

Date of Hearing: June 24, 2026

ASSEMBLY COMMITTEE ON INSURANCE

Lisa Calderon, Chair

SB 536 (Archuleta) – As Amended June 15, 2026

SENATE VOTE: 39-0

SUBJECT: Workers' compensation insurance fraud reporting

SUMMARY: Requires the Employment Development Department (EDD) to release detailed payroll information to insurers, including private insurers, under specified circumstances in order to identify and investigate fraud. Specifically, **this bill:**

- 1) Allows an insurer to submit wage records and employee counts for an employer to EDD, and requires EDD to identify discrepancies in the submitted information as compared to the information maintained by EDD and report those discrepancies back to the submitting insurer.
- 2) Allows an insurer, based on discrepancies pursuant to 1), above, and a relevant potential workers' compensation insurance fraud investigation, to submit a request to EDD, and requires EDD to, in response to that request, release or provide to the requester detailed payroll information, including payroll summary totals, that would allow the requester to compare the records with the information they are otherwise entitled to receive from employers in workers' compensation claims or pursuant to workers' compensation policies, unless it would violate federal law or otherwise compromise an ongoing investigation.
- 3) Specifies that information shall only be released pursuant to 2), above, if the insurer specifies in the written request what information is necessary, and EDD determines that the information requested is consistent with a workers' compensation investigation by an insurer and could be used in the investigation of potential workers' compensation insurance fraud.
- 4) Specifies that the information released or provided pursuant to 1) and 2), above, shall be provided in a confidential manner and shall be used only in furtherance of the investigation of potential workers' compensation insurance fraud and any required reporting, underwriting actions, and audit and collection of premiums; and clarifies that the information shall not, in any circumstances, be used for marketing purposes, as specified.
- 5) Prohibits the information released or provided pursuant to 1) and 2), above, from being shared with law enforcement unless released or provided as part of a fraud referral pursuant to special investigative unit compliance requirements, or as otherwise specified.
- 6) Provides that information requested pursuant to 1) and 2), above, shall only be released or provided in compliance with the requirements of specified federal confidentiality requirement.
- 7) Specifies that by entering into a policy of workers' compensation insurance with an insurer, an employer in California consents and designates that insurer as the employer's agent to act for or in the place of the employer only with respect to a request for the information described in 2), above; and provides that the declaration page of a workers' compensation

insurance policy shall constitute written release that confirms the insurer as the agent of the employer sufficient for the requirements of the specified federal regulations pursuant to 6), above.

- 8) Requires an insurer requesting information pursuant to the bill's provision to quarterly reimburse EDD for EDD's actual, direct costs of releasing or providing information from its records to the requesting insurer.
- 9) Authorizes EDD to require an insurer submitting information or a request pursuant to the bill's provisions to enter into a written, enforceable agreement that shall be terminable if EDD determines the insurer did not adhere to the safeguards in that agreement.

EXISTING LAW:

- 1) Provides that it is unlawful to make or cause to be made a knowingly false or fraudulent material statement or material representation for the purpose of obtaining or amending an insurance policy under any line of insurance regulated by the Department of Insurance; and provides that a violation of this provision is a public offense punishable by a fine not to exceed \$10,000, by imprisonment commensurate with a felony conviction, as specified, or by imprisonment in a county jail not to exceed one year, or by both that fine and imprisonment. (Insurance Code Sec. 1871.10)
- 2) Establishes EDD in the Labor and Workforce Development Agency (LWDA), and vests it with various duties and responsibilities including the administration of the Unemployment Insurance (UI) program, the State Disability Insurance (SDI) program, and the Paid Family Leave (PFL) program. (Unemployment Insurance (UI) Code Secs. 301, *et seq.*)
- 3) Establishes the UI program as a joint state/federal program, administered by EDD, that provides weekly payments for workers who lose their job through no fault of their own. (UI Code Secs. 100, *et seq.*, and 301, *et seq.*)
- 4) Requires each employer to file a report with EDD of employer contributions to the UI fund and worker contributions to the Disability Fund, a quarterly return, and a report of wages paid to the employer's workers in the form and containing any information prescribed by the director of EDD; requires that the report be filed electronically; and authorizes employers to request a waiver from electronic filing requirements, as specified. (UI Code Sec. 1088)
- 5) Requires each employer to file a report with EDD reporting the hiring of any employee to whom the employer anticipates paying wages, and 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; and specifies that the report shall include the name, address, and social security number of the employees, the employer's name, address, state employer identification number, and identifying number assigned to the employer under Section 61095 of the Internal Revenue Code, and the first date the employee worked for the employer. (UI Code Sec. 1088.5)
- 6) Establishes that, except as otherwise specifically provided in the UI Code, information obtained in the administration of the UI Code is confidential, not open to the public, and for the exclusive use and information of the director of EDD in discharge of their duties. (UI Code Sec. 1094(a))

- 7) Specifies that information released to authorized entities pursuant to other provisions of the UI Code shall not be admissible in evidence in any action or special proceeding, other than one arising out of the provisions of the UI Code or as specified. (UI Code Sec. 1094(b))
- 8) Provides that any person who knowingly accesses, uses, or discloses any confidential information without authorization is guilty of a misdemeanor. (UI Code Sec. 1094(f))
- 9) Authorizes EDD to share wage and employment data, under specified conditions, for a variety of purposes, including to provide an authorized governmental agency with any and all relevant information that relates to any specific workers' compensation insurance fraud investigation, as specified. (UI Code Sec. 1095)
- 10) Pursuant to federal regulations, specifies that in order to receive federal grant funds intended for conducting a state UI program, the methods of administration of the program must include provision for maintaining the confidentiality of any information which reveals the name or any identifying particular about any individual or any past or present employer or employing unit, or which could foreseeably be combined with other publicly available information to reveal any such particulars, and must include provision for barring the disclosure of any such information, except as provided. (20 Code of Federal Regulations (CFR) §603.4)
- 11) Pursuant to federal regulations, specifies circumstances under which disclosure of confidential UI program information is permissible, provided it is authorized by state law and does not interfere with the efficient administration of the state UI program. (20 CFR §603.5)
- 12) Authorizes disclosure of confidential UI program information, on the basis of informed consent, to an agent, defined as one who acts for or in the place of an individual or an employer by the authority of that individual or employer, if the agent presents a written release from the individual or employer being represented, or, if a written release is impossible or impracticable to obtain, the agent presents such other form of consent as is permitted by the state UI program in accordance with state law. (20 CFR §603.5(d)(1))
- 13) Authorizes disclosure of confidential UI program information to a third party other than an agent, or to a third party that receives confidential information following an informed consent disclosure on an ongoing basis (even if such entity is an agent), only if that entity obtains a written release from the individual or employer to whom the information pertains; specifies that the release must be signed and must include a statement with specified information, including the purpose or purposes for which the information is sought and a statement that information obtained under the release will only be used for that purpose or purposes; and requires that the purpose specified in the release be limited to either providing a service or benefit to the individual signing the release that such individual expects to receive as a result of signing the release, or carrying out administration or evaluation of a public program to which the release pertains. (20 CFR §603.5(d)(2))

FISCAL EFFECT: Unknown.

COMMENTS:

- 1) *Purpose.* According to the author:

SB 536 is needed due to substantial underreporting of payroll to insurers by dishonest employers, which directly impacts the competitiveness of honest employers. Employers who accurately report their payroll potentially face rates three to ten times higher in the high-risk classifications than they would face if all employers reported accurately. California sees underreporting of payroll in the tens of millions of dollars each year, providing an unfair advantage to employers cheating the system. SB 536 will empower insurers and licensed rating organizations to identify when employers are fraudulently withholding premium by comparing what is reported to them with what is reported to the Employment Development Department. It is expected that restitution of premium fraud will amount to tens of millions and potentially even a hundred million dollars a year. SB 536 is also designed to provide tools for the Employment Development Department to identify and prevent tax evasion. This bill is a win-win for California, bringing costs down for honest employers and targeting bad actors who are cheating the system.

This bill is sponsored by the American Property Casualty Insurance Association (APCIA).

- 2) *Workers' compensation and premium fraud.* At its core, the workers' compensation system relies on a so-called "grand bargain." If a worker is injured on the job, the employer must pay for the worker's medical treatment, including monetary benefits if the injury is permanent. In exchange for receiving the guarantee of such treatment, the worker surrenders the right to sue the employer for monetary damages in civil court. All employers are required to secure the payment of workers' compensation either by receiving approval from DIR to self-insure in accordance with substantial requirements, or by obtaining workers' compensation insurance coverage from an authorized insurer. The Labor Code explicitly asserts that it is the policy of the state to "vigorously enforce" this law.

When an employer applies for workers' compensation insurance coverage, the insurer generally collects information from the employer pertaining to payroll, including the number of employees, job classifications and duties, and total payroll, in addition to information about the employer's industry, workplace locations, prior workers' compensation claims, and workplace safety and risk management practices. Because this employee and payroll information can impact loss exposure for the insurer, these figures play a significant role in setting premiums for workers' compensation insurance. An employer providing inaccurate or misleading employee or payroll information during the application process can therefore place significant strain on the workers' compensation system, requiring insurers to generally increase premiums in order to compensate for premiums that are insufficient due to misrepresentation.

Misrepresentation of employee and payroll information with the intent to reduce workers' compensation premiums, known as payroll or premium fraud, can take many forms. This can include underreporting total payroll, representing employees as belonging to lower-risk job classifications, underreporting employee counts, misclassifying employees as independent contractors, underreporting or not reporting overtime hours and pay, reporting lower wages than are actually paid, or paying employees in cash to avoid reporting the employees and/or their wages.

- 3) *EDD and the base wage file.* EDD is responsible for administering the state's unemployment insurance (UI), disability insurance, and paid family leave programs, among others, including collecting the employer and employee payroll taxes that underlie them. In addition to

providing funds necessary to administer the programs, these transactions serve as a rich source of administrative data relating to employment in California. This data source is known as the “base wage file.”

As a 2024 report from EDD, the California Workforce Development Board, and the LWDA explains:

As part of the UI, DI, and PFL benefit program administration, the EDD is responsible for gathering and maintaining information in the base wage file, which assists in determining benefit program eligibility, distributing benefits, and minimizing fraud in the distribution of benefits. In California, the base wage file includes **employee first and last name, social security number, total subject wages, wage plan code, total PIT [personal income tax] wages, and total PIT withheld of each employee in California recorded separately for each employer on a quarterly basis.** Base wage file data is reported from employers to EDD’s Tax Branch on a quarterly basis and stored securely by EDD to protect confidentiality. In California, there are approximately 1.6 million employers reporting 22.5 million wage lines per quarter on behalf of approximately 18.5 million California wage earners.

Because workers’ compensation insurers generally base an employer’s premiums on information such as the number of employees, their respective wages, and the nature of their occupations, identifying discrepancies between the payroll information reported to the insurer and the contents of the base wage file as reported to EDD can be invaluable for determining whether an employer has misrepresented their payroll in order to fraudulently obtain insurance coverage at a premium that does not accurately reflect the risk incurred.

- 4) *State Fund program.* A coalition representing insurers and employers, including the APCIA, who sponsor the bill, the California Chamber of Commerce (CalChamber), the California Coalition on Workers’ Compensation, the California District Attorneys Association, the California Farm Bureau, and the Independent Insurance Agents & Brokers of California, argues in support of the bill:

Dishonest entities significantly and substantially underreport or misreport payroll to insurers. This directly impacts the competitiveness of employers that accurately report payroll. In 2011, efforts were made to allow insurers to verify and ensure compliance with workers’ compensation payroll reporting requirements for calculating premiums by providing them access to payroll reporting records from the Employment Development Department (EDD). Though the legislative package was not enacted, one element was initiated with the State Compensation Insurance Fund (State Fund) and for over a decade, this program has allowed State Fund to effectively identify premium fraud and recover premium via restitution. This successful initiative, allowing State Fund access to EDD’s payroll data, should be expanded to all insurers to assist in payroll verification compliance. Applying this program to the entire workers’ compensation insurance market would likely identify over \$100 million annually in underreported premiums and would result in the actual recovery of tens of millions of dollars or more.

The State Fund is a quasi-governmental, public enterprise fund created by the Legislature in 1914 to provide a stable source of workers’ compensation insurance to public agencies and private employers. State Fund is the largest workers’ compensation insurer in the state, with

nearly \$21 billion in assets and tens of thousands of policyholders, and maintains an “open door” policy, providing workers’ compensation insurance to anyone who requests it.

The State Fund program is implemented such that State Fund never actually possesses or sees the payroll records provided by EDD. Instead, the program operates as follows: State Fund periodically sends policyholder information to EDD, and EDD provides quarterly wage records and monthly employee counts for only those policyholders. Rather than the provided records being possessed by State Fund, however, those records are input into a system that flags discrepancies for State Fund that may warrant further investigation, without State Fund directly accessing the payroll information itself. That said, for furtherance of ongoing premium fraud investigations, State Fund is able to send one-off requests to EDD for specific information where necessary. These requests are bound by several stringent confidentiality and use requirements, and the terms of the program specify that the information cannot be used for anything other than furthering the investigation. The author of this bill has amended the bill to more closely align with the procedures of the State Fund program, including only requiring EDD to flag discrepancies, rather than provide personal information, upon initial inquiry, and assigning strict confidentiality and use requirements to any personal information actually shared with the insurer.

Still, there are key factors distinguishing the process proposed by this bill and the fraud prevention program State Fund maintains with EDD. For instance, State Fund is a quasi-governmental entity, meaning it is bound by different restrictions on its uses of information than a private company, and state and federal confidentiality requirements concerning the sharing of EDD information differ as well.

Additionally, and perhaps most importantly, State Fund is a single entity responsible for insuring a large percentage of California’s employers. The program proposed by this bill, on the other hand, is not restricted in terms of the number of potential parties with whom EDD may be required to share information, as its authorities extend to any insurer. Consequently, the requisite data infrastructure and oversight necessary to ensure maintenance of adequate confidentiality is *much* broader than it is for sharing with State Fund alone. The attack surface for potential data breach exposing the EDD information would also be exponentially larger.

- 5) *Federal confidentiality regulations.* Both state and federal law impose strict confidentiality requirements on the use and disclosure of the base wage file. Section 1094(a) of the UI Code provides that, except as otherwise specifically provided in the UI Code, information in the administration of the UI Code is “confidential, not open to the public, and shall be for the exclusive use and information of the director in the discharge of [their] duties.” Violation of this confidentiality is a crime punishable as a misdemeanor.

Similarly, Part 603 of Title 20 of the Code of Federal Regulations details confidentiality and permissible disclosure of state unemployment compensation (UC) program information. 20 CFR §603.2 defines UC information to mean “information in the records of a State or State UC agency that pertains to the administration of the State UC law.”

§603.4 lays out the basic confidentiality requirement, specifying that in order to receive federal grant funds intended for conducting a state UC program, the methods of administration of the state UC program “must include provision for maintaining the confidentiality of any UC information which reveals the name or any identifying particular

about any individual or any past or present employer or employing unit, or which could foreseeably be combined with other publicly available information to reveal any such particulars, and must include provision for barring the disclosure of any such information, except as provided []." In other words, violation of the confidentiality requirements prescribed by federal law with respect to the base wage file can result in withholding of federal UI funding, which can have catastrophic consequences for the state UI program.

§603.5 lays out the exceptions to the confidentiality requirement, specifying that "[d]isclosure of confidential UC information is permissible under the exceptions [] only if authorized by State law and if such disclosure does not interfere with the efficient administration of the State UC law." Relevant to this bill, §603.5(d) authorizes "disclosure of confidential UC information on the basis of informed consent to [...] one who acts for or in the place of an individual or an employer by the authority of that individual or employer," as specified. The regulation specifies that disclosure to an agent is permissible so long as the agent presents a written release from the individual or employer being represented, or, if a written release is impossible or impracticable to obtain, the agent presents such other form of consent as is permitted by the state's UC agency in accordance with state law.

Notably, disclosure of confidential UC information to an agent is subject to different requirements than disclosure to a third party who is not an agent, and disclosure to an agent *on an ongoing basis* is subject to the confidentiality requirements applicable to third parties generally. Disclosure to a third party or to an agent on an ongoing basis requires written release from the individual or employer to whom the information pertains, and is only permissible either in order to provide a service or benefit to the individual signing the release, or to carry out administration or evaluation of a public program to which the release pertains.

Because disclosure to a third party who is not an agent requires that the disclosure serve the purpose of providing a benefit or service to the individual or employer to whom the information pertains, provision of information for fraud prevention purposes may not be permissible. While fraud prevention provides a significant benefit, that benefit is not enjoyed by the employer who would need to sign the release for disclosure, since the employer would potentially be penalized for misrepresentations. This presents a significant challenge for a payroll fraud prevention program that relies on the disclosure of confidential UI information.

This bill seeks to circumvent this issue by requiring the insurer to be established as an agent of the employer as a condition of entering into a policy of workers' compensation insurance. The bill further specifies that the declaration page of a workers' compensation insurance policy constitutes written release confirming the insurer as the employer's agent for purposes of the federal regulations. Because confidential information is only disclosed by EDD on specified occasions where potential fraud is identified, this would not seem to constitute disclosure on an ongoing basis, and election of the insurer as an agent of the employer should be sufficient for compliance with the federal requirements. An informal review of the bill by the United States Department of Labor offered minor suggestions for amendments to resolve potential compliance issues that have since been adopted by the author, raising no additional concerns with this approach.

- 6) *Federal threats to withhold UI funding.* Strict compliance by EDD with federal confidentiality requirements is particularly critical in the current political environment. Under the Trump administration, the federal government has made repeated threats to state

UI programs that federal funds could be withheld due to fraud in the systems, specifically targeting EDD on multiple occasions. Most recently, on June 17, 2026, in a letter to the governors of 53 states and territories, the United States Department of Labor “demand[ed] immediate action to combat fraud, waste, and abuse within the unemployment insurance program.” According to a press release from the Department of Labor, “the department announced its intent to crack down on rampant fraud and end mismanagement, improper payments, and corruption within the UI program. Acting Secretary Sonderling notified states that, in partnership with the Office of the Inspector General, the department will use every available enforcement tool—including withholding administrative funds from states for the first time in history—to ensure compliance in protecting UI system integrity and safeguarding taxpayer dollars.” Few details were provided as to the specific mismanagement and corruption targeted by the crackdown, but the pattern of threats to withhold federal UI funding seems to indicate that even minor procedural violations of federal UI laws and regulations could jeopardize federal funding and risk rendering the California UI program insolvent.

7) *Pending legislation:*

SB 1054 (Cabaldon) would expand the breadth and frequency of required employment and earning data reporting to EDD, and would require EDD to share relevant employment data with the Department of Social Services, the Department of Health Care Services (DHCS), and the Office of the California Education Interagency Council, for specified purposes. This bill is pending hearing in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

Support

American Property Casualty Insurance Association
 African American Farmers of California
 Almond Alliance
 American Pistachio Growers
 American Property Casualty Insurance Association
 California Association of Joint Powers Authorities (CAJPA)
 California Association of Winegrape Growers
 California Chamber of Commerce
 California Citrus Mutual
 California Coalition on Workers Compensation
 California Cotton Ginners and Growers Association
 California District Attorneys Association
 California Farm Bureau
 California Fresh Fruit Association
 California Hotel & Lodging Association
 California League of Food Producers
 California Pool & Spa Association
 California State Council of Laborers
 California Walnut Commission
 Center for Contract Compliance

Coalition Against Insurance Fraud
Grower-shipper Association of Central California
Independent Insurance Agents & Brokers of California, INC.
National Insurance Crime Bureau
Nisei Farmers League
Pacific Association of Building Service Contractors
Ventura County District Attorney's Office
Western Electrical Contractors Association
Western States Regional Council of Carpenters
Western Tree Nut Association

Opposition

None on file.

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