

State labor legislation enacted in 2005

Minimum wage, child labor, drug and alcohol testing, equal employment opportunity, human trafficking, overtime, plant closings, prevailing wage, time off, wages paid, and worker privacy were among the most active categories of labor legislation enacted or amended during the year

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A greater volume of labor legislation, concentrated in more than 30 tracked categories, was enacted in 2005, compared with the volume enacted in recent years.¹ Forty-eight of the 50 States, along with the District of Columbia, enacted labor legislation of consequence in the categories tracked. Iowa and Massachusetts were the only two States that had not done so at the time this article was written. Arkansas, California, Illinois, Maine, Montana, New York, Oregon, Rhode Island, Texas, Virginia, and Washington all enacted above-average numbers of labor-related laws.²

The labor legislation that was enacted by the States addressed issues in a significant number of employment standards areas and included many important measures. Among the areas addressed were agriculture, child labor, State departments of labor, the discharge of employees, drug and alcohol testing, equal employment opportunity, employment agencies, employer leasing, family issues, genetic testing, handicapped workers, hours worked, human trafficking, immigrant protections, inmate labor, living wages, the minimum wage, offsite work, overtime, plant closings, prevailing wages, the right to work, time off, unfair labor practices, wages paid, whistleblowers, worker privacy, and workplace security. This article does not cover legislation on occupational safety and health, employment and training, labor relations, employee background checks (except for those dealing with security issues), economic security, and local living-wage ordinances. Areas that appeared the most in new or amended legislation enacted in 2005 were child

labor, drug and alcohol testing, equal employment opportunity, human trafficking (an area of increasing interest), the minimum wage, the prevailing wage, time off, wages paid, and worker privacy.

At the present time, six States³ do not have a minimum-wage requirement. As of January 1, 2006, minimum-wage rates were higher than the Federal minimum-wage standard in 17 States and the District of Columbia. Of the 44 States with minimum-wage laws, only two (Kansas and Ohio) have required rates lower than the Federal rate of \$5.15 per hour.

The next section briefly summarizes, by category, a number of the legislative activities that resulted in laws enacted or amended by the individual State legislatures during the past year. Following this summary are more comprehensive descriptions of each State's legislative activities during the course of the year.

Minimum wages. The issue of minimum wages was a "hot-button" issue in the States this year. More than 140 minimum-wage bills were introduced in at least 42 States and the District of Columbia. In Connecticut, Florida, Hawaii, Minnesota, New Jersey, Oregon, Vermont, Wisconsin, and the District of Columbia, State minimum-wage rates increased either because of new legislation that was enacted, because of laws that were previously enacted and that contained scheduled increases, or because of previously passed ballot initiatives. Georgia enacted legislation placing limits on local government entities controlling or affecting wages

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or benefits paid by parties doing business with those entities. Hawaii now prohibits employment measures from being instituted that could create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom a special minimum-wage rate has been authorized. Maine instituted a minimum salary in order for individuals to be considered bona fide executive, administrative, or professional employees. New Mexico established a separate hourly wage rate (combining minimum-wage and tip earnings) for employees who earn at least \$30.00 per month in tips. Maine and Vermont passed legislation requiring the completion and submission of studies or analyses concerning living-wage issues.

Overtime wages. Alaska expanded the definition of the employment of persons considered as exceptions to the overtime regulations to include certain types of computer employment positions. In Illinois and Oregon, certain health professionals may no longer be required to work overtime unless certain circumstances or criteria are present.

Prevailing wages. Connecticut clarified coverage under its prevailing-wage law to include independent contractors. Illinois amended its prevailing-wage law so that when second or subsequent underpayment recoveries are brought against a contractor or subcontractor, additional civil penalties may be levied as a result of the action against those parties. Maine statutes now state that any party who believes that there are more than 10 workers employed in the State in a laborer, worker, or mechanic trade or occupation for which no wage rates and benefits were set in the previous survey may petition for inclusion of that trade or occupation in a supplemental survey. New Mexico raised the dollar amount required of a contract before prevailing wages must be paid. New York made it a misdemeanor for persons or corporations to pay less than the stipulated wage or supplement after entering into a public contract or subcontract and stated that such violations may be punished by fine and/or imprisonment for a first offense. Rhode Island contractors for public works who fail to post the appropriate prevailing-wage posters and information in conspicuous places shall be deemed guilty of a misdemeanor and liable for a civil monetary penalty that may be assessed on a daily basis.

Wages paid. Connecticut clarified the requirements for payment of commissions to salespersons who are terminated, while Hawaii expanded the information that must be contained in payroll receipts given to employees. Maine expanded its definition of wages to include compensation paid via a direct-deposit system, automated teller machine cards, or some other means of electronic transfer, as long as the employee either can make an initial withdrawal of the entire amount at no additional cost or the employee can choose another means of payment that involves no additional cost. Maryland, Michigan, Minne-

sota, and North Dakota now permit employers to pay wages via a debit card. Migrant workers in Minnesota who are required to change their abode due to a change in employment status must be paid within 24 hours. Virginia employers who fail or refuse to pay wages are guilty of a Class 1 or Class 6 misdemeanor, depending upon whether the wages are less than or greater than \$10,000.

Agriculture. Persons in Michigan may not operate, cause to be operated, or allow an agricultural labor camp to be occupied and used as such without those persons possessing a legal license. Those who do so without a license may be fined up to \$10,000. Farm labor contractors in Oregon must submit certified payroll records to the commissioner of the Bureau of Labor and Industries.

Child labor. Arkansas clarified the permissible hours of employment for 16-year-old and 17-year-old minors and now allows 11-year-old minors to be employed as sports officials for younger age brackets if certain criteria are met. Illinois State agencies may not issue procurement contracts if the contracts do not assert that no foreign-made material, equipment, or supplies furnished to the State may be produced in whole or in part by the labor of any child under 12 years. Nebraska now prohibits minors under 16 years from working as door-to-door solicitors, except to current customers of newspapers or shopping news. New Jersey increased its civil monetary penalties and administrative penalties for employers found guilty of first and subsequent child labor violations. New York employers who fail to obtain, and provide upon demand, employee proof of age may be fined and/or imprisoned for first offenses and fined or imprisoned with an increased severity for subsequent offenses. Rhode Island modified the listing of hazardous occupations for minors under 16 years. Texas law now requires minors to be at least 11 years of age in order to engage in the delivery of newspapers; the State also amended the definition of the phrase "delivery of newspapers." Counties, cities, and towns in Virginia may authorize any person residing anywhere in the State who is 16 years or older and who is a member of a volunteer fire company within such locale to seek certification under National Fire Protection Association 1001, level-1, firefighter standards as administered by the Department of Fire Programs.

Drug and alcohol testing. California drivers of school transportation vehicles (those vehicles not used for the primary purpose of transporting children) who are not otherwise required to participate in a testing program of the U.S. Secretary of Transportation are now required to participate in a program that is consistent with the controlled-substance and alcohol use and testing requirements of the U.S. Secretary of Transportation that apply to school busdrivers. District of Columbia

government employees who provide direct services to children must participate in a mandatory drug and alcohol testing program. Minnesota employers may now request or require employees to undergo drug and alcohol testing on a random basis only if the employees are employed in a safety-sensitive position or if they are employed as professional athletes who are subject to a collective bargaining agreement permitting random testing to the extent consistent with the agreement. In Tennessee, both newly hired and existing employees may not provide any form of transportation services for compensation to a childcare agency or engage in any form of driving service involving children until the employees have undergone a drug test and the results are negative for illegal drug use. Motor carriers, employers, or consortiums in Washington State that are required to have a testing program must report, to the State Department of Labor, any refusal by a commercial motor vehicle driver to take a drug or alcohol test when the medical review officer or breath alcohol technician has not reported the refusal.

Equal employment opportunity. Language that prohibited women from working in mines was deleted from Arkansas statutes. In addition, employees in Arkansas who have been discriminated against because of their military service may bring civil action seeking backpay with interest, orders to recover compensatory and punitive damages, or an order to recover the cost of litigation and attorneys' fees. Depending upon the number of persons employed by the firm, damages may range from a minimum of \$15,000 to a maximum of \$300,000. The Hawaii Revised Statutes now prohibit equal-pay discrimination based upon the sex of an individual, while Idaho Code prohibits employment discrimination because of a disability, unless the disability prevents the performance of the work required on the job in question. Louisiana adopted a resolution that a study be conducted to develop a plan to address barriers that prevent persons with mental illness from seeking, obtaining, and maintaining employment. Maine now prohibits employment discrimination against any applicant or employee because of his or her sexual orientation. Nebraska Revised Statutes were amended to define an employer as any person or agent thereof, engaged in an industry, who has 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year. Rhode Island has established an office with the purpose of working towards developing a business case for equity in building a diverse workforce to guarantee fair and reasonable opportunities for public service. A business case includes, among other things, analyses of the current workforce and the needs or problems associated with the issue of workforce diversity, as well as proposed alternative solutions to those problems.

Family issues. Public and private employers in Maine with more than 25 employees and who provide paid leave under

an employment policy or collective bargaining agreement shall allow an employee to use the paid leave for the care of an immediate family member. The employer may limit the number of hours taken for this purpose, but in no instance may the hours allowed be fewer than 40 in a 12-month period. Civil actions may now be brought against Maine employers who violate the State Family Medical Leave Act. Oregon clarified the definition of a health care provider under the State Family Medical Leave Act. The Washington State Family Care Law now allows employees to use sick leave or other paid time off, including time allowed under certain disability policies, to care for certain family members, including adoptive parents, who have certain health conditions.

Human trafficking. This is an area that is showing a rise in interest by an increasing number of States. Arizona, Arkansas, California, Colorado, Illinois, Kansas, Louisiana, New Jersey, and Washington all enacted legislation dealing with the issue. The legislation dealt with issues that ranged from (1) establishing a definition of human trafficking, to (2) ordering studies of the problem, to (3) establishing fines and terms of imprisonment for performing such acts, and (4) providing services to victims of trafficking.

Time off. Employees in Alabama may no longer be required to use various types of personal leave for time spent in jury-related activities. State employees and officers of Arizona who are members of the National Guard or Reserves and who are ordered to active duty are to be paid the difference between the employees' or officers' regular State pay and military pay if all annual and military leave balances have been exhausted. Arkansas employers must provide an unpaid leave of absence for employees who are engaged in (1) testing for, (2) the donation of, or (3) recovery from organ donation. A Florida State agency has been required to establish a program to award matching grants to private-sector employers that provide wages to employees serving in the State National Guard or Reserves while on Federal active duty. The grants are limited to a percentage of the monthly wages paid to the employee who is a resident for the actual period of such duty. Depending upon the number of employees, Illinois employers must grant a minimum number of days of unpaid family military leave to an employee during the time State or Federal deployment orders are in effect. Also in Illinois, hotel room attendants must be provided with a minimum of two 15-minute rest breaks and one 30-minute meal break in each workday in which they work at least 7 hours, but only in counties exceeding a certain population. New Hampshire employers are now required to allow employees who are victims of certain crimes to leave work to attend court or other legal or investigative proceedings associated with the prosecution of the crime. In Rhode Island, most employers involved in the continuous employment of women and children must provide

a 20-minute mealtime within a 6-hour work shift and a 30-minute mealtime within an 8-hour work shift. Employees in Virginia who miss work to serve as election officers cannot now be discharged, required to use sick leave or vacation time, or have any other adverse personnel action taken against them, provided that they give their employer reasonable notice of their absence.

Worker privacy. Persons in California are prohibited from knowingly posting the home address or telephone number of any elected or appointed official, or that of the official's residing spouse or child, on the Internet, knowing that that person is an elected or appointed official and intending to cause imminent great bodily harm that is likely to occur or threatening to cause imminent great bodily harm to that individual. Georgia now exempts from disclosure those records which reveal the home address, Social Security number, or home telephone number of certain public employees, as well as insurance or medical information about such employees. Information contained in North Carolina school employee personnel files is confidential and shall not be opened for inspection or examination, except to the employee, applicant for employment, or former employee in question or to his or her properly authorized agent. Also in North Carolina, public officials and employees who knowingly, willfully, and with malice permit any person to have access to information contained in a personnel file are guilty of a Class 3 misdemeanor. Eligible public employees in Oregon may request that any driver,

personnel, or vehicle maintenance record kept that contains or is required to contain the address of the employee's residence contain instead the address of the public agency employing the eligible employee. Pennsylvania employers who disclose information about a current or former employee's job performance to a prospective employer of that employee, upon the request of the prospective employer of the current or former employee, when acting in good faith, are immune from civil liability for such disclosure or its consequences in any case brought against the employer by the current or former employee. Texas has extended the confidentiality of addresses, telephone numbers, Social Security numbers, and personal family information to cover employees of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any matters concerning criminal law or child protective services. Washington State employers who disclose information about a former or current employee are now immune from civil and criminal liability if the information relates to the employee's diligence, skill, ability to perform his or her job, or reliability in performing the job, or if it relates to any illegal act committed in performing the duties of the job. The employer is presumed to be acting in good faith, a presumption that can be rebutted only by showing clear and convincing evidence to the contrary.

The discussion that follows consists of detailed descriptions of legislation enacted or amended during the past year in individual States in the various categories tracked.

Alabama

Time off. Employees may no longer be required or requested to use annual leave, vacation leave, unpaid leave, or sick leave for time spent responding to a summons for jury duty, time spent participating in the jury selection process, or time spent actually serving on a jury.

Workplace security. The legislature adopted a resolution that urges private enterprises doing business in the State, with the assistance of the State Department of Homeland Security, to become active participants in the Basic Pilot Employment Verification Program, a workplace verification program administered by the U.S. Department of Homeland Security. The program uses an automated system that (1) allows employers to confirm the employment eligibility of all newly hired employees, (2) improves the accuracy of wage and tax reporting and protects jobs for authorized U.S. workers, (3) has safeguards to ensure that both the employer's and the employee's information is protected, and (4) permits an

employer to drop out of the program at any time by providing written notice of such intention.

Alaska

Overtime. The State Wage and Hour Act, as it relates to the employment of persons acting in a supervisory, administrative, executive, or professional capacity who are listed as exceptions to the overtime regulations, was amended to include computer systems analysts, computer programmers, software engineers, and other similarly skilled workers. These workers employed in a bona fide executive, administrative, or professional capacity shall be compensated on a salary or fee basis at a rate of not less than 2 times the State minimum wage for the first 40 hours of employment each week.

Flight crews that worked on or after January 1, 2000, are exempt from overtime compensation. This legislation was applied retroactively to all actions and proceedings that were based on a claim for overtime compensation for employment for flight crew members and that were not determined by

final court judgment or administrative decision on or before the effective date of the legislation in May 2005.

Arizona

Employment agency. Agreements between clients and employment agencies now govern both parties and all employees covered by the agreements. The client has the right to direct and control covered employees in order to conduct the client's business. Such agreements require the agency to pay employee wages; withhold, collect, report, and remit payroll-related taxes; and make payments for benefits. Both the agency and the client have the right to hire, terminate, and discipline employees. A professional-related agreement does not affect, modify, or amend anything required under the Federal National Labor Relations Act, the Federal Railway Labor Act, or any required registration or certification; nor does it diminish, abolish, or remove any rights of covered employees under any clients or obligations of clients to any covered employees that existed before the effective date of the agreement. Agencies that

provide professional employer services within the State must register with the Arizona secretary of State, have a minimum net worth of at least \$100,000, and deposit a bond, letter of credit, or securities with a minimum market value of \$100,000.

Human trafficking. Under the State Revised Statutes, it is now unlawful to threaten or cause bodily injury to a person, restrain a person, or withhold government records or other personal property in an effort to obtain a person's services. The revision of the statutes prohibits providing or obtaining another person by any means for the purpose of prostitution by force, fraud, or coercion. The act of trafficking another person to subject them to forced labor or services is also unlawful. Benefiting financially or receiving anything of value from violating these sections of the statutes is a Class 2 felony, and the victim is entitled to either the gross income of the perpetrator, the value of the victim's labor to the defendant, or the value of the victim's labor as guaranteed under the Fair Labor Standards Act.

Immigrant protections. The State Revised Statutes also were amended to stipulate that cities, towns, and counties shall not construct or maintain a work center if any part of the center is to facilitate the knowing employment of an alien who is not entitled to lawful residence in the United States.

Time off. A State employee or an officer of the State who is in the Military Reserves or National Guard and who is ordered to active duty due to a declaration of a state of emergency is to receive the difference in the employee's or officer's regular State pay and military pay if all annual and military leave balances have been exhausted. Neither the employee nor the officer may accrue annual or sick leave during the period of active duty. Within 60 days of return from active duty, the employee or officer must provide proof that he or she rendered honorable service while on active duty for any period for which the employee or officer received the pay differential.

Worker privacy. The State Revised Statutes were amended to specify that the Department of Transportation shall not release a photograph of a peace officer if the officer has requested, in the manner prescribed by the State, that one or more persons be prohibited from accessing the peace officer's residential address and telephone number in any record maintained by the department. The statutes

do not prohibit the use of the peace officer's photograph if (1) it is used by a law enforcement agency to assist a person who has a complaint against an officer in identifying the officer or (2) the photograph is obtained from a source other than the department.

Other laws. For taxable years beginning with and after December 31, 2005, a credit is allowed against the taxes imposed on an employer whose employee is a member of the State National Guard if the employee is placed on active duty. The amount of the credit is \$1,000 for each employee placed on active duty. The employer qualifies for the credit if (1) the employee is in a full-time (or equivalent) position when called to duty or (2) during the taxable year, the employee has served on active duty for training that exceeds the required annual training period. Moreover, (3) if the employer's allowable credits exceed the taxes otherwise due or if there are no taxes due by the employer, the credit may be carried forward for not more than 5 consecutive taxable years as a credit against subsequent years' income tax liability; (4) the credit may be claimed only once in any taxable year; and (5) co-owners of a business, including partners, each may claim only the prorated share based on the ownership interest, and such owners may not exceed the amount that would have been allowed to a sole owner.

Arkansas

Child labor. An amendment to the State's child labor law clarified the permissible hours of employment for 16-year-old and 17-year-old minors. Minors of these ages may not work more than 10 consecutive hours in any one day or more than 10 hours in a 24-hour period. Minors under 18 years may work before 6:00 A.M. or after 11:00 P.M. on nights preceding nonschool days only in occupations that have been declared safe by the State's Department of Labor.

Under the State's child labor law, 11-year-old minors now may be employed as sports officials for younger age brackets if an adult representative of the athletic program is on the premises at which the event is occurring and if the adult representative possesses a signed consent from the minor's parent or guardian. Regulations regarding hours of employment still apply to any employed minor.

Discharge. Emergency medical technicians can be disqualified from certain positions of employment for having been convicted of certain types of offenses, including previous offenses that have been expunged

from the record. They cannot be disqualified if the offense was not committed while they were performing duties of an emergency medical technician.

Equal employment opportunity. An employee cannot be discriminated against because of his or her military service. Those currently serving and those who have been honorably discharged within 6 months of the alleged discrimination may bring a civil action in a circuit court of competent jurisdiction. The employee may seek backpay with interest, an order to recover compensatory and punitive damages, or an order to recover the cost of litigation and attorneys' fees. Total damages awarded may not exceed \$15,000 from an employer who employs 5 to 14 employees for 20 or more weeks, \$50,000 from an employer who employs between 15 and 100 employees for 20 or more weeks, \$100,000 from an employer who employs between 101 and 200 employees for 20 or more weeks, \$200,000 from an employer who employs between 201 and 500 employees for 20 or more weeks, and \$300,000 from an employer who employs more than 500 employees for 20 or more weeks. Action must occur within 1 year of the alleged conduct or within 1 year of the end of the employee's military mobilization. If the employer demonstrates that its actions were based on legitimate, nondiscriminatory factors unrelated to the military service, the employer may use that fact as a defense.

Legislation was enacted that deleted language prohibiting women and girls of any age from working in a mine. Women who are 18 years and older now are permitted to work in mines.

Hours worked. The State code concerning hours of duty and the rest period of drivers was repealed. It is now legal to keep drivers on duty for more than 15 consecutive hours if their shift is followed by 8 hours of rest.

Human trafficking. The State code was amended to define the trafficking of persons and trafficking activities. An individual is guilty of "trafficking"—a felony—if he or she recruits, harbors, transports, or obtains a person for labor or services, through the use of force, fraud, or coercion, for the purpose of subjecting the person to involuntary servitude, peonage, debt bondage, slavery, marriage, adoption, or sexual conduct, or if the person benefits financially or by receiving anything of value from participation in any of these activities. "Debt bondage" is the status or condition of a debtor arising from a pledge by the debtor of his or her personal services or those of a person under the debtor's con-

trol as security for debt if the value of those services, as reasonably assessed, is not applied to the liquidation of the debt or if the length and nature of the services are not respectively limited or defined. "Involuntary servitude" is a condition of servitude induced either (1) by means of any scheme, plan, or pattern of behavior intended to cause a person to believe that if the person does not enter into or continue the servitude, the person or another person will suffer serious physical injury or restraint or (2) by the abuse or threatened abuse of the legal process. "Peonage" is defined as holding someone against his or her will to pay off a debt.

Time off. Legislation was enacted to ensure that employees of the State who have incurred a disability due to military service are entitled to a leave of absence with pay for treatment or reexamination. The leave of absence may not exceed 6 days during 1 calendar year. The employee is entitled to his or her regular salary during the leave of absence, which cannot be deducted from regular annual leave or sick leave. During the leave of absence, the employee also is entitled to maintain all rights and privileges previously given him or her. The leave of absence may not interfere with retirement benefits or insurance premiums contributed by the State.

Private employers are required to provide an unpaid leave of absence for employees during testing for, donation of, and recovery from organ donation. In addition to any medical, personal, or other paid leave provided by the employer, the employer shall grant the employee an unpaid leave of absence to allow the employee to serve as an organ or bone-marrow donor if the employee requests a leave of absence in writing. The length of the leave of absence shall be equal to the time requested by the employee or 90 days, whichever is less. However, a private employer may grant a paid or unpaid leave of absence for a length of time greater than 90 days. If the employer agrees to pay the employee's regular salary or wages during the leave of absence, the employer is entitled to a credit against its State withholding tax liability. If the employer grants the employee a leave of absence greater than 90 days, the credit provided shall be limited to the regular salary or wages paid during the first 90 days of the leave of absence. The credit shall be taken within 1 year of the date of the beginning of the leave.

Workplace security. The State now requires that commercial drivers who transport hazardous materials undergo a criminal background check and evaluation from the

U.S. Transportation Security Administration to establish the fact that the driver is not a security risk. Before issuing a person a commercial driver's license, the Office of Driver Services must obtain information about the person's driving record through the License Information System, from the National Driver Register, and from each State in which the person has been licensed. The criminal background check became effective after January 30, 2005. After May 31, 2005, before renewing or accepting a transferred commercial driver's license with a hazardous-materials, or "H," endorsement, the Office of Driver Services shall obtain a criminal background check and evaluation from the Transportation Security Administration. If the license is denied or not renewed, the decision may be appealed to the Agency.

Other laws. A relative of a school board member may not be employed for compensation totaling more than \$5,000 by the public educational entity that the member serves during his or her tenure of service, unless the director of the State Department of Education approves and issues a letter of exemption. Relatives who were employed before their family member joined the entity may continue their employment. An increase greater than \$2,500 in their compensation also must be approved by the director. Family members may substitute as teachers, cafeteria workers, or busdrivers, but not longer than 30 days per year. In unusual and limited circumstances, the board may approve an employment contract involving a family member. If any proposed contract involves a family member, the board member must leave the room during the vote.

California

Equal employment opportunity. Any person claiming to be aggrieved by an alleged unlawful practice may file a written verified complaint with the State Department of Fair Employment and Housing. The employee has 1 year from the date on which the alleged unlawful practice or refusal to cooperate occurred. However, the filing period may be extended for various reasons. The amendment of the State Government Code allows an extension, not to exceed 1 year, from the date that a person allegedly aggrieved by an unlawful practice attains the age of majority.

The State Civil Service Act requires each agency and department to establish an effective equal opportunity (formerly titled "affirmative action") program to establish goals and timetables designed to overcome any identified underutilization of minorities and women in their organizations. The State Personnel Board

shall be responsible for taking all steps necessary to provide statewide advocacy, coordination, enforcement, and monitoring of these programs. The board shall develop, implement, and maintain equal employment opportunity guidelines and provide technical assistance in the development and implementation of the programs. The board also shall provide statewide training. Upward mobility shall be tracked for persons categorized by race, ethnicity, gender, and disability to determine whether they are being placed into better paying and higher level positions. Each State agency shall develop, update annually, and implement a plan that shall, at a minimum and on the basis of race, ethnicity, and gender within each department by job category and level, identify the areas of significant underutilization of specific groups. All job categories shall be analyzed. An explanation and specific actions must be developed for removing any non-job-related employment barriers. Departments shall establish and invite all employees to serve on a committee whose members either have disabilities or have an interest in disability issues. The committee must comprise at least two-thirds of the active advisory membership. If the board finds that past discriminatory practices have existed, it may modify any layoff or reemployment orders if the failure to do so by a department would result in ineligibility for a Federal program and the loss of Federal funds. The State Personnel Board must establish, monitor, and report on equal opportunity programs, including goals and timetables for ensuring that individuals with disabilities have access to State employment.

Department of labor. The Division of Labor Standards Enforcement does not have the authority to promulgate a specified regulation relating to meal and rest periods, because this authority rests with the State legislature or the Industrial Welfare Commission. The latter is the State agency empowered to formulate regulations governing employment in the State.

Drug and alcohol testing. Drivers of school transportation vehicles (those which are not a school bus, school pupil activity bus, or youth bus and which are not used for the primary purpose of transporting children) who are employed to drive such vehicles and who are not otherwise required to participate in a testing program of the U.S. Secretary of Transportation shall participate in a program that is consistent with the controlled-substance and alcohol use and testing requirements of the U.S. Secretary of Transportation that apply to school busdrivers and that are set forth in Title 49 of the Code of Federal Regulations.

Human trafficking. A victim of human trafficking may bring a civil action for actual compensatory or punitive damages or injunctive relief. "Trafficking" refers to all acts involved in the recruitment, abduction, transport, harboring, transfer, sale, or receipt of persons within national or across international borders through force, coercion, fraud, or deception, in order to place such persons in situations of slavery or slaverylike conditions, forced labor or services (such as forced prostitution or sexual services), domestic servitude, bonded sweatshop labor, or other debt bondage. A prevailing plaintiff also may be awarded attorneys' fees and costs, as well as remedies up to 3 times their actual damages or \$10,000, whichever is greater. Punitive damages may be awarded as well, upon proof of defendant's malice, oppression, fraud, or infliction of duress in committing the act of human trafficking. An action shall be brought within 5 years of the date on which the victim was freed from the trafficking situation or within 8 years after the date the plaintiff attains the age of majority if the victim was a minor when the trafficking occurred. The State Alliance to Combat Trafficking and Slavery Task Force was repealed as part of this legislation, but was reestablished under a separate statute.

The State has developed the Joint Committee on Human Trafficking to study and investigate a number of issues, including the training of law enforcement agencies, education efforts aimed at identifying trafficking victims, coordination among programs serving victims of trafficking, the development of culturally appropriate services, and the collection of better data regarding the number of victims and their locations within the State. The Joint Committee will report to the legislature on September 30, 2006, and is authorized to act until November 30, 2006.

The State established the California Alliance to Combat Trafficking and Slavery (California ACTS) Task Force to evaluate various programs available to victims of trafficking and various criminal statutes addressing the issue. The Task Force must report to the State legislature, Governor, and attorney general on or before July 1, 2007, regarding the measure and evaluation of the progress of the State in preventing trafficking, protecting and providing assistance to victims, and prosecuting persons engaged in the crime.

Time off. Existing law requires employers to provide meal periods to employees during work periods of specified duration. State law was amended so that if an employee in the motion picture or broadcasting industry is covered by a valid collective bargaining agree-

ment that provides for meal periods and includes a monetary remedy if the employee does not receive a meal period as required by the agreement, then the terms, conditions, and remedies of the collective bargaining agreement apply.

Worker privacy. The State Government Code was amended to prohibit persons from posting the home address or telephone number of any elected or appointed official, or of the official's residing spouse or child, on the Internet, knowing that the person is an elected or appointed official and intending to cause imminent great bodily harm that is likely to occur, or threatening to cause imminent great bodily harm, to that individual. A violation of this prohibition is a misdemeanor, while a violation that leads to bodily injury of the official or his or her residing spouse or child is a misdemeanor or a felony. Officials whose home address or phone number is made public as a result of a violation of the State Government Code may bring an action seeking injunctive or declarative relief in any court of competent jurisdiction. If a jury or court finds that a violation has occurred, it shall award damages to that official in an amount up to a maximum of 3 times the actual damages, but in no case less than \$4,000.

State law was amended to require that, by January 1, 2008, an employer include no more than the last four digits of an employee's Social Security number or an existing employee identification number other than a Social Security number on any check provided to the employee. If a State, city, county, district, or any other governmental entity furnishes its employees with a check, draft, or voucher paying the employee's wages, then, by January 1, 2008, no more than the last four digits of the employee's Social Security number or an existing employee identification number must appear in the appropriate place on that document. Current or former employees have the right to inspect or copy the records upon reasonable request within no later than 21 calendar days from the date of the request.

Workplace security. The Electronic Recording Delivery Act of 2004 requires computer security auditors who perform independent audits of electronic recording delivery systems to have access to any aspect of the systems they audit. Any auditors who have been convicted of, or have pending criminal charges pertaining to, a felony or who have misdemeanor charges related to theft, fraud, or a crime

of moral turpitude are not to be granted secure access to these delivery systems. The auditors must submit their fingerprints to the attorney general for a criminal records check to determine their eligibility for access to the electronic delivery systems. The attorney general shall forward the request to the State Department of Justice, which shall then forward the request to the Federal Bureau of Investigation in order to obtain the records check information. The information then shall be reviewed by the attorney general to determine the person's eligibility for access to the electronic delivery systems in question.

Colorado

Agriculture. Employers engaged in floricultural pursuits and who provide their employees with board and lodging are now included among employers in those industries in which all wages or compensation earned by an employee shall be due and payable for regular periods of no greater duration than 1 month and on paydays no later than 10 days following the close of each pay period.

Human trafficking. A task force on human trafficking has been established. For purposes of the task force, trafficking is considered as all acts involved in the recruitment, abduction, transport, harboring, transfer, sale, or receipt of persons, within international or national borders, through force, coercion, fraud, or deception, in order to place such persons in situations of slavery or slaverylike conditions, forced labor or services (such as forced prostitution or forced sexual services), domestic servitude, bonded sweatshop labor, or other debt bondage. The purpose of the task force is to collect data, evaluate prevention methods and prosecution, analyze existing criminal statutes, recommend revisions to them, and consult with organizations to strengthen their efforts against human trafficking. The members also will identify all programs that provide services to victims of human trafficking and will evaluate the public-awareness campaign. Findings will be reported to the State's judiciary committees by January 15, 2007.

Whistleblower. The statutes governing the State Personnel Board were revised. The board is now permitted to authorize administrative law judges to conduct hearings on any matter within the jurisdiction of the board. Petitions filed with the board that result in an investigation into discrimination against an employee or that result in retaliation against an employee for disclosure of information are now exempt from the 90-day review require-

ment, and procedures are specified whereby a certified employee shall be notified of charges and his or her right of appeal. Appeal hearings are now required to be held within 90 days, rather than 45 days, of receipt of the employee's appeal.

Connecticut

Minimum wage. The State minimum wage shall be not less than \$7.40 per hour effective January 1, 2006, and not less than \$7.65 per hour effective January 1, 2007.

Prevailing wage. The State prevailing-wage law applies to people doing the work of mechanics, laborers, or workers on prevailing-wage projects, regardless of whether the individuals are or are not independent contractors.

Wages paid. When a contract between a principal and a sales representative is terminated, the principal shall pay to the sales representative, (1) by the contract date specified or 30 days after the effective date of termination, whichever is later, all commissions that are due on or before the effective date of the termination, and (2) by the contract date specified, but not later than 30 days after such commission becomes due under the contract terms, all commissions that are due after the effective date of the termination. Any principal who willfully, wantonly, recklessly, or in bad faith fails to pay any commissions due shall be liable in a civil action brought by a sales representative for twice the full amount of the commissions owed. The acceptance by a sales representative of a partial payment of commission from a principal shall not constitute a release by such sales representative of any other commissions that are due, except if such payment is made pursuant to a binding and final written settlement and release. Any full release of all commissions claimed to be owed by a sales representative as a condition of a partial payment of commission shall be null and void.

Delaware

Hours worked. A utility vehicle driver engaged in the provision or restoration of utility services when the loss of the service is unexpected, unplanned, or unscheduled shall be exempt from the regulations governing the hours of service for drivers. The drivers no longer need be given 24 consecutive hours off following a period of at least 7 consecutive days of work.

Unfair labor practice. No State employee shall be discharged, threatened, or otherwise retaliated against with respect to the terms or conditions of his or her employment due to the exercise of the person's rights under the State grievance and complaint procedure. An employee who alleges a violation may file a written complaint directly to the State Personnel Office. The employee and the director of personnel or his or her designee may agree to meet and attempt an informal resolution of the complaint, or the case could be heard and the director (or designee) will issue a written decision within 45 days of receipt of the complaint. Such decision shall be final and binding. If it is found that the employee engaged in prohibited conduct, the State Personnel Office shall initiate appropriate disciplinary action consistent with that decision. If the complainant employee is not satisfied with the director or designee's decision, the employee may submit a written appeal to the State Merit Employee Relations Board within 20 calendar days of receipt of that decision.

District of Columbia

Drug and alcohol testing. Employees of the District government can be randomly selected for drug and alcohol testing. An applicant may be offered employment contingent upon receipt of a satisfactory drug testing result and may work in a position that is not safety sensitive prior to receiving the results. The District will give notice of implementing a testing program at least 30 days in advance of the implementation of the program. No employee may be tested prior to receiving the required notice. Each employee will be given one opportunity to seek treatment if needed. District employees who operate a motor vehicle in the performance of their employment will be subject to the testing of their urine or breath, with the employees' consent. Testing for the purposes of determining drug or alcohol content can be done whenever a supervisor has probable cause or a police officer arrests such person for a violation of the law and has reasonable grounds to believe that the employee has been operating a motor vehicle within the District while under the influence of alcohol, any drug, or any combination thereof. Private providers that contract with the District, and each private entity licensed by the District government, who provide employees to work in safety-sensitive positions also shall establish mandatory drug and alcohol testing policies consistent with District requirements.

The Council of the District of Columbia resolved and put in place emergency legislation entitled "The Child and Youth, Safety and

Health Omnibus Congressional Review Emergency Declaration Resolution of 2005." The legislation established a mandatory drug and alcohol testing program for District government employees who provide direct services to children.

Genetic testing. The District's Human Rights Act of 1977 was amended. Although the Act prohibits genetic discrimination by employers, employment agencies, and labor organizations, such entities are not prohibited from seeking, obtaining, or using genetic information to determine the existence of a bona fide occupational qualification that is reasonably necessary for the normal operation of an employer's business or enterprise. When such instances occur, the employee or applicant must provide a written informed consent, the genetic information must be provided to the employee or applicant in writing as soon as it is available, and the genetic information must not be disclosed to any other person. In addition, the Act does not prohibit the employer from seeking, obtaining, or using genetic information to determine an employee's or applicant's susceptibility or level of exposure to potentially toxic substances in the workplace. Again, when such instances occur, the employee or applicant must provide a written informed consent, the genetic information must be provided to the employee or applicant in writing as soon as it is available, and the genetic information must not be disclosed to any other person.

Minimum wage. As of January 1, 2006, the minimum wage was raised to \$7.00 an hour or was set at the Federal minimum wage plus \$1.00, whichever is greater.

Florida

Minimum wage. Due to an initiative passed in 2004, and following the guidelines of that initiative, the State minimum wage increased to \$6.40 per hour on January 1, 2006. Under the State Minimum Wage Act, beginning September 30, 2005, and then annually on September 30 thereafter, the Agency for Workforce Innovation shall calculate an adjusted State minimum-wage rate by increasing the State minimum wage by the rate of inflation for the 12 months prior to September 1 of each year. A grievance process has been established for those who believe that they have been discriminated against by their employer. If the issue is resolved in favor of the employee, the employer has 15 calendar days after receiving notice of the resolution of the grievance to pay the total amount of unpaid wages or otherwise satisfy the aggrieved per-

son. Failure to do so may result in additional claims for unpaid wages. The State attorney general may bring a civil action to enforce this Act and may seek injunctive relief. In addition, or in lieu thereof, the attorney general may seek to impose a fine of \$1,000 per violation, payable to the State, on any employer or other person found to have willfully violated the Act.

Time off. The State Agency for Workforce Innovation shall establish a program to award matching grants to private-sector employers that provide wages to employees serving in the U.S. Armed Forces Reserve or the State National Guard. The program is for those employees on Federal active duty subsequent to January 1, 2005. Each grant shall be awarded to reimburse the employer for not more than one-half of the monthly wages paid to the employee who is a resident for the actual period of such duty. The monthly grant per employee may not exceed one-half of the difference between the amount of the monthly wages paid by the employer at the level paid before the date the employee was called to such duty and the combined amount of the employee's active-duty base pay, housing and variable allowances, and subsistence allowance. Professional licenses issued to any member of the National Guard or of the U.S. Armed Forces Reserves shall not expire while the member is serving on such duty and shall be extended for up to 90 days after the member's return from such duty. Further, if the license is renewed during the 90-day period after the member's return from duty, the member shall be responsible only for normal fees and activities relating to the renewal and shall not be charged any additional costs, such as late or delinquency fees.

Workplace security. Water management districts that have structures or facilities identified as critical infrastructure shall conduct fingerprint-based criminal history checks on current or prospective employees and other designated persons, pursuant to the water management district's security plan for buildings, facilities, or structures and if those persons are allowed regular access to the buildings, facilities, or structures defined as restricted-access areas in the district's security plan. Such checks will be conducted at least once every 5 years or at other, more frequent intervals, as determined by the district. The costs of the checks shall be paid by the district. Those districts without structures or facilities identified as critical infrastructure also may conduct the fingerprint-based criminal history checks.

Georgia

Inmate labor. The provisions of the Working Against Recidivism Act authorize work programs of voluntary labor by inmates of State and county correctional institutions for privately owned profit-making employers to produce goods and services for sale to public or private purchasers under certain circumstances in order to provide job experience and skills to participating inmates. With an eye toward lowering recidivism rates, such programs enable participating inmates to accumulate savings and earn income with which to pay fines, restitution, and family support. The programs also generate taxes from inmates' income and reduce the cost of incarceration. Payment of inmates' wages will be at a rate not less than that paid for work of a similar nature in the location in which the work is performed. Further, there must be an assurance that (1) inmate labor will not result in the displacement of employed workers, (2) local private employers will not be affected, and (3) inmates will be employed in areas where there is a surplus of available gainful labor in a particular locality.

Minimum wage. A local government entity may not, through purchasing or contracting procedures, seek to control or affect the wages or employment benefits provided by its vendors, contractors, service providers, or other parties with which the local government entity does business. Nor shall a local government entity, through the use of evaluation factors, qualification of bidders, or otherwise, award preferences on the basis of wages or employment benefits provided by its vendors, contractors, service providers, or other parties with which the local government entity does business.

Worker privacy. Records that reveal the home address, Social Security number, or home telephone number of public employees (for example, a prosecutor or a publicly employed law enforcement officer), or records that reveal insurance or medical information about such employees, are exempt from the requirements of public disclosure.

Hawaii

Equal employment opportunity. The State Revised Statutes were amended to prohibit pay discrimination based upon the sex of an individual. Employers shall not discriminate between employees because of sex by paying wages to employees in an establishment at a rate less than the rate at which the employer pays wages to employees of the opposite sex

in the establishment for equal work on jobs, the performance of which requires equal skill, effort, and responsibility, and that are performed under similar working conditions.

Minimum wage. All employers shall pay each of their employees wages at the hourly rate of not less than \$6.75 per hour beginning January 1, 2006, and \$7.25 per hour beginning January 1, 2007.

The wages of meal count assistants, adult supervisors, and classroom cleaners shall be no less than the current State minimum wage. Special minimum wages for learners, apprentices, full-time students, paroled wards of State youth correctional facilities, handicapped workers, individuals whose earning capacity is impaired by old age or physical or mental deficiency or injury (for whom special certificates have been issued with fixed expiration dates) may be prescribed. No measures may be instituted that shall create a substantial probability of reducing the full-time employment opportunities of persons other than those to whom the special minimum-wage rate has been authorized.

Prevailing wage. Every laborer and mechanic performing work on the job site for the construction of any public work project shall be paid no less than the prevailing wage, which shall be established as the sum of the basic hourly rate and the cost to an employer of providing a laborer or mechanic with fringe benefits. Prevailing-wage determinations shall include the basic hourly rate, the rate of contribution or the cost of fringe benefits (as reflected in the wage rate scheduled as an hourly rate), and those rates regarded as prevailing wages in each corresponding classification of laborers and mechanics. The rate for the corresponding classification of laborers and mechanics shall be the rate paid to the greatest number of those employed in the State on contracts that are similar to the contract in question.

Wages paid. Every pay period, every employer shall furnish each employee with a legible, printed, typewritten, or handwritten notice showing the employee's total hours worked, overtime hours worked, straight-time compensation, overtime compensation, other compensation, total gross compensation, amount and purpose of each deduction, total net compensation, date of payment, and pay period covered. Subsequent to the receipt of written authorization from the employee, the employer may provide an electronic record, in lieu of the aforementioned hard copy, that may be electronically accessed by the employee and that the employer shall retain for a period of at least 6 years.

Idaho

Equal employment opportunity. The State code was amended to prohibit employment discrimination against individuals because of a disability. This prohibition does not apply if the disability prevents the performance of the work required in the employee's job.

Illinois

Child labor. Every contract entered into by a State agency for the procurement of equipment, materials, or supplies, other than procurement related to a public-works contract, must specify that no foreign-made equipment, material, or supplies furnished to the State under the contract may be produced in part or in whole by the labor of any child less than 12 years of age. The contractor must agree to comply with this provision. Contractors who violate the provision may be subject to (1) a voiding of the contract at the option of the State agency, (2) the assessment of a penalty that must be the greater of \$1,000 or an amount equaling 20 percent of the value of the equipment, materials, or supplies that the State agency demonstrates were produced in whole or in part by child labor and supplied under the contract; and (3) a suspension from bidding on a State contract for a period not to exceed 360 days.

Employment agency. Day and temporary labor service agencies operating without having registered with the State Department of Labor are in violation of the State Finance Act and are subject to a possible \$500 penalty. When laborers are contracted by such agencies, amounts deducted from their pay for the cost of meals, equipment, and transportation may not cause their wages to fall below the State or Federal minimum wage. Also, when these laborers are contracted to work at a third-party client's worksite, but are not utilized by the third party, they shall be paid by the agency for a minimum of 4 hours of work at the agreed-upon rate. However, in the event that the agency contracts the laborer to work at another location during the same shift, the laborer shall be paid by the agency for a minimum of 2 hours of work at the agreed-upon rate. The agency must keep all required employee and payroll records for the laborers it provides. Such an agency may not allow a motor vehicle to be used to transport the laborers if the agency knows or should know that the vehicle used for transportation is unsafe or not equipped as required by the Act, unless the vehicle is (1) the property of a public mass transportation system, (2) the property of a common carrier, (3) the laborer's personal vehicle, or (4) a laborer's vehicle that

is used to carpool other laborers and that is selected exclusively, and is the sole choice of the laborer, for transportation. Violations of the Act's requirements may result in the assessment of a civil monetary penalty not to exceed \$6,000 following a first audit and \$2,500 for each repeat violation within 3 years. Under the Act, each violation of the Act for each laborer and each day of violation constitutes a separate and distinct violation.

Equal employment opportunity. Each year, the State Department of Central Management Services shall prepare and revise a State Hispanic Employment Plan in consultation with knowledgeable individuals and organizations. The department shall report on the plan to the General Assembly by February 1 of each year. All State agencies shall implement strategies and programs to increase the number of Hispanics employed by the State and the number of bilingual persons employed at supervisory, technical, professional, and managerial levels. On the basis of assessments of bilingual service needs, and by monitoring the number of Hispanics and bilingual persons employed by each agency, the annual report should reflect employment increases from year to year. The department shall assist agencies in the development and modification of training programs to enable them to meet their affirmative action and equal employment opportunity goals. The department also shall provide information regarding other training and educational resources, such as the Executive Recruitment and Graduate Public Service Internships.

The State's Human Rights Act was amended and now states that nothing in the Act shall be construed as requiring any employer, employment agency, or labor organization to give preferential treatment or special rights based on sexual orientation or to implement affirmative action policies or programs based on sexual orientation.

Hours worked. Operators of utility service vehicles engaged in emergency intrastate maintenance or repair work in response to an interruption of utility service are exempt from the State's regulations regarding maximum hours of service. The exemption shall not exceed the duration of the utility service provider's or the driver's direct assistance in providing relief from the interruption, or 5 days from the date of the initial declaration of the emergency, whichever is less. Upon receipt of notification, by a utility service provider, of an interruption of utility service constituting an emergency, the State Department of Transportation shall declare that an emergency exists. Should an audit by the department establish that there has been an abuse of the

notification procedure by a utility service provider, the department may refuse to grant emergency declarations to that utility service provider in the future without further confirmation that a particular interruption of utility service does indeed constitute an emergency.

Human trafficking. The State Code was amended to define the trafficking of persons and trafficking activities. Whoever knowingly (1) recruits, entices, harbors, transports, provides, or obtains another person by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain another person by any means, intending or knowing that the person will be subjected to forced labor or services; or (2) benefits, either financially or by receiving anything of value, from participating in a venture that involves involuntary servitude, including involuntary servitude of a minor, is guilty of a felony. In addition to suffering incarceration, persons who commit such offenses shall forfeit to the State any profits or proceeds and any interest or property that the sentencing court determines was acquired or maintained as a result of keeping a person in involuntary servitude or participating in trafficking in persons for forced labor or services, in violation of the statute.

Overtime. Nurses may not be required to work overtime, except in the case of an unforeseen emergency when such overtime is required only as a last resort. The overtime shall not exceed 4 hours beyond an agreed-upon predetermined work shift. When a nurse is mandated to work up to 12 consecutive hours, the nurse must be allowed at least 8 consecutive hours of off-duty time immediately following the completion of a shift. No hospital may discipline, discharge, or take any other adverse employment action against a nurse solely because the nurse refused to work mandated overtime. Hospital employees may file complaints of alleged overtime violations with the State Department of Public Health, but must do so within 45 days following the occurrence of the incident giving rise to the alleged violation.

Plant closing. The employment of a high school or elementary school teacher transferred from one board or administrative agent to the control of a new or different board or agent shall be considered continuous employment if such transfer or employment occurred by reason of (1) the deactivation or reactivation of any high school or elementary school, (2) a boundary change or the creation or reorganization of any school district, (3) the creation, expansion, reduction, or dissolution of a spe-

cial-education program or joint educational program, or (4) the creation, expansion, reduction, termination, or dissolution of any joint-agreement program operated by a governing board, regional superintendent, or other administrative agent or any program operated pursuant to an Intergovernmental Joint Agreement.

Prevailing wage. The State Prevailing Wage Act was amended to state that when a second or subsequent action to recover underpayments is brought against a contractor or subcontractor who is found liable for underpayments to any laborer, worker, or mechanic, the contractor shall be liable to the Department of Labor for 50 percent of the underpayments payable as a result of the second or subsequent action and additionally liable for 5 percent of the amount of any such penalty to the State for underpayments for each month following the date of payment during which the underpayments remain unpaid.

Contractors and subcontractors engaged in public-works projects shall make and keep records of all laborers, mechanics, and other workers employed by them on such projects. The records shall be kept for at least 3 years and shall include all job classifications, along with other previously required information. The information in the records is to be submitted monthly via a complete copy of a certified payroll to the public body in charge of the project. The certified payroll shall be accompanied by a signed statement from the contractor or subcontractor asserting that such records are true and accurate, that the wage rate for each worker is not less than the general prevailing hourly rate required by the State Prevailing Wage Act, and that the signatory is aware that the filing of a false certified payroll is a Class B misdemeanor. Contractors and subcontractors are required to make records available for inspection upon 2 days' business notice.

The State Salary and Annuity Withholding Act was amended to permit an employee or annuitant to authorize the withholding of a portion of his or her salary, wages, or annuity for the additional purpose of the payment of fringe benefit contributions to employee benefit trust funds. The authorization applies to State contractual employees hired through labor organizations and working pursuant to a signed agreement between a labor organization and a State agency. This action is not intended to limit employee benefit trust funds and the contributions to be made thereto, the purpose of which is to compute the prevailing wage in any particular locale. Rather, such employee benefit trusts are intended to include contributions made to funds aimed at assisting in

training, building and maintenance, and the like, including, but not limited to, those benefit trust funds, such as pension and welfare funds, which are normally computed in the prevailing-wage rates and which otherwise would be subject to contribution obligations by private employers that are signatory to agreements with labor organizations.

Time off. The State's One Day Rest in Seven Act is amended for hotel room attendants—those persons who clean guest rooms or put them in order—working in a hotel or other establishment licensed for transient occupancy and located in a county with a population greater than 3 million. Each attendant shall receive a minimum of two 15-minute paid rest breaks and one 30-minute meal period during each workday in which he or she works at least 7 hours. Such employees may not be required to work during a break period. The break area should be provided with adequate seating and tables in a clean and comfortable environment, with clean drinking water provided without charge. Complete and accurate records of the break periods shall be kept. An employer who violates this legislation shall pay the hotel room attendant 3 times the regular hourly rate of pay for that position for each workday during which the required breaks were not provided. If an attendant is terminated, demoted, or otherwise penalized as a result of exercising his or her rights under this legislation and affirms that the employer was not acting in good faith when the attendant was terminated, demoted, or otherwise penalized, then a rebuttable presumption shall arise that the defendant's action was taken in retaliation, and the plaintiff shall be entitled to backpay, reinstatement, or injunctive relief. Any person terminated in violation of the law shall recover triple his or her normal daily compensation and fringe benefits.

Under the authority of the Employee Blood Donation Leave Act, employees of units of local governments, of boards-of-election commissioners, or of private employers may, after obtaining approval from the employer, use up to 1 hour to donate blood every 56 days in accordance with appropriate nationally recognized medical standards.

Any employer that employs between 15 and 50 employees shall provide up to 15 days of unpaid family military leave to an employee during the time Federal or State deployment orders are in effect. Any employer that employs more than 50 employees shall provide up to 30 days of unpaid family military leave under the same circumstances. The employee shall give at least 14 days' notice of the intended date upon which the leave will commence if the leave will consist

of 5 or more consecutive workdays. If fewer than 5 consecutive days are needed, the advanced notice shall be given in a practicable fashion. The employer may require certification from the proper military authority to verify the employee's eligibility for the leave. An employee shall not take this leave unless he or she has exhausted all accrued vacation, personal compensatory, and any other kind of leave granted to the employee, except sick and disability leave. The employee who exercises family military leave shall be entitled to be restored by the employer to the position (or an equivalent position) the employee held when the leave commenced, with equivalent seniority status benefits, pay, and other terms and conditions.

Other laws. If an employer has given an individual a date upon which that individual is to begin performing services (other than part-time, temporary employment or casual labor) for that employer, but, before the date on which the individual's service is to begin, the individual is called to active military duty either pursuant to a declaration of war by the Congress, the President, or (during a declared emergency) the State Governor, or to quell civil insurrection, then, upon request of the individual, the employer shall provide him or her with a written copy of the employment offer. The statement must include at least the offer of work, the date on which the services were to begin, the job title or duties to be performed, the remuneration offered, and the signature of the employer. If, upon honorable discharge from the military or satisfactory completion of military service, the individual is still qualified to perform the duties of the position for which he or she was first offered employment, and if the individual applies for a position with the employer within 90 days after having been relieved from military service, then the individual shall be given preference for employment with that employer. If circumstances have so changed as to make it impossible or unreasonable for the employer to employ the individual immediately, the individual shall remain eligible to begin employment for a period of up to 1 year after the date the individual first notified the employer of his or her desire to perform the services in question for the employer. Nothing shall require an employer to hold a job position open; violate any employment law, collectively bargained employment recall, or other employment obligation; or create additional employment opportunities in order to be in compliance with this legislation.

Indiana

Time off. Private employers are prohibited from disciplining an employee who is a volunteer firefighter or a member of a volunteer emergency medical services association for being late to work when the employee is responding to a fire or an emergency call. The private employer may request proof that the employee was engaged in fire-related or emergency activity during his or her absence from employment and also may require the employee to notify the employer of the expected absence before the scheduled start time. Employers other than the State are not required to pay salary or wages for volunteer firefighting time away from employment, although other accrued benefits, such as vacation or sick leave, may be paid. Private employers may designate an employee as essential and may reject the employee's notification of expected absence. Volunteer firefighters who are disciplined by the State or local government employer for being absent from employment while responding to an emergency and who bring action against their employer as a result of the discipline must do so within 1 year after the date of the disciplinary action.

Kansas

Human trafficking. Human trafficking is defined as the recruiting, harboring, transporting, providing, or obtaining another person by any means, knowing that force, fraud, threat, or coercion will be used to cause the person to engage in forced labor or involuntary servitude. In addition, the definition encompasses any defendant who recruits persons under 18 years of age knowing that the person, with or without force, fraud, threat, or coercion, will be used to engage in forced labor, involuntary servitude, or sexual gratification. Aggravated trafficking is rated as a severity-level-1 person felony.

Kentucky

Worker privacy. A voluntary statewide certified volunteer firefighter identification program has been implemented that calls for the issuance of a color photo nondriver identification card to all certified volunteer firefighters. The descriptive data and a photo of the certified volunteer firefighter shall be stored in the State Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act and the

State Missing Person's Clearinghouse. The data and photo also may be obtained and used by news-gathering organizations.

Louisiana

Child labor. Any minor employed to perform or render artistic or creative services under a contract subject to Chapter 32, Title 51, of the State Revised Statutes of 1950 (Child Performer Trust Act) for \$500 or more shall be exempt from provisions covering compulsory school attendance for those days during which the minor is so engaged. Every contract executed by or on behalf of a minor shall require that 15 percent of the gross earnings be placed in a trust fund created for the benefit of the minor in an institution authorized to transact business in the State and that is federally insured. Monies placed in a trust fund shall be in a blocked account, and no funds shall be withdrawn prior to the date the minor attains the age of 18, unless the minor is determined to be in necessitous circumstances by a court of competent jurisdiction. Subject to their legal status, both parents shall serve as trustees of the trust, which must be established within 30 days of the last day of employment, or else the 15 percent shall be forwarded to the State (or to a trust fund in another State) where the funds will be held in trust. If a minor is absent from school for 2 or more days within a 30-day period, the employer shall employ a certified teacher to provide a minimum of 3 hours of educational instruction per day. There must be a ratio of 1 teacher to every 10 students.

Equal employment opportunity. A resolution was adopted that authorized and directed the State Commission on Employment of Mental Health Consumers to study and develop a plan to address barriers that prevent persons with mental illness from seeking, obtaining, and maintaining employment. The commission shall submit its plan to the appropriate Senate and House Committees and other appropriate personnel prior to the convening of the 2007 Regular Session.

Human trafficking. It shall be unlawful for a person to intentionally recruit, harbor, transport, provide, solicit, or obtain another person through fraud, force, or coercion to provide services or labor. Whoever commits the crime of human trafficking shall be fined not more than \$10,000 and shall be imprisoned at hard labor for not more than 10 years. However, whoever commits the crime of human trafficking when it includes the services of commercial sexual activity or any sexual conduct constituting a crime under

the laws of this State shall be fined not more than \$15,000 and shall be imprisoned at hard labor for not more than 20 years. Finally, whoever commits the crime of human trafficking when it involves a person under the age of 18 shall be fined not more than \$25,000 and shall be imprisoned at hard labor for not less than 5 years or more than 25 years. Whatever the sentence imposed, 5 years of it shall be without the benefit of parole, probation, or suspension.

Wages paid. There no longer exists a monetary limit on the amount that an employer may pay to the surviving spouse of a deceased employee as a result of any wages, sick leave, annual leave, or other benefits due to the employee, provided that neither spouse has instituted divorce proceedings.

Maine

Child labor. Employees of tobacco specialty stores who engage in direct face-to-face sales of tobacco products must be at least 17 years of age. Those employees between 17 and 21 years of age may sell tobacco products in such stores only while in the presence of an employee who is at least 21 years of age and is in a supervisory capacity.

Discharge. An employer may not discharge or take any other disciplinary action against an employee because of the employee's failure to report for work at the beginning of the employee's regular working hours if the employee failed to do so because he or she was responding to an emergency as a volunteer firefighter and the employee reported for work as soon as reasonably possible after being released from the emergency. The employer may charge the lost time against the employee's regular pay or against the employee's available leave time. This legislation does not apply to volunteer firefighters who are absent from their regular employment as law enforcement officers, utility workers, or medical personnel when the services of those kinds of workers are essential to protect public health or safety. The employer shall be notified that the employee is not reporting to work at the appointed time, and at the employer's request, the employer should be provided with a statement from the chief of the volunteer fire department stating that the employee was responding to an emergency call. A violation of the law is actionable by the employee and must be filed within 1 year of the date of the alleged violation. If the court finds that the employer violated the law, and if the employee so requests, the court shall order the employer to reinstate the employee in his or her former position without reduction

of pay, seniority, or other benefits. In addition, the court shall order any other appropriate remedy, including payment of back wages and reinstatement of any other benefits, necessary to return the employee to the position the employee would have been in had the violation not occurred. This legislation does not apply if the employer and employee have entered into a written agreement that governs procedures to be followed when the employee is called to respond to an emergency as a volunteer firefighter. Upon receipt of notice of an employee's volunteer firefighter status, an employer may designate the employee as essential to the employer's operations and his or her absence as disruptive to the employer's business.

Drug and alcohol testing. A person who performs a point-of-collection screening or confirmation test may release the results of that test only in accordance with the following stipulations: (a) if the test yields a preliminary positive or negative result, then the person performing the test shall immediately release the result to the employee who is the subject of the test; (b) if the test yields a preliminary positive result, then the result may not be released to the employer until after it has been confirmed in another test; (c) if the test yields a preliminary negative result, then the result may not be released to the employer until after it has been confirmed in another test; and (d) a confirmation test result shall be released immediately both to the employee who is the subject of the test and to the employer.

Equal employment opportunity. Civil rights protections have been extended to all people regardless of their sexual orientation. It is unlawful for an employer, employment agency, or labor organization to discriminate against any applicant or employee because of his or her sexual orientation. Employers, employment agencies, and labor organizations cannot attempt to elicit information about, make or keep a record of, or establish a policy regarding the sexual orientation of applicants or employees. Nor can employers, employment agencies, or labor organizations ask questions about sexual orientation on applications or print notices indicating any preferences regarding the sexual orientation of applicants or employees.

Family issues. The judicial enforcement remedies available under the State Family Medical Leave Act requirements were amended. Civil actions may now be brought in the appropriate court by an employee against any employer, and the court may enjoin any practice that violates the law. The court also

may (1) award damages equal to the wages, salary, employment benefits, or other compensation denied or lost to the employee by reason of the violation; (2) order the employer to pay liquidated damages of \$100 for each day that the violation continued; and (3) order the employer to pay an additional amount as liquidated damages if the employee proves to the satisfaction of the court that the employer's violation was willful. Finally, (4) the court shall award reasonable attorneys' fees and other costs of the action, to be paid by the employer.

Public or private employers with more than 25 employees and who provide paid leave under an employment policy or collective bargaining agreement shall allow an employee to use the paid leave for the care of an immediate family member who is ill. The employer may adopt a policy limiting the number of hours taken for this purpose, but in no case may the number of hours allowed be fewer than 40 in a 12-month period. The employee may not use paid leave until it has been earned. An employee who receives more than one type of paid leave may elect which type and the amounts of those types of paid leave to use. Employers may require notice or verification of leave taken if such notice or verification is required when an employee takes leave because of his or her own illness. Employers may not discharge, demote, suspend, discipline, or otherwise discriminate against an employee, or threaten to take any of these actions against an employee, who exercises his or her right to use leave for the aforesaid purposes.

Immigrant protections. Employers in the State who employ foreign laborers in a logging operation must provide proof of the employer's ownership of any logging equipment used by the laborers in the course of employment, including proof of ownership of at least one piece of logging equipment for every two foreign workers employed by the employer in the logging operation. This requirement does not apply to equipment for which the U.S. Department of Labor, Division of Foreign Labor Certification, has established a prevailing wage under the Federal Service Contract Act of 1965 for persons using that equipment. Employers who violate the requirement commit a civil violation for which a fine of not less than \$1,000 or more than \$5,000 may be assessed.

Living wage. A State Study Commission Regarding Liveable Wages has been established. The purpose of the commission is to (1) define what level of compensation constitutes a liveable wage; (2) identify ways to

ensure that all State adults earn a liveable wage; (3) examine the efficacy of a State-earned income tax credit that would enable working families to meet their basic needs; (4) examine how increased access to education, training, and childcare increases the likelihood of earning a liveable wage, and identify means of increasing such access; (5) identify the number of people in the State who earn less than a liveable wage; (6) examine how State policies and payments, including the Maine State Care program and other State health-care-related payments, increase the number of State residents who earn less than a minimum wage; (7) examine the economic impact of a liveable wage on the State, including the potential effects that a mandated liveable wage would have on job creation or destruction and on the cost of goods and services (which, if driven up, might in turn drive up the liveable wage); and (8) submit a report by December 7, 2005, that sets forth findings and recommendations, including suggested legislation for presentation to the legislature.

Overtime. There is a salary test determining overtime pay for certain employees. A salaried employee who works in a bona fide executive, administrative, or professional capacity and whose regular compensation, when converted to an annual rate, exceeds 3,000 times the State's minimum hourly wage or the annualized rate established by the U.S. Department of Labor under the Federal Fair Labor Standards Act, whichever is higher, could be exempt from overtime.

Plant closing. School commissioners are prohibited from closing a school in unorganized territory (that which is not part of a municipality) of the State, except in accordance with procedures and standards established by rule by the State Department of Education. The rules must provide for a public hearing in the area served by a school prior to the date of the proposed closure of the school.

Prevailing wage. As amended, the State's Revised Statutes now assert that any party who believes that there are more than 10 workers employed in the State in a laborer, worker, or mechanic trade or occupation for which no wage and benefit rates were set on the basis of the previous survey may petition the director of the State Department of Labor for inclusion of that trade or occupation in a supplemental survey. The director shall determine whether the occupation or trade will be used in the construction of public works and whether it is underrepresented in the survey process. Once a determination has been reached, the director may institute supple-

mental survey processes to establish wage and benefit rates for the trade or occupation. The supplemental survey must be coordinated with the regular survey and designed to minimize the burden on any employer required to respond.

Wages paid. An employer's payment of wages or salary must be made at the rate previously established by the employer, except that the employer may decrease the rate of pay, effective the next working day, if the employer gives notice to all affected employees prior to the change. When an employer has temporarily increased an employee's wage rate to comply with the prevailing-wage requirements of the Federal Davis-Bacon Act or another applicable Federal or State law, the employer need not provide advance notice prior to returning the employee to his or her regular wage rate, as long as the employer is in compliance with all posting and notice provisions of the applicable law.

At regular intervals not to exceed 16 days, at a time made known to the employee, every employer must pay in full all wages earned by each employee. Payment of hourly wages or salaries must be made at the rate previously established by the employer. An employer may decrease the rate of pay, effective the next working day, if the employer gives notice to all affected employees prior to the change. Changes in rates of pay made under a collective bargaining agreement are exempt from this requirement.

Worker privacy. Information technology infrastructure and systems information that is to be protected from disclosure other than to the State Legislature or, in the case of a political or administrative subdivision, to municipal offices or board members now includes personal contact information concerning public employees, except when that information is public pursuant to other law. "Public employee" means "an employee of a governmental entity," but does not include elected officials considered for the purpose of releasing the information, while "personal contact information" means "home address, home telephone number, home facsimile number, home e-mail address, personal cellular telephone number, and personal pager number."

Maryland

Child labor. A minor in the State who is at least 17 years of age and who is too young to be a registered voter may be appointed and serve as an election judge if the minor demonstrates to the satisfaction of the local board that he or she meets all other quali-

fications for registration in the county. The minor is not allowed to be employed for more than 5 consecutive hours without a nonwork period of at least one-half hour. In a calendar day, the total school and work hours of a minor may not exceed 12 hours, and the minor shall have at least 8 consecutive hours that are not school or work hours. The State commissioner of labor may grant a minor an exception to these restrictions if the commissioner determines that there will be no hazard to the health or welfare of the minor. Further, the 17-year-old who serves as an election judge may work more than 12 hours on election day only, subject to consent from at least one parent or guardian.

Equal employment opportunity. Legislation was enacted that created a State Equal Pay Commission. The purpose of the commission is to study (1) the extent of wage disparities, in both the public and private sectors, between men and women and between minorities and nonminorities; (2) the factors that cause or tend to cause disparities across and within occupations, the payment of lower wages for work in female-dominated occupations, child-rearing responsibilities, the number of women who are heads of households, and workers' education, hours worked, and years on the job; (3) the consequences of the disparities on the economy and on the families affected; and (4) actions that are likely to lead to the elimination and prevention of the disparities. The commission was required to file preliminary findings, recommendations, and potential solutions by September 30, 2005, while the final findings, recommendations, and potential solutions shall be filed by September 30, 2006. Both preliminary and final reports shall be filed with the Governor, the president of the senate, and the speaker of the house.

Wages paid. The annotated code of the State was amended so that an employer may now pay a wage to an employee by a credit of the employee's wage to a debit card or card account from which the employee is able to access the funds through withdrawal, purchase, or transfer. Any applicable fees to the debit card or card account must be disclosed to the employee in writing in at least 12-point type.

Michigan

Agriculture. Persons may not operate, cause to be operated, or allow an agricultural labor camp to be occupied and used as such

without a license. Those who do so are subject to an administrative civil fine of not more than \$1,000. Each day a person operates without a license is a separate violation; however, the total administrative civil fine for continued noncompliance shall not exceed \$10,000.

Wages paid. An employer or an agent of an employer may now pay wages to an employee either by (a) direct deposit or electronic transfer to the employee's account or by (b) issuance of a payroll debit card to the employee. An employer or agent shall not make such direct deposit or issue a payroll debit card to an employee without the full, free, and written consent of the employee, obtained without intimidation, coercion, or fear of discharge or reprisal for refusal to permit the deposit or the issuance of the payroll debit card. However, as of January 1, 2005, an employer already paying wages by payroll debit card to one or more of its employees is permitted to pay wages by payroll debit card to any other of its employees without obtaining the described consent.

Minnesota

Drug and alcohol testing. Employers may request or require employees to undergo random drug and alcohol testing only if (1) they are employed in safety-sensitive positions or (2) they are employed as professional athletes. In the latter case, if the professional athlete is subject to a collective bargaining agreement permitting random testing, testing may be conducted only to the extent consistent with the agreement.

Employment agency. State statutes were amended to define the term "search firm" as "any person, firm, corporation, partnership, or association engaged in the business of management consulting, management search consulting, or personnel consulting." A search firm may be exempt from meeting certain conditions pertaining to its being regulated as an employment agency if (1) the search firm is retained by the employer, acts on the employer's behalf, and receives compensation only from the employer, subject to an agreement stating the position to be filled; (2) no candidate identified by the search firm will have to pay any kind of direct or indirect fee for the search firm's services; (3) the search firm is not permitted to encourage anyone it has placed with an employer to terminate employment with that employer; and (4) the search firm is not permitted in any other way to act as an employment agency. In addition, employers are prohibited from directly or

indirectly requiring an employee placed with the employer by a search firm to pay any of the search firm's fees.

Minimum wage. Every large employer (an enterprise with an annual gross volume of sales made or business done of not less than \$625,000) was required to pay each employee wages at a rate of at least \$6.15 per hour beginning August 1, 2005. Every small employer (an enterprise with an annual gross volume of sales made or business done that is less than \$625,000) was required to pay each employee at a rate of at least \$5.25 per hour beginning August 1, 2005. During the first 90 consecutive days of employment, an employer may pay an employee under 20 years of age a wage of \$4.90 per hour. No employer may take any action to displace any employee, including a partial displacement through a reduction in hours, wages, or employment benefits, in order to hire an employee at the wages authorized.

Wages paid. Employees engaged in transitory employment (for example, migrant workers) that requires them to change their place of abode because the employment is terminated either by the completion of the work or by the employees' being discharged or quitting must be paid within 24 hours. If payment is not made by that time, the employer shall pay each such employee's reasonable expenses of remaining in camp or elsewhere away from home while awaiting payment of wages or earnings. If such wages are not paid within 2 days after termination, the employer shall additionally pay to the employee a sum equal to 2 times the average amount of the employee's daily earnings from the time of termination until payment has been made in full. Employers who fail to pay agreed-upon wage supplements or benefits within 30 days after such payments are required by law are guilty of a gross misdemeanor. When a court finds that an employer has failed to comply with the terms of an employment statement provided by the employer to the worker or has failed to pay wages within the required timeframe, the employer will be fined \$500 for each type of violation.

People transporting household goods for either the Federal or State government or their agencies are now exempt from a law currently in force which states that permit carriers cannot charge or receive compensation different from the rates named in their schedules, including rates set by the commissioner of the State Department of Transportation. The person is also exempt when transporting household goods at the request of a nonprofit charitable organization and, further-

more, may transport the goods without geographical restrictions.

Employers now may initiate payment of wages to an employee by the transfer of electronic funds to a payroll card account, but only after the employee has voluntarily consented in writing to that method of payment. The employer must provide the employee with a written disclosure that states the terms and conditions of the payroll card option, including a complete itemized list of all fees that may be deducted from the employee's payroll card account by the employer or the issuer of the card. Consent of payment of wages by the transfer of electronic funds to a payroll card account shall not be a condition of hiring or continued employment. The wages paid into the payroll card account must be available for withdrawal by the employee up to the full amount of the employee's wages.

Mississippi

Family issues. Certain employees of public universities who do not contribute to the State's public employees' retirement system or the university retirement program are ineligible to receive major medical leave.

Inmate labor. Legislation was enacted that extended the repeal of legislation regarding the use of goods made by out-of-State inmate labor. Until July 1, 2007, privately operated correctional facilities cannot import certain goods manufactured by inmates housed in other States if Mississippi's own prison industries are manufacturing the same goods, unless the goods cost at least 30 percent less than Mississippi's manufactured goods.

Missouri

Other laws. Notwithstanding any other provision of law to the contrary, an employer shall be permitted to provide or contract for health insurance benefits at a reduced premium rate for employees who do not smoke or use tobacco products.

Montana

Drug and alcohol testing. A revision of the approved workforce drug and alcohol testing program now states that a "sample" includes a breath test or oral fluid obtained in a minimally invasive manner. Three items must be covered by procedural requirements at least as stringent as those in 49 CFR, part 40, of the Code of Federal Regulations: (1) samples not

covered in 49 CFR, part 40; (2) the testing program, and (3) the collection, transport, chain of custody, and confirmation testing of nonurine samples. Also, the testing methodology must be cleared by the Federal Food and Drug Administration.

Family issues. The State Department of Administration or the administrative officer of any county, city, or political subdivision is responsible for the proper administration of all of the State employees' annual, sick, jury duty, and military leave provisions and may promulgate rules necessary to achieve uniform administration to prevent the abuse of State time-off provisions. These provisions are (1) absence with pay for a sickness suffered by an employee or a member of the employee's immediate family; (2) the time that an employee is unable to perform his or her job duties because of physical or mental illness, injury, or disability or maternity or pregnancy-related disability or medical care for the employee or the employee's child; (3) parental leave for a permanent employee; (4) quarantine resulting from exposure to a contagious disease; (5) examination or treatment by a licensed health care provider; (6) short-term attendance on the job, at an agency's discretion, to care for a relative or household member until other care can reasonably be obtained; (7) necessary care for a spouse, child, or parent with a serious health condition as defined by the Family and Medical Leave Act; and (8) the death, or attendance at a funeral, of an immediate family member or, at an agency's discretion, another person.

Inmate labor. When a county establishes a county jail work program authorized by the board of county commissioners and supervised by the county sheriff, the sheriff may permit inmates to work only on projects designated as public by the Board of County Commissioners. Upon a request of a Federal or State agency, city government, or nonprofit corporation, and upon mutually agreeable terms or on their own action for county projects, the board may designate projects as public. Each calendar day in which a person participates in a county jail work program is equal to 2 days of incarceration for the purposes of serving a sentence of imprisonment. An unexcused failure to appear for work at a time and place scheduled for participation constitutes the offense of escape.

Offsite work. Designated State agency employees now may work from home or at an alternative worksite for 1 or more days a week. Any alternative worksite must be within the State.

Plant closing. State agencies are no longer required to pay the relocation expenses of employees whose positions are eliminated as a result of privatization, reorganization, a closure, or a reduction in force.

Prevailing wage. In a prevailing-wage rate district, the standard prevailing-wage rate for construction services shall be used as the base on which an apprentice wage is calculated.

Time off. County officers who absent themselves from the State because they are ordered to perform military service for more than 60 days (or for a period longer than 15 days, without the consent of the Board of County Commissioners) are now exempted from being required to forfeit their office due to their absence. A State, city, town, or county employee who is a member of the organized militia of the State or who is a member of the organized or unorganized Reserve Corps or military forces of the United States and who has been employed for a period of at least 6 months must be given a leave of absence with pay accruing at a rate of 15 working days in a calendar year. Military leave may not be charged against an employee's vacation time, and unused military leave must be carried over to the next calendar year, but such leave may not exceed a total of 30 days in any calendar year.

Wages paid. In place of the former private-purpose trust fund, a wage collection fund has been established into which the commissioner of the State Department of Labor shall deposit unpaid wages collected under State statutes.

Nebraska

Child labor. The provisions of the State child labor statutes were amended. Persons under 16 years of age shall not be employed or permitted to work as a door-to-door solicitor. However, persons under 16 years of age who are engaged in the distribution or delivery of newspapers or shopping news may be employed or permitted to work as a door-to-door solicitor of existing customers of such newspapers or shopping news. In addition, persons under 16 years of age are permitted to work as a door-to-door solicitor if they are working on behalf of their own entrepreneurial endeavor.

Equal employment opportunity. The State Revised Statutes were amended to define the term "employer" as meaning any person engaged in an industry who has 15 or more employees for each working day in each of 20

or more calendar weeks in the current or preceding calendar year, any agent of such a person, or any party whose business is financed in whole or in part under the Nebraska Investment Finance Authority Act. This definition includes the State, its governmental agencies, and its political subdivisions, regardless of the number of employees, but shall not include the United States, a corporation wholly owned by the government of the United States, or an Indian tribe.

Nevada

Department of labor. The State labor commissioner enforces the laws and regulations governing the payment of prevailing wages for public-works projects. If the laws are violated, the commissioner may impose an administrative penalty of not more than \$5,000 for each violation after providing the person with notice and an opportunity for a hearing. In addition, the commissioner may impose an administrative penalty against a governmental entity that violates the laws governing the payment of prevailing wages for public-works projects.

Hours worked. The provisions regarding hours of service for intrastate drivers were amended. Hours-of-service limitations do not apply to an intrastate driver if each of the following conditions is satisfied: (1) the driver is transporting property or passengers during a state of emergency or disaster declared by an elected official who is authorized by law to make such a declaration; (2) the employer of the driver is a public utility; (3) within 1 working day after discovering or otherwise becoming aware of the existence of a public-utility emergency, the employer of the driver notifies the Department of Public Safety that a public-utility emergency exists and informs the department as to when it commenced; and (4) within 10 working days after receiving notification by the employer, the elected government official determines and declares that the public-utility emergency exists, thus justifying the transportation of property or passengers during the emergency in order to ensure the protection of the public health and safety by restoring the public-utility service or in order to otherwise provide assistance essential to the public.

Overtime. The Federal Fair Labor Standards Act sets forth the minimum overtime benefits required by Federal law; however, States are allowed to provide employees with overtime benefits that are equal to or greater than those required under Federal law. Existing State law requires the payment of overtime to employ-

ees who earn less than 1½ times the hourly minimum wage. Any disputes concerning the application of State overtime provisions to those employees are within the jurisdiction of the State labor commissioner. Existing State law also exempts employees who earn 1½ times more than the hourly minimum wage from the State overtime provisions. Those employees and any disputes concerning the application of such Federal overtime requirements to the employees are within the jurisdiction of the U.S. Department of Labor. The exemption from State overtime provisions for employees who earn 1½ times the hourly minimum wage or more is removed, thereby placing the overtime requirement for those employees in State law and granting jurisdiction over disputes relating to overtime to the State labor commissioner rather than the U.S. Department of Labor.

Prevailing wage. The State law regarding public works was amended to stipulate that, except as provided within the law, contractors or subcontractors shall pay a mechanic or workman employed by them on a public work at a rate not less than 1½ times the prevailing rate of wages applicable to the class of the mechanic or workman for each hour worked on the public work in excess of (1) 40 hours in any scheduled week of work for the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work; or (2) 8 hours in any workday for the contractor or subcontractor, including, without limitation, hours worked for the contractor or subcontractor on work other than the public work.

Unfair labor practices. A medical facility or any agent or employee thereof shall not retaliate or discriminate unfairly against an employee of the facility or a registered nurse, licensed practical nurse, or nursing assistant who is employed by, or contracts to provide nursing services for, the facility because the employee (1) reports to the immediate supervisor, in writing, that he or she does not possess the knowledge, skill, or experience to comply with an assignment to provide nursing services to a patient; and (2) refuses to provide a patient with nursing services for which, as verified by documentation in the personnel file of the employee, registered nurse, licensed practical nurse, or nursing assistant, the individual does not possess the knowledge, skill, or experience to comply with the assignment, unless such refusal constitutes unprofessional conduct.

Other laws. Persons who intend to locate or expand a business in the State may apply to the Commission on Economic Development

for a partial abatement of one or more of the taxes imposed on the new or expanded business if, in addition to previously stipulated requirements, the average hourly wage that will be paid by the new business to its employees in the State is at least 100 percent of the average statewide hourly wage or the average countywide hourly wage, whichever is less, as established by the Employment Security Division of the State Department of Employment, Training, and Rehabilitation on July 1 of each fiscal year.

New Hampshire

Department of labor. The State commissioner of labor is empowered to hold hearings and investigate charges of violations of the labor protection statutes either on its own motion or on an employee complaint. The period in which to file a wage claim is extended from 18 months to 36 months from the date the wages were due. The civil penalty is increased from \$1,000 to \$2,500.

Time off. Employers are now required to allow employees who are victims of certain crimes to leave work to attend court or other legal or investigative proceedings associated with the prosecution of the crime. Employers are not required to compensate an employee who is a victim of a crime and who exercises his or her right to take such leave. Employees may elect to use, or employers may require an employee to use, the employees' accrued paid vacation time, personal leave time, or sick leave time. Before the employee may leave work for this purpose, he or she shall provide the employer with a copy of the notice of each scheduled hearing, conference, or meeting that is provided to the employee by the court or agency responsible for providing such notice. Employers shall not discharge, threaten, or otherwise discriminate against any employee regarding such employee's compensation, terms, conditions, location, or privileges of employment because the employee exercised his or her right to leave work for any of the purposes in question. Employers so doing are subject to a civil penalty.

New Jersey

Child labor. Child labor penalties assessed through the courts for violations of the State child labor laws have been increased from an amount that was not less than \$1,000 and not more than \$2,000 for a first violation. The new assessment may not be less than \$2,000 for a first violation and not more than \$4,000

for each subsequent violation. Administrative penalties have been increased to not less than \$250 and not more than \$500 for a first violation and not less than \$500 and not more than \$1,000 for each subsequent violation.

Advanced practice nurses are now included among the list of authorized medical professionals who may sign a statement of physical fitness for minors who desire employment and require working papers.

Human trafficking. A person commits the crime of human trafficking if he or she knowingly holds, recruits, lures, entices, harbors, transports, provides, or obtains, by any means, including threats of serious bodily harm or physical restraint, another person to engage in sexual activity or to provide labor or services. In addition, the first person may not engage in any of the following behaviors: (1) use any scheme or plan to cause someone to believe that he or she is in danger of bodily harm; (2) destroy, conceal, remove, confiscate, or possess any passport, immigration-related document, or other government-issued document that could be used to verify a person's identity or age or other personal information; (3) threaten to abuse the law or legal process; (4) receive anything of value from participation in human trafficking as an organizer, supervisor, financier, or manager. The State Office of Victim-Witness Advocacy or the county prosecutor's office shall ensure that the victim of human trafficking obtains assistance in receiving any available benefits or services.

Minimum wage. As of October 1, 2005, the State minimum wage is set at \$6.15 per hour. As of October 1, 2006, it will be \$7.15 per hour. Political subdivisions of the State may continue to pay rates over the minimum wage for vendors, contractors, and subcontractors.

Plant closing. A resolution was adopted creating a commission to study the impact of outsourcing jobs into the State from offshore or out-of-State employers.

New Mexico

Employment agency. Day labor service agencies must pay laborers for each day and all hours worked. The agency must keep accurate records of hours worked and wages paid for at least 1 year after the entry of the record. The agency also must compensate laborers in commonly accepted payment instruments payable in cash, on demand, at a financial institution. Fees for cashing checks cannot be charged unless the laborer is given the option

of being paid without a fee at a local financial institution and voluntarily elects to use a check-cashing service operating within the office of the agency. The agency must provide an itemized statement showing each deduction. The deductions may not reduce a laborer's wage below the Federal minimum wage. The agency cannot restrict the day laborer from accepting a permanent position with a third-party employer or restrict the employer from making an offer to the day laborer. Agencies can collect placement fees from third-party employers. Violators of the Day Laborer Act are guilty of a misdemeanor. After a second offense, they will be sentenced and fined no less than \$250 and no more than \$1,000 for each offense. The court may also order the offender to pay restitution.

Equal employment opportunity. A joint memorial has been passed requiring the executive task force on disability employment to develop policies, procedures, and guidelines that can be used by State agencies to recruit, hire, retain, and promote persons with disabilities for positions in the State government. The task force must report all developments to the appropriate committee, and all State agencies must abide by the policies.

Genetic testing. Genetic information is defined as information about the genetic makeup of a person or his or her family, including results from genetic testing, genetic analysis, DNA composition analyses, and participation in genetic research or the use of genetic services. It is now unlawful for a person to use genetic information in employment or recruiting.

Minimum wage. The State statute regarding the payment of wages for employees who receive tips has been amended. Such an employee who regularly receives more than \$30.00 a month in tips will be paid a minimum hourly wage of \$2.13. The tips combined with the cash wage cannot be at a rate less than \$5.60 per hour.

Prevailing wage. The State prevailing-wage statutes were amended to specify that all construction, alteration, demolition, or repair contracts pertaining to public works, public buildings, or public roads of the State and amounting to more than \$60,000 must contain provisions stating the minimum wage to be paid to laborers and mechanics. Wages must be paid not less than once a week. Wages will be determined by the director of the Labor and Industrial Division of the State Department of Labor. The director may issue subpoenas for the production of documents or witnesses

pertaining to public-works prevailing-wage projects. Violators will be placed on a list distributed to all State departments, and for 3 years no contract or project will be awarded to the persons or firms on this list. The violator will be liable to any affected employee for unpaid wages and for liquidated damages, beginning with the first day of employment, at a rate of \$100 for each calendar day that the firm required or permitted the employee to work in violation. The court may award attorneys' fees and costs to the employee.

Workplace security. The State Department of Motor Vehicles shall require an applicant requesting a hazardous-material ("H") endorsement to be subject to a background check pursuant to the Federal Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (PATRIOT) Act of 2001. Information received from the required background check in compliance with the Federal requirements shall be kept confidential and shall be released only to the subject of the check and to the division. The State can look back 7 years to conform to the Federal Department of Homeland Security rules for conducting background checks. Before issuing a commercial driver's license, the State Department of Motor Vehicles shall obtain pertinent driving record information from each State in which the applicant has been licensed. The State Department of Motor Vehicles has the authority to exchange such commercial driver's license information as it deems necessary to carry out the State Commercial Driver's License Act. The results of a background check conducted pursuant to Federal requirements shall be confidential; if the results are used as a basis for disqualifying the applicant, then the applicant can protest, appeal, or ask for consideration of mitigating circumstances. (The driver must have held a commercial driver's license under rules promulgated by the department.) If there is an appeal, the department shall provide the applicant with a copy of the procedures established at the time the applicant applied for the hazardous-material endorsement.

Other laws. Under the Construction Industries Licensing Act, when a contractor employs a person to provide labor or services for compensation, the person employed is defined as an employee of the contractor, not as an independent contractor. An independent contractor is defined as a person who (1) is free from direction and control over the means and manner of providing the labor services, (2) is responsible for obtaining business licenses, (3) furnishes the equipment necessary to pro-

vide the labor, (4) has the authority to hire and fire employees, (5) is paid upon the completion of projects, and (6) certifies to the public that the labor being provided is by an independently established business. A business is independently established when (1) the labor or services connected with it are performed at a location separate from the person's residence, (2) commercial advertising is purchased or the owner or manager of the business is a member of a trade organization, (3) the business telephone or e-mail listings are different from the owner's or manager's personal listings, (4) labor or services are performed pursuant to a contract for two or more persons within 1 year, or (5) the owner or manager of the business assumes financial responsibility for errors in labor or services. A contractor who intentionally misclassifies an employee as an independent contractor is guilty of a misdemeanor and can be fined no more than \$5,000 and imprisoned for no more than 6 months. Convictions can lead to the suspension or loss of the contractor's license.

New York

Child labor. The State labor law applying to the employment of minors was amended so that employers of any person claiming to be between 18 and 25 years of age who does not present a duly issued employment certificate must require from such person and furnish, upon demand, to the State commissioner of labor or the commissioner's authorized representative, proof of the age of such person. The proof may be in the form of a driver's license, other documentation issued by the Government of the United States or by any State government located therein, or a certificate of age issued to such person by an employment certificating official. Any person who knowingly violates this provision and any officer or agent of a corporation who knowingly permits the corporation to violate any such provisions shall be guilty of a misdemeanor. Upon conviction, such person shall be fined not more than \$500 and/or imprisoned for not more than 60 days for a first offense. A second or subsequent offense shall result in a fine of not more than \$5,000 and/or imprisonment for not more than 1 year.

Department of labor. The State commissioner of labor is now authorized to establish a Fair Wages Task Force to enforce the regulations affecting employees in manufacturing, service, and other State industries in which employees may be exploited. The task force can investigate and conduct inspections of employers' books, records, and premises and ensure compliance by such industries by

assessing civil penalties. The task force also can receive training and request assistance from any State agency.

Employment agencies. Every licensed employment agency under the jurisdiction of the State commissioner of labor and engaged in the job placement of domestic workers or household employees shall provide each applicant for employment, as well as his or her prospective employer, a written statement indicating the rights of such worker and employee and the obligations of his or her employer under Federal and State law. This shall be done before job placement is arranged. If the employment agency maintains a Web site, the text of such written statement shall also be provided there. The rights and obligations should include, but not be limited to, laws regarding the minimum wage, overtime and hours of work, record keeping, Social Security payments, unemployment insurance coverage, disability insurance coverage, and workers' compensation. Every employment agency shall keep on file in its principal place of business for a period of 3 years a statement signed by the employer of a domestic worker or household employee whom the agency has placed with such employer, indicating that the employer has read and understands the statement of rights and obligations. A similar statement shall remain on file for the employee as well.

Genetic testing. The State law related to employment discrimination was amended by adding a prohibition to prevent employers from soliciting or requiring, as a condition of employment, application for employment, membership in a labor organization, or licensure for a job or position, information from which a predisposing genetic characteristic can be inferred. In addition, employers are prohibited from buying or otherwise acquiring an individual's genetic test results, any interpretation thereof, or any other information from which a predisposing genetic characteristic can be inferred. Finally, employers are prohibited from making an agreement with an individual for that person to take a genetic test or provide genetic test results or any similar information.

Hours worked. No driver of motor trucks or buses shall drive more than 12 hours following 8 consecutive hours off duty, and no driver shall drive for any period after having been on duty for 15 hours following 8 consecutive hours off duty. Every driver of such vehicles shall have at least 24 consecutive hours off duty in every period of 7 consecutive days, and in no event shall such a driver be on duty for more than 75 hours in

any period of 7 consecutive days. However, this requirement shall not apply to drivers engaged in the actual restoration or preservation of electric, water, telephone, gas, or steam service during an emergency. Still, the exemption shall not apply unless the driver is engaged in the actual restoration or preservation of said services and shall have had a period of rest to ensure his or her ability to drive safely.

Inmate labor. Any person convicted of a felony committed prior to December 27, 2004, and sentenced thereon to an indeterminate term of imprisonment may receive a merit time allowance, in addition to the standard allowances for meritorious behavior, not to exceed one-sixth of the minimum term or period imposed by the court. This allowance is contingent upon the inmate successfully maintaining employment while in a work release program or any other continuous temporary-release program for a period of not less than 3 months.

Minimum wage. A person who is at least 18 years of age may serve as a volunteer at a recreational or amusement event run by a business that operates such events, provided that no single such event lasts longer than 8 consecutive days and no more than one such event concerning substantially the same subject matter occurs in any calendar year. The relevant business shall notify all volunteers in writing that, by volunteering their services, they are waiving their right to receive the minimum wage. Such notice shall be signed and dated by a representative of the business and the volunteer and kept on file by the business for 36 months.

Prevailing wage. After entering into a public contract or a subcontract to perform on such a contract, persons or corporations that willfully pay or provide less than the stipulated wage scale or supplement shall be guilty of a misdemeanor and, upon conviction, be punished for a first offense by a fine of \$500 and/or imprisonment for not more than 30 days. Conviction of a second offense carries a fine of \$1,000, and in addition thereto, the contract on which the violation occurred shall be forfeited.

In cities with a population of 1 million or more, the municipal civil service commission may grant permission to a city agency or department to certify directly to the disbursing or auditing officer that the persons named in the certification are employed in their respective positions. In such cases, the commission need not verify any voucher

or payroll, but may, at any time thereafter, examine the voucher or payroll and revoke any previous certification not made in accordance with the law. In any action against the appointing officer, revocation of such certification shall be presumptive evidence that the certification was improper in the respects not held to be proper by the commission.

Time off. A volunteer firefighter on leave of absence may perform services and duties as a volunteer firefighter during any period in which the Armed Forces of the United States grant the volunteer firefighter a temporary leave from military service, provided that such services and duties would not violate any law, regulation, rule, or order of the United States or the Armed Forces. The volunteer firefighter on such temporary leave may not be required to perform services and duties as a volunteer firefighter.

North Carolina

Drug and alcohol testing. The employer of any employee who operates a commercial motor vehicle, who is subject to Federal drug and alcohol testing, and who tests positive in a required drug or alcohol test shall notify the State Division of Motor Vehicles in writing within 5 business days following the employer's receipt of confirmation of a positive drug test. The notification shall include the driver's name, address, driver's license number, Social Security number, and results of the drug or alcohol test. Upon receipt of notice of a positive drug or alcohol test, the division shall (1) disqualify the driver from operating a commercial motor vehicle until it receives proof that the driver has been assessed and successfully treated by a substance abuse professional; and (2) place a notation on the driving record of the driver that shall be retained for 2 years after the termination or disqualification of the driver. Following the receipt of a positive test, the division shall notify the driver of his or her pending disqualification and right to a hearing if requested within 20 days of the date of the notice. If the division receives no request for a hearing, the disqualification shall become effective at the end of the 20-day period. If the driver requests a hearing, the disqualification shall be stayed pending the outcome of the hearing, which shall be limited to issues of testing procedure and protocol.

Worker privacy. All information contained in a school employee's personnel file is confidential and shall not be opened for

inspection and examination, except to the employee, an applicant for employment, or a former employee (or his or her properly authorized agent). A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in personnel files is guilty of a Class 3 misdemeanor and, upon conviction, shall be fined an amount not in excess of \$500. Any person not specifically authorized to have access to a personnel file who knowingly and willfully examines such a file in its official filing place or who removes or copies any portion of the file shall be guilty of a Class 3 misdemeanor as well.

North Dakota

Equal employment opportunity. If an employment discrimination claim proceeds to a hearing, the employee may be accompanied, advised, and represented by a representative of his or her choice. However, neither the State Department of Labor nor the State's attorney general may represent the aggrieved person.

Wages paid. Every employer shall pay all wages due to employees at least once each calendar month on regular paydays agreed upon by employer and employees and designated in advance by the employer. Wages must be drawn on banks or credit unions convenient to the place of employment, with direct deposit in the financial institution of the employee's choice. Wages may now be provided to employees in the form of a stored value card; however, such cards must be issued by a federally insured bank or credit union. The value of the funds underlying a stored value card that is used by an employer to pay wages must be a deposit that is insured by the Federal Deposit Insurance Corporation or National Credit Union Administration. Before paying wages to an employee via a stored value card, the employer must have deposited with the issuer funds in an amount at least equal to the wages due from the employer to each employee whose wages are being paid through the stored value card, plus all applicable account fees.

Worker privacy. Legislation was enacted that expands the exchange of information regarding unemployment insurance. The State Job Service may now enter into interagency agreements to exchange information in an effort to enhance the administration of the unemployment insurance program. The State Department of Human Services and the Driver's License Division of the State Depart-

ment of Transportation are now included in the exchange of information.

Other laws. Legislation was enacted that changed the language of the State code to broaden the definition of “scope of employment” in regard to claims made against the State. The director of the State Office of Management and Budget may now settle claims over \$10,000 with approval from the State Attorney General. The director may settle claims under \$10,000 independently.

Ohio

Inmate labor. When prisoners or adult offenders working on a work detail administered by a county correctional facility and located outside the facility have volunteered for the work detail and are imprisoned or reside in the facility for an offense other than a felony of the first or second degree, a qualified immunity from civil damages is granted to a sheriff, deputy sheriff, or county correctional officer and to the county in which the prisoners or offenders work on the work detail and that employs the sheriff, deputy sheriff, or officer. For the immunity to be in effect, the municipal or county correctional officer must have provided prior notice of the bill’s immunity provisions to each prisoner or adult offender on the work detail. The immunity from liability is granted for injury, death, or loss to person or property caused or suffered by the prisoner or adult offender working on the work detail, unless the injury, death, or loss results from malice or wanton or reckless misconduct on the part of the sheriff, deputy sheriff, or county correctional officer.

Prevailing wage. By law, threshold amounts for contract coverage under the State prevailing-wage law are adjusted every 2 years according to the change in the Census Bureau’s Implicit Price Deflator for Construction, provided that no increase or decrease exceeds 6 percent for the 2-year period. As a result, effective January 1, 2006, the threshold amount for new construction rose from \$65,843 to \$69,853, and the threshold amount for reconstruction, remodeling, or renovation increased from \$19,752 to \$20,955.

Oklahoma

Time off. The State Merit System was amended to show that any State employee receiving compensatory time consistent with the provisions of the Fair Labor Standards Act shall exhaust such compensatory time prior to the taking of annual leave, except where the

employee is subject to losing such annual leave due to the application of the accumulation limits in the State statutes.

Wages paid. When an employee’s employment terminates, the employer shall pay the employee’s wages in full, less offsets and less any amount over which a bona fide disagreement exists. In order to successfully allege a bona fide disagreement over the amount of wages, the employer shall pay such amount as the employer concedes to be due, without condition, within the time required, and provide to the employee, within 15 days of receipt of either a wage claim form from the State Department of Labor or a certified mail receipt of written demand from the employee, a written explanation of the relevant facts and/or evidence which supports the employer’s belief that the wages in dispute are not owed. If the employer fails to pay the wages as required, the employer shall be additionally liable to the employee for liquidated damages in the amount of 2 percent of the unpaid wages per day after the day the wages were due and earned if the employer willfully withheld wages over which there was no bona fide disagreement.

Worker privacy. The Council on Law Enforcement Education and Training can release copies of the records of any peace officer who is the subject of an investigation to any law enforcement agency conducting the investigation. The agency that is to receive the copies must provide a written request in order for them to be released.

Oregon

Agriculture. Farm labor contractors must submit certified payroll records to the commissioner of the State Bureau of Labor and Industries.

Family issues. The State Family Leave Statute was amended to clarify the definition of a health care provider to include a person who is performing within the scope of his or her professional license or certificate. The definition now includes, among others, (1) a licensed registered nurse who is certified by the State Board of Nursing as a nurse midwife practitioner; (2) a chiropractic physician licensed by the State, but only to the extent that he or she provides treatment consisting of manual manipulation of the spine to correct a subluxation demonstrated to exist by x rays; and (3) a person who is primarily responsible for the treatment of an eligible employee or a family member of an eligible employee solely

through spiritual means, including, but not limited to, a Christian Science practitioner.

Minimum wage. Continuing a series of increases based upon changes in the Consumer Price Index, the State minimum wage was increased to \$7.50 per hour on January 1, 2006.

Overtime. A hospital may not require a registered nurse, licensed practical nurse, or certified nursing assistant to work (1) beyond the agreed-upon shift, (2) more than 48 hours in any hospital-defined workweek, or (3) more than 12 consecutive hours in a 24-hour period. A hospital may require an additional hour of work beyond the 12 hours if a staff vacancy for the next shift becomes known at the end of the current shift or if an assigned patient may be harmed if the nurse or nursing assistant leaves the assignment or transfers care to another. Time spent in required meetings or receiving education or training shall be included as hours worked; however, time spent on call, but away from the premises of the employer, may not be included as hours worked. When the nurse or nursing assistant is required to be at the premises of the employer, time spent on call or on standby shall be included as hours worked.

Prevailing wage. State law now stipulates that, on projects regulated under the Federal Davis-Bacon Act, individuals employed as flaggers are no longer required to be paid a prevailing-wage rate as determined by the commissioner of the State Bureau of Labor and Industries, as long as the contract price does not exceed \$25,000.

Employers shall give notice in writing to employees who work on a contract for services, either at the time of hire or before the commencement of work on the contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work. Except for individuals exempted by the State Revised Statutes, every public contract must contain a proviso that a person may not be employed for more than 10 hours in any one day or 40 hours in any one week, except in case of necessity or emergency or when the public policy absolutely requires it. In such cases, the employee shall be paid at least time-and-a-half pay.

Before starting work on a contract or subcontract for a public-works project, a contractor or subcontractor shall file a public-works bond with the Construction Contractors Board, together with a corporate surety authorized to do business in the amount of \$30,000. The bond must assert that the con-

tractor or subcontractor will pay claims ordered by the State Bureau of Labor and Industries to workers performing labor on public-works projects. The bond must remain in effect continuously until depleted, unless the surety cancels the bond sooner. The surety may cancel the bond by giving 30 days' written notice to the contractor or subcontractor, to the board, and to the bureau. The cancellation does not limit the surety's liability for work performed on contracts entered into before the cancellation. Neither contractor nor subcontractor is required to file a separate bond for each public-works project for which they have a contract. A person that is not required to pay prevailing-wage rates on a public-works project is not required to file a public-works bond. For 1 year after certification, a disadvantaged, minority, women's, or emerging small-business enterprise may elect not to file a public-works bond as required and shall give the board written verification of the certification, as well as written notice that the business enterprise elects not to file the bond. When a business enterprise elects not to file a public-works bond, a claim for unpaid wages may be made against the payment bond of the business enterprise or, if the business enterprise is a subcontractor, the payment bond of the contractor. An election not to file a public-works bond expires 1 year after the date the business is certified, and before starting or continuing work on a contract or subcontract for a public-works project, the business shall file a public-works bond with the board as required. When an investigation indicates that a subcontractor's workers have not been paid in full at the prevailing-wage rate or at overtime wages, the bureau commissioner has a right of action first on the subcontractor's public-works bond and then for any amount of a claim not satisfied by the bond. If the State prevailing-wage rate is higher than the Federal prevailing-wage rate, the contractor and every subcontractor on the project shall pay at least the State prevailing-wage rate. If the Federal prevailing-wage rate is higher than the State prevailing-wage rate, the contractor and every subcontractor shall pay at least the Federal prevailing wage rate, as required by the Davis-Bacon Act.

Wages paid. When, by mutual agreement, an employer discharges an employee, all of the employee's wages are due and payable not later than the first business day after the termination. When an employee who does not have a contract for a definite period quits employment, all of the employee's wages become due and payable immediately if the employee provided the employer with not less

than 48 hours' notice, excluding Saturdays, Sundays, and holidays, of his or her intention to quit employment. If the employee has not given notice, the wages become due and payable within 5 days, excluding Saturdays, Sundays, and holidays, after the employee has quit or at the next regularly scheduled payday after the employee has quit, whichever comes first. If the employee has not given the employer notice, and if the employee is regularly required to submit time records to the employer to enable the employer to determine the wages due the employee, then, within 5 days after the employee has quit, excluding Saturdays, Sundays, and holidays, the employer shall pay the employee the wages the employer estimates are due and payable. Within 5 days after the employee has submitted the time records, excluding Saturdays, Sundays, and holidays, all wages earned and unpaid become due and payable. Penalties may not be assessed when an employer pays an employee the wages the employer estimates are due and payable and the estimated amount of wages paid is less than the actual amount of earned and unpaid wages, as long as the employer pays the employee all wages earned and unpaid within 5 days after the employee submits the time records, excluding Saturdays, Sundays, and holidays.

Whistleblower. Upon receiving a prospective or existing employee's complaint of discrimination regarding an employment safety issue, the director of the State Department of Consumer and Business Services, or his or her authorized representative, shall notify the complainant of the determination regarding the complaint within 90 days of receipt of the complaint. The complainant also shall have a right to bring a civil action through an employment safety lawsuit in any circuit court of the State if the civil action is filed within 1 year after the complainant has reasonable cause to believe that a violation has occurred, unless a complaint has been filed in a timely manner under a separate State statute.

Worker privacy. An eligible public employee (a public employee who works for the State Board of Parole and Post-Prison Supervision, the director of the State Department of Corrections institutions, a parole and probation officer, a police officer, an employee of the State Department of Agriculture, or an employee of any of a number of other State agencies) may request that any driver- or vehicle-related record kept that contains or is required to contain the address of the employee's residence contain instead the address

of the public agency employing the eligible employee. Further, upon receipt of a request and verification, the department shall remove the address of the employee's residence from its records and substitute instead the address of the public agency employing the individual. The department shall indicate on the records that the address shown is an employment address.

The disciplinary records of a school employee convicted of a crime are not exempt from disclosure. When a school employee is convicted of a crime, the education provider that is the employer of the employee shall disclose the disciplinary records of the employee to any person upon request. Prior to such disclosure, however, an education provider shall remove from the record any personally identifiable information that would disclose the identity of a child, a crime victim, or a school employee who is not the subject of the disciplinary record.

A health professional regulatory board shall keep confidential and not disclose to the public any information obtained as part of an investigation of a licensee or an applicant for a license. If, however, the board votes to issue a notice of intent to impose a disciplinary sanction, then, upon written request by the licensee or applicant, the board shall disclose to the individual all information it has obtained in the investigation, except information (1) that is privileged or confidential under any other law, (2) that would permit the identification of any person who provided information that led to the filing of the notice and who will not provide testimony at a hearing arising out of the investigation, (3) that would permit the identification of any person who made a complaint to the board about a licensee or applicant, and (4) that consists of reports of expert witnesses. The board may establish reasonable fees to reimburse the actual cost of disclosing the information.

Pennsylvania

Worker privacy. The State statute dealing with employer immunity for disclosure of information regarding former or current employees was amended. An employer who discloses information about a current or former employee's job performance to a prospective employer of the current or former employee upon request of that employer is presumed to be acting in good faith and, unless lack of good faith is demonstrated by clear and convincing evidence, is immune from civil liability for such disclosure or its consequences in any case brought against the employer by the current or former employee.

Rhode Island

Child labor. All certificates of age and permits relating to the qualification of children employed in any factory or manufacturing or business establishment shall be kept by the employer at the place where the child is employed and shall be shown to the compliance inspectors on their demand. Any proprietor or manager who fails to produce or refuses to show the certificates to any compliance inspector shall be fined \$100 for each offense. The Hazardous Occupations listing was modified so that any minor under 16 years of age may not be employed or permitted to work on any private or public docks; in warehouses or storage rooms; dispensing gasoline or other types of fuel; checking or changing oil or other fluids; as parking lot attendants; or as a car-washer either by hand or machine, including drying vehicles by hand. Every person who willfully employs a minor, and every parent or guardian who permits any child to be so employed, in violation of the provisions of the Hazardous Occupation listing shall be fined \$100 for each offense. Any person or corporation that either employs a child younger than 16 years of age without the appropriate legal permit or makes a false statement in regard to any part required by the certificate of age shall be fined \$500 for each offense. However, if a child employed in violation of the age requirement is injured or killed in the course of the employment, then the fine may be increased to \$5,000.

Department of labor. The State Department of Labor, which collects quarterly wage information from employers that includes employee names, Social Security numbers, total wage payments, and other necessary information, may provide quarterly wage information to the U.S. Census Bureau for the purpose of that agency's participating in a joint local employment dynamics program with the Bureau of Labor Statistics.

Employee leasing. A resolution was adopted that authorized the Special House Commission to Study Temporary Workers Throughout the State of Rhode Island to continue its study and make a report to the State House of Representatives on or before March 1, 2006. Said commission shall expire on May 1, 2006.

Equal employment opportunity. The State implemented an order stipulating that all State agency directors, senior staff, and supervisory employees are responsible for ensuring that all aspects of State programs they manage are available without discrimination or sexual

harassment. Such individuals are responsible for actions that, among other things, develop, promote, monitor, implement, and maintain equal employment opportunity policies and practices within their agencies and that (1) do not discriminate against any employee or applicant for State employment; (2) establish guidelines to prevent discrimination and sexual harassment; (3) identify and promote employment opportunities for qualified individuals who historically have been underutilized in the State government workforce; and (4) describe notice and filing provisions that enable any employee or applicant for State employment who believes that he or she has been discriminated against or sexually harassed to report such conduct to appropriate officials. All agency directors are to appoint an individual as the agency's equal employment opportunity officer and American with Disabilities Act coordinator.

The State Department of Administration has established the Human Resources Outreach and Diversity Office, with the purpose of working toward developing a business case for equity on building a diverse workforce to guarantee fair and reasonable opportunities for public service. A business case includes, among other things, analyses of the current workforce and the needs or problems associated with the issue of workforce diversity, as well as proposed alternative solutions to those problems. The responsibilities of said office shall include (1) developing guidelines and best practices for the promotion of diversity; (2) providing guidance and technical support to State entities; (3) developing a strategic and focused recruitment and tracking initiative for individuals interested in State employment; (4) initiating training seminars, including a diversity awareness program, to share the benefits of diversity and encourage a culturally sensitive workforce environment; and (5) submitting an annual benchmark report to the director of the Department of Administration or his or her designee.

Prevailing wage. Each contractor awarded a contract for public works with a price in excess of \$1,000, and each subcontractor who performs work on those public works, shall post, in conspicuous places on the project on which covered workers are employed, posters that state the current prevailing-wage rates, the prevailing rates of payments to the funds required to be paid for each craft or type of worker employed in order to execute the contract, and the rights and remedies of any employee for nonpayment of any wages earned pursuant to the contract. Any contractor or subcontractor who fails to comply shall be deemed guilty of a misdemeanor and shall pay \$100 to the director of Labor and

Training for each calendar day of noncompliance.

Time off. The section of the State General Laws entitled "Employment of Women and Child" and involving the continuous employment of women and children was amended to specify that all employees are entitled to a 20-minute mealtime within a 6-hour work shift and a 30-minute mealtime within an 8-hour work shift. An employer shall not be required to compensate an employee for this mealtime. The legislation is not applicable to an employer of a licensed health care facility, or any other employer, who employs fewer than three people on any shift at the work site.

Worker privacy. No employer may cause an audio or video recording to be made of an employee in a rest room, locker room, or room designated by an employer for employees to change their clothes, unless such activity is authorized by court order. No recording made in violation of this legislation may be used by an employer for any purpose. In any civil action alleging a violation, the court may award damages and reasonable attorneys' fees and costs to a prevailing plaintiff and may afford injunctive relief against any employer that commits or proposes to commit a violation. Any rights and remedies shall be in addition to, and not supersede, any other rights and remedies provided by statute or common law.

South Carolina

Employment agency. Applicants, and any controlling person, for employment agency licenses must have at least 2 years of other related industry experience as approved by the State Department of Consumer Affairs before the initial license is issued. However, an applicant for a nonresident restricted license may be issued a license without the necessary 2 years of experience. Effective for licenses issued after September 30, 2005, key management personnel of all licensees must complete at least 8 hours of continuing professional education annually. A licensee or controlling person shall notify the department within 30 days of any felony conviction or civil judgment entered against him or her. The department may take disciplinary action against a licensee or a person engaging in professional employer services without a license and deny an application or revoke, restrict, suspend, or refuse to renew a license.

Time off. The State Code was amended by the enactment of the Volunteer Firefighter and Emergency Medical Services Personnel Job Protection Act. Under the Act, an employer

may not fire an employee who is a volunteer firefighter who does not receive monetary compensation for services to a fire authority, nor may the employer fire a volunteer emergency medical services employee who does not receive monetary compensation for services to a first-responder agency, an organized rescue squad, or a county emergency medical services system and who does not work for another related entity for monetary compensation. In addition, the employer may not fire such employees when they act as volunteer firefighters or volunteer emergency medical services personnel as part of the firefighter mobilization plan while responding to a state of emergency declared by the President of the United States, or by the State Governor if the emergency is in a county in the State.

South Dakota

Drug and alcohol testing. Legislation was enacted that establishes and implements a drug-screening program for applicants to certain State facilities. Any announcements or advertisements regarding available positions at those facilities must include requirements of the drug-screening program. Applicants may have access to the test results upon written request, and the results will be revealed only with authorization by the commissioner of the State Bureau of Personnel. Any person who releases the information without authorization is guilty of a Class 2 misdemeanor. The commissioner may release the drug-screening rules with regard to substances being screened, the procedures, confidentiality, and the consequences of receiving positive test results.

Tennessee

Drug and alcohol testing. An amendment to the State Code prohibits a newly hired employee or an existing employee who works full time or part time, or a substitute employee, of a child care agency or a contractor or other persons or entities from (1) providing any form of transportation services for compensation to the childcare agency or (2) engaging in any form of driving services involving children in a childcare agency, until the employee or substitute employee has undergone a drug test and the results are negative for illegal drug use. An exception to this amendment to the code is emergency transportation requirements that may occur in limited circumstances as deemed appropriate by the State Department of Human Services.

Employment agency. Employee or staff leasing companies may sponsor and maintain employee benefits and welfare plans for the benefit of their leased employees. The self-insured plans developed under this section are not subject to the premium taxes as defined under State Code. The State General Assembly recognizes that it was not its intent to subject to liability employee or staff leasing companies, or groups, that have offered or will offer their leased employees employee benefit and welfare plans for the payment of insurance premium taxes. The provisions of this legislation are retroactive to April 22, 1996.

Family issues. The State Code relating to family leave was amended to provide that employees who have been employed full time by the same employer for at least 12 consecutive months at a permanent jobsite or location may be absent from such employment for a period not to exceed 4 months for adoption, pregnancy, childbirth, and nursing an infant, where applicable. Employees shall be returned to their previous or similar positions with the same status, pay, and benefits if they have given their employer at least 3 months' advance notice of their anticipated date of departure for such leave. If a medical emergency or the timing of the notice of adoption prevents the employee from providing the 3 months' advance notice, the employee shall not forfeit his or her rights and benefits solely because of failing to provide the required advance notice. Such leave may be with or without pay at the discretion of the employer. The amended code does not apply to employers with fewer than 100 full-time employees on a permanent basis at the jobsite or location, nor does it affect any bargaining agreement or company policy that provides greater benefits than those required under this section of the State code.

Prevailing wage. The termination date of the Prevailing Wage Commission has been extended until June 30, 2009.

Worker privacy. All records, employment applications, credentials, and similar documents obtained by any person in conjunction with an employment search for a director of schools or any chief public administrative officer shall, at all times during business hours, be open for personal inspection by any citizen of the State, and those in charge of such records shall not refuse the right of inspection to any citizen, unless otherwise provided by State law. For purposes of this State Code Annotated, the term "person" includes a natural person, a

corporation, a firm, a company, an association, and any other business entity.

Texas

Agriculture. District courts may, for good cause shown in a hearing and on application by the State Department of Housing and Community Affairs regarding a migrant agricultural worker or the worker's representative, grant a temporary or permanent injunction to prohibit a person, including a person who owns or controls a migrant labor housing facility, from violating the State Safety and Health Code.

Child labor. The State Labor Code was amended to require that juveniles be at least 11 years of age in order to engage in the delivery of newspapers. The amended code also redefined the term "delivery of newspapers" so that it includes only the distribution of newspapers on, or the maintenance of, a newspaper route and not direct sales to the general public.

Inmate labor. An individual who is assessed a conviction for a misdemeanor and confined to jail for more than 1 day, or who is unable to pay the fine and costs adjudged against him or her, or who is sentenced to jail for a felony and is confined in jail after his or her conviction shall be required to work in the county jail industries programs or be required to perform other manual labor. Such an individual may be put to labor upon maintenance projects for a cemetery that the commissioners' court (part of the State Department of Criminal Justice) uses public funds, county employees, or county equipment to maintain. In addition, the individual may be put to labor providing maintenance and related services to a nonprofit organization that qualifies for a tax exemption under Section 501(a) of the Internal Revenue Code, provided that the nonprofit organization furnishes a public service to the county or some other political subdivision in the State.

At the discretion of the commissioner's court, a county may permit the use of public funds, county employees, county inmate labor, and county equipment to open and close graves at cemeteries maintained under the State Health and Safety Code.

Wages paid. The State Workforce Commission shall establish one or more impartial wage claim appeal tribunals to hear and decide disputed wage claims if the commission determines that establishing those tribunals is necessary to ensure the prompt disposal of

wage claim cases on appeal. Either party may request a hearing before a wage claim appeal tribunal to appeal a preliminary wage determination order. If the commission, a commission examiner, or the wage claim appeal tribunal determines that an employer or an employee acted in bad faith in bringing a wage claim, an administrative penalty may be assessed against the party who acted in bad faith.

Worker privacy. Certain applicants for positions in the State Department of Public Safety are to be administered polygraph examinations. This legislation does not authorize the department to require an officer, a peace officer, or a police communications operator already commissioned by the department to take a polygraph examination. However, before commissioning an applicant as a peace officer or employing an applicant for a police communications operator position, the department shall require the applicant to submit to the administration of a polygraph examination. The examination may be administered only by a polygraph examiner licensed under the State Occupations Code who is a peace officer commissioned by the department or who has a minimum of 2 years of experience conducting preemployment polygraph examinations for a law enforcement agency. The results shall be confidential, but the department and polygraph examiner may disclose the results when there is an admission of criminal conduct. The results of the polygraph examination shall be used as a factor in determining the employability of an applicant.

In accordance with appropriate guidelines, an employer required to conduct alcohol and drug testing of an employee who holds a commercial driver's license shall report the following to the State Department of Public Safety: (1) a valid positive result on an alcohol or drug test; (2) a refusal by an employee to provide a specimen for an alcohol or drug test; and (3) an adulterated, diluted, or substituted specimen provided on an alcohol or drug test. The confidentiality of the records must be maintained by the department for those employees holding a commercial driver's license and may be released only to the holder of the license, the holder's current employer, or a person acting on behalf of the employer if the department receives the holder's specific written consent to the release of information.

The confidentiality of addresses, telephone numbers, Social Security numbers, and personal family information has been extended to employees of a district attorney, criminal district attorney, or county or municipal attorney whose jurisdiction includes any

criminal law or child protective services matters.

Each daycare center, group daycare home, and family home is now required to post a list of all current employees at the center or home in accordance with rules adopted by the executive commissioner of the State Department of Health.

Utah

Employment agency. A person may now recover twice the amount of money paid to an employment agent as a commission in advance. An agent can be fined no more than \$200 for each advance that is unlawfully received.

Minimum wage. Cities, towns, and counties of the State may not give preferential treatment to contracts with persons who pay their employees above the Federal minimum wage, unless the employees are contracted to work on a federally funded project which requires that they be paid a specific wage. This restriction also applies to any entity created by a city, town, or county.

Worker privacy. For the purpose of constructing an annual survey from the Division of Workforce Information and Payment Services, the director of the State Department of Human Resource Management is now required to obtain information about comparable unusual positions (that is, positions held by career and noncareer State employees exempt from State pay plans) requiring recruitment in other States. The information shall include the employer's name, the number of persons employed, employer contact information, job titles, the county code, and the salary if available, and such information shall be acquired and protected in compliance with applicable provisions of State law. If a State employee is killed in the line of duty, insurance coverage for the surviving spouse shall continue until the surviving spouse remarries or becomes eligible for Medicare (whichever comes first). Coverage for unmarried children shall continue up to the age of 26.

Vermont

Living wage. On or before January 15 of every year, the State General Assembly Joint Fiscal Committee shall issue a report consisting of a liveable-wage analysis and a basic-needs calculation. The report shall

include a computation of baseline data pertaining to the cost of living and the current wage levels within various sectors of the economy. Among other aspects of the report will be the following: (1) a set of basic-needs budgets for various household configurations for the previous year, to calculate the amount of money needed to maintain a decent standard of living in the State; (2) a list of changes in the Federal minimum wage and in the wages for this and surrounding comparable States; and (3) recommendations for changes or revisions in the methodology used to determine the basic-needs budget calculations. Also, at least every 2 years, the Joint Fiscal Committee shall review the methodology used to calculate the basic-needs budget and, after public comment, make any necessary and appropriate revisions.

Minimum wage. Continuing a schedule of legislated increases, an employer shall not employ an employee at a rate less than \$7.25 per hour beginning January 1, 2006. Beginning January 1, 2007, and on each subsequent January 1, the minimum-wage rate shall be increased either by 5 percent, by the percentage increase of the Consumer Price Index U.S. city average, not seasonally adjusted, or by a successor index as calculated by the U.S. Department of Labor or a successor agency for the 12 months preceding the previous September 1, whichever is smallest. An employer in the hotel, motel, tourist place, and restaurant industry shall not employ a service employee or a tipped employee at a basic wage less than \$3.65 an hour. If the minimum-wage rate established by the Federal Government is greater than the rate established for the State for any year, the minimum-wage rate for that year shall be the rate established by the Federal Government.

Worker privacy. No employer may require, as a condition of employment, that (1) an employee refrain from disclosing the amount of his or her wages or (2) an employee sign a waiver or other document that purports to deny the employee the right to disclose the amount of his or her wages. Further, no employee shall be discharged, formally disciplined, or otherwise discriminated against for disclosing the amount of his or her wages.

Virginia

Child labor. Counties, cities, or towns of the Commonwealth may authorize by ordinance any person residing anywhere in the Commonwealth who is 16 years of age or older and who is a member of a volunteer fire company within such county, city, or town, to seek cer-

tification under National Fire Protection Association 1001, level 1, firefighter standards as administered by the State Department of Fire Programs. Children 16 years of age or older may participate in all activities of a volunteer fire company; however, any such child shall not enter a burning structure or a structure that contains burning materials prior to obtaining certification under National Fire Protection Association 1001, level 1, firefighter standards, except where entry into a structure that contains burning materials is during training necessary to attain certification under National Fire Protection Association 1001, level 1, firefighter standards as administered by the Department of Fire Programs.

Discharge of employees. Employees who believe that they have been discharged or otherwise discriminated against shall be prohibited from seeking relief under the State code concerning remedies for discrimination if they fail to file a complaint within 60 days after such violation occurs.

Off-site work. The State has been required by legislation to establish a comprehensive statewide telecommuting and alternative work schedule policy under which eligible employees of State agencies, as determined by State agencies, may telecommute or participate in alternative work schedules. The State secretary of administration, while establishing the State's policy on telecommuting and alternative work schedules, now requires that those broad categories of positions determined to be ineligible to participate in telecommuting be identified and that the decision rendering them ineligible be justified.

Time off from work. Employees who miss work to serve as election officers cannot be discharged, required to use sick leave or vacation time, or have any other adverse personnel action taken against them, provided that they give their employer reasonable notice of their absence. If they have served 4 or more hours, the employer cannot require them to begin a work shift after 5:00 P.M. following their service or before 3:00 A.M. the next day. Any employer who violates this act is guilty of a Class 3 misdemeanor.

The employee day-of-rest requirements found in the State Code have been repealed. Now employers are not required to give employees 24 consecutive hours off from work each calendar week.

Wages paid. An employer who fails or refuses to pay wages is now guilty of a Class

1 misdemeanor if the value of the wages withheld is less than \$10,000. If the wages earned and not paid are more than \$10,000, or if the conviction is a second or subsequent conviction, the employer is guilty of a Class 6 felony.

A person who knowingly makes, draws, utters, or delivers a bad check on behalf of any business for the purpose of paying wages to any employee is guilty of a Class 6 felony if the check has a represented value of \$200 or more.

If an employee who works at any facility at which the operation of amusement devices is authorized fails to designate a financial institution for the electronic automated transfer of his or her wages or salary, then the employer may pay the employee by crediting a prepaid debit card or card account without the consent of the employee.

Whistleblower. State employees shall not be prohibited or otherwise restricted from their right to express opinions to State or local elected officials on matters of public concern, nor shall the employees be subject to acts of retaliation because of the expression of such opinions. The "matters of public concern" include those of interest to the community as a whole, whether for social, political, or other reasons, and shall include discussions that disclose any (1) evidence of corruption, impropriety, or other malfeasance on the part of government officials; (2) violations of law; or (3) incidence of fraud, abuse, or gross mismanagement.

Worker privacy. The State's Employment Commission is now authorized to provide secure electronic access to quarterly wage reports submitted by employing units to any consumer reporting agency. The commission will set the terms and conditions, require the agency to pay all costs associated with establishing and maintaining the access, and cancel any contract with an agency that fails to comply. The information can include only the amount of wages for an individual and the employing unit's name and address. The agency will require users of the information to obtain written consent from the individual whose report they are accessing. The letter of consent must state the specific purpose for which the release of information is made and that the consent is voluntary. The letter must also state that the files may be accessed and must give the identity and address of the parties authorized to access the information. Finally, a refusal to grant consent cannot be the basis for a denial of credit, and the agency will require that the information be used only to verify the accuracy of information previously provided.

Washington

Drug and alcohol testing. A motor carrier, employer, or consortium that is required to have a testing program must report a refusal by a commercial motor vehicle driver to take a drug or alcohol test to the State Department of Labor when the medical review officer or the breath alcohol technician has not reported the refusal. A refusal to take a drug or alcohol test that meets the standard for refusal under Federal law is considered equivalent to a report of a verified positive drug test or a positive alcohol confirmation test, respectively. A medical review officer or a breath alcohol technician under contract to an employer involved in transit operations may report a positive alcohol or drug test for transit drivers to the State Department of Labor only when the positive test is a preemployment screening test. A transit employer may report a positive test to the State Department of Labor only when (1) the driver's employment has been terminated or the driver has resigned; (2) any grievance procedures up to, but not including, arbitration have been concluded; and (3) at the time of termination or resignation, the driver has not been cleared to return to safety-sensitive functions.

Family issues. The State Family Care Law was amended to allow employees to use sick leave or other paid time off, including time allowed under certain long- or short-term disability policies, to care for certain family members, including adoptive parents, who have certain health conditions. In addition, the definition of "sick leave or other time off" was modified to include a disability policy as applicable to an employee for illness, vacation, or personal holiday. The definition includes any self-administered disability plan, unless the employer maintains a separate bona fide paid sick leave policy plan or practice. The definition does not include any leave benefit granted by a disability policy covered by the Employment Retirement Income Security Act of 1974 or by a plan administered by a third party.

Handicapped workers. State agencies and departments are encouraged to purchase products and services manufactured or provided by those community rehabilitation programs of the State Department of Social and Health Services which operate facilities serving disadvantaged persons and persons with disabilities or, until 2009, by businesses owned and operated by persons with disabilities that have achieved or consistently make progress towards the goal of enhancing opportunities for disadvantaged persons or

persons with disabilities. These organizations must offer products and services at the fair market price, pursuant to State regulations, and once it has been determined that they have done so, the departments are authorized to negotiate directly with the appropriate State agencies for the procurement of said products and services.

Human trafficking. In order to improve services to victims of human trafficking, the director of the State Department of Community, Trade, and Economic Development is required to convene a work group to develop written protocols for the delivery of services to such victims and to develop policies for interagency coordinated operations. At a minimum, the protocols must (1) apply to the State Department of Community, Trade, and Economic Development, the State Department of Health, the State Department of Social and Health Services, the Office of the State Attorney General, the State Patrol, the State Department of Labor and Industries, and the State Employment Security Department; (2) provide policies and procedures for interagency coordinated operations and for cooperation with government agencies and with nongovernmental organizations, agencies, and jurisdictions, including law enforcement agencies and prosecuting attorneys; (3) include the establishment of a database that is electronically available to all affected agencies and that contains the names, addresses, and phone numbers of agencies which provide services to the victims of trafficking; and (4) specify guidelines for providing the social service needs, including housing, health care, and employment, of victims of trafficking.

Right to work. When an employee in the broadcasting industry is subject to an employee noncompetition agreement and is terminated without just cause or is laid off by action of the employer, the noncompetition agreement is void and unenforceable. The employer is not restricted from protecting trade secrets or other proprietary information by lawful means in equity or under applicable law. This enacted legislation does not terminate or in any way modify any rights or liabilities resulting from an employee noncompetition agreement that was entered into before December 31, 2005.

Worker privacy. Applicants who have been offered conditional offers of employment as

fully commissioned peace officers or reserve officers will be required to take and pass a polygraph test or similar assessment procedure as a condition of employment as a peace officer. The employing city, county, or State law enforcement agency may require that applicants taking such testing pay a portion of the testing fee based upon the actual cost of the test or \$400, whichever is less. The polygraph examination or similar assessment shall be administered by an experienced polygrapher who is a graduate of a polygraph school accredited by the American Polygraph Association. Those persons whose certification has lapsed because of a break in service in excess of 24 months also are required to take and pass such examination or similar assessment, or their recertification shall be denied.

An employer who discloses information about a former or current employee now is immune from civil and criminal liability if the information relates to the employee's ability to perform the job or to the employee's diligence, skill, or reliability in performing the job or if the information relates to any illegal act committed in fulfillment of the duties of the job. The employer should retain a written record of the identity of the person to which the information is disclosed for a minimum of 2 years. The employee or the former employee has a right to inspect any such record upon his or her request. The employer is presumed to be acting in good faith, a presumption that can be rebutted only by showing clear and convincing evidence that the information was knowingly false, deliberately misleading, or made with reckless disregard for the truth.

The names, dates of birth, residential addresses, telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, Social Security numbers, and emergency contact information of employees or volunteers of a public agency, and emergency contact information of dependents of such employees and volunteers, including independent provider home care workers, are confidential and available only upon following specific guidelines for their release.

An applicant may be employed by a school district on a conditional basis pending the district's review of information obtained

pursuant to the application review. When information requests are sent to out-of-State employers, an applicant who has signed a statement authorizing the State in which the applicant was previously employed to release employment-related information shall not be prevented from gaining employment with the current State's public schools if the laws or policies of the State in which the applicant was previously employed prevent documents from being made available to the State school district in which the applicant has applied for employment or if the out-of-State school district fails or refuses to cooperate with the request.

West Virginia

Equal employment opportunity. The Executive Department of the State has been requested to establish a coordinated succession-planning process that will include components providing opportunities to correct the existing systemwide gender pay disparity among State employees. The department is to provide reports to the Equal Pay Commission.

Wisconsin

Minimum wage. By administrative rule, the State's minimum wage for adults was increased to \$5.70 per hour effective June 1, 2005.

Prevailing wage. On January 1, 2005, the prevailing-wage threshold amount for coverage under the State prevailing-wage laws for State and municipal contracts was changed administratively from \$186,000 to \$200,000 for contracts in which more than one trade is involved and from \$38,000 to \$41,000 for contracts in which a single trade is involved. On January 1, 2006, these amounts were changed administratively to \$209,000 in which more than one contract is involved and \$43,000 for contracts in which a single trade is involved.

Wyoming

Unfair labor practice. Legislation was enacted that extended the former deadline of 90 days for filing a complaint under the State Fair Employment Practices Act. An employee now has 6 months to provide a written complaint after the occurrence of the alleged discrimination or unfair employment practice. □

Notes

¹ All of the State legislatures met in regular session in 2005. Iowa and the Virgin Islands did not enact significant legislation in the fields covered in this article. Information about Puerto Rico and Guam was not received in time to be included in the article, which is based upon

information received by November 15, 2005.

² Several tables displaying State labor law information, including tables on State minimum-wage rates, State prevailing-wage laws, and child labor issues, are available on the

Internet at the U.S. Department of Labor, Employment Standards Administration, Web site; visit <http://www.dol.gov/esa/programs/whd/state/state.htm>.

³ Alabama, Arizona, Louisiana, Mississippi, South Carolina, and Tennessee.