

State labor legislation enacted in 1989

Major laws were enacted on a variety of subjects, including minimum wage, parental leave, drug and AIDS testing, and door-to-door sales by children

Richard R. Nelson

A sizable increase in the volume of labor standards legislation introduced and enacted by the States occurred in 1989.¹ In addition, several legislatures dealt with and enacted laws pertaining to difficult and sometimes controversial issues that have emerged in recent years, including parental leave, employee drug and AIDS testing, door-to-door sales by children, the effect of employment on school performance, genetic screening, and workplace smoking.

Attention was also given to minimum-wage protection and other traditional subjects, including bans on employment discrimination, collection of unpaid wages, and worker safety and health.²

Wages. Again this year, minimum wage was a major subject of legislative activity. A first-time law was enacted in Iowa, and new actions increased rates in Arkansas, New Hampshire, North Dakota, Oregon, Rhode Island, and Wisconsin, and in Puerto Rico for employees of the restaurant, bar, and soda fountain industry. Rates also increased as the result of prior action in six other jurisdictions (Maine, Minnesota, Pennsylvania, Vermont, the Virgin Islands, and Washington [1988 ballot initiative]). Measures linking State rates to future Federal rate increases were adopted in Delaware, Illinois, Montana (up to \$4.00 an hour), and Nevada. In Missouri, a State without a minimum-wage law, a bill

that would have enacted a law with a rate linked to the Federal rate was vetoed.

Under a new law signed by the President on November 17, 1989, the Federal minimum wage will increase to \$3.80 on April 1, 1990, with a further increase to \$4.25 scheduled for April 1, 1991. Beginning April 1, 1990, employers will be permitted, under certain conditions, to pay workers under 20 years of age a subminimum training wage of not less than \$3.35 an hour for up to 90 days. Beginning April 1, 1991, this sum will change to not less than the greater of \$3.35 or 85 percent of the minimum wage. Payment of the training wage is permitted for an additional 90 days with any other employer where the youths are in approved on-the-job training programs. Among other changes, new amendments exempt enterprises with annual gross volume of sales of less than \$500,000 and increase the maximum allowable tip credit from 40 percent of the applicable minimum-wage rate to 45 percent on April 1, 1990, and to 50 percent after March 31, 1991. (A bill which would have raised the Federal rate in three annual steps to \$4.55 by October 1, 1991, and included a temporary training wage for up to 60 days cumulative for all employers was vetoed on June 13, 1989.)

Measures adopted in Delaware (for minors under age 18), Iowa, Montana, North Dakota, and Wisconsin provide for subminimum training rates, also.

By April 1, 1990, rates for ten States and three other jurisdictions³ will exceed the \$3.80 Federal rate for some or all employees. Vermont will exceed \$3.80 on July 2, 1990, and New Hampshire on January 1, 1991. California, Connecticut, Oregon, Rhode Island, and Washington now have rates of \$4.25 an hour. The District of Columbia and the Virgin Islands exceed \$4.25 for some or all workers, and

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future increases scheduled in Oregon (January 1, 1991) and Iowa (January 1, 1992) will raise rates to \$4.75 and \$4.65, respectively.

Among other significant minimum-wage and overtime actions, coverage of the Oregon law was extended to persons regulated under the Federal Fair Labor Standards Act, most agricultural workers, industrial homeworkers, and private household employees working on a noncasual basis. In North Carolina, persons employed in enterprises with fewer than three employees will no longer be exempt from minimum-wage, overtime, and recordkeeping provisions. In Arkansas, the minimum-wage law was expanded to cover employers of four or more, rather than five or more, employees.

A comprehensive payday law enacted in Texas specifies employer wage payment duties, restricts permissible wage deductions, and establishes wage claim procedures and an administrative penalty for violation. In Oregon, the Wage Security Fund used to pay claims of employees whose employers have ceased doing business and do not have sufficient assets to pay wage claims was extended for 3 years. In Idaho, Connecticut, and Montana, additional wage collection authority was granted to labor commissioners or directors. Idaho and Virginia will now subject employers in violation of wage payment requirements to civil penalties. The Utah Industrial Commission may now impose a penalty on employers of 5 percent of the unpaid wages, to be assessed daily until paid, for up to 20 days. In Montana, a board was established under the Montana payment-of-wages law to hear appeals of decisions by the Department of Labor and Industry.

Legislation in North Dakota and Oregon addressed the issue of equal pay for jobs of comparable value in the State service. North Dakota established a pay equity implementation fund to be used to establish equitable nondiscriminatory compensation among all positions and classes within the State's classification plan. In Oregon, the legislative assembly is to provide ongoing oversight to ensure that State service compensation and classification meet legal requirements.

There was little prevailing wage legislation in 1989. Repeat efforts failed in six States and efforts to enact laws failed in three.⁴ Thirty-two States currently have prevailing wage laws.⁵ Changes in the Illinois law included coverage of projects financed with bonds issued under certain acts and the addition of new penalties for violation. In New York, the commissioner of labor was directed to assess a civil penalty against any person demanding or receiving kickbacks of employee wages. The California law was amended to add debarment as a penalty for violation, to extend coverage to public transportation demonstration projects, and to exempt certain projects performed by volunteer labor. Local public agencies were authorized to establish labor compliance programs for public works projects.

Family issues. Increasing concern in meeting the needs of the growing numbers of families in which both parents work and of working mothers with young children who must reconcile the demands of work and family was reflected in

new legislation in the emerging areas of parental leave and child care.

Parental leave for the birth, adoption, or serious illness of a child was a subject of active interest in 1989. A new law in Washington requires private-sector and local government employers of 100 or more, as well as State agencies, to grant up to 12 weeks of unpaid leave in a 24-month period. Under this law, an employer may limit or deny family leave to up to 10 percent of those designated as key personnel. In Connecticut, which had previously adopted a law applicable to State employees, a private-sector law was enacted that requires employers of 250 or more to grant up to 12 weeks of leave in a 2-year period. Coverage will be extended in steps to employers of 75 or more and required leave extended to 16 weeks. Under new laws, State employees in North Dakota are entitled to up to 4 months leave, permanent State employees of West Virginia and of that State's county boards of education may receive up to 12 weeks during any 12-month period, and rules are to be adopted in Oklahoma which will entitle permanent State employees to family leave. In each instance, returning employees are guaranteed reinstatement to the same job or a similar one. Connecticut, North Dakota, Oklahoma, and West Virginia also allow use of the leave to care for a seriously ill spouse or parent. North Dakota, Oklahoma, and West Virginia allow the employee to continue group health insurance at the employee's expense while on leave.

In a related development, a new maternity-leave law in Vermont requires employers of 10 or more to grant up to 12 weeks of unpaid leave to female employees during pregnancy and following childbirth. Reinstatement and continuation of benefits are also provided.

A pilot program to establish child care centers for children of State employees is to be implemented by the Oklahoma Office of Personnel Management; and in Arizona, employers who subsidize child care through a licensed day care center or other specified facilities will not be held liable for damages if certain conditions are met.

Child labor. In the area of child labor, there is a tension between the need by employers for workers in a shrinking labor pool and a concern for the impact that working during the school year has on the education of those who are employed.

Reflecting growing concern for the negative effect that employment of minors may have on academic performance, the New Hampshire Youth Employment Law was amended to require satisfactory academic performance in order for a student to be issued a work certificate, with revocation if performance slips.

The law now also limits the maximum hours of work of 16- and 17-year-old students. Also in New Hampshire, the life of a study committee examining illiteracy and dropout prevention, including the relationship between the number of hours per week that a student works or participates in sports and the student's academic achievement, was extended, and a questionnaire is to be distributed to determine levels of participation of secondary students in school-related activities and after-school employment, and to eval-

uate potential causes of student dropout. The Maine compulsory school attendance law was amended to prohibit the employment of any student who is habitually truant, unless a release is obtained from the supervisory superintendent of schools. In Nebraska and Tennessee, resolutions were adopted requesting studies of the effect of job-holding on students.

Alaska adopted a new regulation, and Missouri and Washington passed significant new pieces of legislation restricting the employment of children in door-to-door sales. Under a new Alaska regulation, door-to-door sales were determined to be dangerous and were prohibited for minors under age 18. A Missouri child labor law amendment provides that children under age 16 may not be employed in any street occupation connected with peddling, door-to-door selling, or a similar activity, unless the employer has received written permission from the director of the Division of Labor Standards. A new Washington law prohibits such work for children under age 16, unless the Department of Labor and Industries grants a variance under certain criteria. California law now prohibits the employment of minors under age 16 in door-to-door sales more than 50 miles from their homes.

Rhode Island dropped maximum-hours restrictions for minors between the ages of 16 and 18 employed during school vacations. In New Jersey, 14- and 15-year-olds may now work until 9 p.m. in more occupations than previously during summer vacation. In California, a permit to work up to 2 hours a day and 4 hours a week may now be issued to a 13-year-old potential school dropout who meets specified requirements.

New restrictions were enacted in Maryland on the employment of minors under age 18 in transporting cash, and Missouri added a prohibition on working in any occupation involving exposure to toxic or hazardous chemicals.

The labor commissioner in New Hampshire was authorized to assess civil money penalties for violation; and in South Carolina, criminal penalties for violation were eliminated and replaced with a warning for a first offense and a fine determined by the commissioner of labor for each subsequent offense.

The Virginia compulsory school attendance law was amended to require attendance to age 18 rather than 17.

Equal employment opportunity. Nearly one-half of the States enacted legislation addressing one or more forms of employment discrimination, with discrimination based on age, sex, or handicap being the most common. Among these, mandatory retirement will no longer be required for members of the Connecticut Municipal Employee's Retirement System, except for police and firefighters. Similar legislation applies to tenured faculty of institutions of higher education in Texas, and the Texas Human Rights Act was amended to prohibit discrimination against persons over the age of 40, instead of only those between 40 and 70. In Kansas, the Commission on Civil Rights was authorized to adopt rules and regulations to carry out the provisions of the State Age Discrimination in Employment Act.

Discrimination in employment on the basis of pregnancy,

childbirth, or pregnancy-related conditions is now prohibited under the Utah Anti-Discrimination Act. In Oregon, it is now unlawful to refuse to permit a pregnant employee to transfer temporarily to less strenuous or hazardous work whenever reasonable.

In North Dakota, employers must make reasonable accommodations for an otherwise qualified person with a physical or mental disability and for a person's religion. Newer disability issues were the subject of laws in Texas, where the ban on discrimination based on disability was amended to specifically exclude persons with a currently communicable disease or infection, including AIDS, under certain conditions; and in Nebraska, a disability was redefined under the Fair Employment Practices Act to exclude addiction to alcohol, controlled substances, or gambling.

Massachusetts enacted a law banning discrimination on the basis of sexual orientation in employment, housing, credit, insurance, and public accommodations.

Also, new Massachusetts civil rights provisions ban all discrimination based on sex, race, color, creed, or national origin. In Iowa, a proposed Equal Rights Amendment to the State constitution was adopted, subject to passage by two consecutive legislatures and approval in a general election.

Employee testing. Testing of employees, either for drug or alcohol abuse or for the presence of AIDS virus (HIV) antibodies, which has emerged as an important and controversial issue in recent years, continued to be the subject of proposed legislation in several jurisdictions. Comprehensive new drug-testing legislation was enacted in Florida and Maine. The Maine law, applicable to both private- and public-sector employers, and the Florida law, applicable to agencies of the State government, permit drug testing of applicants offered employment and current employees for probable cause or while undergoing rehabilitation or treatment in a substance abuse rehabilitation program. Maine permits random or arbitrary testing if provided for in collective bargaining agreements and for employees in positions possibly affecting the health or safety of the public or coworkers; Florida permits testing as part of a routinely scheduled medical examination. Testing procedures, employee protections, and required notifications are specified in both laws. Laws applying to schoolbus drivers and to the Regional Transportation Authority were enacted in Illinois, while in Iowa, a new law applied to operators of excursion gambling boats. The Rhode Island law prohibiting testing of private- and public-sector employees except for probable cause was amended to permit testing in the public utility mass transportation industry if required by Federal law or regulation as a condition of receiving Federal funds.

New Mexico employers may not require individuals to disclose the results of an AIDS-related test as a condition of hiring, promotion, or continued employment, unless absence of the virus infection is a bona fide occupational qualification for the job. In North Carolina, employers may not require or use an AIDS test to determine suitability for continued employment, nor may they discriminate against an employee with AIDS or HIV infection. They may, how

ever, (1) require an AIDS test for job applicants, (2) deny employment to an applicant who tests positive, (3) include an AIDS test in annual medical exams required of all employees, and (4) take actions, including termination, against an employee who has AIDS and would pose a significant health risk to others or who is unable to perform normal job duties.

Ohio employers of persons with AIDS were granted immunity from liability for damages arising out of the transmission of the HIV virus to another person and for damage arising from a stress-related illness or injury that results from an employee being required to work with a person who has tested positive for the HIV virus or who has AIDS or a related condition.

Private employment agencies. Among new laws in nine States⁶ pertaining to the regulation of private employment agencies and related businesses is a law in California under which licensing of such agencies, as well as of employment counseling and job listing services, is no longer required. Under the law, practices such as false, misleading, or deceptive advertising are prohibited. The Bureau of Personnel Services, which administered the former law, is to be phased out.

New registration requirements were enacted in Indiana for certain nursing registries, in Ohio for job listing subscription services, in South Carolina for job listing services and employment information centers, and in Texas for talent agencies engaged in obtaining employment for actors, musicians, writers, models, and other artists. The Connecticut law was amended to exempt agencies whose fees are paid by employers, and the North Carolina law was amended to exempt certain employer-fee-paid consulting services or temporary help services.

Occupational safety and health. One or more laws dealing with various aspects of worker safety and health were enacted in 32 States. Two noteworthy laws were enacted in Maine. One specified that a person having direct control of any employment, place of employment, or employee will be guilty of manslaughter if he or she intentionally or knowingly violates any Federal or State occupational safety or health standard and such violation results in an employee's death. The other requires employers using 25 or more video display terminals at one location within the State to establish education and training programs for operators of the terminals. In Connecticut, public works contracts are not to be awarded to bidders cited for specified violations of any occupational safety and health act.

The largest clusters of safety legislation involved laws enacted to fulfill State obligations under the Federal Emergency Planning and Community Right-to-Know Act of 1986; new laws or amendments related to the control of asbestos and the training and accreditation or certification of persons engaged in asbestos abatement work; and laws regulating smoking in the workplace, usually by requiring employers to implement policies prohibiting or restricting such smoking. New sections were added to the Washington Worker and Community Right-to-Know Act regulating the

storage and use of agricultural pesticides.

In Florida, the qualifications for employment as a firefighter were amended to require that any person initially employed as a firefighter must not have used tobacco for at least 1 year prior to application. On the other hand, in Virginia, with the exception of firefighters and police officers, no employee or applicant for public employment is to be required, as a condition of employment, to smoke on the job, or to abstain from smoking off the job.

In Oregon, it is now unlawful to require an employee or applicant to refrain from using lawful tobacco products during nonworking hours as a condition of employment.

Other enactments included new laws or amendments pertaining to safety standards in mines, underground oil and gas operations, trench excavation, boiler and pressure vessels, and amusement ride and elevator operation.

As required by Proposition 97, approved by the voters in November 1988, the California Occupational Safety and Health Administration (CAL/OSHA) program in the private sector was restored, and the State Division of Occupational Safety and Health resumed nearly full enforcement of private-sector job safety and health rules in the State.

Meal periods. New meal period requirements were enacted in Minnesota, where employees who work 8 or more consecutive hours must be given a meal break, and in Connecticut, where, with certain exceptions, employers of five or more on a shift at a single place of business must grant at least a 30-minute meal period to an employee working 7½ or more consecutive hours. Under new amendments expanding coverage of the Oregon minimum-wage law, existing meal and rest period requirements will be extended to newly covered workers.

Other legislation. Six States⁷ enacted or modified "whistleblower" laws designed to protect employees from employer retaliation for reporting violations to a public body, or for participating in an investigation, hearing, or court action. Other States passed legislation pertaining to carrying out duties and responsibilities pursuant to the Federal Job Training Partnership Act. Several States passed laws requiring clearance checks of prospective employees in occupations involving supervision of children. In Texas, the Department of Labor and Standards became the Department of Licensing and Regulation, with most labor functions transferred to the Texas Employment Commission; and in West Virginia and Wyoming, the labor departments and other agencies were incorporated into new consolidated departments. Laws to encourage the formation of employee-owned enterprises were enacted in Montana and Pennsylvania.

Among amendments to the Wisconsin law requiring advance notice of a business closing or mass layoff, coverage was extended to employers of 50 or more rather than 100 or more and changes were made in penalty provisions.

Other laws of interest include establishment in California of guidelines for voluntary health insurance coverage for employees. In Vermont, a new law requires that the same group health insurance benefits be offered to part-time employees as to other employees. In Missouri, employees

called for jury duty are now protected from discharge or other adverse action.

The New York apparel registration law was extended to cover manufacturers and contractors of men's apparel.

Alaska

Child labor. By regulation, occupations involved in canvassing, peddling, solicitation of door-to-door contributions, or acting as outside salespersons from house to house were determined to be dangerous and prohibited to minors under age 18.

Worker privacy. Employers must permit current and former employees to inspect and make copies of their personnel files and other personnel information concerning them, under reasonable rules, during regular business hours.

Whistleblower. A Protection for Whistleblowers law was enacted prohibiting any public employer from discharging, threatening, or otherwise discriminating against an employee because he or she has reported a matter of public concern to a public body, including a violation of law, danger to public health or safety, or gross mismanagement, or has participated in a court action, investigation, hearing, or inquiry held by a public body on a matter of public concern. Also prohibited is disqualifying a public employee or other person from bidding on contracts or receiving other rights, privileges, or benefits because of such actions. To be protected, a person must report the information in good faith and meet other requirements.

Other laws. Employers are prohibited from penalizing or threatening to penalize an employee because the employee has been the victim of a crime and has been subpoenaed or requested by the prosecuting attorney to attend a court proceeding in order to testify.

Arizona

Whistleblower. State employees against whom adverse personnel action is taken as a result of their disclosure of information to a public body relating to violations of law, mismanagement, gross waste of monies, or abuse of authority may now recover back-pay, costs, attorney fees, and general and special damages, and may be reinstated. A procedure was established for appeal to the State Personnel Board of a personnel action that an employee or former employee believes to have occurred as a result of the disclosure of information to a public body. An employee who knowingly commits such a prohibited personnel practice or who knowingly makes a false accusation is sub-

ject to a civil penalty of up to \$25,000 and dismissal from employment.

Other laws. Employers who subsidize employee child care on a nondiscriminatory basis through a licensed day care center or other specified facilities are not liable for damages as a result of an act or omission of the day care center or provider, unless the employer is guilty of gross negligence in recommending the center or provider, or is acting as the owner, or has an interest in or operates the day care center or facility.

Arkansas

Wages. Beginning September 1, 1989, the minimum wage was increased from \$3.30 to \$3.35 per hour, and coverage of the law was expanded to include employers of four or more rather than five or more.

Equal employment opportunity. All State-supported colleges and universities must now regularly prepare 5-year affirmative action plans for the recruitment of blacks and other minorities for faculty and staff positions and as students.

Labor relations. Picketing or demonstrating before a private residence is prohibited, even if the residence is also a place of employment.

Other laws. An amendment requires that the director of the Department of Labor be a person who, on account of his or her previous vocation, employment, or affiliation, can be classed as a representative of employees.

The State Labor Board, the Employment Agency Advisory Council, and the Coal Mine Examining Board were abolished and their functions transferred to the Department of Labor. The Merit System Board was also abolished.

Civil penalties of from \$250 to \$500 replaced criminal penalties for contractors who list or use unlicensed subcontractors on public works contracts.

Employers must schedule the work hours of employees on election days in such a way as to assure that each employee will have an opportunity to vote.

California

Wages. Employees or their legal representatives may bring court action for a temporary restraining order to prevent an employer from doing business in the State

Oregon made it unlawful to subject an employee or applicant to a genetic screening or brain-wave test.

The following is a summary, by jurisdiction, of labor legislation enacted during 1989.

who has twice within 10 years been convicted of a violation of the wage payment law or who has failed to satisfy a wage claim judgment, until the employer posts a bond payable to the labor commissioner. The bond must be the greater of \$25,000 or 25 percent of the weekly gross payroll.

The labor commissioner is to publicize annually the existence of the Industrial Relations Unpaid Wage Fund, including an address and telephone number where any worker may inquire as to unpaid wages and benefits.

Contractors and subcontractors in willful violation of the prevailing wage law may be barred from bidding on or receiving any public works contract for a period of from 1 to 3 years. With certain exceptions, the permitted ratio of apprentices to journeymen will now be based on the number of hours worked by each rather than on the numbers of individuals employed. Work performed entirely by volunteer labor on projects for private nonprofit community organizations and approved by the director of industrial relations is exempt from wage laws. Local public agencies may establish labor compliance programs for public works projects and retain fines and penalties assessed for violations. The director may establish rules and regulations concerning the responsibilities and duties of these awarding bodies and hear appeals of their enforcement actions. Where such a labor compliance program is in effect, the threshold dollar amount for coverage of public works projects will be \$25,000 for new construction and \$15,000 for alteration, demolition, repair, or maintenance work. Otherwise, a \$1,000 amount is applicable.

For purposes of payment of prevailing wages, overtime pay, recordkeeping, and the employment of apprentices, the definition of public works was extended to include public transportation demonstration projects.

Child labor. Minors under the age of 16 may not be employed in door-to-door selling of newspapers, magazine subscriptions, candy, or other merchandise more than 50 miles from their homes. (The minimum age for employment in door-to-door sales remains at 12.) The prohibition against the employment of minors in obscene, indecent, or immoral activities was extended to include 16- and 17-year-olds.

instead of only those under the age of 16. The provision under which sanctions may be imposed for violations of the child labor law was amended to extend the labor commissioner's jurisdiction to the employment of minors under age 18 who are not required to attend school solely because they are not State residents. Previously, the jurisdiction included only those under 18 who are required to attend school.

For purposes of regulating permitted hours of employment, "school day" in the child labor law was defined as being a day that a minor is enrolled in any class being taught in summer school, in year-round school, or during the regular school year.

A permit to work up to 2 hours a day and 4 hours a week may now be issued to a 13-year-old who has completed the sixth grade, has been identified as a potential school dropout, and is participating in a school-district-sponsored employment program, provided the program fosters the student's appreciation of the importance of education. Work permits are otherwise issued to minors aged 14 to 18.

Agriculture. A section was added to the farm labor contractor licensing law prohibiting making false, fraudulent, or misleading representations that a person's employment in the growing or producing of farm products or an employee benefit will be jeopardized unless he or she pays for transportation to or from the employer's business or worksite. Violation will be a misdemeanor punishable by a fine of from \$500 to \$5,000, imprisonment for up to 30 days, or both. An aggrieved individual may bring civil action for injunctive relief, damages, or both. Any other party may also seek injunctive relief.

Garment industry. Registered garment manufacturers must display, at the front entrance of the business premises, the name of the registrant and the address and garment manufacturing registration number of the business.

Private employment agencies. The Employment Agency Act was repealed, and a new Employment Agency, Employment Counseling and Job Listing Services Act was approved. Under the new law, licensing is no longer required. Each agency or service continues to be required to post a surety bond. Specified requirements are mandated, including written contracts with those seeking employment and the maintenance of certain records. Various practices are prohibited, such as false, misleading, or deceptive advertising and the acceptance of confessions of judgment, promissory notes, or assignment of wages to cover the agency's fees. The Bureau of Personnel Services in the Department of Consumer Affairs, which administered the former

law, is to be phased out. Enforcement of the new law is through the attorney general, district attorney, or city attorney. A private right of action is provided to recover up to triple damages. The department is to submit reports to the legislature, including a final report by June 30, 1991, on the implementation of the act.

Occupational safety and health. The California Division of Occupational Safety and Health resumed nearly full responsibility for enforcement of private-sector job safety and health rules in the State in early October 1989. Formerly, the responsibility was shared with the Federal Occupational Safety and Health Administration. Proposition 97, approved by the voters in November 1988, required restoration of the California Occupational Safety and Health Administration (CAL/OSHA) program in the private sector, eliminated in the Governor's 1987-88 budget by use of line-item veto authority. The State had continued to provide public-sector enforcement.

Among changes to the occupational safety and health law, all employers are to establish and maintain an effective, written injury prevention program, including identification and evaluation of workplace hazards, methods and procedures for correcting unsafe or unhealthy conditions, and an employee training program. Employers are prohibited from discharging or otherwise discriminating against an employee because of the employee's participation in an occupational safety and health committee established as part of a prevention program. The Director of Industrial Relations is to establish a list of the 100 highest hazard industries in the State, such list to be used in allocating resources for the scheduling of safety and health inspections.

Other laws. The "Tucker Health Care Coverage Act of 1989" established guidelines for voluntary health insurance coverage for employees, including minimum standards relating to employer payment of partial cost, employee coverage, and health care benefits. The Governor is to designate a State agency, department, or advisory board to research, report, and make recommendations on potential cost savings and the feasibility of enacting a voluntary health insurance program. The report is to be submitted to the Governor and the legislature by March 1, 1990, and the guidelines will become operative on January 1, 1992, based upon the findings of the report.

Employers are prohibited from discharging or otherwise discriminating against an employee for taking time off to perform emergency duty as a volunteer firefighter. Aggrieved employees are entitled to reinstatement and reimbursement for lost wages and benefits.

Colorado

Hours. A new provision applicable to underground mines, underground workings, and smelters permits work in excess of 8 hours a day, provided that the operator establishes a work plan setting forth terms and conditions for work beyond these hours, and at least one week's notice is given to employees except in emergencies.

Equal employment opportunity. Beginning July 1, 1992, the prohibition against employment discrimination based upon handicap will apply to mental as well as physical impairments. It is now an unfair employment practice to discriminate against any person because he or she has opposed a discriminatory practice, filed a charge with the Civil Rights Commission, or testified, assisted, or participated in an investigation, proceeding, or hearing.

It is now an unfair employment or discriminatory practice for an employer to discharge an employee or refuse to hire a person solely because the individual is married to or plans to marry another employee of the employer, except where one spouse would have supervisory or disciplinary powers over the other, would audit or be entrusted with monies received or handled by the other, or would have access to the employer's confidential information, including payroll and personnel records.

Labor relations. Police or sheriff's officers may now be temporarily assigned to areas where there is a labor dispute if the situation or incident for which such temporary assignment has been requested is not the direct result of the dispute and does not involve individuals participating in the dispute or, upon authorization by the Governor, if such assignment is deemed necessary as the direct result of a labor dispute.

Employment and training. The Colorado Existing Industry Training Program was created to train or retrain workers for companies affected by major technological change or for situations where training is deemed crucial for the company and for worker retention.

Preference. A July 1, 1989, repeal date was eliminated for the resident bidder preference on State contracts awarded for commodities and services.

Other laws. Among changes to the Uniform Jury Selection and Service Act, employers are prohibited from willfully harassing employed jurors or interfering with the effective performance of a juror, in addition to firing, threatening, or coercing as previously prohibited. In the event of violation of the act, a juror may bring civil action for damages, or injunctive relief, or both. Courts may now award treble damages and attorney fees upon a finding of willful misconduct against the employer.

Connecticut

Wages. The commissioner of labor may now collect the full amount of unpaid minimum and overtime wages due employees, without individual assignments of wages, as well as interest from the date the wages should have been paid. The commissioner may bring any legal action necessary to recover twice the amount of unpaid wages. An employee bringing civil action may also now recover twice the wages due. The commissioner may collect the full amount of any unpaid wages, payments due an employee welfare fund, or an arbitration award, due under the wage payment law, plus interest from the date payment should have been made. The commissioner may bring legal action to recover twice the amount due.

An employer may not request or require reimbursement from an employee for any loss or shortage incurred in the course of the employer's business as a result of any wrongdoing on the part of a customer.

Overtime pay requirements were amended to exempt beer delivery truck-drivers employed by licensed distributors, except those paid on an hourly basis, and to clarify the exemption for certain inside salespersons.

The required minimum wage for supported work, education, and training programs will now be the State minimum rate, rather than the Federal.

Hours. With certain exceptions, after July 1, 1990, no person who works for an employer employing five or more employees on a shift at a single place of business is to be required to work for $7\frac{1}{2}$ or more consecutive hours without a meal period of at least 30 consecutive minutes, given between the first 2 and last 2 hours of work. The law does not apply to public schoolteachers.

Parental leave. Beginning July 1, 1990, private-sector employers of 250 or more must grant up to 12 weeks of unpaid family or medical leave in a 2-year period to employees with at least 12 months' service. On July 1, 1991, the maximum required leave increases to 16 weeks. Coverage will be extended to employers of 100 or more and 75 or more in steps, and after July 1, 1993, all such employers will be subject to the 16-week requirement. Family leave is for the birth, adoption, or serious illness of a child, or the serious illness of a spouse or parent, while medical leave is for a serious employee illness. Upon return from leave, employees are entitled to reinstatement, with all benefits accumulated at the commencement of the leave. Employers are prohibited from discharging or discriminating against employees for exercising their rights under this act. Adminis-

tration is vested in the Department of Labor.

Equal employment opportunity. Retirement at age 70 is no longer mandatory for members of the Municipal Employee's Retirement System, except for police and firefighters, who must retire at 65 unless they receive annual approval to continue working from the municipal legislative body. The prohibition against the mandatory retirement, at age 70, of tenured employees at independent institutions of higher education, scheduled to go into effect on January 1, 1994, will now be effective after July 1, 1993.

The prohibition against any teacher who has reached 61 years of age from becoming a member of the Connecticut Teachers Retirement System for the first time was repealed.

Among changes made in the Human Rights Act, the Commission on Human Rights and Opportunities is to be organized into a Division of Affirmative Action Monitoring and Contract Compliance, a Division of Discriminatory Practice Complaints, and other divisions or units as deemed necessary. An executive director position was created, and procedural changes were made to the process of resolving complaints of discriminatory practices.

On July 1, 1990, the Division of Rehabilitation Services of the State Board of Education will become the Bureau of Rehabilitation Services in the Department of Human Resources. The Commissioner of Human Resources is to develop and maintain a program of public education and information concerning the Bureau's services to persons with disabilities.

Private employment agencies. Private employment agencies whose fees are paid by employers are no longer required to register with the labor commissioner.

Occupational safety and health. No public work contract is to be awarded by the State or any political subdivision to any bidder who has been cited for three or more willful or serious and unabated violations of any occupational safety and health act during the 3-year period preceding the bid, or who has received one or more criminal convictions related to the injury or death of any employee in the 3-year period preceding the bid. Any person who knowingly provides false information concerning the information required by this law will be assessed a civil money penalty and will be disqualified from bidding on or participating in a contract with the State or any political subdivision for 5 years.

Among amendments to the Emergency Planning and Community-Right-to-Know Act, reports on the presence of extremely

hazardous substances must now be made to the State Emergency Response Commission and the local emergency planning committee. Reports on the release of extremely hazardous substances and material safety data sheets for hazardous chemicals must be submitted to the commission, the local emergency planning committee, and the fire department.

Employment and training. An Employment and Training Commission was created within the Department of Labor to carry out the duties and responsibilities of a State job training and coordinating council pursuant to the Federal Job Training Partnership Act. The commission replaces the Job Training Coordinating Council in the Office of Policy and Management.

Preference. Residency requirements are prohibited as a condition of employment for municipal employees whose positions are subject to terms of collective bargaining agreements.

Other laws. An employer who makes deductions from an employee's wages for group hospital or medical insurance and who fails to purchase such coverage will be liable for benefits that would have been provided if coverage had been procured. In the case of a corporation, any officer responsible for procuring such coverage who willfully fails to do so will be personally liable for benefits not received if the amount owed cannot be collected from the corporation itself.

Delaware

Wages. The minimum wage, previously set by statute at \$3.35 per hour, will automatically increase to match any increase in the Federal rate. Employers may pay less than the minimum, but not less than \$3.35 per hour, to employees age 18 or younger who have been employed by the employer for a period of 90 days or less.

Florida

Equal employment opportunity. State executive agencies must now submit an annual affirmative action plan to the Department of Administration describing goals for ensuring full utilization of underrepresented groups. All supervisors must receive training in the principles of equal employment opportunity and affirmative action. Each State attorney and public defender must now also develop and implement affirmative action plans.

Employee testing. A Drug-Free Workplace Act was approved, applicable to agencies of State Government. Job applicants may be denied employment upon refusal to be tested or upon a positive con-

firmed test result. Employees may be required to undergo a test upon reasonable suspicion of drug usage, as part of a routinely scheduled fitness-for-duty medical examination, or as a follow-up to an employee assistance program for drug- or alcohol-related problems. Employees have the right to explain positive test results. With certain exceptions, employees may not be discharged, disciplined, or discriminated against solely on the basis of a first positive confirmed drug test, unless they have refused to participate in an employee assistance program or alcohol and drug rehabilitation program or failed to complete such a program. Testing procedures and various employee protections and required notifications are specified in the law.

The law prohibiting employers from requiring AIDS testing as a condition of hiring, promotion, or continued employment, or from discriminating on the basis of test results, was amended to prohibit such discrimination on the basis of knowledge or belief that an AIDS test was taken or on the perceived results of the test. All health care workers are now protected against employment discrimination that occurs because of their treatment or care of patients infected with HIV. Employers providing or administering health or life insurance benefits to employees must develop and implement procedures to maintain the confidentiality of all records relating to the medical condition or status of any persons covered by such benefits.

Worker privacy. It will not be unlawful for any person to provide a financial institution with employment information about an employee's or former employee's known or suspected involvement in a violation of any law, rule, or regulation which has been reported to State or Federal authorities.

Occupational safety and health. Operators of permanent or temporary amusement devices or attractions must obtain a permit from the Department of Agriculture and Consumer Services. Inspection must be conducted before a permit is issued and at least annually thereafter. Devices or attractions that fail to pass an inspection may not be operated.

Any person initially employed as a firefighter must be a nonuser of tobacco or tobacco products for at least 1 year preceding application.

Georgia

Employment and training. A Governor-appointed Employment and Training Council was created pursuant to the Federal Job Training Partnership Act. The council is to assist the commissioner of labor in

adopting rules and regulations concerning the construction, use, or safety of elevators, dumbwaiters, escalators, manlifts, and moving walks; boilers and pressure vessels; amusement rides; and carnival rides. The council will also assist in establishing training standards and preparing the hazardous chemical list required under the Public Employee Hazardous Chemical Protection and Right to Know Act. Separate advisory councils in each of these areas were eliminated.

Hawaii

Wages. Four separate resolutions were adopted expressing opposition to the final rule of the U.S. Department of Housing and Urban Development preempting State-determined prevailing wage rates which exceed federally determined rates, for workers on public and Indian housing projects, and urging the Department to reconsider the ruling.

Parental leave. Resolutions were adopted requesting the Governor to convene an interim task force to examine a 1989 Legislative Reference Bureau study and to propose legislation to implement a statewide family leave policy. The task force is to include representatives from the Department of Labor and Industrial Relations, the University of Hawaii Industrial Relations Center, the State Commission on the Status of Women, and several other organizations.

Child labor. Any employer who employs a child who is excused from school attendance by a school superintendent or family court on the basis of being at least 15 years old and suitably employed is to notify the child's school within 3 days of termination of the child's employment.

Equal employment opportunity. A law was enacted implementing the transfer of employment discrimination enforcement and administration from the Department of Labor and Industrial Relations to the Civil Rights Commission, as provided in 1988 legislation.

Worker privacy. The Uniform Information Practices Act was amended to provide for the disclosure, to exclusive representatives under the public-sector collective bargaining law, of information related to the administration of authorized payroll deductions.

Idaho

Wages. Among changes to the wage payment and collection law, the director of the Department of Labor and Industrial Services may now accept wage claims of up to \$2,000 instead of \$1,000. The director is also authorized to issue orders for

administrative remedies and to levy civil penalties of up to \$500 per pay period against employers engaging in a consistent pattern of untimely wage payments. Employers are prohibited from discharging or retaliating against an employee for filing a complaint or participating in an investigation conducted by the department. Changes were also made in the time frames for payment of wages upon layoff or termination of employment, and in the maximum period permitted between the end of a pay period and the payday. In case of a dispute as to the amount of wages due, employers are to pay the wages conceded to be due. Employers are also to maintain employment records for at least 2 years, to notify employees at the time of hiring of the rate of pay and usual day of payment, to notify them of any reduction in wages, and, upon a written request, to furnish the department with the information it is authorized to acquire for enforcement purposes.

Illinois

Wages. Hereafter, the State minimum-wage rate may not be less than the Federal rate, and wages paid to employees under age 18 may not be more than 50 cents below the adult minimum wage. Also, the Department of Labor may now make assignments of claims for minimum-wage underpayments in trust for assigning employees and bring legal action to collect them. Employers will be required to pay the costs incurred in collecting such claims and will be liable to the department for 20 percent of the amount of underpayment.

Employees of not-for-profit educational or residential child care institutions who are directly involved daily in educating or caring for children residing at the facility who are orphans, foster children, abused, neglected, abandoned, or otherwise homeless are exempt from overtime pay requirements. The exemption is contingent upon receipt of specified minimum annual salaries.

For purposes of coverage under the prevailing wage law, the definition of "public works" now includes projects financed in whole or part with bonds issued under the Illinois Municipal Code, the Industrial Building Revenue Bond Act, or the Development Finance Authority Act, or with bonds issued or loans made available pursuant to the Build Illinois Bond Act. Public works contract bid specifications are to list prevailing rates in the locality for each required craft or type of worker or mechanic. Department of Labor rate revisions will apply to such a contract, and the public body will be responsible for notifying the contractor and subcontractors. Contractors or

subcontractors who have paid workers less than required will be liable to the department for 20 percent of the underpayments and will also be liable to the workers for punitive damages. The department will have a right of action on behalf of any underpaid employees.

Provisions of the Illinois Purchasing Act, requiring that prospective bidders be prequalified to determine their responsibility, were amended to require that an applicant for prequalification list all public works contracts performed within the last 2 years, or the 4 most recent such contracts, whichever is fewer, and indicate whether the State prevailing wage law has been complied with.

Employee testing. Persons desiring a schoolbus driver permit will now be required to submit to tests for drug and alcohol use.

The Regional Transportation Authority and all of the service boards subject to the Authority, including the Chicago Transit Authority, are to establish, maintain, administer, and enforce a comprehensive drug-testing program that conforms to Federal statutes and regulations.

Labor relations. Backpay awards for unfair labor practice violations under the Public Labor Relations Act and the Illinois Educational Labor Relations Act will now include 7 percent annual interest. Among other amendments, firefighters employed by State universities will be covered by the Public Labor Relations Act, not by the Educational Labor Relations Act, and changes were made in impasse resolution procedures pertaining to security employee, peace officer, and firefighter disputes.

Occupational safety and health. The Department of Mines and Minerals was authorized to adopt rules, conduct inspections, and require compliance with health and safety standards for the protection of workers in underground oil and gas operations. The rules may include minimum qualifications of personnel, minimum standards for equipment operation and maintenance, and safety procedures and precautions.

Under the Toxic Substances Disclosure to Employees Act, employers now will not have to provide an employee education and training program if no employees are exposed to toxic substances.

Employment and training. The Department of Commerce and Community Affairs will now facilitate and fund (1) the training of employees of companies that seek to develop new overseas markets, (2) the customized training of employees of companies in enterprise zones, and (3) the self-employment training of the unemployed and underemployed. The depart-

ment is to assist and encourage an employer in reemploying persons previously employed at the facility if the employer is reopening a facility closed within the preceding 2 years and a substantial number of the workers previously employed there remain unemployed.

Indiana

Wages. The wage payment law now permits employee wages to be paid by electronic transfer to a financial institution designated by the employee.

Agriculture. The State Board of Health may now issue permits limited to one or more specific living areas of an agricultural work camp, and more than one permit may be issued to a camp operator. The board is authorized to designate an agent empowered to conduct inspections and may issue an order of compliance and impose civil penalties for violations. Agricultural labor camp owners and operators may impose a penalty on an agricultural worker who knowingly or intentionally damages property in the camp.

Equal employment opportunity. A sexual harassment task force was created and assigned various duties, including educating the public and employers about ways to reduce sexual harassment and developing and presenting training programs concerning its prevention.

Employee testing. Employers who establish or maintain a drug and alcohol abuse prevention program for employees are now entitled to a tax credit based upon the amount invested in such a program. To qualify, the program must provide counseling, advice, employee education, a treatment referral service, and an opportunity for employees to participate in the program.

Private employment agencies. Nursing registries that employ or refer nurses, nurse aides, or medical technicians, for a fee, to act on a temporary basis for a health care provider must now obtain a certificate of registration from the State Board of Health. The new law also establishes recordkeeping, malpractice liability insurance, and employee identification card requirements.

Occupational safety and health. The Bureau of Mines and Mining Safety is to (1) provide mine operators with safety consultation services and mine safety and health education information, (2) provide safety and health training, as required by the Federal Mine Safety and Health Administration, to mine operators and workers who do not otherwise have training available, and (3) investigate all mining fatalities for data collection purposes.

Iowa

Wages. A first-time minimum-wage law was enacted, with rates to match the current Federal rate or the State schedule of rates, whichever is greater. Under the State law, a rate of \$3.35 an hour took effect July 1, 1989, increasing to \$3.85 on January 1, 1990. Further increases are to \$4.25, scheduled for January 1, 1991, and to \$4.65, for January 1, 1992. For the first 90 calendar days with an employer, employees are to receive an hourly minimum of \$3.35 during 1990, increasing to \$3.85 January 1, 1991, and to \$4.25 January 1, 1992. A tip credit of up to 40 percent is permitted for tipped employees of restaurants, hotels, motels, inns, or cabins. Coverage and exemptions were adopted from the Federal Fair Labor Standards Act by reference, except that fewer retail and service establishments are exempt under the State law because the gross volume of sales under which such establishments are exempt is less than 60 percent of that under the Federal act. The law is administered by the labor commissioner, and is enforced pursuant to the State's existing wage payment/collection law.

Equal employment opportunity. A proposed Equal Rights Amendment to the State constitution was adopted, subject to passage by two consecutive legislatures and approval in a general election. A similar proposed amendment was defeated in the 1980 general election.

Employee testing. As part of new legislation permitting the operation of excursion gambling boats, periodic drug testing will be required of persons employed as captains, pilots, or physical operators of these boats.

Occupational safety and health. A Governor-appointed emergency response commission was established to carry out the functions and duties specified in State law and those required of the State under the Federal Emergency Planning and Community Right-to-Know Act. Provision was made for allocation of duties to the Department of Employment Services, the Department of Natural Resources, and the Department of Public Defense. The commission may take civil action against facility owners or operators who violate specific Federal requirements.

Employment and training. An employment retraining fund, administered by the Department of Economic Development, is to be established to remedy structural imbalances in the job market by funding agreements with participating businesses for retraining workers to provide them with marketable skills in demand by State employers.

Whistleblower. An amendment to the State's "whistleblower" law now allows aggrieved employees relief by enforcement through civil action, including reinstatement with or without backpay, in addition to criminal penalties as previously provided. Also, employees may now disclose information described in the law to any public official, law enforcement agency, or employees of the general assembly.

Other laws. The labor commissioner was authorized to adopt rules, pursuant to the Administrative Procedure Act, for the purpose of administering all chapters under his or her jurisdiction.

Kansas

Equal employment opportunity. A new law authorizes the Commission on Civil Rights to adopt rules and regulations to carry out the provisions of the State Age Discrimination in Employment Act.

The advisory committee on employment of the handicapped, within the Department of Human Resources, was abolished and replaced by a commission on disability concerns, with responsibility to carry on a program to promote a higher quality of life for people with disabilities.

Labor relations. The standing Agricultural Labor Relations Board was abolished, and will be activated only when a complaint is filed with the Secretary of the State Board of Agriculture alleging the existence of a controversy under the Employer and Employee Relations Act. Provisions for mediation of disputes and fact finding were repealed, but the board retains authority to aid the parties in effecting a voluntary resolution, and to conduct a hearing and render a final, binding order subject to judicial review.

Louisiana

Child labor. Restrictions on the employment of minors under age 16 will not apply to minors who, with a written permit issued by the Department of Labor, participate in any commercial motion picture, film, theatrical performance, or video produced or filmed in the State. Procedures were established for applications and conditions for permits and for revocation if the Louisiana secretary of labor finds that conditions of employment are detrimental to the health, morals, or safety of the minor. Hour limitations were repealed, and a provision was added for the Secretary to adopt rules setting forth time limits.

A bank, savings and loan association, or credit union may provide any other such financial institution with a written employment reference which may include information reported to Federal banking

regulators regarding theft, embezzlement, or other misappropriation of funds. If the employee is sent a copy of the reference, the financial institution will not be liable for furnishing such a reference, unless the information is false and is provided with knowledge and malice.

Private employment agencies. The Private Employment Service Advisory Council, an advisory group to the assistant secretary of the Office of Labor, was abolished.

Other laws. The name of the Department of Labor was changed to the Department of Employment and Training.

Maine

Wages. By prior law, the minimum hourly wage rate was increased from \$3.75 to \$3.85 effective January 1, 1990.

Child labor. The provision of the child labor law prohibiting the employment of minors under age 16 in certain places, including hotels and rooming houses, was amended to permit minors who are 15 years of age or older to be employed in kitchens, dining rooms, lobbies, and offices of public accommodations for lodging from June 15 to Labor Day.

The compulsory school attendance law which requires attendance up to age 17 with certain exceptions was amended to prohibit the employment, without a release from the student's supervisory superintendent of schools, of any student who is habitually truant. An employer in violation will be subject to a fine of from \$100 to \$500.

Equal employment opportunity. A Blue Ribbon Task Force to Promote Equity of Opportunity for Women in the Public School System was created to study the representation and underrepresentation of women in the system. A report was to be submitted to the Governor and the legislature by December 1, 1989.

Employee testing. Under a new law, job applicants may be required or requested to submit to a test for substance abuse if offered employment or a position on a roster of eligibility from which selections are made. Employees may be required or requested to submit to a test for probable cause or while undergoing treatment in a substance abuse rehabilitation program. Random or arbitrary testing is permitted if provided for in collective bargaining agreements and for employment in positions that could affect the health or safety of the public or coworkers. Specific provisions include procedures for sample collection and handling of samples, criteria for positive tests, use of qualified laboratories, employee rights to appeal and contest confirmed positive test results, and the re-

quirement of an employee assistance program for employers of 20 or more. The requirements are enforced by the Department of Labor.

An amendment continued a 1987 law prohibiting health care facilities from requiring that any employee or applicant for employment submit to an HIV test or reveal whether he or she has obtained such a test as a condition of employment, except when based on a bona fide occupational qualification.

Labor relations. By amendment, no restraining order or injunctive relief may be granted to any complainant in a labor dispute who has failed to comply with any legal obligation involved in the dispute or who has failed to make a reasonable effort to settle the dispute by negotiation or through mediation or voluntary arbitration. Also, officers or members of any association or organization or such entities participating or interested in a labor dispute may not be held responsible in State court for the unlawful acts of individual officers, members, or agents, except upon proof of participation in or authorization of the acts.

The Municipal Public Employees Labor Relations Law was amended to provide for the merger of bargaining units represented by a single bargaining agent if approved in special elections within each unit. Mergers of units of supervisors with other units or of teachers and nonprofessional employees will not be permitted.

Occupational safety and health. A person having direct and personal management or control of any employment, place of employment, or other employee who intentionally or knowingly violates any Federal or State occupational safety or health standard, with such violation resulting in an employee's death, will now be guilty of manslaughter.

The State Emergency Response Commission is to oversee a comprehensive program of planning and training for effective emergency response to releases of hazardous materials. Local emergency planning committees were established for each emergency planning district, pursuant to the Federal Emergency Planning and Community Right-to-Know Act. Operators of facilities that store quantities of extremely hazardous substances must prepare written plans to protect public health and safety, and include in such plans a description of employee training and testing programs.

Employers using 25 or more video display terminals at one location within the State are now required to establish education and training programs for operators of such terminals. Education and training are to include information on methods of maintaining proper posture, the proper use of

terminals, and protective measures that the operator may take to avoid or minimize symptoms or conditions that may result from extended or improper use of terminals.

Employment and training. Standards were established for all State and Federal education and training programs administered by the Department of Labor. Now required for on-the-job training contracts are that (1) the occupation be one that traditionally requires specific occupational training, (2) the establishment not be involved in a strike, lockout, or other labor dispute, (3) trainees receive the same wages, benefits, and working conditions as other equivalent employees, (4) employers offer trainees continued employment upon completion of the training contract, except for good cause, and (5) trainees not displace current employees. Also, the department must determine whether placements in apprenticeships are in accordance with a list of eligible occupations provided by the State Apprenticeship and Training Council.

Other laws. An employee who is temporarily laid off from work for over 6 weeks, and who is placed on a recall list by the employer, is now to have 7 days from receiving notice of a recall to work in which to respond without discrimination on subsequent recalls by the employer. Employers will not be required to hold a position for an employee not responding within the 7 days.

Maryland

Wages. The Secretary of Personnel was authorized to promulgate regulations, consistent with the Fair Labor Standards Act, to provide for compensatory time off in lieu of monetary payment for overtime work by State employees. The compensatory time received must be at least 1½ hours for each hour of overtime worked, and employees have the right to choose in advance whether to receive compensatory time instead of overtime pay.

Child Labor. The child labor law was amended to prohibit the employment of minors under age 18 in transporting, to or from a business establishment, any cash, checks, or negotiable instruments between 8:00 p.m. and 8:00 a.m., or in an amount over \$100 between 8:00 a.m. and 8:00 p.m. This prohibition will not apply to a child of the owner, operator, or manager of the establishment or to a minor transporting these funds received as payment for merchandise or services he or she delivers.

Employee testing. Employers requiring drug or alcohol testing must provide those tested, in cases of confirmed positive tests, with a copy of the test indicating the

results, a copy of the employer's written policy on drug or alcohol abuse, written notice of any intended disciplinary action, and a statement of the person's right to request independent testing for verification of the results. Laboratories, doctors, and others may not disclose a person's use of a legal nonprescription drug or of a medically prescribed drug to the employer.

Worker privacy. Employees of the Division of Correction assigned to the Special Internal Investigative Unit expressly authorized by the commissioner of correction may now be required to take a lie detector test as a condition of employment.

Occupational safety and health. The commissioner of labor and industry was authorized to assess civil penalties of up to \$5,000 for each violation of the Boiler and Pressure Vessel Safety Act. In assessing penalties, the commissioner is to give due consideration to the nature or gravity of the violation and the person's or firm's good faith and history of previous violations.

Employment and training. A Partnership for Workforce Quality Program was established within the Department of Economic and Employment Development. Assisted by an advisory board, the program is to (1) provide training services to improve the competitiveness and productivity of the State's work force and business community; (2) upgrade employee skills for new technologies or production processes; and (3) assist State businesses in promoting employment stability.

Massachusetts

Maternity leave. The law entitling female employees to unpaid maternity leave of up to 8 weeks for the birth or adoption of a child was amended to raise the age of the adopted child to which the entitlement applies from under 3 years to under 18 years, or under the age of 23 if the child is mentally or physically disabled.

Equal employment opportunity. In response to a recent U.S. Supreme Court ruling that Section 1981 of the Federal Civil Rights Act of 1866 does not apply to racial harassment in employment (*Patterson v. McLean Credit Union*), additional civil rights provisions were enacted banning all discrimination based on sex, race, color, creed, or national origin. Persons whose rights have been violated may bring civil action for injunctive and other relief, including compensatory and exemplary damages. The law also specifies that proof of violation is established on the basis of "the totality of circumstances."

A new law bans discrimination on the basis of sexual orientation in employment, housing, credit, insurance, and public accommodations.

Employment and training. A MASS-JOBS council was created to establish policies for and coordinate all employment, training, and employment-related education programs within the Commonwealth.

Other laws. An employer may not discharge or otherwise penalize an employee who, as a crime victim or witness, takes part in a criminal proceeding in response to a subpoena to appear as a witness, provided that notice is given prior to the day of attendance.

Under a new law relating to corporate takeovers, an employee with at least 3 years of service whose employment is terminated after transfer of control of a business that employs 50 or more workers is entitled to 2 weeks' severance pay for each year of service. Also, a merger, consolidation, sale, lease, or other disposition of a business will not result in the termination or impairment of a collective bargaining agreement.

Michigan

Equal employment opportunity. Hospitals licensed under the Public Health Code may not discriminate because of race, religion, color, national origin, age, or sex in the operation of the hospital, including employment, patient admission and care, and selection and training programs.

Minnesota

Wages. By prior law, the minimum hourly wage rate was increased for employers covered by the Federal Fair Labor Standards Act from \$3.55 to \$3.85 on January 1, 1989, and to \$3.95 on January 1, 1990. The rate for employers not covered by the Federal act increased from \$3.50 to \$3.65 on January 1, 1989, and to \$3.80 on January 1, 1990.

Unless prohibited by Federal law, a railroad letting a contract for rehabilitation work or rail service improvement under a State assistance program for such work must require the contractor to recruit any new workers from the area where the work is to be done and to pay workers at least the wages the railroad pays its own workers, but not less than twice the State minimum wage applicable to employers covered by the Federal Fair Labor Standards Act.

Hours. Employers must now allow employees who work 8 or more consecutive hours sufficient time to eat a meal. Employers are not required to pay employees for the meal time. Different requirements may be established in collective bargaining agreements.

Equal employment opportunity. A provision was added to the Human Rights Act placing the burden on the employer to

prove that it was reasonable to conclude that a disabled person, with reasonable accommodation, could not have met the job requirements or that the person selected was demonstrably better able to perform the job. Also, employers are now prohibited from obtaining, for purposes of making a job decision, information from any source that pertains to a person's race, color, creed, religion, national origin, sex, marital status, public assistance status, disability, or age. Job applicants and employees must be notified of any health care records or medical information that adversely affects any hiring, firing, or promotional decisions within 10 days of the decision.

The results of job evaluation systems for employees of the State and political subdivisions, used in conjunction with comparability adjustments, and related reports may be used by the commissioner of human rights and the State courts in any proceeding or action alleging discrimination.

Public employees who harass another public employee because of disability, race, creed, color, or national origin will be subject to discipline, including discharge.

Worker privacy. Private-sector employers of 20 or more must provide employees an opportunity to review their personnel records at least twice a year upon receipt of a written request. If an employee disputes information in the record, the employer must provide a copy of the disputed information, and if an agreement cannot be reached to remove or revise the information, the employee may submit a written statement explaining the employee's position which must be included in the personnel record and must be provided to any other person who receives a copy of the information. An employer may not retaliate against employees who assert their rights or remedies under this act. Employees may bring civil action to compel compliance and for damages, backpay, reinstatement, and other relief.

Labor relations. No licensed business, in the course of providing protective agent services, may provide armed protective personnel to labor disputes or strike locations. This prohibition does not apply to armed security personnel services used in the usual course of business for the protection of persons, property, and payroll.

Occupational safety and health. An emergency response commission was established to comply with and administer the Federal Emergency Planning and Community Right-to-Know Act. Notification to a State emergency response center of the release of a reportable quantity of hazardous substances is required.

The commissioner of the Department of Labor and Industry was given authority to

administer the law regulating the operation of elevators. The commissioner will be responsible for inspection of elevators and granting operating permits, and may establish criteria for the qualifications of elevator inspectors and contractors and issue contractor licenses. In addition to other penalties for violation of the law, the commissioner was authorized to impose a penalty of up to \$1,000 for any violation.

Employment and training. A Conservation Corps was established under the supervision of the commissioner of natural resources. The Corps is to provide summer and year-round employment for unemployed or underemployed State residents between 15 and 26 years of age, in projects that will (1) provide long-term benefits to the public, (2) provide productive work and public service experience to Corp members, and (3) be primarily labor intensive. Preference will be given to youths who are economically, socially, physically, or educationally disadvantaged and youths residing in areas of substantial unemployment. Work of Corps members is not to result in the displacement of currently employed workers or laid-off workers.

Mississippi

Equal employment opportunity. Services provided by the Rehabilitation Agency for the Blind now include supported employment, rehabilitation engineering, and independent living services.

Employee testing. A special joint legislative committee was created to examine the nature and extent of the drug abuse problem in the State, including drug-testing programs in the workplace.

Employment and training. The Department of Economic and Community Development was created as part of a restructuring of the executive branch of the State government. It will be responsible for assisting existing State business and industry and for promoting new businesses. All powers and duties of the former Division of Job Development and Training are transferred to the new department.

A Seed Capital Corporation and Seed Capital Fund Limited Partnership were created to stimulate business growth and new jobs. Job tax credits were established for each new full-time job created. Employers providing child care for children of employees during working hours are now entitled to an income tax credit.

Missouri

Wages. A bill to enact a State minimum-wage law adopting the Federal hourly

rate by reference was vetoed, and the veto was sustained. The Governor's veto message stated that the bill was vetoed because of "serious drafting errors that would frustrate its purpose and have effects beyond those intended by the general assembly."

Child labor. Among several changes in the child labor law, children under age 16 may not be employed in any street occupation connected with peddling, begging, door-to-door selling, or similar activity, unless the employer has received written permission from the director of the Division of Labor Standards; amendments were made to several of the regulations pertaining to prohibited occupations for minors under age 16, and a prohibition was added on working in any occupation involving exposure to any toxic or hazardous chemicals (a prohibition on work in or about any poolroom, billiard hall, or bowling alley was removed); and a provision was added requiring every person, firm, or corporation employing minors to comply with the unlawful employment practice provisions of the Human Rights Act.

Occupational safety and health. An Emergency Response Commission was created which, in conjunction with the Department of Natural Resources, is to implement the State's responsibilities under the Federal Emergency Planning and Community Right-to-Know Act, including designating local emergency planning districts and providing assistance and training to local emergency planning committees.

Other laws. Employers are prohibited from terminating, disciplining, threatening, or taking adverse action against an employee because of the employee's receipt of or response to a jury summons. Enforcement of the law is through civil action.

Montana

Wages. Beginning January 1, 1990, the minimum wage will be established by rule adopted by the commissioner of labor and industry, rather than by statute. The rate must be the same provided under the Federal Fair Labor Standards Act, up to a maximum of \$4 per hour. Employers may pay newly hired employees a wage of at least \$3.35 an hour for 120 calendar days, but without displacement of another employee.

Employers who fire an employee for theft of the employer's funds or property may apply to the courts for an order temporarily delaying the payment of unpaid wages due the employee, if criminal charges have been filed by the county attorney. If the employee is found guilty, the court may order the wages due to be offset against the amount stolen; if the employee

is not guilty, the employer may be ordered to pay the wages due, including interest.

A Board of Personnel Appeals was established under the payment-of-wages law to hear appeals of decisions by Department of Labor and Industry hearing officers. Board decisions will be final, unless an aggrieved party requests a rehearing or initiates judicial review. The commissioner of labor and industry was authorized to maintain an action, on behalf of all underpaid workers, for recovery of public works construction prevailing wages due.

Equal employment opportunity. For purposes of vocational rehabilitation programs, the definition of "individual with handicaps" as contained in the Federal Rehabilitation Act of 1973 was adopted by reference. The Department of Social and Rehabilitation Services is to adopt rules for administering vocational rehabilitation programs for persons with employment handicaps and those with blindness or low vision. The department is to provide counseling, diagnostic evaluation, and placement at no cost to those eligible.

Plant closings. An Employee Ownership Opportunity Act was enacted to encourage the formation of employee-owned enterprises. Business assistance services are to be extended to these enterprises, and the Department of Commerce is to provide research, education, technical assistance, and counseling.

Employment and training. A program was established to implement the provisions of the Federal Job Training Partnership Act. The State Job Training Coordinating Council will review plans of all government agencies offering employment and training services and provide comments and recommendations to the Governor, legislature, and State and Federal agencies regarding the relevancy and effectiveness of such programs in the State. Private-industry councils were established to prepare job training plans in each service delivery area in the State and to formulate measurable performance standards.

Nebraska

Wages. The provision establishing a \$2.01 minimum cash wage for tipped employees was amended to delete the requirement that such employees be compensated primarily by way of tips in order for employers to receive a credit for tips against the statutory \$3.35 minimum wage.

Coverage under the wage payment and collection law was extended to commissioned salespeople. Wages were defined to include commissions on all orders delivered or on file at the time of termination of employment, less orders returned or canceled at the time a suit is filed. Employees

filing suit may now recover twice the amount of unpaid wages if nonpayment is found to be willful.

Child labor. A resolution requested an interim study of high school age and younger students working for the increasing number of businesses that are open 24 hours a day and also attending school to determine what changes, if any, are needed in existing labor laws to facilitate the academic success of these students. A report of findings and recommendations is to be made to the legislative council or legislature.

Agriculture. A study of the feasibility of the 1987 Farm Labor Contractors Act is to be conducted by the Business and Labor Committee of the legislature. A report of findings and recommendations is to be made to the legislative council or legislature.

Equal employment opportunity. Under the Fair Employment Practices Act, which prohibits discrimination because of disability, the term "disability" was redefined to exclude a current addiction to alcohol, controlled substances, or gambling.

Employment and training. Two training funds were created. A Technical Community College Aid Cash Fund was created to fund grants to community colleges for faculty training, purchase of equipment, employee assessment and training programs, and dislocated worker programs. A cash fund created under the direction of the Department of Economic Development will be used to provide reimbursement for job training activities related to helping industry and business locate or expand in the State or to enable the existing work force to adjust to new technology or changing product lines.

Nevada

Wages. The labor commissioner is now directed to prescribe increases in the State minimum wage in accordance with increases in the Federal rate, except where the commissioner determines that such increases are contrary to the public interest. Previously, the commissioner was authorized to set the rate up to \$3.35 per hour, which is the current State rate.

Equal employment opportunity. Employers of 15 or more employees who grant leave with or without pay or without loss of seniority to employees for sickness or disability because of a medical condition must extend the same benefits to any employee who is pregnant. The employee must be allowed to use the leave before and after childbirth, miscarriage, or another natural resolution of the pregnancy.

Worker privacy. Private-sector employers are prohibited from requiring or

requesting an employee or prospective employee to submit to a lie detector test, from using the results of such a test, and from discharging, disciplining, or denying employment to anyone refusing to take a test. Retaliation against anyone filing a complaint, testifying in a proceeding, or exercising rights under the act is also prohibited. The labor commissioner can impose a civil penalty of up to \$9,000 for each violation and bring court action for a restraining order or injunction. Employers in violation may be liable for hiring prospective employees and for reinstating, promoting, or paying lost wages and benefits of employees. Lie detector tests are permitted under specified conditions for employees during the course of an ongoing investigation involving economic loss, including theft and embezzlement, and for prospective employees involved in security work or access to controlled substances.

Occupational safety and health. The administrator of the Division of Occupational Safety and Health of the Department of Industrial Relations may now issue an emergency order to restrain any conditions or practices which are imminently in danger of causing death or serious injury. The division is not to notify employers of any randomly scheduled or customary regulatory inspection. The division must maintain detailed records of all complaints alleging safety and health violations. Such records are available for public inspection, except for the name of the employee filing the complaint.

Preference. The contractor preference law was amended to provide that, in the award of a contract for public work, a 5-percent preference will be given to contractors who have paid Nevada State and local taxes for 5 successive years before submitting the bid, unless the practice would preclude or reduce the amount of Federal assistance for the work.

Other laws. It is unlawful for an employer to terminate, or threaten to terminate, the employment of a worker who, as the parent, guardian, or custodian of a child, either appears at a conference requested by an administrator of the child's school or is notified at work by a school employee of an emergency regarding the child, or who appears with or on behalf of such child in any court. A person unlawfully discharged may take civil action against the employer and obtain lost wages, reinstatement, damages, and attorney's fees.

New Hampshire

Wages. On January 1, 1990, the minimum wage increased from \$3.65 to \$3.75

per hour, with additional increases to \$3.85 and \$3.95 scheduled for January 1, 1991, and January 1, 1992. The maximum deduction that may be made from the minimum wage for employer-furnished meals and lodging was also increased.

Child labor. Under an amendment to the Youth Employment Law, (1) the labor commissioner was authorized to assess civil money penalties for violation; (2) a parent's signature and a determination of the student's satisfactory level of academic performance were added to the prerequisites for issuing a work certificate, with revocation if this level is not maintained; and (3) the maximum hours of work of 16- and 17-year-olds enrolled in school were limited to 6 consecutive days a week year round, 48 hours a week during school vacations, and 30 hours during a school week. Under a separate law, inoperative provisions restricting maximum hours and night-work of females were eliminated.

School attendance. A legislative study committee created in 1988 to examine illiteracy and dropout prevention, including the relationship between the number of hours per week that a student works or participates in sports and the student's academic achievement, was extended until June 30, 1990.

The Division of Instructional Services of the Department of Education is to develop and distribute a questionnaire to ascertain levels of participation of secondary students in school-related activities and after-school employment, and to evaluate potential causes of voluntary student withdrawal from school.

Employment and training. A program was established within the Division of Vocational Rehabilitation to train eligible handicapped individuals by providing appropriate support services directly related to maintaining employment.

New Jersey

Child labor. A provision was added to the child labor law specifying that minors under age 16 employed outside of school hours during a school week may not exceed the weekly maximum hours of work permitted under the Federal Fair Labor Standards Act. Also, the provision permitting 14- and 15-year-olds to work during summer vacation until 9 p.m. in supermarkets or other retail establishments, with written parental permission, now applies also to restaurants and other occupations not prohibited by the child labor law or regulations.

Industrial homework. Criminal penalties for violation of the industrial homework law were made more severe. For a

first offense, a violation may now result in a fine of up to \$1,000. Employers or persons knowingly violating the law or committing a second or multiple violation are subject to a fine of up to \$7,500 and imprisonment for up to 18 months.

Employment and training. The commissioner of the Department of Labor is to establish a program to provide job replacement and relocation assistance and job retraining to any person who suffers a loss of employment as a direct result of implementation of the law prohibiting direct discharge of industrial waste into ocean waters of the State.

New Mexico

Child labor. The director of the Labor and Industrial Division of the Department of Labor may now issue labor permit certificates under the child labor law. The director of the Department of Labor is to report child labor law violations to the district attorney of the district in which such violations occur.

Employee testing. Employers may not require individuals to disclose the results of an AIDS-related test as a condition of hiring, promotion, or continued employment, unless absence of the AIDS virus infection is a bona fide occupational qualification of the job.

Preference. The law giving resident businesses preference in the awarding of State contracts was amended to exempt bids greater than 5 million dollars. Also, now included among resident businesses are companies that have staffed an office and paid applicable State taxes for 2 years prior to the awarding of a bid, and companies that are affiliates of businesses that are already resident businesses.

New York

Wages. Amounts withheld from a contractor for unpaid wages and supplements due on a public works contract must be used for the sole benefit of the affected workers and for any civil penalty that may be assessed, except under court order.

The commissioner of labor was directed to assess a civil penalty of up to \$5,000 against any person demanding or receiving kickbacks of employee wages, supplements, or other things of value and to require reimbursement of any illegal kickback payments plus interest and such other relief as may be appropriate. The law was made explicitly applicable to kickbacks of prevailing wages or supplements.

In other prevailing wage legislation, apprenticeship training was added to the list of supplements on public works contracts that are to be provided to laborers, work-

men, or mechanics in accordance with the prevailing practices in the locality; an amendment provides that orders of the commissioner of labor to pay unpaid prevailing wages and related payments found to be due are to be docketed as judgments and subject to the same mechanisms used to enforce other judgments; and debarment provisions now apply to successor business entities of contractors and subcontractors with prior violations.

Parental leave. The law requiring an employer to grant to an adoptive parent of a child below school age the same leave of absence as is given to a natural parent upon the birth of a child was amended to provide that an adoptive parent of a hard-to-place or handicapped child under the age of 18 is now entitled to the same leave as is granted to a natural parent upon the birth of a child.

Apparel industry. Manufacturers and contractors of men's apparel were made subject to the annual registration requirement and inspection provisions of a 1986 law originally applicable in the women's, children's, and infants' apparel industries. A waiver may be granted by the commissioner of labor to manufacturers or contractors solely of men's apparel which were in business on or before April 1, 1987, and which have not violated State labor or tax laws for the preceding 2 years.

Labor relations. Under the Labor Relations Act, an employer engaged in the performing arts who enters into an agreement with a labor organization representing performing artists will not be engaged in an unfair labor practice because the majority status of the labor organization has not been established or because such agreement requires, as a condition of employment, membership in the labor organization after employment.

Under a comprehensive new law prohibiting smoking in public places, employers will be required to provide nonsmoking employees in indoor areas open to the public with a smoke-free work area, and smoking in any work area will be permitted only with the consent of all employees in that area. Smoking in common areas such as rest rooms, hallways, classrooms, and photocopy locations will also be prohibited. Employers may designate separate enclosed rooms not open to the public as smoking areas.

Beginning October 1, 1990, the owner or operator of certain amusement rides must have available, at the time of the initial and annual inspection, the manufacturer's recommended maintenance and safety schedules or requirements and documentation that such maintenance and testing have been performed.

Plant closings. A Worker Adjustment

Act was adopted to provide dislocated workers with occupational training, job placement assistance, employability counseling, and support services, to assist them in obtaining new private-sector jobs. Provision was also made for a rapid response unit to aid workers in the event of plant closings or substantial layoffs. The law will be administered by the Department of Labor.

Other laws. Any private-sector employee terminated from employment is to receive, within 5 days after termination, written notice of the exact date of termination and the exact date of cancellation of employee benefits connected with such termination. Employers who refuse to give such notice or remit premiums on behalf of former employees exercising their rights to continuation of coverage will be liable for medical expenses not covered as a result of such failure, as well as civil penalties.

Employees may not be required to pay the cost of any medical examination or of furnishing any health certificate as a condition of continuing employment if the employee is not covered by health insurance, or the health insurance does not cover such costs, or the employer does not provide qualified medical personnel to conduct the examination at no cost to the employee, and such examination or certificate is not required by law.

North Carolina

Wages. Several significant changes were made in the Wage and Hour Act. Persons employed in enterprises having fewer than three employees will no longer be exempt from minimum-wage, overtime, and recordkeeping provisions; the exemption of employment regulated under the Federal Fair Labor Standards Act will no longer apply to employees from whom the applicable Federal minimum wage is less than the State's; employers who violate minimum-wage, overtime, or wage payment provisions are now liable for interest on unpaid amounts due; if the amount of wages is in dispute, employers are to make timely payment of the undisputed portion. The labor commissioner is now empowered to enter into reciprocal agreements with the labor department or corresponding agency of any other State that extends comity to North Carolina, for the collection of wage claims and judgments. The commissioner is authorized to assess civil money penalties for violation of recordkeeping requirements under the entire act.

Agriculture. The Migrant Housing Act of North Carolina was passed, consolidating the regulation of migrant housing within the Department of Labor. A precapacity inspection is required, and mi-

grant housing may not be occupied until it is certified to be in compliance with all standards. Federal standards were adopted by reference.

Employee testing. Employers are prohibited from requiring or using an AIDS test to determine suitability for continued employment or from discriminating against an employee having AIDS or HIV infection in determining such suitability. However, employers may require an AIDS test for job applicants in a preemployment physical; may deny employment to an applicant with a confirmed positive AIDS test; may include an AIDS test in an annual medical exam routinely required of all employees; and may take appropriate employment action, including reassignment and termination, against an employee who has AIDS virus or HIV infection and who would pose a significant health risk to others or is unable to perform normal job duties.

Private employment agencies. The law regulating private personnel services was amended to exempt employer-fee-paid consulting services or temporary help services that offer temporary to permanent placement if the service operates on a 100-percent employer-fee-paid basis, requires no applicant placement contract, and may not charge job applicants a fee under any circumstances. Such services must submit an annual certification that they meet these requirements for exemption. The required surety bond for private personnel services was increased from \$5,000 to \$10,000.

Employment and training. An amendment to the North Carolina Employment and Training Act of 1985 charges the State with removing barriers to employment and designing programs responsive to the special needs of offenders, the handicapped, recipients of public assistance, school dropouts, single parents, women 35 years of age or older, and other appropriate groups.

Whistleblower. State employees, public school employees, and community college employees are not to be discharged, threatened, or otherwise discriminated against regarding compensation, terms, conditions, location, or privileges of employment because they refuse to carry out a directive that is illegal or that poses a substantial and specific danger to the public health and safety or because they report, or are about to report, any violation of State or Federal law, rule, or regulation, fraud, misappropriation of State resources, or substantial and specific danger to the public health and safety, unless they know or have reason to believe that the report is inaccurate.

North Dakota

Wages. A new consolidated minimum-

wage order effective August 14, 1989, established a \$3.40-per-hour minimum wage for all nonexempt employment, except public housekeeping, where a rate of \$3.25 per hour plus tips is required. A training wage of \$2.72 (\$2.60 in public housekeeping) is permitted for a maximum of 240 hours or 60 days, whichever comes first. Previously, the hourly minimums were \$3.10 for professional, technical and clerical, and mercantile occupations; \$2.95 for manufacturing occupations; and \$2.80 for public housekeeping occupations.

Employees who provide companionship to elderly or disabled individuals who are unable to care for themselves are exempt from any minimum wage and hour standards to the extent that services are provided from 10 p.m. to 9 a.m., up to a total of 8 hours. During this time, the employee is available to care for the aged or disabled person, but is also free to sleep and otherwise engage in normal private pursuits in the patient's home. These employees are not entitled to premium overtime pay. Relatives of elderly or disabled persons who provide family home care are also exempt from any standards prescribed under the law.

The wage collection law was amended to change the amount of interest due on unpaid wages from 6 percent per annum to a rate determined by the State banking commissioner.

A pay equity implementation fund was established to be used by the Office of Management and Budget for the purpose of establishing equitable nondiscriminatory compensation relationships among all positions and classes within the State's classification plan.

Parental leave. State employees are now entitled to 4 months of unpaid family leave for the birth or adoption of a child or to care for a seriously ill child, spouse, or parent. They also are entitled to reinstatement in their former or an equivalent position. During such a period of leave, employees may continue their group health insurance or health care plan at their own expense.

Equal employment opportunity. Employers are now required to make reasonable accommodations for an otherwise qualified person with a physical or mental disability and for a person's religion. Failure to do so will be deemed a discriminatory practice.

Occupational safety and health. Except under certain circumstances, no rule adopted by the State Department of Health and Consolidated Laboratories for the purpose of administering certain specified Federal acts, including the Emergency Planning and Community Right-to-Know

Act of 1986, may be more stringent than corresponding Federal regulations which address the same circumstances.

Included among requirements of a new law regulating amusement ride operation are inspection and insurance, a minimum age of 16 to operate such rides, and attendance of an operator at all times that a ride is in operation.

Ohio

Employee testing. Employers of persons with AIDS are now immune from liability for damages arising out of the transmission of the HIV virus to another person, except as a result of the employer's reckless conduct. Employers are also exempt from claims for damages arising from a stress-related illness or injury resulting from an employee's being required to work with a person who has tested positive for the HIV virus or who has AIDS or a related condition.

Private employment agencies. All contracts between personnel placement services and applicants for employment must now provide that if an applicant does not report for work, there will be no fee charged by the placement service. Job-listing subscription services must now register with the Department of Commerce and post a \$10,000 bond. Such services are subject to regulation by the department, are prohibited from engaging in certain practices, and are limited to charging only an annual subscription fee. The director of commerce may now issue cease-and-desist orders to, and impose civil penalties on, unlicensed personnel placement services and unregistered job-listing subscription services.

Occupational safety and health. A law enacted in December 1988 provides for the creation of an Emergency Response Commission to adopt rules in accordance with the Federal Emergency Planning and Community Right-to-Know Act of 1986 covering such items as identification and listing of hazardous substances or chemicals and establishing procedures for giving notice of releases, as well as procedures for reviewing the chemical emergency response and preparedness plans of local emergency planning committees.

Oklahoma

Parental leave. The administrator of the Office of Personnel Management is to promulgate rules entitling permanent State employees with over 6 months of continuous service to family leave. According to these rules, employees may obtain family leave for childbirth, adoption, or the care of a terminally or critically ill child or depend-

ent adult; must be reinstated in the original job upon returning from family leave; and are eligible to continue group health and life insurance at their own expense during such leave. Employees must provide the employer with reasonable notice of leave, if possible.

Other laws. A pilot program to establish child care centers for children of State employees is to be implemented by the Office of Personnel Management.

Oregon

Wages. The State minimum-wage rate was increased from \$3.35 per hour to \$3.85 on September 1, 1989, and to \$4.25 on January 1, 1990, with a further increase to \$4.75 scheduled for January 1, 1991. Among other amendments, coverage of the law was extended to persons regulated under the Federal Fair Labor Standards Act, most agricultural workers, industrial homeworkers, and private household employees working on a noncasual basis. An exemption was added for individuals performing child care services in their or the children's homes, and, by rule, the State exempted from its overtime pay requirement the overtime pay exemptions under Federal law. Existing meal and rest period requirements will be extended to the newly covered workers.

Provisions prescribing maximum work hours and overtime pay in certain industries, including mills, factories, and manufacturing establishments, were amended to add civil money penalties for violation, assessable by the labor commissioner. Exempt are employees covered by collective bargaining agreements that cover these subjects.

If, upon complaint by an employee, and after investigation, it appears to the commissioner of the Bureau of Labor and Industries that an employer is failing to pay wages within 5 days of a scheduled payday, the commissioner may require the employer to give a bond or its equivalent sufficient to assure timely payment of wages due for such time as the commissioner considers appropriate. A circuit court may enjoin an employer from doing business in the State until the requirement is met.

The Wage Security Fund, established for a 3-year period beginning July 1, 1986, was extended to July 1, 1993. The fund, financed by employer payments of a percent of wages, is used to pay valid wage claims up to \$2,000 each to an employee whose employer has ceased doing business and does not have sufficient assets to pay the claim.

The prevailing wage law was amended to specify that public works do not include the reconstruction or renovation of privately

owned property that is leased by a public agency.

An addition to the prevailing wage law requires contractors or subcontractors working on covered public work projects who provide for or contribute to employee health and welfare plans or pension plans to post, in a conspicuous and accessible place in or about the project, notice describing such plans and containing information on how and where to make claims and where to obtain further information.

The legislative assembly is to provide continuing oversight to ensure that compensation and classification in the State service meet the requirements of the policy on comparability of value of work, compensation and classification, and other applicable provisions of State law. The assembly will recommend appropriate actions to remedy any inequities in the plan.

Agriculture. Farm labor contractors must now pass a qualifying examination prior to licensing. The surety bond or cash deposit which must be posted to assure payment of wages and other obligations of contractors was increased from \$5,000 to \$10,000. At the time of hiring, and before beginning work, the contractor must execute a written contract with each worker containing specified information, including terms and conditions of employment and housing to be provided. Contractors must comply with field sanitation and housing, health, safety, and habitability requirements. The commissioner of the Bureau of Labor and Industries may now assess a civil penalty of up to \$2,000 against persons using unlicensed contractors.

All farmworker camp operators must register with the Bureau of Labor and Industries, and each proposed camp is subject to preoccupancy inspection. Farm labor contractors operating a farmworker camp must obtain an endorsement from the bureau commissioner and post a \$15,000 bond. Camp operators must comply with applicable building, safety, and health laws. Operators are prohibited from requiring camp occupants to give up any part of their compensation and from preventing any person who wishes to leave the camp from doing so. Retaliation against persons filing a claim or participating in a proceeding under the act is prohibited. Representatives of religious organizations and other providers of services for farmworkers must be provided access to farmworker housing, and such housing must now have a reasonably accessible operating telephone.

Equal employment opportunity. Where such requests can be reasonably accommodated, it is now an unlawful practice for an employer of 25 or more to refuse to allow a female employee affected by pregnancy,

childbirth, or a related medical condition to transfer temporarily to less strenuous or hazardous work, or to take a reasonable paid or unpaid leave of absence, and to return to the former or an equivalent job without loss of seniority, vacation, sick leave, or service credits. Employees are entitled to use any accrued vacation, sick, or other compensatory leave during the leave of absence. These provisions are enforced by the Bureau of Labor and Industries. Unpaid parental leave had previously been mandated for the birth or adoption of a child.

Worker privacy. It was made an unlawful employment practice for an employer to subject an employee or prospective employee to a genetic screening or brain-wave test, or to require, as a condition of employment, that an employee or prospective employee refrain from using lawful tobacco products during nonworking hours, except when the restriction relates to a bona fide occupational requirement or where an applicable collective bargaining agreement prohibits off-duty use of tobacco products.

Plant closings. The Job Training Partnership Act section in the Business Resources Division of the Economic Development Department was designated as the State agency to be notified when employer notice of a plant closing or mass layoff is required under the Federal Worker Adjustment and Retraining Notification Act. The Economic Development Department is to prepare, for the Governor and legislature, an annual report concerning plant closings and mass layoffs in the State.

Employment and training. A Work Force Development Fund administered by the Economic Development Department was created to support programs that develop skills for employment in "family wage jobs" or that provide access to training for women, minorities, and the economically disadvantaged.

Any firm benefiting from State lottery-funded programs is to undertake a good-faith effort to hire and retain low-income individuals who have received job training assistance from publicly funded providers.

Whistleblower. Public employers may not prohibit employees from discussing the activities of a public agency with members of the legislature or their staff, or from disclosing information reasonably believed to be evidence of violations of law or mismanagement, gross waste of funds, danger to public health and safety, or abuse of authority. Besides initiating an administrative appeal, employees alleging a violation of these provisions may bring civil action for injunctive relief and damages.

Other laws. Public- and private-sector

employers must grant an unpaid leave of absence to employees who are members of the organized State militia and are called into active service. Such employees are entitled to reinstatement in the same or an equivalent position without loss of seniority or other credits, benefits, or rights earned at the time of the leave of absence. Enforcement is vested in the Bureau of Labor and Industries, and any violation is an unlawful employment practice.

Pennsylvania

Wages. The hourly State minimum-wage rate was increased from \$3.35 to \$3.70 effective February 1, 1989, as the result of a late-1988 enactment. Coverage was extended to FLSA-covered employees and to students employed by nonprofit educational institutions in which they are enrolled. The tip credit allowance against the minimum wage was increased from 40 to 45 percent. If the Federal rate is increased above \$3.35, the State rate will match the Federal rate, and the State minimum-rate provisions will be suspended to the extent that they differ from the Federal provisions.

The minimum-wage rate for migrant workers increased to \$3.70 per hour as the result of a provision in a Seasonal Farm Laborer law adopting the State rate by reference. (The minimum wage act excludes agricultural employment.)

Occupational safety and health. As part of a Clean Indoor Air act passed in late 1988, employers are to develop, post, and implement policies to regulate smoking in the workplace.

Plant closings. The Employee-Ownership Assistance Program Act was amended to authorize the granting of assistance to new firms seeking to structure a business as an employee-owned enterprise. For a firm not interested in converting to employee ownership, assistance is available to prepare a prefeasibility study to determine whether an employee ownership structure can succeed, in anticipation of the creation of a new firm.

Puerto Rico

Wages. A mandatory decree revision, issued by the Commonwealth Minimum Wage Board, increased minimum rates in the restaurant, bar, and soda fountain industry to \$3.45 an hour effective April 26, 1989, with a further increase to \$3.70 scheduled for April 26, 1990. Both rates are without a tip credit. Previously, the minimums were \$2.95 or \$2.25 for waiters and tipped countermen and bartenders and \$3.35 or \$2.75 for others, the higher of the

rates applicable to enterprises with annual gross income of \$362,500 or more.

Rhode Island

Wages. The State minimum-wage rate was increased from \$4.00 to \$4.25 per hour, effective August 1, 1989.

Overtime pay provisions of the minimum-wage law will not apply to any salesperson, partsman, or mechanic engaged primarily in the sale or servicing of automobiles, trucks, or farm implements who receives pay in excess of an amount equal to the contracted hourly rate plus overtime for hours worked in excess of 40 a week, and who is employed by a nonmanufacturing employer engaged primarily in the retail sale of such vehicles, to the extent the employer is exempt under the Federal Wage-Hour Act.

Employer records of employee hours worked and wages paid each pay period must now be kept on file for 3 years, rather than 1 year.

Child labor. A minor between the ages of 16 and 18 may now be employed during school vacations for an unlimited number of hours in a given week or calendar day, provided that the provisions of all other applicable Federal and State laws and regulations are complied with. Such minors could previously work no more than 48 hours a week or 9 hours a day.

The misdemeanor penalty section of the child labor law, providing for a fine of up to \$500 for violation, was amended to provide that if a child employed in violation of the law is injured or killed in the course of such employment, the fine may be increased to an amount up to \$5,000.

Equal employment opportunity. It will not be unlawful for employers covered by the Fair Employment Practices act to fail or refuse to hire, or to discharge because of age, a firefighter or law enforcement officer who has attained the age of hiring or retirement in effect under any State statute, city or town ordinance, collective bargaining agreement, or pension plan in effect on March 3, 1983.

Employee testing. The law prohibiting employee drug testing, except if an employer has reasonable grounds to believe that an employee's use of controlled substances is impairing job performance, was amended to permit testing in the public utility mass transportation industry if such testing is required by Federal law or regulation as a condition of receiving Federal funds.

Labor relations. The law providing for municipal employee collective bargaining was amended to exclude confidential, as well as casual and seasonal, employees and to cover part-time employees, except those

working for certain authorities.

A law was enacted granting full-time supervisors, assistant supervisors, and telecommunicators of the 911 statewide uniform emergency telephone system the right to select an exclusive representative and to bargain collectively with the State over wages, rates of pay, hours, working conditions, and all other terms and conditions of employment. Any work stoppage, slowdown, or strike is prohibited, with unresolved negotiation disputes to be submitted to binding arbitration.

The Fire Fighters' Arbitration law was amended to provide that if a majority of the firefighters in any city or town select a successor or a new labor organization as the exclusive bargaining agent for all members of the city or town fire department, the existing bargaining agreement will be binding on both the successor or new bargaining agent and the corporate authority.

Employment and training. The Department of Employment Security was abolished, and the Department of Employment and Training was created to be the principal executive department responsible for administering employment and training programs in the State. The new department also will continue the functions of the abolished department. The department will work with the Workforce 2000 Council, which is responsible for establishing statewide policies, goals, and guidelines for the coordination of all employment and training programs and related services and employment-related educational programs.

Other laws. Except where employers have adopted a policy prohibiting the holding of elected office as a condition of employment, or where the holding of public office would be a violation of law, employers of part-time elected officials will be required to provide such employees with flexible work schedules to accommodate attendance at necessary sessions, wherever practical within the reasonable operation of the employer's business. Employers are also prohibited from exerting undue influence or pressure related to the officials' decisions and any legislation they may consider or introduce.

South Carolina

Child labor. An employer who violates any child labor law regulation is now to receive a written warning for the first offense and a fine of from 10 to 50 dollars for each subsequent offense, as determined by the commissioner of labor. The criminal penalty provision for such violations was eliminated.

Private employment agencies. Coverage of the licensing and regulatory law for

private personnel placement services was expanded to include the provision of information on employment opportunities, and specifically to include job listing services and employment information centers. No license will be issued to any applicant, owner, or manager who has been previously denied a license in the United States or its possessions or territories.

South Dakota

Labor relations. Statutory prohibitions against mass picketing, picketing by nonemployees, and picketing when no labor dispute exists were repealed. Instead, a provision was added that permits a court, after notice and hearing, to place reasonable restrictions on the number and location of pickets or other persons at any location, and to establish penalties for repeated violations involving unlawful use of force, violence, or intimidation.

Other laws. Employers must grant a temporary leave of absence, without loss of job status or seniority, to any employee performing official duty as a member of the State legislature. Payment for the leave is at the discretion of the employer.

Tennessee

Child labor. A resolution was adopted directing the State Board of Education and the State Department of Education to study the effect of job-holding and working long hours on the education of students. Suggested legislation or regulatory changes were to be submitted to the Education Oversight Committee for review by December 1, 1989.

Equal employment opportunity. A special joint legislative committee was established to conduct a review of the State's fair employment practice laws.

Labor relations. Any member or authorized agent of an employee association meeting requirements permitting payroll deduction for membership fees is to have access to State employees during, before, and after regular working hours in specified areas in all State offices, facilities, and grounds, provided there is no workplace interruption. Members or agents may distribute literature in nonwork areas and post literature on bulletin boards.

Private employment agencies. A resolution called for appointment of a legislative committee to study employment agencies for temporary services and contract employers, including the benefits, other than salary, which they offer to their employees, and the impact of the temporary work force on the overall economy of the State. A report is to be made to the 1990 general assembly.

Occupational safety and health. Laws pertaining to elevator, dumbwaiter, escalator, and aerial tramway safety and to boiler inspection, erection, and repair will now be administered by the Department of Labor, rather than the Department of Commerce and Insurance.

Plant closing. A 1988 law requiring employers who notify affected employees of plant closings and major layoffs to notify specified State officials was amended to limit application to employers of from 50 to 99 employees, instead of 50 or more. (A subsequent Federal law requires employers of 100 or more to provide 60 days' advance notice of plant closings and layoffs.) Notice of the circumstances of the closure or layoff and numbers of employees involved are now to be given to the commissioner of the Department of Labor, rather than the executive director of the Economic Cabinet Council. Upon receipt of advance written notification of a plant closing or mass layoff pursuant to the Federal Worker Adjustment and Retraining Notification Act, the commissioner will advise other specified State agencies.

Texas

Wages. A new private-sector payday law spells out employer wage payment duties; prohibits wage deductions unless court ordered, authorized by State or Federal law, or authorized in writing by the employee; establishes wage claim filing, hearing, and collection procedures; establishes an administrative penalty of up to \$1,000 for violation; and provides that a final administrative order against an employer owing penalties or wages becomes a lien on all the employer's property.

Equal employment opportunity. Coverage of the Human Rights Act's prohibition against age discrimination was extended to persons over the age of 40, instead of only those between 40 and 70. The ban on discrimination based on disability specifically excludes persons with a currently communicable disease or infection, including AIDS, that constitutes a direct threat to the health or safety of other persons or that makes the affected person unable to perform job duties. Discrimination because of disability or age between 40 and 56 years is now banned in apprenticeship, on-the-job, or other training programs.

Mandatory retirement based upon age may no longer be imposed upon tenured faculty of institutions of higher education.

Sexual harassment by public employees is now prohibited under the State's penal code.

Labor relations. The Public Utility Commission may not interfere with em-

ployee wages and benefits, working conditions, or other terms or conditions of employment that are the product of a collective bargaining agreement recognized under Federal law.

Private employment agencies. Under a new law, talent agencies engaged in obtaining employment for actors, musicians, writers, models, and other artists must obtain a certificate of registration from the Department of Licensing and Regulation. Agencies must post a \$10,000 surety bond, provide a copy of a completed contract to any artist using its services, and maintain specified records, and are prohibited from charging registration or advance fees. The department is authorized to deny, suspend, revoke, or reinstate certificates of registration, and to institute action for injunctive relief to restrain continuing violations.

Occupational safety and health. Contracts for public works construction involving trench excavation exceeding a depth of 5 feet must contain a reference to the Occupational Safety and Health Administration's standards for trench safety, a copy of any special shoring requirements, and other specified information related to trench safety.

Other laws. As part of a reorganization and functional realignment effective September 1, 1989, the Department of Labor and Standards became the Department of Licensing and Regulation. It will be governed by a Governor-appointed six-member public commission that will appoint an executive director who will serve as commissioner. The former department had encompassed both labor program functions and certain business regulatory and business/occupational licensing functions. The latter will remain with the new department, whereas the labor functions relating to child labor, minimum wage, and the payday law were transferred to the Texas Employment Commission.

Employers are now prohibited from discharging, disciplining, or otherwise penalizing an employee who complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. Employees injured because of violations of the prohibition may recover damages of up to 6 months' pay and attorney's fees. If discharged, they are entitled to reinstatement to the same employment.

Utah

Wages. It was made unlawful for an employer to withhold or divert part of an employee's wages, unless required to do so by court order or law, or authorized by the employer in writing. Nor may the em-

ployee be required to rebate, refund, or return any wages. Employers were prohibited from discharging or threatening to discharge an employee who has or is about to file a complaint or testify in any proceeding under the law. The Industrial Commission may now assess employers who fail to make required wage payments a penalty of 5 percent of the unpaid wages assessed daily until paid, for up to 20 days.

Equal employment opportunity. Discrimination in employment on the basis of pregnancy, childbirth, or pregnancy-related conditions is now prohibited under the Utah Anti-Discrimination Act.

Occupational safety and health. The Occupational Safety and Health Review Commission was abolished and its functions assumed by the Industrial Commission.

Whistleblower. The law protecting public employees from adverse personnel action if they report waste of public funds, property, or manpower, or a violation of law, or participate in an investigation, hearing, court proceeding, or other inquiry was amended to protect employees who refuse to carry out a directive that they believe violates a law, rule, or regulation. Public employers are also now prohibited from implementing rules or policies that unreasonably restrict an employee's ability to document waste of public funds, property, or manpower, or a violation of law.

Other laws. A new Employee Inventions Act makes unenforceable any employment agreement between an employee and employer that requires the employee to assign to the employer the right to any invention created by the employee entirely on his or her own time and which is not an employment invention related to the industry or trade of the employer or developed with the aid of the employer's property, equipment, facilities, trade secrets, technology, or other resources.

A Governor-appointed Privatization Policy Board was created to review whether certain services performed by existing State agencies could be performed privately at less cost. The Board will review particular requests for privatization of services and recommend privatization when demonstrably more efficient and cost effective.

Vermont

Wages. Under prior law, the State minimum hourly wage rose from \$3.65 to \$3.75 on July 2, 1989, with further increases to \$3.85 and \$3.95 scheduled for July 2, 1990, and July 2, 1991.

Maternity leave. Employers of 10 or more must grant female employees up to 12

weeks of unpaid leave during pregnancy and following childbirth. Employees may use up to 6 weeks of accrued sick or vacation leave during this period. Employment benefits must continue, but the employee may be asked to pay for the cost. Upon return from such leave, employees are entitled to reinstatement in the same or a comparable job, with the same pay, benefits, seniority, and other conditions of employment. An employee who does not return, except by reason of serious illness, must repay the value of compensation received, other than for accrued leave used.

Employment and training. Employers participating in an employment training program under contract with the Secretary of Development and Community Affairs are now to promise to employ persons, upon completion of their training, at twice the prevailing State or Federal minimum wage, whichever is greater, reduced by the value of any health benefit packages. In areas of high unemployment, the pay rate must be at least one and one-half times the minimum wage.

Other laws. Insurers, nonprofit hospital and medical service corporations, and health maintenance organizations are to offer the same group health insurance benefits to part-time employees working at least 17½ hours a week as to other employees. The insurer must offer to include the part-time employees as part of the employer's employee group, at the full rate to be paid by the employer, at a rate prorated between the employer and the employee, or at the employee's expense.

Virginia

Wages. Any employer who knowingly fails to pay wages whenever required by law will now be subject to a civil penalty, assessed by the labor commissioner, of up to \$1,000 for each violation, in addition to criminal penalties previously provided. An employer in violation will also be liable for payment of all wages due, plus interest accruing from the date the wages were due.

Child labor. Licensed State lottery agents may now employ persons age 16 or older to sell tickets at the agent's place of business, so long as the employee is supervised by the manager or supervisor in charge at the location where the tickets are being sold.

School attendance. The compulsory school attendance law was amended to require attendance to age 18 (rather than 17) effective July 1, 1990. Required attendance will not apply to any child who has obtained a high school diploma or its equivalent, or has otherwise complied with compulsory school attendance requirements.

Equal employment opportunity. Constitutional officers are prohibited from discriminating in employment because of race, color, religion, sex, or national origin, except where sex or national origin is a bona fide occupational qualification. Prior to hiring, the position must be advertised. The law is to be administered by the Council on Human Rights.

Employee testing. The Secretary of Administration was requested to examine and revise the employment policy of the Commonwealth related to infection with HIV and AIDS, in order to correct inequities and avoid creating false public perceptions concerning transmission of infection. (Current policy permits workers to seek transfers to avoid contact with persons infected with HIV.)

Worker privacy. A licensed polygraph operator may not, during a polygraph examination required as a condition of employment, ask any question concerning the sexual activities of the person being examined if the question violates State or Federal law.

Occupational safety and health. A new provision specifies that private employers have the sole authority for designating smoking and/or nonsmoking areas within the place of business, unless such designation is the subject of a written agreement between the employer and employees. Also, all institutions of higher education and all licensed hospitals have sole authority for designating smoking and/or nonsmoking areas. The provision will expire July 1, 1990.

Except for firefighters and police officers, no employee of or applicant for employment with the Commonwealth or any of its political subdivisions is to be required, as a condition of employment, to smoke on the job, or to abstain from smoking off the job.

Other laws. The Secretary of Economic Development was requested to conduct a study of the use of part-time, temporary, and contract workers by businesses and nonprofit organizations and the impact of this contingent work force on equal opportunity and wages and benefits. A report is to be made to the Governor and the 1990 legislature.

Virgin Islands

Wages. By prior law, the minimum-wage rate rose from \$3.85 an hour to \$4.25 on January 1, 1989, and to \$4.65 on January 1, 1990. Beginning January 1, 1991, and each January 1 thereafter, an indexed rate will take effect equal to 50 percent of the average private, nonsupervisory, non-agricultural hourly wage, as determined by

the Virgin Islands Wage Board for the previous November, rounded to the nearest multiple of 5 cents. The rate for minors under age 18, full-time high school students, and employees of businesses with gross annual receipts of less than \$150,000 increased from \$3.50 per hour to \$3.90 on January 1, 1989, and to \$4.30 on January 1, 1990. After January 1, 1991, the minimum rate for these workers will be 35 cents an hour below the basic minimum rate. Tipped employees in the tourist service and restaurant industries are subject to a separate law.

Washington

Wages. By prior initiative, the minimum hourly wage rate was increased from \$3.85 to \$4.25, effective January 1, 1990. This initiative also required the director of the Department of Labor and Industries to establish rates for minors under age 18. An administrative order issued April 24 and effective June 1, 1989, provides for a minimum wage for 16- and 17-year-olds equal to the adult wage rate and a rate for minors under age 16 of 85 percent of the adult rate (\$3.27 per hour, increased to \$3.61 on January 1, 1990).

Truckdrivers or busdrivers who are subject to the Federal Motor Carrier Act are now exempt from the overtime pay requirement in the State wage-hour law if their compensation system includes overtime pay reasonably equivalent to the State provision for time and one-half the employee's regular rate for work after 40 hours a week.

Hours. In filling all school positions, school and educational service districts are to consider applications from two individuals wishing to share a job and are to include a statement to this effect in all announcements of job openings.

Parental leave. Private-sector and local government employers of 100 or more, as well as State agencies, must grant up to 12 weeks of unpaid family leave in a 24-month period to care for a newborn child, an adopted child under the age of 6, or a child under the age of 18 with a terminal health condition. Such leave is in addition to leave for sickness or temporary disability because of pregnancy or childbirth. Upon return, employees are entitled to reinstatement in the same or an equivalent position. Discharge or discrimination against a person opposing any practices forbidden by the law or filing a complaint, testifying, or assisting in a proceeding is prohibited. Employers must grant leave to an adoptive parent, at the time of birth or initial placement of a child under the age of 6, under the same terms as granted to biological parents, and under the same terms

for men as for women. An employer may limit or deny family leave to up to 10 percent of the work force, designating them key personnel. Administration of the requirements is vested in the Department of Labor and Industries.

Child labor. A new law was enacted regulating employment of minors in household sales. Under the law, no child under age 16 may be employed in such work unless the Department of Labor and Industries grants a variance. Employers of 16- and 17-year-olds in such work must (1) obtain a registration certificate, (2) provide each such employee with an appropriate identification card, (3) ensure adequate supervision by a person age 21 or over during all working hours, and (4) obtain parental permission if transport to another State is required. Such minors may not be employed after 9 p.m. The law also regulates advertising to employ persons under age 21 in this work. Excluded from the law are donated services performed for various nonprofit organizations and services performed by a newspaper vendor or a person in the employ of his or her parent. The Department of Labor and Industries is to adopt rules to implement the act.

The Department of Labor and Industries is to establish an advisory committee on agricultural labor to develop recommendations for rules regarding labor standards for agricultural employment of minors. Based on these recommendations, the director of the department is to adopt rules, by July 1, 1990, addressing the employment of minors.

Labor relations. The Public Employees' Collective Bargaining law was amended to cover district court employees, except for personal assistants to district judges or court commissioners.

Occupational safety and health. New sections were added to the Worker and Community Right-to-Know Act regulating the storage and use of agricultural pesticides. Employers are now to maintain a workplace pesticide list, by crop, for each pesticide used, and make newly assigned employees aware of the list before working with pesticides. After July 1, 1990, warning signs are to be posted in fields recently treated with pesticides.

Other laws. A child care partnership was established to increase employer assistance to and involvement in child care and to foster cooperation between business and government to improve child care services. The partnership is a subcommittee of the previously established child care coordinating committee, which now includes a representative of the Department of Labor and Industries. The partnership will review and propose statutory and administrative

changes to encourage employer involvement in child care, and study liability insurance issues relating to employer-assisted child care. The office of the child care resources coordinator was established within the Department of Social and Health Services and, among other duties, is to assist in the creation of local child care resource and referral agencies and provide technical assistance to employers regarding child care services.

The Business Assistance Center in the Department of Commerce and Economic Development is to prepare and disseminate information on child care options for employers, such information also to be included as much as possible in routine communications to employers from certain other State agencies, including the Department of Labor and Industries. A fund was established to guarantee loans for the start or improvement of child care facilities. Economic development projects that contain provisions for child care will be given priority in evaluating applications for a loan.

West Virginia

Wages. The labor commissioner may now directly issue a cease-and-desist order requiring a defaulting employer to post a wage payment bond or cease further operation in the State. Such orders are issued to employers engaged in construction work or the severance, production, or transportation of minerals in the State for less than 5 years who have not posted the required wage payment bond. It is now a felony to threaten any representative of the Department of Labor or attempt to prevent any such representative from performing duties in connection with the posting of the bond or the issuance of a cease-and-desist order in the event of violation.

The prohibition in the Wage Payment and Collection law against termination of employees for time lost as volunteer firefighters fighting fires was amended to be applicable also to time lost due to cleanup of hazardous or toxic materials and to emergency medical service personnel for time lost responding to medical emergencies. Time lost for such activities may be charged against the employee's regular pay.

Parental leave. Under a new Parental Leave Act, permanent employees of the State and of county boards of education who have worked for at least 12 consecutive weeks are entitled to up to 12 weeks of unpaid family leave during any 12-month period for the birth or adoption of a child, or for the serious illness of a child, spouse, or parent. During such leave, the employer

is to continue group health insurance coverage for the employee at the employee's expense. Upon return, employees are entitled to reinstatement in the position they left. A child is defined as a son or daughter under age 18, or age 18 or older if incapable of self-care because of mental or physical disability. Employers are to post a notice in a form approved by the Department of Labor setting forth an employee's rights under this article.

Occupational safety and health. The Community Right-to-Know law was repealed and an Emergency Response and Community Right-to-Know Act enacted. The new act enables the State to fulfill its obligations under the Federal Emergency Planning and Community Right-to-Know Act of 1986. The law provides for the creation of an Emergency Response Commission to supervise the preparation and implementation of comprehensive emergency response plans for each designated emergency planning district.

Other laws. Under a reorganization of the executive branch of State government, several agencies and boards were transferred and incorporated into seven newly established departments. The Department of Labor, the Minimum Wage Rate Board, the Labor Management Relations Board, the Labor Management Council, the Public Employees Occupational Safety and Health Advisory Board, the Board of Coal Mine Health and Safety, and the Coal Mine Safety and Technical Review Committee were among those agencies transferred and incorporated into a new Department of Commerce, Labor and Environmental Resources. The Human Rights Commission, the Office of Workers' Compensation Commissioner, the Workers' Compensation Appeal Board, and the Department of Employment Security were transferred and incorporated into a new Department of Health and Human Resources.

Wisconsin

Wages. The State basic minimum-wage rate was increased by administrative rule from \$3.35 to \$3.65 per hour effective July 1, 1989. The rate for minors under age 18 was increased from \$3.00 to \$3.30, the rate for tipped employees from \$2.01 to \$2.19 (from \$1.71 to \$1.98 for minors), and the rate for agricultural workers from \$3.15 to \$3.45 (from \$2.80 to \$3.10 for minors). A rate of 20 cents less than these rates (12 cents less for tipped employees) will be applicable to probationary employees who have worked for an employer not more than 120 days within a 3-year period. The legislative Joint Committee for Review of Administrative Rules has chal-

lenged the provision for a 120-day probationary period.

A legislative attempt to increase the minimum wage, but without a probationary period, was vetoed by the Governor.

Plant closings. The law requiring employers to provide 60 days' advance notice of a business closing or mass layoff to affected employees, collective bargaining representatives, the Department of Industry and Human Relations, and the local municipality, was amended to cover employers of 50 or more instead of 100 or more. The law applies if 25 or more are affected by a business closing, or, in the case of a mass layoff, if the greater of 25 percent of the work force or 25 employees, or at least 500 employees, are involved. If an employer fails to give timely notice to an affected employee, the employee may recover wages and the value of benefits for a specified recovery period. Failure to give timely notice to the local municipality will result in a surcharge of \$500 per day.

Wyoming

Wages. A new provision bars any employer from withholding money from an employee's wages for accepting a dishonored check on behalf of the employer, unless the employer has provided written instructions as to procedures for accepting checks and the procedures were not followed, or the employer reasonably believes that the employee has been party to a fraud or other wrongdoing in taking a dishonored check.

Worker privacy. Employment contracts, working agreements, or other documents setting forth the terms and conditions of employment of public officials and employees are not considered part of a personnel file and are available for public inspection.

Preference. The commissioner of labor and statistics is to deny or revoke a resident contractor's certificate of residency if it is determined that the contractor is using the certificate primarily to obtain public contract bidding preference benefits for a nonresident.

Other laws. Under a reorganization of the State government, a new consolidated Department of Employment was created, combining several formerly separate agencies and labor programs, including the Department of Labor and Statistics, the Fair Employment Commission, the Worker's Compensation Division, the Occupational Health and Safety Commission and Administration, the State Mine Inspector, the Job Training Administration, and the Employment Security Commission. A plan for the organization of the new department is to be implemented by July 1, 1990. □

Footnotes

¹ The legislature did not meet in Kentucky, and Alabama and the District of Columbia did not enact significant legislation in the fields covered by this article. Information on Guam, Puerto Rico, and the Virgin Islands was not received in time to include in the article.

² Separate articles on unemployment insurance and workers' compensation, which are not within the scope of this article, are published in this issue of the *Monthly Labor Review*.

³ Alaska, California, Connecticut, the District of Columbia, Hawaii, Iowa, Maine, Minnesota,

Oregon, Puerto Rico (office, supervisory, and skilled employees in the construction industry), Rhode Island, the Virgin Islands, and Washington.

⁴ Prevailing wage repeal efforts failed in Illinois, Maryland, New Mexico, Oklahoma, Texas, and Wisconsin. Efforts to enact laws failed in Florida, Iowa, and Kansas.

⁵ Alaska, Arkansas, California, Connecticut, Delaware, Hawaii, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan,

Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Texas, Washington, West Virginia, Wisconsin, and Wyoming. Guam and the Virgin Islands also have such laws.

⁶ California, Connecticut, Indiana, Louisiana, North Carolina, Ohio, South Carolina, Tennessee, and Texas.

⁷ Alaska, Arizona, Iowa, North Carolina, Oregon, and Utah.

'The fate of a Polish trade unionist'

One easily finds friends when one is successful. But when you are in trouble, there is suddenly hardly anybody to be seen. But at least you can know for sure that those who stayed by you are the ones you can rely on. And this is the kind of friendship you value most even when you are again surrounded by new allies and sympathizers attracted by your new success.

Sometimes we feel as if we are swimming chained hand and foot, trying to summon all our energy just to make it safely to the shore. And on the shore there is a cheering crowd of people who offer us their admiration instead of simply throwing a life-belt.

Such is the fate of a Polish trade unionist—he has to launch a publicity campaign for private entrepreneurship. I would not like anyone to think that I made an about face. Nowadays in Poland the defense of workers is not based on demanding more money, which in our country has no real value and for which one cannot buy anything. At present defending workers means building a normally functioning economy that would allow increasing production and letting people earn more money. Such an economy can be only built together with the trade unions; it cannot be built against them.

Within the last few months we have achieved more than we could have hoped for. We have a legally operating free trade union; we are strongly represented in Parliament and even in the government. All this has been achieved through our own efforts, but also thanks to an international solidarity with Poland. Today, when we are threatened by recession and inflation rather than police repressions, we need this international solidarity no less than in the past. Therefore, I am addressing my appeal to you, our friends who have proved to be reliable in the most difficult of times: Help Poland make her way to the shore of freedom. Help realize this hope that finally has come to our country. Uphold your solidarity with Solidarity. Let the road of hope—embarked upon by millions of Poles on their way to America—be a road of friendship of two free nations: the Polish and the American.

—LECH WALESIA, Polish Solidarity leader,
in an address to the AFL-CIO Convention,
Washington, DC, Nov. 14, 1989.
