

Assembly Bill No. 103

CHAPTER 22

An act to amend Sections 4003 and 4004 of, and to add Section 1026.2 to, the Unemployment Insurance Code, relating to unemployment benefits, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 29, 2020. Filed with Secretary of State June 29, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 103, Committee on Budget. Unemployment compensation benefits: COVID-19.

Existing law provides for the payment of unemployment compensation benefits to eligible persons who are unemployed through no fault of their own through a federal-state unemployment insurance program administered by the Employment Development Department. Unemployment compensation benefits are paid from the Unemployment Fund, which is continuously appropriated for this purpose. Under existing law, unemployment compensation benefits are based on wages paid in a base period that is calculated according to the month within which the benefit year begins. Existing law requires the Director of Employment Development to maintain a separate reserve account for each employer, and to charge unemployment compensation benefits paid to an unemployed individual during any benefit year against the reserve account of that individual's employer during the individual's base period.

This bill, for the duration of all federal unemployment benefit programs specifically created to respond to the COVID-19 pandemic, would prohibit unemployment compensation benefits paid to an unemployed individual from being charged against the reserve account of a tax-rated employer, unless the employer or an agent of the employer was at fault, as prescribed. Under the bill, this prohibition would become inoperative on January 1, 2021, unless the Director of Employment Development makes a specified determination.

Existing law provides for the payment of temporary federal-state emergency unemployment compensation benefits authorized under specified federal law to eligible individuals in this state for weeks of unemployment beginning on or after February 1, 2009, and continuing until the week ending 4 weeks prior to the last week for which 100% federal sharing is authorized under the federal American Recovery and Reinvestment Act of 2009, except as provided, if specified economic indicators trigger the payment of those benefits.

This bill would provide for the payment of temporary federal-state emergency unemployment compensation benefits to eligible individuals in this state for weeks of unemployment beginning on or after March 18, 2020, and continuing until the week ending 4 weeks prior to the last week for which 100% federal sharing is authorized by the federal Families First Coronavirus Response Act or for weeks of unemployment ending 4 weeks prior to the last week for which Congress, pursuant to any future amendment of the Federal-State Extended Unemployment Compensation Act of 1970, has authorized 100% federal sharing, except as provided, if specified economic indicators trigger the payment of those benefits. The bill would make related changes.

Because the bill would provide for the payment of additional amounts from the Unemployment Fund, a continuously appropriated special fund, it would make an appropriation.

This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

Appropriation: yes.

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

SECTION 1. Section 1026.2 is added to the Unemployment Insurance Code, to read:

1026.2. (a) Notwithstanding subdivision (b) of Section 1026 or any other law, for the duration of all federal unemployment benefit programs specifically created to respond to the COVID-19 pandemic, unemployment compensation benefits paid to an unemployed individual shall not be charged against the reserve account of a tax-rated employer, unless the employer or an agent of the employer was at fault as set forth in Section 1026.1.

(b) This section shall become inoperative on January 1, 2021, unless the director determines that noncharging provisions are otherwise extended by federal law.

SEC. 2. Section 4003 of the Unemployment Insurance Code is amended to read:

4003. (a) The provisions and definitions of terms in the Federal-State Extended Unemployment Compensation Act of 1970, as amended by the federal Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), apply to this part. "Federal-state extended benefits" means benefits payable under this part.

(b) (1) To the extent that the provisions and definitions of terms in the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) are in effect in federal law and are in conflict with, or supplement the provisions and definitions applicable pursuant to subdivision (a), the provisions and definitions of the American Recovery and Reinvestment Act of 2009 shall apply to this part.

(2) To the extent that the provisions and definitions of terms in the federal Families First Coronavirus Response Act (Public Law 116-127) are in effect

in federal law and are in conflict with, or supplement the provisions and definitions applicable pursuant to, subdivision (a), the provisions and definitions of the federal Families First Coronavirus Response Act shall apply to this part.

(c) There is an “on” indicator for purposes of federal-state extended benefits for a week if one of the following applies:

(1) The rate of insured unemployment under this part for the period consisting of that week and the 12 weeks immediately preceding the week equaled or exceeded 120 percent of the average of the rates for the corresponding 13-week period ending in each of the preceding two calendar years, and equaled or exceeded 5 percent.

(2) The rate of insured unemployment under this part for the period consisting of that week and the 12 weeks immediately preceding the week equaled or exceeded 6 percent, regardless of the rate of insured unemployment in the two previous years.

(3) With respect to weeks of unemployment beginning on or after February 1, 2009, and continuing until the week ending four weeks prior to the last week for which 100 percent federal sharing is authorized by subdivision (a) of Section 2005 of Public Law 111-5 for all claims, except for reimbursable entities described in Section 3306(c)(7) of the Internal Revenue Code, both of the following apply:

(A) The average rate of total unemployment in this state, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all states are published before the close of that week, equals or exceeds 6.5 percent.

(B) The average rate of total unemployment in this state, seasonally adjusted, as determined by the United States Secretary of Labor, for the three-month period referred to in subparagraph (A) equals or exceeds 110 percent of that average rate of total unemployment for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(4) With respect to weeks of unemployment beginning on or after March 18, 2020, and continuing until the week ending four weeks prior to the last week for which 100 percent federal sharing is authorized by the federal Families First Coronavirus Response Act (Public Law 116-127) or for weeks of unemployment ending four weeks prior to the last week for which Congress, pursuant to any future amendment of the Federal-State Extended Unemployment Compensation Act of 1970, has authorized 100 percent federal sharing, for all claims, except for reimbursable entities described in Section 3306(c)(7) of the Internal Revenue Code as that section read as of the operative of date of the act adding this paragraph, both of the following apply:

(A) The average rate of total unemployment in this state, seasonally adjusted, as determined by the United States Secretary of Labor, for the period consisting of the most recent three months for which data for all

states are published before the close of that week, equals or exceeds 6.5 percent.

(B) The average rate of total unemployment in this state, seasonally adjusted, as determined by the United States Secretary of Labor, for the three-month period referred to in subparagraph (A) equals or exceeds 110 percent of that average rate of total unemployment for either or both of the corresponding three-month periods ending in the two preceding calendar years.

(d) There is an “off” indicator for a week if, for the period consisting of that week, and the 12 weeks immediately preceding the week, none of the criteria specified in subdivision (c) results in an “on” indicator.

(e) For purposes of this section, the rate of insured unemployment for a 13-week period shall be determined by reference to the average monthly covered employment for the first four of the most recent six calendar quarters ending before the close of the period.

(f) The indicators specified in subdivisions (c) and (d) shall be operative only if mandated or permitted by federal law.

(g) Notwithstanding any other provision of this part, the Governor may, if permitted by federal law, suspend the payment of extended duration benefits under this part, to the extent necessary to ensure that otherwise eligible individuals are not denied, in whole or in part, the receipt of emergency unemployment compensation benefits authorized by the federal Supplemental Appropriations Act of 2008 (Public Law 110-252), the Unemployment Compensation Extension Act of 2008 (Public Law 110-449), and the American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and that the state receives maximum reimbursement from the federal government for the payment of those emergency benefits.

(h) Notwithstanding the provisions of subdivision (c), with respect to weeks of unemployment beginning on or after December 19, 2010, and continuing until the earlier of the date authorized by Section 502(b) of Public Law 111-312, or the week ending four weeks prior to the last week for which 100 percent federal sharing is authorized by Section 2005(a) of Public Law 111-5 for all claims, except for reimbursable entities described in Section 3306(c)(7) of the Internal Revenue Code, the following applies:

(1) There is an “on” indicator for purposes of federal-state extended benefits for a week if one of the following applies:

(A) The rate of insured unemployment under this part for the period consisting of that week and the 12 weeks immediately preceding the week equaled or exceeded 120 percent of the average of the rates for the corresponding 13-week period ending in each of the preceding three calendar years, and equaled or exceeded 5 percent.

(B) The rate of insured unemployment under this part for the period consisting of that week and the 12 weeks immediately preceding the week equaled or exceeded 6 percent, regardless of the rate of insured unemployment in the three previous years.

(C) The average rate of total unemployment in this state, seasonally adjusted, as determined by the United States Secretary of Labor, for the

period consisting of the most recent three months for which data for all states are published before the close of that week, equals or exceeds 6.5 percent and the average rate of total unemployment in this state, seasonally adjusted, as determined by the United States Secretary of Labor, for the three-month period equals or exceeds 110 percent of that average rate of total unemployment for any or all of the corresponding three-month periods ending in the three preceding calendar years.

(2) There is an “off” indicator for a week if, for the period consisting of that week, and the 12 weeks immediately preceding the week, none of the criteria specified in paragraph (1) results in an “on” indicator.

(3) The indicators specified in paragraphs (1) and (2) shall be operative only if mandated or permitted by federal law.

SEC. 3. Section 4004 of the Unemployment Insurance Code is amended to read:

4004. (a) The department shall establish, for each eligible individual who files an application therefor, an extended compensation account with respect to the individual’s benefit year. The amount established in that account, subject to subdivision (b) of this section, shall be not less than whichever of the following is the least:

(1) Fifty percent of the total amount of regular compensation payable to the individual during that benefit year under this division.

(2) Thirteen times the individual’s average weekly benefit amount.

(3) Thirty-nine times the individual’s average weekly benefit amount, reduced by the regular compensation paid to them during that benefit year under this division.

(b) The amount determined under subdivision (a) of this section shall be reduced by the aggregate amount of additional compensation paid to the individual under Part 3 (commencing with Section 3501) of this division for prior weeks of unemployment in a benefit year that did not begin in an extended benefit period.

(c) For purposes of subdivision (a) of this section, an individual’s weekly benefit amount for a week is the amount of regular compensation under Part 1 (commencing with Section 100) of this division payable to such individual for such week of total unemployment.

(d) With respect to weeks beginning in a high unemployment period, subdivision (a) shall be applied in accordance with the following percentages:

(1) In paragraph (1) of subdivision (a), 80 percent shall be substituted for 50 percent.

(2) In paragraph (2) of subdivision (a), 20 times shall be substituted for 13 times.

(3) In paragraph (3) of subdivision (a), 46 times shall be substituted for 39 times.

(e) For purposes of subdivision (d), “high unemployment period” means either of the following:

(1) A period during which an extended benefit period would be in effect if subparagraph (A) of paragraph (3) of subdivision (c) of Section 4003 were applied by substituting 8 percent for 6.5 percent.

(2) A period during which an extended benefit period would be in effect if subparagraph (A) of paragraph (4) of subdivision (c) of Section 4003 were applied by substituting 8 percent for 6.5 percent.

(f) If subdivision (h) of Section 4003 is applicable, for purposes of subdivision (d), “high unemployment period” means a period during which an extended benefit period would be in effect if subparagraph (C) of paragraph (1) of subdivision (h) of Section 4003 was applied by substituting 8 percent for 6.5 percent.

SEC. 4. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.