

Introduced by Senator Alvarado-Gil
(Coauthors: Senators Dodd, Jones, and Umberg)
(Coauthor: Assembly Member Stephanie Nguyen)

February 9, 2023

An act to add and repeal Division 6.1 (commencing with Section 13200) of the Unemployment Insurance Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 375, as introduced, Alvarado-Gil. Employment: employer contributions: employee withholdings: COVID-19 regulatory compliance credit.

The Personal Income Tax Law imposes taxes on taxable income, as provided. Under existing law, every employer who pays wages to a resident employee for services performed either within or without this state, or to a nonresident employee for services performed in this state, is required to deduct and withhold from those wages, except as provided, for each payroll, a tax computed in an amount substantially equivalent to the amount reasonably estimated to be due under the Personal Income Tax Law. Under existing law, every employer required to withhold those taxes is required to, for each calendar quarter, file a withholding report, a quarterly return, and a report of wages in a form prescribed by the Employment Development Department, and pay over the taxes required to be withheld.

This bill would authorize an employer to claim, for the 2023 and 2024 calendar years, a COVID-19 regulatory compliance credit in a specified amount. The bill would require the credit to be claimed on the employer's last quarterly return, as described, for the relevant calendar year. The bill would require any amount claimed by an employer to be credited against employee personal income tax withholding amounts

required to be remitted to the department for the last quarter of the relevant calendar year.

This bill would provide that its provisions do not change the amount of personal income taxes required to be withheld from employees and required to be reported to the employee, the department, the Franchise Tax Board, and the Internal Revenue Service. The bill would specify that its provisions do not require additional taxes to be paid by the employee or otherwise alter the employee’s tax liability under the Personal Income Tax Law. The bill would state that it is the intent of the Legislature that the operation of the bill’s provisions not require an appropriation of moneys by reducing moneys remitted by the employer to the department that would otherwise be deposited in the General Fund. This bill would authorize the department to adopt rules and regulations that are necessary or appropriate to implement the bill.

The bill would repeal its provisions on December 1, 2025.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

1 SECTION 1. Division 6.1 (commencing with Section 13200)
2 is added to the Unemployment Insurance Code, to read:

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4 DIVISION 6.1. COVID-19 REGULATORY COMPLIANCE
5 CREDIT

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7 13200. (a) An employer may claim, for the 2023 and 2024
8 calendar years, a COVID-19 regulatory compliance credit in
9 accordance with this section.

10 (b) (1) Subject to paragraphs (2) and (3), the amount shall be
11 equal to the verifiable costs of complying with Sections 3205,
12 3205.1, 3205.2, and 3205.3 of Title 8 of the California Code of
13 Regulations.

14 (2) The amount in paragraph (1) shall not exceed any of the
15 following:

16 (A) Subject to paragraph (3), for an employer with 100 or more
17 employees, fifty dollars (\$50) per employee.

18 (B) Subject to paragraph (3), for an employer with less than 100
19 employees, one hundred dollars (\$100) per employee.

1 (3) For any employer, the total amount claimed pursuant to
2 paragraphs (1) and (2) shall not exceed the amount that would
3 have been remitted for the last quarter of the relevant calendar year
4 to the Employment Development Department for employee
5 withholdings pursuant to Division 6 (commencing with Section
6 13000) but for the operation of this section.

7 (c) The credit shall be claimed on the employer’s last quarterly
8 return for the relevant calendar year.

9 (d) (1) Any amount claimed by an employer pursuant to this
10 section shall be credited against employee withholding amounts
11 required to be remitted to the Employment Development
12 Department pursuant to Division 6 (commencing with Section
13 13000) for the last quarter of the relevant calendar year.

14 (2) This section does not change the amount of taxes required
15 to be withheld from employees pursuant to Division 6
16 (commencing with Section 13000) and required to be reported to
17 the employee, the Employment Development Department, the
18 Franchise Tax Board, and the Internal Revenue Service.

19 (3) This section does not require additional taxes to be paid by
20 the employee or otherwise alter the employee’s tax liability under
21 Part 10 (commencing with Section 17001) of Division 2 of the
22 Revenue and Taxation Code.

23 (4) It is the intent of the Legislature that the operation of this
24 section does not require an appropriation of moneys by reducing
25 moneys remitted by the employer to the Employment Development
26 Department that would otherwise be deposited in the General Fund.

27 (e) The Employment Development Department may adopt rules
28 and regulations that are necessary or appropriate to implement this
29 section.

30 (f) For purposes of this section, the following definitions apply:

31 (1) “Employee” has the same meaning as that term is used in
32 Sections 3205, 3205.1, 3205.2, and 3205.3 of Title 8 of the
33 California Code of Regulations, as those sections read on January
34 1, 2023.

35 (2) “Quarterly return” means the form on which the employer
36 reports its employer contributions and employee withholdings
37 pursuant to this code.

1 (g) This division shall remain in effect only until December 1,
2 2025, and as of that date is repealed.

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