facilitating compliance with the California Secure Choice Retirement Savings Trust Act. By expanding the crime related to unauthorized disclosure of confidential information, the bill would create a state-mandated local program.

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.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

