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

LEGISLATIVE COUNSEL’S DIGEST

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

Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, to afford to qualifying individuals health care and related remedial or preventive services. The Medi-Cal program is, in part, governed and funded by federal Medicaid provisions. Existing law, the federal Patient Protection and Affordable Care Act, requires applicable large employers, as defined, who offer full-time employees and their dependents the opportunity to enroll in minimum essential coverage and for whom one full-time employee has
been certified as having enrolled in a qualified health plan for which a premium tax credit or cost-sharing reduction is allowed or paid, to pay a specified fee.

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

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

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

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

Existing law authorizes the Director of the Employment Development Department to permit the use of information in his or her possession for specified purposes and to require reimbursement for all direct costs incurred in providing that information. Existing law provides that this information includes information provided to enable federal, state, or local government departments or agencies, subject to federal law, to verify or determine the eligibility or entitlement of an applicant for, or a recipient of, public social services if the verification or determination is directly connected with, and limited to, the administration of public social services.

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

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

This bill would authorize the director to provide information to enable these entities to obtain information regarding state employer identification numbers.
Existing law requires the State Department of Social Services and the State Department of Health Care Services to make use of the records of the Franchise Tax Board to match unearned income against reported income of applicants for, and recipients of, aid or public social services.

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

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

State-mandated local program: yes.

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

SECTION 1. (a) The Legislature finds and declares all of the following:

1. Working Californians should have affordable, comprehensive health insurance coverage.

2. Most working Californians obtain their health insurance coverage through their employment, but some working Californians are covered by Medi-Cal and, commencing in 2014, some will be covered through Covered California, the California Health Benefit Exchange (Exchange).

3. In 2012, more than 7,000,000 Californians lacked health insurance coverage at some time in the year. The federal Patient Protection and Affordable Care Act (PPACA) is expected to reduce the number of Californians without health insurance coverage by providing coverage through changes to the Medi-Cal program and the creation of the Exchange.

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

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

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

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

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

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

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

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

(b) It is therefore the intent of the Legislature to do all of the following:
(1) Ensure that large employers pay a fair share penalty for health coverage received by their employees through the Medi-Cal program and to base that penalty on the cost of coverage provided by other large employers to their employees.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) A large employer shall provide information to all newly hired and existing employees regarding the availability of Medi-Cal coverage for low-income employees, including the availability of Medi-Cal premium assistance as well as Medi-Cal coverage for persons whose income is less than the modified adjusted gross income threshold established for the Medi-Cal program 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). The department, in consultation with the State Department of Health Care Services, shall develop a simple, uniform notice containing that information.

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

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

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

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

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

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

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

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

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

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

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

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

(4) The report shall contain the following:

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

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

(C) The first date the employee worked.

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

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

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

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

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

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

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

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

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

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

(i) 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, the Healthy Families Program, provided pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance 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, where the verification or determination is directly connected with, and limited to, the administration and funding of the state health subsidy programs referenced in this clause.

(ii) 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), where the verification or determination is directly connected with, and limited to, the administration of the California Health Benefit Exchange.

(iii) 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, where the verification or determination is directly connected with, and limited to, the administration of the Small Business Health Options Program.

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

(A) Administration of this code.

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

(C) Administration of employment security and workers’ compensation programs.
(D) Providing employer or employee information to the Franchise Tax Board and to the State Board of Equalization for the purposes of tax or fee enforcement.

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

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

   (i) 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, the Healthy Families Program, provided pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance 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, where the verification or determination is directly connected with, and limited to, the administration and funding of the state health subsidy programs referenced in this clause.

   (ii) 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), where the verification or determination is directly connected with, and limited to, the administration of the California Health Benefit Exchange.

   (iii) 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, where the verification or determination is directly connected with, and limited to, the administration of the Small Business Health Options Program.
(g) For purposes of this section, “employer” includes a labor union hiring hall.

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

SEC. 5. 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 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 representative to carry out his or her responsibilities under this code.

(b) To properly present a claim for benefits.

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

(d) To furnish an employer or his or her authorized agent with information to enable him or her to fully discharge his or her obligations or safeguard his or her 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 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 provided pursuant to Division 9 (commencing with Section 10000) of the Welfare and Institutions Code, or Part A of Title IV of the Social Security Act, where the verification or determination is directly connected with, and limited to, the administration and funding 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, where 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, 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 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 or
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, 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 the Bureau for Private
Postsecondary Education, or his or her 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) Nothing in this section shall 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 state employer identification 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, the Healthy Families Program, provided pursuant to Part 6.2 (commencing with Section 12693) of Division 2 of the Insurance 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, where the verification or determination is directly connected with, and limited to, the administration and funding 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), where 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, where 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.

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

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

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

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

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

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

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

14199.1. For purposes of this article, the following definitions shall apply:
(a) (1) “Covered employee” means an individual who meets all of the following:

(A) He or she is an employee of a large employer.
(B) He or she is enrolled in Medi-Cal on the basis of his or her modified adjusted gross income in accordance with PPACA.
(C) He or she is not a person who is enrolled in Medi-Cal by reason of disability or being over 65 years of age.
(D) He or she works more than eight hours per week for the employer.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) To provide payment for the nonfederal share of Medi-Cal
costs for covered employees.
(2) To increase reimbursement of providers of care.

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

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

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

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

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

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

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB 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 XIIIB of the California Constitution.

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

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