

BILL REFERRAL

DATE: 2/20/85

COMMITTEE ACTION _____

TO: BILL CARNAZZO

DATE _____

FROM: THEODORE H. KOBEY, JR., Legislative Representative

REPLY NO LATER THAN: ASAP

A.B. 216

S.B. _____

Relating to

UNEMPLOYMENT COMPENSATION
COST REIMBURSEMENT

STATUS:

Please review the attached measure to determine its effect upon the City of Sacramento and complete the following questions as appropriate. During your analysis of this measure, if questions arise, please feel free to contact me at 5346. This questionnaire should be returned to me for presentation to the Council Committee on Law and Legislation. PLEASE LEAVE THE BILL ATTACHED TO THIS FORM.

PLEASE TYPE YOUR RESPONSE

1. Briefly describe the provisions of the bill. (Attach additional sheets if necessary.)

This bill implements, in part, our recent court decision in City of Sacramento v. State of California, where the Court of Appeal held that the State is required to reimburse the State-mandated costs of the unemployment insurance program since January of 1978. It provides a simple mechanism for payment of all costs since the court decision was final (May 22, 1984).

The bill does not, however, address the issue of costs incurred from January, 1978, through May, 1984.

2. Should this measure be: (please circle desired position)

Supported

Opposed

Support if Amended

Placed on Watch List

Other (Explain)

This bill should be supported, but the Legislature should be urged to address the retroactive cost issue.

3. Please explain your reasons for the above determination, including how this measure affects your Department and the fiscal impact of this measure to the City. (Your analysis will be used in communicating with the Governor and the Legislature, so please make your comments in a format that can be used in a letter to those officials.) (attach additional sheets if necessary)

There is a direct, beneficial, financial impact on the City inasmuch as the bill would relieve the City of the substantial fiscal obligation of funding unemployment insurance costs.

4. Specify the City's legislative policy guideline(s) applicable to this measure (if any).

This is an existing bill, and the City's policy guidelines apply to formulation of a City position.

5. If this measure could be amended to either improve its favorable aspects or to minimize its adverse aspects, what amendments would you propose?

The addition of retroactive cost reimbursement to the bill would vastly improve it.

6. List known support or opposition to this measure by groups with which you are familiar and include addresses and phone numbers, if known. League of California Cities position:

The League of California Cities supports this bill.

7. Does this bill involve a State-mandated local program? If so, does the bill contain an S.B. 90 waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation Code Section 2231?

The bill resolves the problem of future mandated costs associated with the unemployment insurance issue.

8. Using a rating scale of 1 to 10 (with 10 as the most important) how important do you think this bill is to the City of Sacramento? 9



FORM COMPLETED BY WILLIAM P. CARNAZZO

DATE: 2/21/85

ASSEMBLY BILL

No. 216

Introduced by Assembly Member McAlister

January 9, 1985

An act to amend Sections 605, 710, 1026, and 1585 of, and to repeal Article 7 (commencing with Section 841) of Chapter 3 of Part 1 of Division 1 of, the Unemployment Insurance Code, and to repeal Sections 106 and 107 of Chapter 2 of the Statutes of 1978, relating to unemployment insurance, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 216, as introduced, McAlister. Unemployment insurance.

Existing law includes, as covered employment for unemployment compensation purposes, all service performed by an individual for any public entity, with specified exceptions.

Existing statutory law, among other things, (1) provides for a pooled fund arrangement for local public entities to finance unemployment insurance coverage of their employees, and establishes a Local Public Entity Employees Fund in the State Treasury to be continuously appropriated without regard to fiscal year for those purposes; (2) provides that the above provisions are a federal mandate within the meaning of specified provisions; and (3) provides that there are no state-mandated local costs in the existing law because the existing law merely affirms for the state that which has been declared existing law through action by the federal government.

However, in accordance with judicial interpretation stating that the above existing law constitutes a state-mandated local

program (*City of Sacramento v. State of California*, 156 Cal. App. 3d 182), this bill would repeal the above statutory provisions for the pooled fund arrangement, the federal mandate language, and the provision that the existing law does not create state-mandated local costs. In addition, the bill would find and declare the above law to be a state-mandated local program; that it is the intent of the Legislature that no local public entity liability shall be incurred for complying with the existing law; that the costs of all benefits which would otherwise be the responsibility of local public entities are to be appropriated annually by the Legislature; that commencing with the Budget Act of 1985, all administrative costs incurred by local public entities in complying with the existing law shall be fully reimbursed annually by the Legislature; and that moneys owed by local public entities prior to January 1, 1986, for complying with the existing law shall be appropriated by the Legislature, as specified.

In addition, the bill would require the State Board of Control to specify the procedures whereby local public entities may be reimbursed for the above costs, as specified, when moneys are appropriated by the Legislature and that the Employment Development Department shall develop rules and regulations setting forth administrative procedures for local public entities to follow in order to implement the existing law.

In addition, this bill would make technical, nonsubstantive changes.

The bill also would appropriate \$14,000,000 from the General Fund to the Controller for payment to the Employment Development Department to cover the costs of 3rd and 4th quarter billings for the 1984-85 fiscal year.

The bill would take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes. State-mandated local program: no.

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

- 1 SECTION 1. The Legislature hereby finds and
- 2 declares as follows:

1 (a) Chapter 2 of the Statutes of 1978, which requires
2 local public employees to be covered by the state
3 unemployment insurance law, constitutes a
4 state-mandated local program, and, thus, local public
5 entity costs incurred in complying with Chapter 2 are to
6 be reimbursed by the state pursuant to Section 6 of
7 Article XIII B of the California Constitution.

8 (b) It is the intent of the Legislature that no local
9 public entity liability shall be incurred for complying
10 with the provisions of Chapter 2 of the Statutes of 1978
11 either prior to or after the enactment of this act; that the
12 costs of all benefits, which otherwise would be the
13 responsibility of cities, counties, and special districts are
14 to be appropriated annually by the Legislature in the
15 Budget Act and, when appropriated, shall be paid
16 directly by the Controller to the Employment
17 Development Department; and that commencing with
18 the Budget Act of 1985, all administrative costs incurred
19 by local public entities in complying with Chapter 2, prior
20 to and after the enactment of this act, shall be fully
21 reimbursed annually by the Legislature in the Budget
22 Act.

23 (c) In addition, it is the intent of the Legislature that
24 in the Budget Act of 1985, moneys shall be appropriated
25 by the Legislature to the Controller to reimburse the
26 Employment Development Department for moneys
27 owed by local public entities prior to January 1, 1986, for
28 complying with the provisions of Chapter 2 of the
29 Statutes of 1978.

30 SEC. 2. Section 605 of the Unemployment Insurance
31 Code is amended to read:

32 605. (a) Except as provided by Section 634.5,
33 "employment" for the purposes of this part and Parts 3
34 (commencing with Section 3501) and 4 (commencing
35 with Section 4001) of this division includes all service
36 performed by an individual (including blind and
37 otherwise handicapped individuals) for any public entity,
38 if such service is excluded from "employment" under the
39 Federal Unemployment Tax Act solely by reason of
40 paragraph (7) of Section 3306(c) of that act.

1 (b) As used in this section, "public entity" means the
2 State of California (including the Trustees of the
3 California State University and Colleges, and the
4 California Industries for the Blind), any instrumentality
5 of this state (including the Regents of the University of
6 California), any political subdivision of this state or any of
7 its instrumentalities, a county, city, district (including the
8 governing board of any school district or community
9 college district, any county board of education, any
10 county superintendent of schools, or any personnel
11 commission of a school district or community college
12 district which has a merit system pursuant to any
13 provision of the Education Code), entities receiving state
14 money to conduct county fairs and agricultural fairs
15 pursuant to Sections 25905 and 25906 of the Government
16 Code and which perform no other function, any public
17 authority, public agency, or public corporation of this
18 state, any instrumentality of more than one of the
19 foregoing, and any instrumentality of any of the
20 foregoing and one or more other states or political
21 subdivisions.

22 (c) *The Employment Development Department shall*
23 *develop rules and regulations setting forth administrative*
24 *procedures for local public entity employers to follow in*
25 *order to implement the unemployment compensation*
26 *insurance provisions of Chapter 2 of the Statutes of 1978.*
27 *It is the intent of the Legislature that such administrative*
28 *costs are to be fully reimbursed to the local public entities*
29 *in the annual Budget Act.*

30 SEC. 3. Section 710 of the Unemployment Insurance
31 Code is amended to read:

32 710. (a) Any public entity for which services that do
33 constitute employment under Section 605 are performed
34 and for which other services that do not constitute
35 employment are performed may elect to become an
36 employer subject to this part and Parts 3 (commencing
37 with Section 3501) and 4 (commencing with Section
38 4001) of this division for not less than two calendar years
39 with respect to ~~such~~ those other services and to have ~~such~~
40 those other services performed by its employees

1 constitute employment subject to this part and ~~such~~ Parts
2 3 and 4 for ~~such~~ that period. Upon the filing of ~~such~~ an
3 election the filing public entity shall, upon approval by
4 the director, become an employer subject to this part and
5 ~~such~~ Parts 3 and 4 with respect to the services covered to
6 the same extent as other employers, and ~~such~~ those
7 services performed by its employees, including those
8 with civil service or tenure positions, shall constitute
9 employment subject to this part and ~~such~~ Parts 3 and 4
10 effective on the first day of the calendar quarter
11 following the quarter in which the election is filed.

12 (b) The public entity may exclude from coverage
13 under an election pursuant to this section any service
14 excluded under Section 634.5.

15 (c) Any public entity that has elected coverage under
16 this section may elect any method of financing coverage
17 otherwise permitted under Section 803 or Article 6
18 (commencing with Section 821) of this chapter ~~or Article~~
19 ~~7 (commencing with Section 841) of this chapter~~, but the
20 same method of financing coverage shall apply to all
21 coverage by the public entity. Subdivision (b) of Section
22 802 shall apply to any ~~such~~ election under Section 803,
23 except that any ~~such~~ election under Section 803 shall be
24 terminated on the effective date of the termination of an
25 election for coverage under this section.

26 (d) The director may require from the public entity
27 ~~such~~ employment, financial, statistical, or other
28 information and reports, properly verified, as may be
29 deemed necessary by the director to carry out his or her
30 duties under this division, which shall be filed with the
31 director at the time and in the manner prescribed by him
32 or her.

33 (e) The director may tabulate and publish information
34 obtained pursuant to this section in statistical form and
35 may divulge the name of the public entity.

36 (f) The public entity shall keep ~~such~~ work records as
37 may be prescribed by the director for the proper
38 administration of this division.

39 (g) Except as inconsistent with the provisions of this
40 section, the provisions of this division and authorized

1 regulations shall apply to any matter arising pursuant to
2 this section.

3 SEC. 4. Article 7 (commencing with Section 841) of
4 Chapter 3 of Part 1 of Division 1 of the Unemployment
5 Insurance Code is repealed.

6 SEC. 5. Section 1026 of the Unemployment Insurance
7 Code is amended to read:

8 1026. (a) The director shall maintain a separate
9 account for each employer, and shall credit ~~his~~ each
10 account with all the contributions paid on his ~~own~~ or her
11 behalf.

12 (b) Unemployment compensation benefits paid to an
13 unemployed individual during any benefit year shall be
14 charged against the account of his or her employer
15 during his or her base period, but if the individual
16 performed services in employment for more than one
17 employer during his or her base period, unemployment
18 compensation benefits paid to him or her shall be
19 charged against the respective accounts of the employers
20 in the proportion that the total wages paid to the
21 individual in employment for each employer bears to the
22 total wages paid to the individual in employment for all
23 employers during the base period.

24 (c) The director shall credit the interest earned by the
25 Unemployment Fund to each positive reserve employer
26 account in proportion to the amount the account bears to
27 the total of all positive reserve accounts.

28 (d) Except as provided by Sections 803, 804, 821, and
29 1032.7, ~~Article 7 (commencing with Section 841) of~~
30 ~~Chapter 3, and Chapter 5.8 (commencing with Section~~
31 ~~1480), in proportion to the amount each employer's~~
32 ~~taxable wages bears to the total of all employers' taxable~~
33 ~~wages, the director shall credit to each employer account~~
34 ~~all of the following:~~

35 (1) Benefit overpayments collected in the four
36 quarters prior to the computation date.

37 (2) Contributions paid pursuant to Section 978.5.

38 (3) Positive balances in reserve accounts canceled
39 pursuant to Section 1029.

40 (4) Other nontax income.

1 SEC. 7. Section 106 of Chapter 2 of the Statutes of
2 1978 is repealed.

3 ~~SEC. 106. This act is necessary to implement Public~~
4 ~~Law 94/566, which is hereby deemed to be a "federal~~
5 ~~mandate" within the meaning of Sections 2206 and 2271~~
6 ~~of the Revenue and Taxation Code.~~

7 SEC. 8. Section 107 of Chapter 2 of the Statutes of
8 1978 is repealed.

9 ~~SEC. 107. There are no state/mandated local costs in~~
10 ~~this act that require reimbursement under Section 2231 of~~
11 ~~the Revenue and Taxation Code because this act merely~~
12 ~~affirms for the state that which has been declared existing~~
13 ~~law through action by the federal government.~~

14 SEC. 9. The State Board of Control shall specify the
15 procedures whereby local public entities may receive
16 reimbursement for unemployment compensation costs
17 incurred pursuant to Chapter 2 of the Statutes of 1978
18 from January 1, 1978, through June 30, 1985, when moneys
19 for that reimbursement are appropriated by the
20 Legislature.

21 SEC. 10. All moneys in the Local Public Entity
22 Employees Fund at the time the fund is repealed
23 pursuant to Section 3 of this act shall be disbursed to the
24 contributing public entities as determined by the
25 Employment Development Department.

26 SEC. 11. The sum of fourteen million dollars
27 (\$14,000,000) is hereby appropriated from the General
28 Fund to the Controller for payment to the Employment
29 Development Department to cover the costs of third and
30 fourth quarter billings for the 1984-85 fiscal year.

31 SEC. 12. This act is an urgency statute necessary for
32 the immediate preservation of the public peace, health,
33 or safety within the meaning of Article IV of the
34 Constitution and shall go into immediate effect. The facts
35 constituting the necessity are:

36 In order to reimburse local entities for state-mandated
37 costs incurred pursuant to the provisions of Chapter 2 of
38 the Statutes of 1978 as soon as possible, it is necessary that
39 this act take effect immediately.

(e) Except as provided by Sections 803, 804, 821, and 1032.7, ~~Article 7 (commencing with Section 841) of Chapter 3,~~ and Chapter 5.8 (commencing with Section 1480), in the same proportion as provided in subdivision (d), the director shall charge to each employer account all of the following:

(1) The amount of negative reserve balances accrued to the computation date each year.

(2) Benefit overpayments established in the four quarters prior to the computation date.

(3) Benefits not charged to employer reserve accounts pursuant to Section 1032, 1032.5, 1034, 1035, 1036, 1335, 1338, or 1380.

(4) Other items of expense and benefit charges not included in active employer reserve accounts.

SEC. 6. Section 1585 of the Unemployment Insurance Code is amended to read:

1585. There is in the State Treasury a special fund known as the Employment Development Department Contingent Fund. The Employment Development Department Contingent Fund is the successor of the Department of Human Resources Development Contingent Fund. There shall be deposited in or transferred to this fund:

(a) All interest on contributions collected under this division, except as provided in Section 1595 and in Article 6 (commencing with Section 821) of Chapter 3 ~~and Article 7 (commencing with Section 841) of Chapter 3.~~

(b) All penalties collected under this division, except as provided in Sections 1375.1, 1958, and 3654.2, and in Article 6 (commencing with Section 821) of Chapter 3 ~~and Article 7 (commencing with Section 841) of Chapter 3.~~

(c) Notwithstanding any other provision of law, all penalties and interest collected by the department pursuant to Division 6 (commencing with Section 13000) relating to the withholding of personal income tax.

(d) Rental payments or proceeds attributable to property derived from amounts expended from this fund.

(e) Interest on amounts expended from this fund.