

State labor legislation enacted in 1993

Recent legislative trends continued, as significant laws were enacted in a wide array of labor standards areas, including child labor, minimum wage, drug and alcohol testing, and employee leasing

Richard R. Nelson

State labor legislation enacted in 1993 covered a wide variety of employment standards and included several significant laws.¹

Trends continued with legislation addressing recent issues concerning restrictions on employee leasing, regulation of drug, alcohol, and genetic testing, and prohibitions on sexual harassment and discrimination due to sexual orientation.

Legislation also was enacted in more traditional areas, including increases in State minimum wage rates, restrictions on child labor, and prohibitions on discrimination because of disability. State legislation concerning parental leave, which had been adopted in several States during the last few years, was limited mostly this year to legislation that made previous laws conform to Federal legislation enacted early in 1993. In addition, four States authorized the State labor departments to enter into reciprocal agreements with the labor department or corresponding agency of other States to collect wage claims and judgments.

This article does not cover occupational safety and health, employment and training, labor relations, employee background clearance, or economic development legislation. Separate articles on unemployment insurance and workers' compensation are published in this issue of the *Monthly Labor Review*.

Wages. Minimum hourly wage rates were increased by legislation in Arkansas, the District of Columbia (for most work-

ers), New Mexico, and Washington, and as the result of previous legislation in Hawaii and North Carolina. The District of Columbia established a single wage rate replacing nine separate occupational wage orders. Rates higher than the Federal \$4.25 hourly rate are in effect January 1, 1994 in Alaska, Connecticut, the District of Columbia, Hawaii, Iowa, New Jersey, Oregon, Rhode Island, the Virgin Islands, and Washington.

Maine changed its permissible tip credit, which permits employers to use tips received by employees to meet a portion of the minimum wage, from a dollar amount to a percentage, and repealed the provision for a subminimum student rate. Utah will no longer permit the payment of a lower rate to adult learners.

Legislation in Colorado, Louisiana, North Dakota, and Texas made overtime pay policies for various public sector employees conform to overtime requirements of the Federal Fair Labor Standards Act.

Significant changes were made in the prevailing wage laws of six States: Alaska, Connecticut, Missouri, Montana, Nevada, and Texas. The changes were primarily to revise rate determination procedures, increase penalties, or strengthen enforcement. In Connecticut, making a false statement on a certified payroll will now be a felony and failure to pay the prevailing rate of wages will be larceny. In Nevada, certain unsuccessful bidders may bring civil action against a contractor for damages suffered as a result of not being awarded the contract if the contractor fails to make required payments.

The labor departments in Colorado, Connecticut, Maine, and Texas joined 22 States that already have authority to enter into

Richard R. Nelson is a State standards adviser in the Division of State Standards Programs, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor.

reciprocal agreements with the labor department or corresponding agency in other States to collect wage claims and judgments. Colorado and Maine also permit reciprocal agreements in other specified labor standards.

Other wage payment and collection measures included changes in frequency of payments in Nevada and New York; requirements for furnishing payroll information to employees in New Mexico and Rhode Island; authority to assess civil money penalties in Tennessee; and permitting Maryland employees to take action against an employer who fails to pay wages within 2 weeks of the due date. Among amendments strengthening enforcement of the Texas wage payment law, the Employment Commission was authorized to require reports, conduct investigations, administer oaths, issue subpoenas, and bring action in court to enforce its final orders.

Legislation in Massachusetts transferred all State wage enforcement from the Department of Labor and Industries to the Attorney General.

Family issues. The Federal Family and Medical Leave Act of 1993 was enacted on February 5 and took effect for most employers on August 5. The law entitles eligible private and public sector employees to take up to 12 weeks of unpaid, job-protected leave in any 12 months for the birth or placement of a child for adoption or foster care; to care for a spouse, child, or parent with a serious health condition; or for the employee's serious health condition. A covered employer is required to maintain group health insurance coverage for an employee who uses this leave and must restore the employee to his or her original job, or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions.

Several State parental leave bills that had been introduced were withdrawn or failed to move through the legislatures upon passage of the Federal legislation. California amended its parental leave law to conform to most provisions of the Federal law; a provision that would have terminated administration and enforcement of the Washington family leave law upon the effective date of any Federal law was repealed; and implementation of the Hawaii law in the private sector was delayed until July 1, 1994. The Maryland law applicable to State employees was amended to make certain provisions conform with the Federal law; and Nevada adopted a law applicable to State employees.

Illinois and North Carolina adopted laws requiring employers to grant employees leave for participation in their children's school activities. A Utah law requires employers to grant time off for parents to accompany their children to juvenile court appearances.

Child labor. Child labor was one of the most active areas of labor legislation in 1993 with laws enacted in several States. Many of these laws followed recent trends to strengthen enforcement authority and penalty provisions, to restrict hours of employment, or to prohibit additional hazardous occupations.

Montana adopted a comprehensive law that grants rulemaking authority to the Labor Department, sets 14 as the minimum age for employment, establishes working hours for 14- and 15-year-olds generally conforming to Federal standards, and adopts prohibited hazardous occupations for youths

between 14 and 17 years old and permitted occupations for 14- and 15-year-olds similar to those under Federal law. Daily, weekly, or night work hours for minors under 16 also were made to conform to Federal standards in Louisiana and North Dakota.

The Louisiana and Maine legislatures gave new rulemaking authority to the State labor departments, and the departments in Tennessee and Texas were authorized to assess violators with civil money penalties. Illinois and North Dakota youths under age 16 were barred by legislation from occupations that require the use or carrying of a firearm or any other weapon, and occupations involving the handling or storage of blood, blood products, body fluids, and body tissues. North Dakota also prohibits youths under age 16 from working in occupations in connection with medical or other dangerous wastes, and door-to-door sales.

Minnesota acted to restrict the working hours of 16- and 17-year-old high school students.

Restrictions were eased in California and Maine for certain minors who will now be permitted to work longer hours, in Virginia where the minimum age for work in agricultural hazardous occupations was reduced, and in Louisiana, New Hampshire, North Carolina, and Oregon where restrictions were modified on work around alcoholic beverages.

Among other provisions, employment certificates in North Dakota will now be issued, and may be revoked, by the minor's parent; parents in Illinois are to receive copies of employment certificates and may request revocation if they determine that it is in the best interests of the child; and minors in Tennessee are to be provided a 30-minute unpaid break or meal period.

Equal employment opportunity. Again this year, a majority of State legislatures enacted measures to ban various forms of employment discrimination. A first-time Civil Rights Act was adopted in Arkansas, which includes a ban on employment discrimination because of race, religion, ancestry or national origin, gender, or disability. Minnesota continued a recent trend by prohibiting discrimination on the basis of sexual orientation.² Washington eliminated the upper age limit in age discrimination provisions.

Discrimination because of disability was the single most active area of legislation. Among these provisions, a law prohibiting this form of discrimination was enacted in Louisiana; employers in Mississippi, Nevada, and Texas are to make reasonable accommodation to known physical or mental limits; and provisions of the Nebraska law generally were made to conform to the Federal Americans with Disabilities Act.

California, Illinois, Nebraska, Tennessee, and Vermont continued recent trends attempting to eliminate sexual harassment in the workplace. In addition, the District of Columbia continued the trend to prohibit discrimination due to the use of tobacco or tobacco products, and Montana prohibited discrimination because of the use of any lawful product outside the workplace during nonworking hours.

Illinois and Kansas broadened the list of unlawful forms of discrimination to include bias on the basis of military status; the District of Columbia made it unlawful for an employer to refuse to make a reasonable accommodation for an employee's religious observance by permitting the employee to make up

work; and Texas prohibited the discriminatory use of test scores for employment purposes.

Employee testing. State lawmakers showed renewed interest in drug and alcohol testing of employees. Illinois and Oklahoma permit testing of applicants or employees provided certain conditions are met, and more limited laws in North Dakota and Virginia allow school boards to require drug and alcohol testing of school bus drivers.

A law in Oregon further restricts the use of genetic testing in employment decisions.

Employee leasing. Employee leasing continued as an emerging issue in legislatures as Nevada, New Mexico, Oregon, South Carolina, Texas, and Utah enacted laws requiring licensing or otherwise regulating these firms.

Preference. Hawaii, Indiana, and Missouri adopted laws granting resident bidders a preference over nonresidents in bidding on public contracts, while a few other States modified preference laws, and Arkansas repealed its preference law.

Whistleblowers. North Dakota adopted a whistleblower law of general application protecting from employer reprisal em-

ployees who report illegal activities. Georgia, Nebraska, and South Dakota adopted whistleblower laws protecting State employees, while Louisiana adopted a law of limited application related to insurance companies, Pennsylvania focused on public utility employers, and Rhode Island did so for health care facilities.

Other legislation. Among other developments, Tennessee employees are to receive a break or meal period if scheduled to work 6 consecutive hours; employers in Kansas are prohibited from discharging a permanent employee because of jury duty; a polygraph examiners law was reenacted in Mississippi; and Kansas, Nebraska, and North Carolina will provide paid leave for State employees who are American Red Cross certified disaster service volunteers.

In a reorganization of the Nevada government, the former Department of Industrial Relations and the State Labor Commission were among the agencies incorporated into a Department of Business and Industry. In South Carolina, a Department of Labor, Licensing and Regulations will be created that includes the former Department of Labor.

The following is a summary, by jurisdiction, of labor legislation enacted in 1993.

Alaska

Wages. State law now exempts from the State Wage and Hour, Employment Security, and Workers' Compensation Acts taxicab drivers who are compensated exclusively by customers, whose relationship with permit owners, operators, and dispatch companies is based solely on a contracted flat fee payment, and whose hours or locations of work are not restricted. Lawmakers repealed the exemption from overtime pay requirements for employees of firms engaged in the business of operating taxicabs.

The prevailing wage law was amended, establishing the current prevailing rate of wages issued at least 10 days before the final submission of bids as the prevailing wage rate for public construction projects. The established rate is to remain in effect for the life of the contract or for 24 calendar months, whichever is shorter. At the end of the initial 24-month period, if new wage determinations have been issued, the latest wage determination will take effect for the next 24-month period or until the contract is completed, whichever occurs first.

Preference. Employment preferences will apply to projects undertaken as part of a new capital project matching program for municipalities and unincorporated communities. Preferences are to be given to State residents who reside in zones of underemployment and to economically disadvantaged minority and female residents.

Other laws. An employer who discloses information about the job performance of a current or former employee, upon the request of a prospective employer or the employee, will be presumed to be acting in good faith. The employer may not be held liable for the disclosure or its consequences unless lack of good faith is demonstrated by a preponderance of the evidence. Such evidence includes disclosure of information in violation of a civil right of the employee or a showing that the employer or former employer recklessly, knowingly, or maliciously disclosed false or deliberately misleading information.

Arizona

Agriculture. An Agricultural Employment Relations Act was approved replacing one that terminated through sunset legislation. The law, under which agricultural employees have the right to form, join or assist labor organizations, to bargain collectively, engage in lawful concerted activities, or to refrain from any and all of these activities, is virtually identical to the earlier one.

Equal employment opportunity. The Division of Developmental Disabilities in the Department of Employment Security is to administer a family support program to provide services and assistance to families with members who have a developmental disability. Among the goals of the program is to provide support at work and promote income producing work that is measured through improvements in income level, employment status or job advancement, or work that contributes to a household or community.

Arkansas

Wages. The State minimum wage increased from \$4.00 to \$4.15 per hour on August 1, with an additional increase to \$4.25 scheduled for July 1, 1994.

Child labor. Children 12 years and older may be employed to hand harvest short season crops, when school is not in session, provided that written parental consent has been obtained by the employer and an employment certificate has been issued by the Director of the Department of Labor. In addition, only approved pesticides or other agricultural chemicals may be used on the crop and the pesticides or other agricultural chemicals must be applied and used properly. The director of the Department of Health must establish a list of approved pesticides and other agricultural chemicals deemed safe for the occupational exposure of 12- and 13-year-olds engaged in this work, and safe reentry times for the children.

The child labor law was amended to exempt from work permit requirements those minors 14 years and older who are employed outside of school hours in seasonal agricultural labor involving the hand planting, harvesting, grading, sorting, or hauling of crops. Restrictions on daily and weekly hours and nightwork will still apply.

Equal employment opportunity. A Civil Rights Act was adopted, prohibiting discrimination in employment by employers of nine or more employees, public accommodations, property and credit transactions, and the right to vote. The law bars discrimination based on race, religion, ancestry or national

origin, gender, or the presence of any sensory, mental or physical disability (disability does not include compulsive gambling, kleptomania, or pyromania, use of illegal drugs, or alcoholism). An individual affected by employment discrimination may initiate a civil action. The court is authorized to issue an order prohibiting the discriminatory practice and provide affirmative relief, award back pay, interest, and the cost of litigation and reasonable attorney fees. Victims of intentional employment discrimination also may be entitled to recover compensatory and punitive damages.

The law does not apply to employment by a religious organization. An employer may refuse to accommodate the religious observance or practice of an employee or prospective employee if the employer can not make such an accommodation without undue hardship to the business.

The legislature directed State agencies, boards, commissions, institutions of higher education, and constitutional officers to adopt and pursue comprehensive equal employment hiring programs. A report on progress is to be made to the Legislative Council twice a year.

Preference. Legislators repealed a law granting State resident bidders a 3-percent preference over nonresidents in bidding on public works construction contracts.

California

Wages. Specified employees may receive, in lieu of overtime pay, compensating time off at a rate of at least 1-1/2 hours for each hour worked that otherwise requires overtime compensation. Such compensating time off must follow a written agreement between the employer and employees or their representative; must be requested in writing by the employee in lieu of overtime pay; and must involve employees scheduled to work no more than 40 hours in a week. Employees may accrue no more than 240 hours of compensating time off, after which overtime compensation must be paid. Employees must be permitted to use such accrued time in a reasonable period following their request, and must be paid for any accrued time upon termination of employment. Specifically excluded from the compensating time-off provisions are employees in agriculture and handling or processing agricultural products, public housekeeping and amusement and recreation industries, and the manufacturing industry.

Family issues. Major amendments to the State family and medical leave law made most provisions conform to the Federal law. Significant changes that make both laws

comparable include a provision that entitles eligible employees to leave for their own serious health condition, and others regarding the amount of leave, employee eligibility, and definitions of serious health conditions and health care providers.

Other changes in the State law resulted in comparable standards with Federal provisions regarding the key employee exception under the law, requirements for maintenance of health benefits during leave, and substitution of paid leave. A remaining major difference between the two laws is that under California law, women are entitled to up to 4 months pregnancy disability leave in addition to the 12 weeks family and medical leave otherwise permitted.

Child labor. Minors 15 years of age or younger employed in the entertainment industry who were restricted to the same weekly and nightwork hours as minors of this age in other occupations will be permitted to work additional hours. The law allows them to work 48 hours a week rather than 40; begin work at 5 a.m. rather than 7 a.m.; and work until 10 p.m. before school days and 12:30 a.m. before nonschooldays (the former limit was 7 p.m. except 9 p.m. from June 1 through Labor Day).

Equal employment opportunity. The Fair Employment and Housing Act prohibits harassment of an employee. The Act was amended to explicitly define harassment as including sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions.

By August 1, 1994, the Commission on Peace Officer Standards and Training is to develop complaint guidelines to be followed by city police departments, county sheriffs' departments, districts, and State university departments for peace officers who are victims of sexual harassment in the workplace. Beginning January 1, 1995, the basic training course for law enforcement officers is to include instruction on sexual harassment in the workplace, including the definition and illegality of sexual harassment and the complaint process, legal remedies, and protection from retaliation available to victims of sexual harassment. Officers who have received their basic training before January 1, 1995, are to receive supplementary training on sexual harassment in the workplace by January 1, 1997.

Whistleblowers. A law prohibiting disciplinary action against whistleblowers was amended to explicitly include among the prohibited disciplinary actions firing an employee. This protection was extended to local government employees who provide evidence of gross mismanagement or a sig-

nificant waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Other laws. Among provisions relating to employee health insurance, a section was added to the labor code specifying that employers must give eligible employees an outline of coverage or similar explanation of all benefits provided under employer-sponsored health coverage. Employers also are to provide employees, upon termination, notification of continuation, disability extension, and conversion coverage options for which the employee may remain eligible after employment terminates.

Colorado

Wages. Statutory provisions regarding overtime pay for State employees were repealed. The State Personnel Director is to adopt procedures to insure that the State personnel system is in full compliance with the Federal Fair Labor Standards Act, including a definition of the standard workweek, guidelines for determining eligibility for overtime compensation and for exempting executive, administrative, professional, and outside sales employees from the overtime provisions of the Federal law.

Among other changes, the wage payment law was amended to list lawful charges or indebtedness for permissible deductions from employee wages. Included are items required by law, deductions for loans or advances provided by an employer to an employee stipulated in a written agreement, deductions for hospitalization and medical insurance, savings plans, charities and similar deductions authorized by an employee, and deductions to cover the replacement cost of a shortage due to theft by an employee.

Inmate labor. Inmates are to be paid at least the Federal minimum wage for work performed in the production of goods or services in facilities owned or leased by the Department of Corrections. The provision is part of a law authorizing the department to enter into agreements with private persons or entities for the use of inmate labor. Such wages will be paid to the department and held in trust for the inmate until paroled or discharged from custody. Deductions will be permitted to defray costs of the inmate's confinement, for payments for the support of the inmate's dependents, and for crime victim compensation.

Other laws. The Director of the Division of Labor was authorized to enter into reciprocal agreements with other States and governmental entities to enforce laws under the Director's jurisdiction.

Connecticut

Wages. Among several changes made in prevailing wage and wage payment provisions, most increase the penalties for violations or strengthen enforcement. The prevailing wage law was amended to require public works contractors to submit certified payrolls to the contracting agency weekly with a signed statement that such records are correct and that the prevailing wage law requirements have been complied with. Making a false statement on a certified payroll is a felony and failure to pay the prevailing rate of wages will be considered larceny. Dollar penalties for failure to pay wages due were increased substantially, and the labor commissioner also was given authority to seek civil penalties with amounts recovered to be used by the labor department to employ additional enforcement personnel.

The labor commissioner also was authorized to enter into reciprocal agreements with the labor department or corresponding agency of any other State to collect claims and judgments for wages based on wage payment violations by out-of-State employers.

Other amendments reduced the possible debarment period for violation of the prevailing wage law from 5 years to 3, and prohibited retaliation against an employee for filing a claim or beginning any investigation or proceeding or testifying in any such proceeding.

The law requiring elimination of wage inequities in State service, including those based upon sex, was amended to delay the date all such inequities are to be eliminated, from June 30, 1994, to July 1, 1995.

Other laws. The Commissioner of Transportation and the Commissioner of Public Works may disqualify contractors from State contracts for up to 2 years. Causes for disqualification from bids, application, or participation as a subcontractor include conviction of or entry of a plea of guilty or *nolo contendere* for or admission to commission of a criminal offense as an incident to obtaining a public contract; violation of any State or Federal law for embezzlement, theft, forgery or other offense related to a lack of business integrity; violation of any antitrust, collusion, or conspiracy laws to obtain or attempt to obtain a public or private contract or subcontract; and willful failure to perform in accordance with the terms of one or more public contracts. Before disqualifying a contractor, the attorney general must be consulted and the contractor is entitled to a hearing.

Delaware

Other laws. As required for compliance with the Federal 1990 Clean Air Act, an Em-

ployee Commute Options Act was adopted that requires employers to devise plans to increase the occupant/vehicle ratio of commuter vehicles traveling to work. The law is required for States with areas failing to meet air quality standards. Mitigation methods may include use of carpools, vanpools, transit or commuter buses, rail, bicycling, walking, telecommuting, and compressed work weeks.

District of Columbia

Wages. On October 1, the minimum wage rate for the District of Columbia was established at the Federal minimum wage of \$4.25 per hour plus \$1. This rate replaces separate rates established by several industry wage orders (a rate of \$5.45 per hour for the laundry and dry cleaning industry is grandfathered in until the general rate is increased to exceed \$5.45). Employers of tipped employees may claim a credit against the minimum wage of up to 55 percent.

Previously, the tip credit was expressed in various monetary amounts per hour in the wage orders for occupations having tipped employees. Authority to make and revise regulations was transferred from the city council to the mayor, and the Minimum Wage Board was abolished.

Equal employment opportunity. A December 1992 amendment to the Human Rights Act made it an unlawful discriminatory practice for an employer to refuse to make a reasonable accommodation for an employee's religious observance.

A reasonable accommodation would allow the employee to make up work time lost due to such observance, unless such an accommodation would cause the employer undue hardship. An accommodation would permit the employee to work during a scheduled lunch time or other work breaks; before or after or outside usual working hours; during paid vacation days; during another employee's working hours as part of a voluntary swap; or in another manner that is mutually agreeable to the employer and employee. An employee is to give the employer at least 10 working days advance notice of the need for an accommodation.

It will be unlawful employment discrimination to refuse to hire or employ an applicant for employment, or discharge or otherwise discriminate against an employee with respect to compensation or any other term or condition of employment, for use of tobacco or tobacco products. This provision will not prevent an employer from establishing or enforcing workplace smoking restrictions that are required or permitted by law, or establishing tobacco use restrictions or prohibitions that constitute *bona fide* occupational qualifications.

Florida

Agriculture. The State Legislature established a Task Force on Farmworker Housing Compliance comprised of several State agencies, including the Department of Labor and Employment Security, to request the participation of appropriate Federal agencies and to use the authority of participating agencies to enforce farmworker housing laws and eliminate habitual and repeat offenders of such laws and those pertaining to farmworker employment and transportation. It will now be a felony to operate migrant housing without providing adequate personal hygiene facilities, lighting, sewage, and garbage disposal, and without the required permit from the Department of Health and Rehabilitative Services. In addition to other penalties, buildings, personal property, and land used in connection with a felony violation of the migrant housing provisions may be seized and forfeited. Retaliation against migrant housing residents for filing a complaint or exercising any rights under the law is prohibited.

Worker privacy. The law providing for inspection and examination of public records was amended to add to the list of records not subject to public inspection all records relating to an allegation of employment discrimination in which the alleged victim chooses not to file a complaint and requests that records of the complaint remain confidential; medical information pertaining to a prospective, current, or former officer or employee of an agency which, if disclosed, would identify that officer or employee; and investigatory records of the chief inspector general or agency inspector general which are related to the investigation of an alleged, specific act or omission or other wrongdoing, with respect to an identifiable person or group of persons, until after the investigation has been completed or until such information is provided to the Governor or an agency head or 60 days from the start of the investigation, whichever occurs first.

Whistleblowers. Among amendments to the whistleblower law applicable to public agencies, complaints alleging a prohibited employment practice resulting from retaliation may now be filed by former employees of, and applicants for employment with, a State agency. Also, otherwise confidential information may be disclosed by the Chief Inspector General or agency inspector general if it is determined that disclosure is absolutely necessary to prevent a substantial and specific danger to the public's health, safety, or welfare, or to prevent the imminent commission of a crime.

Other laws. Leave of absence for public employees who are members of the Florida National Guard will now be extended from 17 days to up to 30 at any one time without loss of pay, time, or efficiency rating while engaged in active State duty.

Georgia

Equal employment opportunity. An Older Worker Task Force is to be established to study the needs, issues, and problems of older workers in the State. Attention is to be given to determining interventions necessary to eliminate age discrimination and promote retraining and reemployment of older workers.

Whistleblowers. A whistleblower's protection law prohibits most State executive branch agencies from threatening, taking, recommending, or approving any adverse personnel actions against a public employee because the employee made a complaint or disclosed information concerning the possible existence of any fraud, waste, and abuse in State programs or operations. Protection does not apply to the knowing disclosure of false information. Disclosure of the identity of such employees is prohibited unless such disclosure is necessary and unavoidable during an investigation.

Other laws. A hospital, health care institution, school, public health facility, or child care center employer or employee who discloses any information about a current or former employee's job performance or any illegal activities, upon request by a prospective employer or the person seeking employment, will be presumed to be acting in good faith and will be immune from civil liability because of such disclosure. Immunity is available for such disclosure unless a preponderance of evidence shows a lack of good faith, and unless the information was disclosed in violation of a nondisclosure agreement or the information disclosed was considered confidential according to Federal, State, or local statute, rule, or regulation.

Hawaii

Wages. As provided for in previous legislation, the State Legislature increased the minimum wage from \$4.75 to \$5.25 per hour, which took effect on January 1, 1993.

Resolutions were adopted asking the Office of the Auditor to examine whether the State prevailing wage law is being enforced. The study is to include the oversight roles of the Department of Labor and Industrial Relations and other agencies, actions that should be taken to prevent law violations, and other stipulations.

Family issues. Implementation of the State family leave law in the private sector was delayed from January 1, 1994, to July 1, 1994. (Public sector coverage has been in effect since January 1, 1992.) The Director of the Department of Labor and Industrial Relations is now authorized to adopt rules for the enforcement and administration of the Act.

Equal Employment Opportunity. A resolution was adopted requesting employers in the State to respect their employees' legal lifestyle activities. These are defined as legal recreational activities, use or enjoyment of lawful consumable products, or engagement in political activities, or membership in a union or bargaining unit off the premises of the employer during nonworking hours.

Worker privacy. The Uniform Information Practice Act was amended to clarify the permissible disclosure of information related to State employee misconduct resulting in an employee's suspension or discharge. Such information includes the name of the employee, the nature of the misconduct, and the disciplinary action taken by the agency.

Preference. State agencies are now required to give preference to contractors on public works projects who have filed and paid State taxes for at least 2 years before submitting a bid, provided the bid is not more than 5 percent higher than the bid of an ineligible competing contractor and the bid is \$5 million or less. On bids of more than \$5 million, preference is to be given to contractors who have filed and paid State taxes for at least 4 years before submitting a bid, provided the bid is not more than 5 percent higher than the bid of an ineligible competing contractor. In cases in which two or more contractors are eligible for the preference, the contractor with the lowest bid is to be awarded the contract. The preference provisions will not apply if they preclude the receipt of Federal funds.

Resolutions were adopted urging State agencies to give preference in awarding contracts for printing, binding, and stationery work to local businesses who pay employees the prevailing wage.

Idaho

Equal employment opportunity. State lawmakers approved an exception to the rule of the Personnel Commission, requiring open competitive merit examinations for classified positions, permitting agencies to hire qualified persons with disabilities directly into entry level and promotional probation positions. Such persons must be certified as to eligibility by the Division of Vocational

Rehabilitation, Idaho Commission for the Blind, or the Industrial Commission with the concurrence of the personnel commission, and will be subject to a 6-month probationary period.

Illinois

Wages. Employers who would otherwise be required to pay overtime compensation for work in excess of 40 hours in any workweek may now employ workers for an additional 10 hours in any workweek without paying overtime. This is permissible if, during the additional time, the employee is receiving remedial education that is provided to employees who lack a high school diploma or educational attainment at the 8th grade level; is designed to provide reading and other basic skills at an 8th grade level or below; and does not include job specific training. This provision is identical to one in the Federal Fair Labor Standards Act.

An employer may not discharge, discipline, or otherwise discriminate against an employee or employee representative because the employee or representative has filed or instituted any proceeding under the prevailing wage law, or has testified or is about to testify in any proceeding resulting from the administration of the law, or offers any evidence of violation. An employee or representative charging a violation may apply to the Director of Labor for a review of the adverse action. As deemed appropriate, the department is to investigate the complaint, schedule a hearing, and make factual findings. If an investigation finds that a violation occurred, the department is to require action to abate the violation, including rehiring or reinstatement to the former position and compensation for time unemployed.

The section of the Minimum Wage and Overtime Law providing for civil action for underpayment of wages was amended to specify that the Director of the Department of Labor may promulgate rules for the collection of penalties assessed, and to provide that the amount of a penalty may be determined and be assessed in an administrative hearing. Penalties are to be imposed in cases where an employer's conduct is proven to be willful. In any such action, the Attorney General is to represent the director.

Hours. The law requiring employers to permit employee meal periods of at least 20 minutes was amended to exempt employees who monitor individuals with developmental disabilities or mental illness, or both, and who are required to be on call during an entire 8-hour work period. However, these employees must be allowed to eat a meal during the work period while continuing to monitor those individuals.

Family issues. A School Visitation Rights Act was adopted in December 1992. The law requires public and private sector employers of 50 or more workers to grant employees paid or unpaid leave of up to 8 hours during any school year (no more than 4 hours to be taken on any given day) to attend school conferences or classroom activities, related to the employee's child, if they cannot be scheduled during nonwork hours.

Child labor. Among changes in the child labor law, several occupations were added to the list of those prohibited for minors under age 16. These include construction work, roofing and excavation operations, security positions or any occupations that require the use or carrying of a firearm or other weapon, and occupations that involve the handling or storage of blood, blood products, body fluids, or body tissues. Copies of employment certificates are to be sent to minors' parents, and a parent can ask for revocation if the employment is believed to be interfering with the best interests of the child. Certificates are to be valid for 1 year. The Department of Labor is to receive a copy of any report an employer is required to file with the Industrial Commission as required by the Workers' Compensation Act or the Workers' Occupational Diseases Act pertaining to the death, injury, or illness of a minor. The department also, by rule, may require other employers to submit similar reports.

Equal employment opportunity. The Human Rights Act was amended to require every State agency, party to a public contract, and eligible bidder to have written sexual harassment policies. Such policies must include information such as the illegality of sexual harassment, the definition of sexual harassment under State law, a description of sexual harassment, internal and external recourses, directions on how to contact the Department of Human Rights and the Human Rights Commission, and protection against retaliation. State agencies also are to prominently post copies of the sexual harassment policy, and provide training on sexual harassment prevention and the agency's sexual harassment policy as a component of all ongoing or new employee training programs.

The Human Rights Act was amended to exclude a person's illegal use of drugs or alcohol from the definition of handicap. In addition, employers are specifically allowed to prohibit the illegal use of drugs and the use of alcohol at the workplace by all employees, and to require that employees not be under the influence of these substances. Testing is permitted for the illegal use of drugs by job applicants or employees and employers may make employment decisions based on test results.

Another amendment adds discrimination because of military status to the list of unlawful forms of discrimination in connection with employment, real estate transactions, access to financial credit, and availability of public accommodations. Military status is defined as a person's status on active duty in the U. S. Armed Forces.

The Human Rights Act also was amended to specify that, beginning July 1, 1994, an attorney or a representative of a State employee organization may accompany, advise, and represent a complaining party or subject of a meeting, investigation, negotiation, conference, or other proceeding between a State employee and an Equal Employment Opportunity Officer. This applies to a State employee who is not covered by a collective bargaining agreement.

Private employment agencies. The law regulating job referral and job listing services was amended to exempt newsletters or matching services provided by nonprofit organizations that have operated for at least 3 years before the initiation of the newsletter or matching service and when the annual fee for the service does not exceed \$50.

Other laws. A Business Assistance and Regulatory Reform Act was adopted to help small and midsized businesses handle State requirements for doing business. An Office of Business Permits and Regulatory Assistance was created in the Department of Commerce and Community Affairs. This Office is to consolidate programs throughout State government, and among other duties is to provide quick, accurate information on requirements and procedures for doing business in the State; assist businesses in complying with the Federal Americans with Disabilities Act and the Federal Occupational Safety and Health Administration and other State and Federal environmental regulations; and help businesses locate and seek assistance from employee training programs.

An Advisory Task Force on Ownership Succession and Employee Ownership was created. Among its functions, the Task Force is to study the scope and effectiveness of current and past efforts in the State, and by the State Government, to encourage and assist with ownership succession and employee ownership and recommend necessary changes; determine which current laws and regulations promote or inhibit the formation of employee stock ownership plans and other forms of ownership succession; and study current programs in the United States that focus on these issues. A report of findings and recommendations is to be made to the Governor and General Assembly by March 1, 1994.

Under the Employee Wellness Program

Grant Act, the Department of Public Health is to make grants to employers of fewer than 500 workers, to encourage and assist them in providing health promotion or wellness services to their employees to reduce the prevalence of health risk factors.

Indiana

Preference. The departments of Administration and Transportation may adopt rules for granting a preference for a State business that submits a bid on a department contract. The rules must set criteria for determining if a bidder qualifies as a State business, and limit the preference given an Indiana business to no more than 5 percent of the Indiana business's bid price.

Kansas

Equal employment opportunity. It is now unlawful to refuse to hire, discharge, or otherwise discriminate against a member of the military with respect to employment because of membership or service in the military.

Jury duty. An employer may not discharge or threaten to discharge any permanent employee because of the employee's jury service, or the attendance or scheduled attendance related to such service in any court of Kansas. An employer in violation will be liable for damages for any loss of wages and other benefits, and actual damages suffered by an employee by reason of such violation. The employer will be ordered to reinstate any employee discharged because of jury service, and may be enjoined from further violations and ordered to provide other appropriate relief.

Other laws. A State employee who is a certified disaster service volunteer of the American Red Cross may now be granted leave from work with pay, for up to 20 work days annually, to participate in such activities in Kansas or adjacent States.

Louisiana

Wages. The law regulating maximum hours for firefighters in cities with a population of 13,000 or more and in all parish and fire protection districts was amended to provide that overtime compensation will be governed by the provisions of the Federal Fair Labor Standards Act. A schedule of overtime compensation was established if such firefighters are subsequently excluded from the overtime compensation provisions of the Federal law.

A recently enacted law allows public housing authorities to enter into cooperative agreements with the State Department of La-

bor for disclosure of wage records and unemployment compensation information on applicants for, and recipients of, benefits under programs covered by the Federal Department of Housing and Urban Development.

Child labor. Several substantive changes were made in the child labor law. The Assistant Secretary of the Office of Labor was given rulemaking authority; special provisions regulating the employment of minors in street trades and certain other occupations were repealed, making this work subject to the same requirements for hours, nightwork and certificates applicable to other employment; and the general prohibition against employment was reduced from age 16 to 14. For minors under age 16 a limit was imposed of 18 hours of work in any week when school is in session, and nightwork hours were amended to conform to the Federal standard. Employment certificate requirements were revised, adding a school record showing the minor's age, a current valid Louisiana driver's license, and a signed parental affidavit as acceptable proofs of age and dropping a physician's statement from the list. Employment in singing, dancing, or playing a musical instrument will now be covered under provisions governing employment of minors in theatrical performances or exhibitions.

Child labor law penal provisions and sections concerning employment of minors in theatrical performances or exhibitions were among those amended to add provision for reasonable litigation expenses to be awarded to the prevailing party of an adjudicatory hearing. These expenses include attorney fees, stenographic fees, investigative fees and expenses, witness fees and expenses, and administrative costs.

The child labor and alcoholic beverage control laws were amended to permit minors who are musicians performing in bands to work in establishments where the sale of alcoholic beverages is the primary business if the minor is under direct parental supervision.

Equal employment opportunity. It will now be considered unlawful discrimination for an employer of 25 or more employees (15 or more beginning July 25, 1994) to refuse to hire, refer, discharge, or otherwise discriminate against an individual in compensation, terms, or conditions of employment because of a disability, except if the employee or applicant poses a direct threat to his or her own safety or the safety of others or for whom necessary accommodation would cause the employer undue hardship. Labor organizations, employment agencies, and the operators of apprenticeship and training programs also are prohibited from discriminating on the basis of disability. Certain sexual behav-

ior disorders, compulsive gambling, kleptomania, pyromania, disorders resulting from current illegal use of drugs, or use of alcohol that adversely affects job performance or conduct are among conditions not considered disabilities.

Private employment agencies. Among amendments to the law regulating private employment services, the maximum fees that may be charged to job applicants are now established by statute instead of administrative regulation. The maximum fees range from 6 percent to 18 percent of estimated annual gross earnings. The maximum applicant fee for employment terminating within 90 days was reduced from 20 percent to 15 percent of gross earnings. Further restrictions and requirements were established with respect to an employment service's acceptance of an applicant's power of attorney or assignment of wages, and written testing requirements were established for licensees, managers, and on-site consultants.

Whistleblowers. Insurance companies are prohibited from preparing a negative performance evaluation or threatening, discharging, disciplining, demoting, transferring, or otherwise discriminating against an employee or reducing benefits, pay, or work privileges because the employee reported a suspected violation of the Insurance Code to the Commissioner of Insurance. The employee will be immune from civil liability for reporting such information, provided the information would support a reasonable belief that the activity, policy, or practice reported violates the insurance code, a rule, or impairs or endangers the solvency of the insurer. Insurers violating these provisions are subject to a fine of up to \$10,000 in addition to any other applicable penalties.

Jury duty. The law forbidding dismissal for serving on jury duty was amended to require employers to grant an employee a leave of absence for one day without the loss of wages, or sick, emergency, or personal leave or any other benefits. This applies to an employee called to serve on a State petit or grand jury. Violators will be required to pay the wage due and also will be fined from \$100 to \$500 for each offense.

Other laws. Provision was made to bar contractors, subcontractors, consultants, and subconsultants from contracts let by the Department of Transportation and Development. Such persons may, for cause, be suspended or debarred from consideration of a contract or participating in any manner in department projects for up to 3 years if doing so is in the best interest of the department. Causes for debarment include commission

of fraud or a criminal offense in connection with obtaining or performing a public contract; violation of Federal or State antitrust statutes related to the submission of offers; serious violation of the terms of a contract or subcontract including willful failure to perform and use substandard materials; and violation of the Drug-Free Workplace Act of 1988.

Maine

Wages. The amount of tips an employer may consider as wages of a service employee as a credit against the minimum wage was changed from the State minimum hourly wage minus \$2.01 per hour to 50 percent of the minimum wage. As amended, the tip credit provision conforms to Federal law.

The provision permitting students under age 19 to be paid 85 percent of the minimum wage rate required for other employees in the same occupation was repealed.

Child labor. Among several changes in the child labor law were provisions allowing 16- and 17-year-olds to work additional hours. Maximum hours for these minors were increased from 8 a day and 48 a week when school is not in session to 10 and 50. When school is in session, work is now permitted up to 8 hours on each day that an authorized school closing occurs, to a total of 28 hours in that week (an increase from the previous maximum of 20). The permitted time for starting work was changed from 7 a.m. to 5 a.m. before nonschool days. Other amendments gave the Director of the Bureau of Labor Standards authority to adopt rules, and added the initial processing of farm crops and employment as a theatrical or film actor to work exempted from restrictions on hours of employment.

Equal employment opportunity. The Human Rights Act was amended to make certain provisions consistent with Federal law and ensure certain Federal funding for the State Human Rights Commission. Procedural changes were made in the issuing of subpoenas and the filing of civil actions. Also, a section was added forbidding discrimination against any individual for opposition to any act or practice that is unlawful under the Act or because the individual has made a charge, testified, assisted or participated in an investigation, proceeding, or hearing. It also was made unlawful for a person to coerce, intimidate, threaten, or interfere with an individual in the exercise or enjoyment of the rights granted or protected by the Act. Violators may be subject to civil action, attorney fees, and damages.

Persons filing a complaint of employment discrimination with the Human Rights

Commission may now request a right-to-sue letter if the Commission has not filed a civil action or entered into a conciliation agreement within 180 days of the complaint. The Commission must end its investigation if such a letter is given.

Other laws. The Director of Labor Standards in the Department of Labor was given authority to enter into reciprocal agreements with other States to help bring about compliance with employment standards enforced by the director. These areas of responsibility include collection of wage claims and judgments, prevailing wage, severance pay in the event of plant closings, minimum wage and overtime, child labor, and job safety.

Maryland

Wages. The wage payment and collection law was amended to provide for a private right of action by an employee against an employer who fails to pay wages due the employee within 2 weeks of the date the wages were to have been paid. The court may award the employee up to treble wages and reasonable counsel fees and other costs.

Family issues. The law providing for family leave for State employees was amended to conform with the Federal Family and Medical Leave Act. Specifically, this provides for the continued payment of a health insurance subsidy by the State during an employee's period of family leave, and recovery of subsidies from employees who fail to return to work.

Equal employment opportunity. The equal employment opportunity program for State employees will now apply to all employees in the State personnel management system rather than those only in the classified service.

Massachusetts

Wages. The Legislature overrode the Governor's veto and enacted a measure transferring State wage enforcement, including minimum wage, prevailing wage, and wage collection, from the Department of Labor and Industries to the Attorney General. Industrial safety and apprenticeship were transferred to the Executive Office of Labor.

Child labor. The law authorizing the Commissioner of Labor and Industries to suspend the application or operation of any provision of the child labor law regulating, limiting, or prohibiting the employment of minors over age 16 was extended to July 1, 1994. A sepa-

rate provision required the Commissioner to appoint a task force that was to report to the Joint Committee on Commerce and Labor by October 1 with recommendations for changes in the law to eliminate the need to suspend any provision of the child labor law.

Worker privacy. The definition of personnel record was amended to add requirements for employers of 20 or more employees. The amendments specify the types of information these employers must include in personnel records. Such records must include specific information regarding employment, performance, and compensation. If any action is brought against an employer in an administrative or judicial proceeding, the personnel record must be kept by the employer until such matters are resolved.

Michigan

Wages. The provision governing deductions from employee wages was amended to specify that nonprofit organizations are to obtain a written consent from an employee for payroll deductions for contributions. An employee at any time may rescind in writing authorization for such a deduction.

Private employment agencies. In a November 1992 law, various changes were made to the employment agency licensing law. Among the changes, the surety bond that agencies must post was increased from \$5,000 to \$10,000. The number of license classifications were consolidated from five to two; the first includes agencies that make referrals to specific employers and the second provides assistance in making career decisions but not specific job referrals. Contract and operating requirements and prohibitions were established for each type of agency.

Inmate labor. The law regulating work by prisoners assigned to work camps was amended to permit work on projects that serve the public interest or a charitable purpose and are operated by nonprofit organizations. Such work may not result in a competitive disadvantage to a for profit enterprise or result in the displacement of employed persons or replacement of workers who are on strike or are locked out of work.

Minnesota

Wages. Among amendments to the wage payment law, it was specified that the law covers migrant workers employed in agriculture. It also was clarified that the requirement for payment of wages at least every 30 days applies to agricultural labor.

Child labor. The child labor law was amended to restrict the working hours of 16- and 17-year-old high school students. These students may not work after 11 p.m. before a school day or before 5 a.m. on a school day; with parental permission the corresponding times are 11:30 p.m. and 4:30 a.m. With the exception of this section, an employer with a single violation of the child labor law will be guilty of a gross misdemeanor if the violation results in the death of or substantial bodily harm to a minor.

Equal employment opportunity. It is now an unfair employment practice, under the Human Rights Act, for an employer, employment agency, or labor organization to discriminate on the basis of sexual orientation. Religious and fraternal organizations are exempt from coverage when sexual orientation is a *bona fide* occupational qualification for employment. Youth sports organizations, scouting organizations, boys' or girls' clubs, and other youth groups also may refuse to employ or accept individuals as volunteers because of sexual orientation. The law does not require or permit the use of numerical goals or quotas or other such affirmative action. Discrimination also is prohibited in housing, education, and public accommodations.

Other laws. The Commissioner of Transportation is to conduct a study of telecommuting in the Minneapolis/St. Paul metropolitan area as an alternative to commuting between residence and worksite. Telecommuting is defined as working at a residence rather than a worksite, through video, telephone, computer, or other electronic connection. The study is to include the present extent of telecommuting; the potential of telecommuting to substitute for conventional commuting, alleviate traffic congestion, and reduce the need for highway expansion; legal and public policy obstacles to telecommuting; and legal and public policy alternatives that would expand telecommuting and telecommuting options.

Mississippi

Equal employment opportunity. State lawmakers authorized school boards to comply with the Federal Americans with Disabilities Act by making reasonable accommodations to the known physical or mental limits of an otherwise qualified individual with a disability who is an applicant or employee, unless such accommodation would impose an undue hardship on the operation of the school.

Worker privacy. The polygraph examiners law, which was repealed on July 1, 1991,

was again enacted into law. Among the grounds for refusal to issue a license or for license revocation or suspension are failure to inform an individual of the nature of the examination or that taking the examination is voluntary, and requiring an individual to acknowledge that such examination is not for the purpose of employment when it is to be submitted to an employer or an agent of an employer.

Missouri

Wages. Rate determination and determination appeal procedures were added to the prevailing wage law for public works projects other than those involving the State Highway Commission. The Department of Labor and Industrial Relations is to annually investigate and determine the prevailing hourly wage rates in each locality for each separate occupational title. The department is to consider applicable wage rates established by collective bargaining agreements, if any, and the rates that are paid generally within the locality. An initial determination for each occupational title in the locality is to be made by March 10 of each year with a final determination by July 1.

The prevailing wage law also was amended to require contractors and subcontractors engaged in construction of public works projects costing more than \$250,000 to have their name, acceptable abbreviation or recognizable logo, and the name of the city and State of the mailing address of the principal office of the company, on each motor vehicle and motorized self-propelled equipment used in a public works project while the contractor or subcontractor is working on the project.

Preference. During excessive periods of unemployment in the State, all public works projects for the State or a political subdivision are to employ only Missouri laborers, and laborers from States that do not have laws restricting Missouri laborers from working on public works projects, unless it is certified that such workers are not available, or are incapable of performing a particular type of work. This requirement will not apply to regularly employed nonresident executive, supervisory or technical personnel. The act will not be enforced in such a manner as to conflict with Federal statutes or rules and regulations.

Montana

Wages. An exemption from minimum wage and overtime was enacted for outside salespersons or marketing representatives paid on a commission, contract, or salary. This applies primarily to those employed in

selling or marketing products or services in the food distribution industry for a food broker, wholesaler, or association. An exemption from overtime, comparable to one under the Federal Fair Labor Standards Act, was added for retail establishment employees whose regular rate of pay exceeds 1-1/2 times the Federal minimum wage and who receive more than half of their compensation for a period of not less than 1 month from commissions on goods and services.

Several changes were made in the prevailing wage law, including a requirement that any contractor, subcontractor, or employer who pays workers less than the required prevailing wage is to pay a penalty of up to 20 percent of the delinquent wages and fringe benefits, fees, and court costs. State law added a requirement that the money collected is to be used for enforcement of the prevailing wage law. Also, a contractor or subcontractor found to have aggravatedly or willfully violated the law will be ineligible, for up to 3 years from the date of final judgment, to receive contracts or subcontracts that are subject to the prevailing wage law.

Other changes require a weekly payment to employees receiving an hourly wage, and provide that if a wage violation complaint is filed with the labor department, the contractor or subcontractor is to provide the employee's payroll records to the department within 5 days of receiving the request; specify that fringe benefits for health and welfare and pension contributions must meet the requirements of the Employee Retirement Income Security Act of 1974 and other *bona fide* programs approved by the Federal Department of Labor; and set forth acceptable methods for fulfilling the obligation to pay the standard prevailing rate of wages.

The wage payment law was amended to permit the Department of Labor and Industry to serve legal notices by mail rather than by personal service, as previously required, and to increase the statutory penalty for failure to pay wages in a timely fashion. The law also was amended to permit payment of wages by electronic funds transfer or similar means of direct deposit if the employee has consented. Previously, an employee's salary was to be paid by cash or check.

Child labor. A comprehensive child labor law was enacted replacing a limited statute. Among other provisions, the law grants the labor department rulemaking authority; sets 14 as the minimum age for employment; establishes working hours for 14- and 15-year-olds generally conforming to Federal standards; and adopts prohibited hazardous occupations for 14- and 15-year-olds and 16- and 17-year-olds and permitted occupations for 14- and 15-year-olds similar to those under Federal law. Nonhazardous agri-

cultural occupations, employment as an actor, model, or performer, domestic service, and work for a parent are among those occupations exempt from the law. A provision is not made for requiring an employment or age certificate.

Equal employment opportunity. State laws barring discrimination on the basis of marital status do not prohibit *bona fide* insurance plans from providing greater or additional contributions for insurance benefits to employees with dependents than to employees without or with fewer dependents. These laws also permit employers or labor organizations to provide greater or additional contributions to a group insurance plan for employees with dependents than to employees without or with fewer dependents.

It is now unlawful for an employer to refuse to employ or license or to discriminate against an employee with respect to wages, promotions, or working conditions because of the use of a lawful product outside the workplace during nonworking hours. Use may be restricted if the restriction relates to safety concerns; to a *bona fide* occupational qualification; if an employer is a nonprofit organization with a primary purpose or objective of discouraging the use of one or more such products by the general public, or if an individual has a professional service contract with an employer and the unique nature of such service authorizes the employer to limit the use of certain products. The provision will not affect employers who believe that taking such action is permitted under an established substance abuse or alcohol program or policy, professional contract or collective bargaining agreement. An employer may provide a health, disability, or life insurance policy that makes distinctions between employees for the type or price of coverage based on the employee's use of a product if differential assessed rates reflect justified differences in providing employee benefits. Employees may file civil action for damages against violators.

The Human Rights Act was amended to prohibit employment discrimination by agents of employers by including such agents in the definition of "employer."

Nebraska

Hours. The State Legislature authorized the Department of Labor to acquire and distribute information regarding the role of the part-time labor force and how it affects the economy and State residents.

Child labor. The requirement that minors under age 16 obtain an employment certificate as a condition of employment will not apply where a parent employs and directly

supervises his or her own child in a business the parent owns and operates. Hours of work and hazardous occupation restrictions will still apply.

School attendance. A resolution was adopted asking that a committee of the legislature be designated to conduct an interim study of the effect and feasibility of raising the compulsory school attendance age from 16 to 18.

Equal employment opportunity. The Fair Employment Practice Act was amended to make it an unlawful employment practice for an employer to harass an individual because of race, color, religion, sex, disability, marital status or national origin. Harassment because of sex includes any unwelcome sexual advances, requesting sexual favors, or engaging in other verbal or physical conduct of a sexual nature in the workplace, where submission to such conduct is made a condition of employment or used as the basis for employment decisions, or where such conduct creates an offensive working environment. Any individual who suffers physical, emotional, or financial harm because of harassment may bring a civil action for appropriate relief, including temporary or permanent injunctive relief, damages, and attorney's fees and costs.

The provisions of the Fair Employment Practice Act prohibiting employment discrimination on the basis of an individual's disability were made to generally conform to the Federal Americans with Disabilities Act. Such provisions include the definitions of disability and qualified individual with a disability, reasonable accommodation requirement, and unlawful employment practices.

Whistleblowers. As part of a State Government Effectiveness Act, State employees are now protected against retaliation for disclosing to the Public Counsel or an official information that the employee reasonably believes provides evidence of wrongdoing, or for providing information or testimony pursuant to an investigation or hearing under the Act. Where violations are found, aggrieved employees may be entitled to damages, reinstatement, back pay and other relief.

Other laws. Any State employee who is a certified disaster service volunteer of the American Red Cross may, with supervisor permission, be granted a leave of up to 15 working days annually to participate in specialized disaster relief services in the State without loss of pay, vacation time, sick leave, or earned overtime accumulation.

Nevada

Wages. Lawmakers directed the Legislative Commission to conduct an interim study

concerning the system of classification of State employees and payment of overtime. The study is to include alternative methods of classifying and paying overtime to State employees and compliance of any proposed classification system with the Federal Fair Labor Standards Act.

Several changes were made in the penalty provisions of the prevailing wage law, including authorizing the labor commissioner to schedule hearings and assess fines for violations. Failure to pay the prevailing wage will result in the assessment of an amount equal to the amount of underpayment and possible imposition of an administrative fine for investigation and prosecution costs. If any administrative penalty is imposed for the commission of an offense, a public works contract may not be awarded for 2 years for a first offense and 3 years for a second or subsequent offense. This replaces a provision for a 2-year debarment period for any person convicted of failure to pay the prevailing wage.

In addition, if an administrative penalty is imposed on a contractor on a public works project for failure to pay the prevailing wage or unemployment compensation contributions, unsuccessful bidders, under certain circumstances, may bring civil action against the contractor for damages suffered as a result of not being awarded the contract.

A separate provision increased the penalties for failure to pay workers the required prevailing wage rate on public works contracts. Penalties also were increased for those who try to prevent a worker who was discharged or left his or her job from obtaining a position elsewhere in the State. In both instances, if a fine is imposed, the costs of the proceeding, including investigative costs and attorney's fees, may be recovered by the labor commissioner. The labor commissioner is to adopt regulations for prevailing wage violations, establishing a sliding scale based on the size of the contractor's business to determine the amount of the penalty to be imposed.

The requirement that private sector employers pay their employees at least semi-monthly was amended to permit monthly payments to executive, administrative or professional employees, outside salespersons, and supervisors, by employers whose principal place of business is located and whose payroll is prepared outside Nevada.

The State Controller is now authorized to withhold money due the State from the salary of any employee for overpayment of wages. The Controller must give written notice to an employee of such intent and allow the employee to contest the action. Any overpayment that was not the result of fraud or willful misrepresentation must be with-

held without creating an undue hardship to the employee.

Hours. The 8-hour limit an employee may, by law, work in an underground mine in a 24-hour period was amended to permit longer work periods if agreed to by a majority of employees in a secret ballot election. It also was specified that the time limit, secret voting, and other related provisions do not apply to employees covered by a collective bargaining agreement.

Family issues. State employees are now entitled to a leave of absence without pay of up to 12 weeks for the birth or adoption of a child.

Equal employment opportunity. Among amendments to the law requiring equal opportunities in public employment, discrimination on the basis of sex, age, or disability is now prohibited. Continued efforts must be made to retain State employees with a disability by making reasonable accommodations to enable the employee to meet performance requirements and enjoy the benefits and privileges of the position.

Employee leasing. Certain requirements for employee leasing firms were enacted under the Industrial Insurance law. Such firms must obtain a certificate of insurance from the Manager of the State Industrial Insurance System. The employment relationship with workers must be established by written agreement between the leasing firm and the client company, and written notice of the employment relationship must be given to each leased employee. The leasing firm is considered the employer for purposes of industrial insurance, unemployment compensation, and sponsoring or maintaining any benefit plans. Leasing firms may not offer employees any self-funded insurance program.

Preference. The law that gives preference to local bidders for public works construction contracts was amended to require members of a joint venture, or the member responsible for the performance of the contract, to meet the qualifications for such preference.

Other laws. Under a reorganization of the State government, the former Department of Industrial Relations and the State Labor Commission were among the agencies incorporated into a Department of Business and Industry.

A resolution was adopted encouraging employers to establish programs to promote employee wellness, physical fitness, and the prevention of disease and accidents, and to ensure a workplace free of drugs.

New Hampshire

Child labor. The law regulating hiring minors to bus tables in dining rooms where alcoholic beverages are served was amended to lower from 16 to 15 years old the permissible age for such employment.

New Jersey

Wages. Executive, administrative, and professional employees, and buyers of certain perishable commodities were exempted from the requirement that records be kept of employee hours worked. The exemption for executive, administrative, and professional employees does not permit an employer to pay wages at a rate that violates the minimum wage law.

Industrial home work. A Home Work Regulation Review Commission was established to enhance the development of home-based businesses and employment while continuing to try to eliminate sweatshops. The commission was directed to review State and Federal laws currently regulating home work, study the needs and concerns of labor, management, small business owners and the public, review legislation in other States, and recommend to the legislature and the Governor modifications in State regulation of home work and home-based businesses.

New Mexico

Wages. The State minimum wage rate was increased from \$3.35 to \$4.25 per hour on July 1 and the minimum cash wage for tipped employees was increased, from \$2.01 to \$2.125 per hour. In addition, the minimum monthly amount of tips an employee receives to be considered a tipped employee was reduced from \$40 to \$30. Another significant change reduced from 48 to 40 the number of hours of work after which an employee becomes eligible for overtime pay.

The law governing payment of wages was amended to require employers to provide each employee a written receipt identifying the employer and detailing the employee's gross pay, the number of hours worked, total wages and benefits earned, and a listing of deductions withheld from the employee's pay.

Striker replacements. A resolution was adopted urging the State congressional delegation to support amendments H.R. 5 and S. 55 to the National Labor Relations Act. These amendments would make it unlawful to offer permanent employment or employment preference to an individual who would work during a strike, and would prohibit em-

ployers from providing preferential benefits to workers who would cross picket lines and return to work.

Employee leasing. Employee leasing firms are now required to register annually with the Regulation and Licensing Department. Leasing companies must post a \$100,000 surety bond ensuring the prompt payment of wages, benefits, interest, and penalties for which the company is liable. The employment relationship between the client company and leased workers must be established by written agreement between the leasing firm and client, and written notice of this relationship and of compliance with workers' compensation requirements is to be given to each leased worker. Violations of the law may result in revocation of registration and civil and criminal penalties.

Other laws. A section was added to the Labor Department Act requiring the department, to the extent permitted by Federal law, and upon the written request of a corporation organized under the Educational Assistance Act, to furnish the last known address and date of that address of every person certified as owing an educational debt.

New York

Wages. The law regulating the frequency of wage payments to manual workers was amended. The law had previously allowed employers of 1,000 or more workers in the State for 3 years to pay less frequently than weekly but not less frequently than semi-monthly. It now also permits this exception for employers who have employed 1,000 or more persons in the State for 1 year and employed 3,000 or more persons outside the State for 3 years before a company applies to the State Department of Labor for an exemption from the payment requirement.

North Carolina

Wages. The minimum wage increased from \$3.80 to \$4.25 per hour on January 1, as the result of previous legislation.

Employees who are exempt from overtime under the Federal Fair Labor Standards Act and who do not have a comparable exemption under State law will no longer be considered exempt under the State law. Those employees for whom the Federal law provides an alternative method of computing overtime will now have the same status under State law as under the Federal law.

An amendment to the wage payment law clarified and broadened the information on wages and terms of employment an employer must provide to employees. Employees whose employment is terminated must

now receive all wages due on or before the next regular payday through the regular payment method or by mail if requested by the employee.

Family issues. Employers are now to grant employees 4 hours of leave a year for participation in their children's school activities or other school involvement. Employers may require a 48-hour advance written request for the leave and written verification from the school of the parents' involvement. The leave provided may be unpaid. Employers are prohibited from discharging, demoting, or taking any adverse employment action against an employee for requesting or taking such leave. If the law is violated, an employee may bring civil action for reinstatement and lost wages and benefits.

Child labor. Children under 16 years of age may now be employed by their parents on the premises of a business holding an ABC permit.

Equal employment opportunity. The Office of Administrative Hearings was designated to serve as the State's deferral agency for cases deferred by the Equal Employment Opportunity Commission under the Americans with Disabilities Act for charges filed by State or local government employees.

Drug and alcohol testing. Among amendments to the Controlled Substance Examination Regulation Act, employees or job applicants tested for the use of controlled substances now have the right to retest a confirmed positive sample at the same or another approved laboratory at their own expense. The Commissioner of Labor was authorized to adopt rules necessary for administering the law.

Private employment agencies. Private personnel services may now be responsible for possible reimbursement of fees to employees placed in commissioned-based employment. If the service incorrectly estimates the amount of commissions an applicant may expect from a prospective employer, the service must reimburse the excess fees. The surety bond required of joblisting services was increased from \$10,000 to \$25,000.

Whistleblowers. The whistleblower law was amended to authorize the Commissioner of Labor to adopt rules for implementing the Act, to issue subpoenas to witnesses and to require that evidence be produced, and to apply to the courts for orders requiring compliance with such subpoenas. The Commissioner's files and other records relating to investigations and enforcement proceedings under the law are not

subject to inspection or examination while the investigations and proceedings are open or pending in court.

Other laws. A State employee who is a certified disaster service volunteer of the American Red Cross may now be granted leave from work with pay, for up to 15 work days annually, to participate in such activities.

North Dakota

Wages. The minimum wage law was amended to specifically include public sector employees except for firefighters and law enforcement officers employed by political subdivisions. The State and political subdivisions may provide for compensatory time off for employees if such policy complies with the Federal Fair Labor Standards Act. The Commissioner of Labor was directed to convene a wage conference committee by August 1 to review administrative rules under the law.

The Commissioner of Labor may now issue a special license authorizing employment at less than the minimum wage for persons with mental disabilities and in addition to those with physical disabilities.

The law regulating employer withholding from employee wages was amended to allow advances, other than undocumented cash, to be deducted from employees' paychecks without their written authorization.

Child labor. A list of specific prohibited work activities by minors under 14 was replaced by a general prohibition on work in any occupation except farm labor, domestic service, or work for a parent or grandparent. Employment certificates for 14- and 15-year-olds also will be required in any covered occupation. These certificates will now be issued by the minor's parent or guardian, rather than the school district, with copies of the certified or rejected certificate to be filed with the Department of Labor, the employer, and the school principal. Certificates may be revoked by the parent, school principal or Department of Labor, and are now to include a description of job duties and responsibilities of the minor.

Among other changes, the maximum permitted hours of work for 14- and 15-year-olds were reduced from 24 to 18 during school weeks and 48 to 40 during nonschool weeks. Activities now prohibited for 14- and 15-year-olds include door-to-door sales; security positions that require the use of a firearm or other weapon; occupations in connection with medical or other dangerous wastes; and occupations that involve the handling or storage of blood, blood products, body fluids, and body tissues.

A resolution was adopted directing the Legislative Council to study issues related to the employment of minors, including the need for employment, the academic and financial impact of employment, and safety requirements in the workplace. Findings and recommendations, with any legislation required to implement the recommendations, are to be reported to the next Legislative Assembly.

Equal employment opportunity. A statewide independent living council was established. Among its functions, the council is to develop and implement a statewide network of centers for independent living and similar services for people with disabilities. Agencies receiving financial assistance must develop a plan jointly with the council that, among other requirements, provides assurances that affirmative action will be taken to employ and promote qualified individuals with disabilities.

The State prohibitions against employment discrimination because of participation in a lawful activity off the employer's premises during nonworking hours was modified to specify that such protected activity must not directly conflict with essential business-related interests of the employer.

Drug and alcohol testing. School boards may now, at their discretion, require drug or alcohol testing of school bus drivers.

Preference. A resolution was adopted directing the Legislative Council to study the feasibility and desirability of revising State veterans' preference laws relating to public employment.

Whistleblowers. A law was enacted protecting employees who report illegal activities. An employer may not discharge, discipline, threaten, or penalize an employee regarding compensation, conditions, location, or privileges of employment because the employee in good faith reports a violation or suspected violation of a Federal or State law or rule to an employer, governmental body, or law enforcement official; refuses to perform an action that the employee believes is a violation of a Federal or State law, rule, or regulation; or who was requested to participate in an investigation, hearing, or inquiry. Employees may seek assistance from the Commissioner of Labor to investigate, hold hearings, and otherwise assure compliance.

Other laws. The Department of Labor was given the responsibility to verify independent contractor status after receiving an application.

Oklahoma

Wages. The Commissioner of Labor was authorized to hold administrative proceedings to seek collection of wage claims. The commissioner may order employers to pay the commission the amount of the claim and penalties. Unpaid final orders may be filed with a county clerk and are collectable as is any other money judgment.

Child labor. Children under age 16, working for employers not covered by the Federal Fair Labor Standards Act, will now be permitted to work up to 8 hours on school days that precede school days and until 9 p.m. on days followed by nonschooldays.

Employee testing. The Standards for Workplace Drug and Alcohol Testing Act was approved, requiring employers who choose to test job applicants or employees to follow specified procedures. Applicants may be tested upon a conditional offer of employment, and employees may be required to submit to testing under certain conditions. These conditions include reasonable suspicion; after work-related accidents; as part of a random testing program for specified occupations; and following a confirmed positive test or participation in an alcohol or drug treatment program. Employers must adopt a written testing policy, and may not take disciplinary action against an employee based upon a positive test result unless the test result has been confirmed by a second test.

Oregon

Wages. Employees working under contract for services at a county fair or for other events authorized by a county fair board must be paid time and one-half for work of more than 8 hours a day or 40 a week.

Individuals who caddy at a golf course in an established program for the training and supervision of caddies, under the direction of an employee of the golf course, were added to the list of those exempt from State minimum wage requirements.

All lease-purchase or other agreements that result in State ownership of a public improvement will now be subject to certain public contracting laws, including the prevailing wage law.

Child labor. The holder of a retail malt beverage license who operates a golf course may employ persons 18, 19, and 20 years of age to take orders for, serve, and sell wine and malt beverages provided the work is confined to the clubhouse of the golf course and is not in any area classified as being prohibited to the use of minors.

Agriculture. The surety bond, letter of credit, or deposit that farm labor contractors must post as a condition of licensing was increased from \$10,000 to a range of \$10,000 to \$90,000, depending on the maximum number of employees the contractor uses. The surety must be conditioned on the full payment of wages due, and payment by the contractor of all sums due to growers or producers for advances made to or on behalf of the contractor.

Equal employment opportunity. A resolution was adopted committing the State House of Representatives to create and maintain a work environment free of sexual harassment for members and employees and specifying informal and formal procedures to be established to resolve complaints.

The Advisory Committee for the Commission of the Blind was abolished.

Genetic testing. A law was enacted further restricting the use of genetic testing in employment. State lawmakers added to a 1989 measure that made genetic screening tests of employees and applicants an unlawful employment practice. The new measure expands the definition of the unlawful employment practice to include employers who seek to obtain, or use any previous genetic screening information of an employee or prospective employee to distinguish between or discriminate against or restrict a right or benefit otherwise due or available. The Bureau of Labor and Industries is to enforce the law.

Employee leasing. Under a recently enacted provision of the workers' compensation law, worker leasing companies must be licensed by the Director of the Department of Insurance and Finance. The leasing firm is responsible for providing workers' compensation coverage, and assuring that the client company provide adequate training, supervision, and instruction for the leased employees to meet established safety and health regulations. The director was authorized to establish, by rule, a licensing system and prescribe the form and content of records that licensees must maintain.

Private employment agencies. The Employment Agencies Advisory Board was abolished.

Other laws. The Health Plan Administrator is to consider the financial impact on employers, particularly new businesses and businesses with 25 or fewer employees, the influence on use of part-time and full-time employees, and the impact on wage and benefit patterns. This is part of a review and report on the Oregon Health Plan, including its

impact on the State's economy and major employment sectors.

Pennsylvania

Child labor. Under a December 1992 law, State legislation reduced from 12 years to 11 the minimum permissible age for employment in the distribution or sale of newspapers or other publications, or any article of merchandise of any sort, in any street or public place. Minors under the age of 16 may now begin work in these occupations at 5 a.m., rather than 6 a.m., as before.

Whistleblowers. Public utility employers are prohibited from discharging, threatening or otherwise discriminating or retaliating against an employee regarding compensation, terms, conditions, location, or privileges of employment because the employee or a representative in good faith reported or was about to report waste or a violation of Federal, State, or local law. This would apply to reports to the employer, the State Public Utility Commission, the Office of Consumer Advocate, the Office of Small Business Advocate, or the Office of Attorney General, or because he or she was requested to participate in an investigation, hearing, or inquiry by the commission or the Office of Attorney General or in a court action. Employers must post notices and inform employees of protections and obligations pertaining to these provisions. Persons violating these provisions are liable for a civil fine of up to \$500 and may be ordered to reinstate the employee and pay back wages and fringe benefits, damages, and court costs.

Rhode Island

Wages. The Department of Labor is now authorized to supervise the payment of wages found due to employees and require employers to make such payments to the department for disbursement to employees affected. Employers also will be assessed an administrative fee of 25 percent of any payment made. Independent contractors and subcontractors are now specifically excluded from the definition of employee.

The wage payment law was amended to require employers to furnish employees with a statement of hours worked and deductions from gross earnings. Previously, the provision applied only to those requesting the information. Employers in the commercial construction industry also must provide employees with a record of the employee's hourly regular rate of pay.

Equal employment opportunity. A section was added to the equal opportunity and affirmative action law providing that each person

responsible for appointing individuals to serve on State boards, commissions, or authorities is to endeavor to assure that, to the fullest extent possible, the composition of such a body reflect the diversity, including the racial and gender composition, of the State's population.

Whistleblowers. Lawmakers passed legislation relating to patient abuse in health care facilities. As part of this law, no facility is to discharge, threaten or otherwise discriminate or retaliate against an employee in compensation, terms, conditions, location, duration or privileges of employment for reporting, in good faith or testifying in any proceeding about the abuse, mistreatment, or neglect of patients or residents in the facility.

South Carolina

School attendance. The mandatory school attendance law was revised to eliminate the exception for a child who is married or has been married, an unmarried child who is pregnant, or an unmarried child who has had a child. Another exception that was eliminated applied to a child aged 10 or older who has been out of school for 3 years or more if the school district does not have special classes for the child.

As amended, the law allows an exception for a student who has a child and who is granted a temporary waiver from attendance by the district's attendance supervisor because of a determination that suitable day care is unavailable.

Equal employment opportunity. A State Commission for Minority Affairs was created to study the causes and effects of socioeconomic problems experienced by minorities in the State and to design programs to address inequities. Among its duties, the commission is to act as a liaison with the business community to provide programs and assist in fulfilling legal obligations.

Employee leasing. Staff leasing services must now obtain a license from the Department of Consumer Affairs, which now regulates the services. In addition to application and license fees, the department may levy a biennial assessment of up to \$4,000 to cover all costs of regulation; the amount is to be determined by the leasing service's gross payroll. Licensees must enter into written agreements with client companies, and must provide each leased employee with a written explanation of the terms of the agreement. For purposes of wages, payroll taxes, and hiring and firing, the leasing service is considered the employer. For workers' compensation purposes, there is a joint responsibility. Leasing services may

not sponsor and maintain a plan of self-insurance for health benefits or workers' compensation.

Other laws. Effective February 1, 1994, a Department of Labor, Licensing and Regulations will be created that includes the former Department of Labor and several other regulatory agencies and boards. The new department is to be initially organized into divisions for labor, State fire marshall, and professional and occupational licensing.

South Dakota

Child labor. The prohibition on work by minors under age 16 in hazardous occupations was amended to permit operation of agricultural equipment or employment in agricultural occupations by minors who have successfully completed a safety course and received a license, permit, or certificate from a State or Federal agency.

Whistleblowers. State employees who believe that they have been retaliated against for reporting a violation of State law through their department's chain of command or to the attorney general's office may file a grievance with the career service commission.

Tennessee

Wages. Private sector employers who fail to pay wages when due or who misrepresent the amount of wages to a new employee will now be subject to administratively assessed civil penalties of \$500 to \$1,000 and criminal penalties as before. An employer will not be charged with both a civil and criminal offense for the same violation. Each infraction involving failure to pay wages will be a separate offense. If the labor commissioner determines that a first violation was unintentional, a warning, rather than a fine, will be issued. Employers are to make wage and payroll records available to the Department of Labor during normal business hours.

Hours. Each employee is to receive a 30-minute unpaid break or meal period if scheduled to work 6 consecutive hours.

Family issues. State employees may now use accrued sick leave for all or a portion of the 30-day special leave to which they are entitled for purposes of adoption, if the adopted child is 1 year old or younger. Spouses who are both State employees are limited to the use of an aggregate of 30 days of sick leave for this purpose.

Child labor. Employers in violation of the child labor law will now be subject to admin-

istratively assessed civil penalties of \$150 to \$1,000, and criminal penalties as before. An employer will not be charged with both a civil and criminal offense for the same violation. In determining the amount of a civil penalty, the labor commissioner is to consider the size of the employer's business and seriousness of the violation. If the commissioner determines that a first violation was unintentional a warning will be issued. Another amendment requires that minors have a 30-minute unpaid break or meal period if scheduled to work 6 consecutive hours.

Equal employment opportunity. The State Legislature directed the State Department of Personnel to assist all State agencies in planning and conducting workshops to prevent sexual harassment. The department also is to design an orientation session for new employees. Material explaining the sexual harassment rules of the State Human Rights Commission are to be made available to each agency for distribution and posting. Separate provisions also require the State Supreme Court and Office of Legislative Administration to establish policies concerning the prevention of sexual harassment. These policies are to include training workshops and establishment of a hearing procedure.

Other laws. The Board of Employee Assistance Professionals was established to provide educational programs for individuals who help identify and resolve job performance problems in the workplace. The board also will license and regulate the work in this field. In making appointments to the board, the Governor is to strive to ensure that it include a member of a racial minority and a person 60 years old or older. The board is to be part of the Department of Labor for administrative purposes.

Texas

Wages. Overtime provisions for firefighters and emergency medical personnel of municipal fire departments, and for nonemergency service employees of such departments were made to conform to the requirements of the Federal Fair Labor Standards Act.

Several changes were made strengthening the prevailing wage law. Among these, the requirement that the public agency awarding a contract for public work determine the prevailing wage rates was amended to specify that the rates be determined based on a survey of wages received by laborers and mechanics employed on similar projects in the locality where the work is to be performed or by adoption of rates determined by the U.S. Department of Labor under the Federal Davis-Bacon Act. Penal-

ties for violation, which had applied to contractors, were increased and extended to subcontractors. Money collected is to be used by the awarding agency to offset costs of administration. Enforcement procedures were established with a binding arbitration decision enforced in the courts as the final step in the process. Upon the filing of a complaint, the agency is to retain any amounts due under the contract pending a final determination of the violation.

Among amendments strengthening enforcement of the wage payment and collection law, the Texas Employment Commission is now authorized to require reports, conduct investigations, administer oaths, issue subpoenas, and bring action in court to enforce its final orders. In addition, the commission may now enter into reciprocal agreements with other States and jurisdictions to collect wage claims that have become final under the laws of the jurisdiction in which they were filed.

Electronic funds transfer may now be used by State employees for purchases of annuity contracts and contributions to investments, for the purchase of U.S. Savings Bonds, and for payment of State employee organization membership fees.

Child labor. The Employment Commission may now administratively assess civil money penalties of up to \$10,000 against individuals who violate the child labor law. The amount of the penalty will be based on the seriousness of the violation, including the nature, circumstances, extent, and gravity of any prohibited acts; the history of previous violations; the amount necessary to deter future violations; efforts to correct the violations; and other such matters. The attorney general also was authorized to seek injunctive relief in district court against an employer who repeatedly violates the law.

Equal employment opportunity. Among amendments to the Human Rights Act, criteria were established for proving unlawful employment practices based upon disparate impact, and the discriminatory use of test scores for employment purposes was prohibited. Employers are now required to make a reasonable workplace accommodation to a known physical or mental limit of an otherwise qualified individual with a disability. Employers may lawfully adopt policies prohibiting the employment of individuals who illegally use or possess controlled substances, and may implement personnel policies that incorporate work force diversity programs. In cases of unlawful intentional discrimination, courts may now award compensatory damages, and punitive damages of \$50,000 to \$300,000, depending on the size of the employer.

An employer may not discharge or in any other manner discriminate against an employee who leaves the workplace to participate in a general public evacuation ordered under an emergency evacuation order. An employer in violation is liable for any loss of wages and benefits incurred by the employee as a result of the violation, and a person wrongfully discharged is entitled to reinstatement in the same or equivalent position of employment with commensurate pay. The law does not apply to individuals employed as emergency service personnel if the employer provides adequate emergency shelter, nor to those who are necessary to provide for the safety and well-being of the general public.

Employee leasing. Under a law that takes effect March 1, 1994, staff leasing services must obtain a license from the Department of Licensing and Regulation. These services are explicitly responsible for payment of wages to employees without regard to payments by the client to the service. Staff leasing firms also are specifically responsible for the payment of payroll taxes and the collection of taxes from payroll on leased employees. For purposes of workers' compensation, leasing services and client firms are co-employers. Practices that may result in disciplinary action against leasing services include delinquency in the payment of any employee benefit plan premiums, conviction of a crime related to the establishment or maintenance of a self-insurance plan, and using staff leasing services to avoid a collective bargaining contract. Licensees are to establish the terms of a staff leasing services agreement by a written contract with the client company and provide written notice of the agreement to each employee assigned to a client company worksite.

Utah

Wages. Under revised rules, employers may no longer pay adult learners 25 cents below the minimum wage for the first 160 hours of work.

Family issues. A parent, guardian, or other person with legal custody must accompany a child when the child is required to appear in juvenile court, unless excused by the judge. An employee may request to leave the workplace for this purpose if notified by the court that his or her child is required to appear. Employers must grant time off, with or without pay, if the request is made at least 7 days in advance or within 24 hours after the employee receives notice of the hearing.

Employee leasing. An Employee Leasing Company Licensing Act was approved, replacing a registration law. Such businesses must now obtain a license from the Division of Occupational and Professional Licensing and submit evidence of financial responsibility on a quarterly basis. Leasing companies must maintain a written employment agreement with all employees and a written contract with client companies. The two agreements must be in form and content as established by rule. Among other requirements and restrictions, leasing companies may not offer their employees any self-funded medical plan without furnishing each plan participant an accurate summary plan description and must maintain or ensure that client companies maintain in full force and effect required workers' compensation insurance on all leased employees. Operating without a license or violating the self-funded medical program requirements will constitute a felony, while other violations of the law are misdemeanors.

Other laws. A resolution directed the Legislative Management Committee to assign appropriate interim committees to study numerous labor- and nonlabor-related subjects, including family leave, the State minimum wage, pay equity for female workers, sexual harassment, employment discrimination, and preference for local residents on contracts let by municipalities.

Vermont

Equal employment opportunity. All employers, employment agencies, and labor organizations are to ensure a workplace free of sexual harassment. Every employer is to adopt a policy against sexual harassment that is to include a statement that sexual harassment in the workplace is unlawful; a statement that it is unlawful to retaliate against an employee for filing a complaint or cooperating in an investigation of sexual harassment; a description and examples of sexual harassment; penalties for violators; information on how to contact appropriate State and Federal employment discrimination enforcement agencies; and, if the employer has more than five employees, a description of the process for filing internal complaints. All employees are to be provided with a copy of the employer's policy, and a poster with this information is to be prominently displayed in the workplace. Employers and labor organizations are encouraged to conduct education and training programs.

Private employment agencies. Specific requirements were established for businesses offering employment services by pay-per-call and other telemarketing services.

Among these requirements, all advertisements and promotions must include an accurate description of the material terms and conditions associated with the employment opportunities offered; where no specific job listings are provided, the sponsor must state that the companies named are only potential employers; and the sponsor must comply with all applicable State and Federal laws relating to employment or placement services.

Virginia

Wages. The law requiring payment of wages or salaries in cash or by check was amended to also permit payment by electronic fund transfer into an account of the employee at a financial institution designated by the employee.

Family issues. The Joint Commission on Management of the Commonwealth's Work Force was directed to examine and recommend "family-friendly" workplace policies for the public and private sectors. The specific issues to be addressed include telecommuting or flexplace, job sharing, leave sharing, dependent assistance, flextime, and alternative career paths. The Commission's findings and recommendations are to be submitted to the governor and the 1994 legislature.

Child labor. An emergency regulation governing the employment of minors in agriculture took effect on January 15, 1993, replacing a regulation effective July 1, 1992. The major change in the new regulation is to reduce the minimum age from 18 to 16 years old for employment in occupations determined to be hazardous.

Drug and alcohol testing. Beginning July 1, 1994, school boards may require individuals accepting employment as a driver of a school bus transporting pupils to agree, as a condition of employment, to submit to alcohol and controlled substance testing.

A resolution was adopted requesting the Department of Labor and Industry to study issues related to drug testing in the workplace.

Plant closings. A resolution was adopted asking that a Select Committee of the U.S. House Committee on Labor and Commerce and the Senate Committee on Commerce and Labor be established to study the Federal Worker Adjustment and Retraining Notification Act. The committee is to review the Virginia statutes to determine the number and type of employees and State businesses affected, and to propose incentives to ensure compliance with the Act or other State and Federal laws governing such matters.

Washington

Wages. The State minimum wage rate increased from \$4.25 to \$4.90 per hour on January 1, 1994.

A provision that required prevailing wage law compliance by private parties building new facilities for State agencies where the facilities are to be at least 80 percent leased or purchased by the agency, was repealed. The provision was replaced with a requirement for prevailing wage compliance by private parties engaged in construction, alteration, or repair for the State or a municipality where the State or municipality will lease or purchase at least 50 percent of the project.

Family issues. The provision that would have terminated administration and enforcement of the State family leave law on the effective date of any Federal law was repealed. The prohibition against an employee private right of action for alleged violations of the act also was repealed.

Equal employment opportunity. The age 70 upper limit on the age discrimination ban in employment was eliminated, making the prohibition applicable to all individuals 40 years of age or older. Also, the law against discrimination added a prohibition on discrimination in employment, credit and insurance transactions in places of public resort, accommodation or amusement, and in real property transactions because of the use of a trained guide dog or service dog by a disabled person.

Private employment agencies. The employment agency law was amended to specifically cover the business of operating an

employment directory. Such agencies need not be licensed but must register with the Department of Licensing, maintain specified records, provide applicants with copies of written contracts containing required information, and meet all other applicable requirements of the law. Specific requirements also were established for employment listing services that were previously covered by the law. Nonprofit schools and colleges, and career guidance and counseling services are now exempt from the law.

Other laws. State agencies are to lead efforts implementing programs to reduce vehicle miles traveled and single-occupant vehicle commuting to reduce automobile-related air pollution, traffic congestion, and energy use. Among implementing provisions, State agencies were authorized, subject to fund availability, to use public funds to financially assist agency-approved incentives for alternative commuting, including but not limited to carpools, vanpools, purchase of transit and ferry passes, and guaranteed ride home programs.

West Virginia

Equal employment opportunity. The Division of Rehabilitation Services was directed to establish a model supported employment program for persons with severe disabilities. The program is to be in an unserved area of the State and is to promote employment services including job development, and provide assistance to persons with severe disabilities in maintaining supported employment positions.

Preference. The law providing a preference for resident vendors in awarding State con-

tracts was amended to include corporation nonresident vendors that have an affiliate or subsidiary in the State employing a minimum of 100 State residents. Eligibility is based on whether the vendor's headquarters or principal place of business has been in the State for 4 years before submitting the bid. Other amendments increase from 60 percent to 75 percent the proportion of resident employees required for a resident vendor to qualify for the preference based on the number of State residents employed, and allow a nonresident corporation or its affiliate or subsidiary employing at least 100 employees in the State to qualify for a vendor preference if 75 percent of its employees are State residents.

Wyoming

Wages. Payroll officers for employees of the Department of Transportation, the University of Wyoming, and community colleges were authorized to establish payroll check-off programs for various insurance plans. □

Footnotes

¹ The Kentucky Legislature met in special sessions; no labor legislation was enacted. Alabama, Guam, Iowa, Ohio, and Wisconsin did not enact significant legislation in the fields covered by this article. Information about Puerto Rico and the Virgin Islands was not received in time to be included in the article, which is based on information received by November 1, 1993.

² Laws prohibiting discrimination on the basis of sexual orientation were enacted previously in California, Connecticut, the District of Columbia, Hawaii, Massachusetts, New Jersey, Vermont, and Wisconsin.