

State labor legislation enacted in 1988

Recent legislative trends continued with significant laws enacted in a wide array of labor standards areas including minimum wage, mandatory retirement, AIDS testing, and parental leave

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State labor legislation enacted in 1988 covered a wide variety of employment standards subjects and included several significant new laws.¹ The year was also notable for several important general election ballot initiatives. Among these measures addressed were both traditional labor standards fields such as minimum wage and child labor protection and bans on mandatory retirement and other forms of employment discrimination, and the newer subjects of workplace AIDS and drug testing, parental leave, and asbestos abatement.²

Wages. Minimum wage continued as a major issue in 1988 with new legislation or wage orders increasing minimum rates in Guam, Kansas, Maine, Pennsylvania, Rhode Island, South Dakota, Vermont, the Virgin Islands, the District of Columbia for employees in hotel and restaurant occupations, and Puerto Rico for employees in the hotel and construction industries. An additional seven States had rate increases in 1988 as the result of prior legislation. Also, an initiative on the Washington State ballot in the November general election to provide for an increase in the State rate and to extend coverage to farmworkers and domestic service employees was approved by the voters.

The trend in recent legislative and administrative actions has been to increase rates above the \$3.35 per hour Federal standard in effect since 1981; in fact, the District

of Columbia, Maine, Rhode Island, and Vermont which had already surpassed the Federal level, adopted even higher rates. Fifteen jurisdictions now exceed the Federal rate for some or all employees (this number will rise to 16 on February 1, 1989 when the Pennsylvania increase becomes effective), with the highest rates being \$4.25 an hour in California, Connecticut, and the Virgin Islands; \$4.00 an hour in Rhode Island and in Puerto Rico for office, supervisory, and skilled workers in the construction industry; and from \$3.50 to \$4.85 an hour in the District of Columbia, depending on the industry.³

Bills to increase the Federal minimum wage were reported out of committee in both the House and Senate in 1988. However, neither bill reached a floor vote.

In addition to the rate increase in Maine, the State minimum will now automatically match increases in the Federal minimum wage up to \$5 per hour instead of \$4 per hour as before. Other minimum wage and overtime changes included: repeal of an exemption from the Kansas law for persons age 60 and older who work on an occasional or part-time basis; elimination of a provision in the Vermont law which had permitted payment at a lower rate for employees working for an employer for less than 90 days; and elimination, in Wyoming, of the daily overtime pay requirement for laborers, mechanics, or workers on public works projects. Employees who receive tips in Minnesota are now entitled to the same minimum cash rate from the employer as those who do not earn tips.

The Arizona equal pay law, previously applicable to private sector employers, will now also apply to State employers and employers of political subdivisions which receive State tax monies. The Nebraska wage payment

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and collection law was extended to apply to political subdivisions, and in Rhode Island, the wage payment law was amended to require employers to pay employees returning from layoff the same wages earned before separation. Employees in Louisiana may now bring civil action to enforce the payment of the undisputed portion of any wages due, and in Oklahoma, civil court actions by employees or their representatives to recover unpaid wages and liquidated damages are no longer limited to \$1,000 per claim.

Following unsuccessful efforts in each of the last few years, the Louisiana prevailing wage law was repealed, continuing a trend which has seen the repeal of nine such laws since 1979.⁴ Efforts to enact repeal measures failed in Indiana, Massachusetts, and Oklahoma in 1988, and an effort to enact a law failed in Kansas. In addition, Massachusetts voters in November defeated a ballot initiative which sought repeal of the State's prevailing wage law. Thirty-two States currently have these laws which specify that wage rates paid on publicly funded construction projects be not less than those prevailing in the locality. In court action, the Illinois State Supreme Court reversed lower court decisions by holding that it is outside the grant of home-rule power for home-rule units to exclude themselves from coverage of the State prevailing wage law.

Parental leave. States continued to take the lead in legislation addressing the subject of parental leave. A new law in Maine requires private sector employers and local government with 25 or more employees and the State to grant up to 8 weeks of unpaid family medical leave in any 2 years for the birth or adoption of a child, or for the serious illness of the employee, child, parent, or spouse. In Wisconsin, employers of 50 or more workers in the private sector and the State government, must provide unpaid family or medical leave of up to 6 weeks for the birth or adoption of a child; 2 weeks to care for a child, spouse, or parent with a serious health condition; and 2 weeks personal medical leave within a 12-month period. In both cases, employees returning from such leave are entitled to reinstatement in the same or equivalent position without loss of benefits. (The legislature in Hawaii requested a study of the feasibility of enacting such a statute.)

Federal parental leave measures were reported out of committee in 1988, but failed to achieve final consideration.

Among related provisions, employers in Colorado who permit paternity or maternity time off for the birth of a child, and who provide other benefits such as job guarantee or pay, must offer the same opportunities for adoptive parents; health and insurance benefits of State employees in Massachusetts, who are granted parental leave to care for a child under 3 years of age, must be continued for the period of leave, with the employee paying that portion of

the premium normally deducted from the employee's salary; and public and private sector employers in Washington must allow an employee to use accrued sick leave to care for a minor child who has a health condition that requires treatment or supervision.

Child labor. Child labor amendments addressed a variety of youth employment issues. A growing concern was reflected in a New Hampshire enactment where, as part of a literacy and school dropout prevention program, the Youth Employment Law was amended to limit the school-week work hours of 16- and 17-year-olds and a committee was created to examine, among other things, the relationship between the number of hours per week that a student works or participates in sports and the student's academic achievement. In other significant developments, monetary penalties were substantially increased for child labor violations in Wisconsin; in Rhode Island, authority to declare places or occupations as hazardous for minors under 16 years of age was transferred from the Department of Health to the Department of Labor; and in Michigan, new regulations were issued making hazardous occupation provisions more detailed and more consistent with Federal standards and requiring closer supervision of minors in the workplace.

Among other enactments, the Georgia child labor law was amended to permit the Commissioner of Labor to seek a court order enjoining a violator of the law from employing the minor involved in the violation. A separate Georgia measure permits children under age 16 to be employed during school vacations in the maintenance of lawns on the grounds of factories or businesses where employment within the establishment would be prohibited, and minors under age 16 in Maine will now be permitted to work in retail sales, customer service operations, or office work in otherwise prohibited places of employment, such as factories, provided the work is performed in a separate room. Night work hours were extended somewhat for minors under age 16 in Massachusetts and New Jersey. The New Jersey law was also amended to permit minors 15 years of age or older to work as cashiers or baggers near cash register conveyor belts. Children under 7 years of age may now receive theatrical employment permits in the District of Columbia, and children working as actors or performers in Vermont may now be employed after midnight with the consent of a parent and the Commissioner of Labor and Industry.

Discrimination. The age 70 upper limit for protection from age discrimination or mandatory retirement provisions was removed for both private and public sector employees by amendments to laws in Idaho, Kansas, South Carolina, and Tennessee, and for various public sector employees by amendments in Arizona, the District

of Columbia, and Maryland. Maryland also enacted a law requiring that a prohibition against employment discrimination based on age be included in the required nondiscrimination clause in all State procurement contracts. In Massachusetts, certain groups of State and municipal public safety employees may now work beyond age 65 with annual certification. Some of this State activity was likely in response to Federal Age Discrimination in Employment Act amendments, effective January 1, 1987, which included removal of the age-70 upper limit on coverage in private and public sector employment.

A comprehensive human rights law was enacted in Louisiana prohibiting discrimination by private and public employers and apprenticeship and training programs on the basis of race, creed, color, religion, sex, age (for those 40 to 70 years), or national origin. In Oklahoma, a new Fair Employment Practices Act, applicable to employees of the State, permits State agencies to use optional hiring procedures to hire qualified women and minorities. Among other laws addressing the various forms of employment discrimination, the discrimination against physically or mentally handicapped persons by public and private sector employers was prohibited by a new Handicapped Persons Employment Protections Act in Delaware and by an amendment to the Idaho Human Rights Act. Both of these laws require employers to make reasonable accommodation in the workplace to a worker's disability.

Employee testings. The highly controversial testing of employees, either for drug or alcohol abuse or for the presence of AIDS virus (HIV) antibodies continued to be the subject of proposed legislation in several jurisdictions. Drug testing legislation was enacted in Nebraska, Kansas, and Tennessee. In Nebraska, public and private employers of 6 or more may require employees to submit to drug or alcohol testing under penalty of dismissal or other disciplinary or administrative action for refusal to be tested. Kansas authorized establishment of a drug screening program for persons taking office as governor, lieutenant governor, or attorney general and for those applying for safety sensitive positions in State government, and Department of Correction security personnel in Tennessee may be tested upon reasonable suspicion that an employee's faculties are impaired on the job and that a danger exists because of the impairment. Laws prohibiting employers from requiring a test for the presence of an AIDS virus infection as a condition of employment and from discriminating in employment on the basis of a positive test were enacted in Florida, Iowa, Rhode Island, and Vermont.

Private employment agencies. Laws affecting the regulation of private employment agencies were enacted in eight States. Among the more notable were a New York

amendment exempting employer fee-paid agencies from registration requirements and reducing maximum applicant-paid fees, and an amendment to the Oklahoma regulatory law limiting coverage to agencies charging a fee to job applicants rather than those charging fees to either applicants or employers. In Illinois, a new Job Referral and Job Listing Services Consumer Protection Act requires firms offering such services to maintain job and listing authorization records, to furnish jobseekers with information on fees and other facts about the prospective employment, and to refund fees if suitable employment opportunities are not furnished. The firms are prohibited from engaging in specified false or deceptive practices.

Safety and health. Again in 1988, as in recent years, most of the legislation dealing with worker safety and health concerned the right of workers to be informed of and given training on chemical hazards in the workplace, asbestos abatement, and restrictions on workplace smoking. New comprehensive right-to-know laws were enacted applicable to agencies of the Government of Guam and to public sector employers in Georgia. Both laws provide for notification to employees of hazardous substances in the workplace and for safety training. Of the remaining right-to-know laws, half were amendments incorporating provisions required by the Federal Emergency Planning and Community Right-to-Know Act of 1986. In related court action, a provision of the Massachusetts law, limiting the disclosure of information about the presence of hazardous substances in the workplace to those authorized to receive it, was declared unconstitutional as an unwarranted restriction on freedom of speech.

Four of the 12 asbestos abatement enactments were amendments made specifically in order to meet the State's contractor certification responsibilities under the Federal Asbestos Hazard Emergency Response Act of 1986.⁵ Other enactments provided for regulation of various aspects of this work, including the certification or licensing of contractors, safety training of workers, and notification to employees of the presence of asbestos. New Hampshire provided for granting licenses to persons licensed by other States with substantially equivalent standards.

Since January 1, 1988, persons in Massachusetts who smoke any tobacco products may not be employed as uniformed members of the State Police, or in other specified State employment, and may not continue in their jobs if they subsequently smoke tobacco.

Other safety enactments included: in Suffolk County, New York the first law providing employee protection against possible dangers of video display terminal use; a new Amusement Rides and Amusement Attractions Safety Act in West Virginia; and laws dealing with coal mine and boiler safety. In California, voters in November approved a ballot initiative to restore the State's private sector job safety and health program.

Other legislation. Federal legislation requires employers of 100 employees or more to provide 60 days' advance notice of plant closings and layoffs, with recourse through civil suits filed by affected employees, labor unions, or the communities in which a layoff or shutdown has taken place. State legislation in this area also continued, with a law enacted in Tennessee providing that upon notifying workers of a major layoff, plant closure, or relocation, employers of 50 or more full-time employees are to notify the State Government of the circumstances of the reduction in operations and the number of employees affected. Other State efforts to lessen the impact of a plant closing, relocation, or major reduction in operations included: continuation, for 1 year, of a New York program to assist workers (terminated from employment because of a layoff involving 50 workers or more) with the payment of health insurance premiums; extension of coverage (to employees who lose their jobs because of a workplace closing or permanent work force reduction) of a Rhode Island law entitling involuntarily laid-off employees to continue group hospital, surgical, or medical insurance coverage by payment of premiums at the group rate; and funding for a business and job retention program in Washington.

Six States enacted or amended whistleblower laws designed to protect employees from employer retaliation for reporting violations to a public body, or for participating in an investigation, hearing, or court action. Such new laws were enacted in Ohio, applicable to both private and public employers, in West Virginia applicable to public

Alabama

Other laws. Municipal corporations are to provide defense counsel and indemnity for employees who are sued for damages arising out of the performance of their official duties and while operating a motor vehicle or equipment in the course of their employment, provided the action of the employee was not intentional or willful or wanton.

Alaska

Equal employment opportunity. A prohibition against race discrimination in employment conditions of public education employees was added to a preexisting law which already banned sex discrimination in public education and, under which the Board of Education is empowered to withhold State funds from a school district or area for failure to comply with nondiscrimination requirements. This public education law supplements the State's Human Rights Act of general application, which bans race and sex discrimination, among other types.

The Office of Equal Employment Opportunity was authorized to suspend the hiring authority of a State agency and to

impose mandatory affirmative action measures upon a finding that such agency has violated the State affirmative action plan or its program. The Office may also require reversal of discriminatory personnel actions and require agencies to change selection procedures that violate State or Federal law. Also, a provision was adopted requiring that collective bargaining agreements under the Public Employment Relations Act be consistent with principles of equal employment opportunity and affirmative action.

Labor relations. The public teacher negotiation law was amended to extend collective bargaining rights to noncertified school board employees.

Preference. In an exception to confidentiality requirements, the Department of Labor is to publicly disclose data, that is contained in employment security records, on the residency of employees hired by employers, in order to encourage employers to voluntarily consider the availability of qualified jobseekers in the State. A report is to be issued disclosing the names of all public and private em-

ployers, and in Illinois, limited to operators of licensed child care facilities.

Other significant enactments included a law in New Jersey requiring apparel industry manufacturers and contractors to register annually with the Department of Labor as a condition of doing business in the State; a universal health-care law in Massachusetts designed to provide basic health insurance for every resident by 1992 including the employed, those receiving unemployment benefits, and all others not enrolled in health insurance plans; a construction contractor registration law in Iowa under which only registered contractors will be eligible to be awarded State contracts; a provision for mandatory rest breaks in Minnesota; and authorization to negotiate fair share fee agreements under the Pennsylvania Public Employee Relations Act. In the November general election, Oklahoma voters approved a ballot initiative making the office of the Commissioner of Labor an elected rather than an appointed position. A Federal court of appeals affirmed in large part a lower court ruling that several provisions of the Texas mass picketing law are unconstitutional.

The Employee Polygraph Protection Act of 1988, enacted at the Federal level, prohibits most private sector employers, with certain exemptions, from using any form of lie detector tests either for pre-employment screening or during the course of employment.

The following is a summary, by jurisdiction, of labor legislation enacted during 1988.

ployers of 20 or more and the hiring practices of each.

A resolution requested the Governor to direct the Commissioner of Labor to initiate a public awareness and promotional campaign to encourage private industry to hire State residents and to contract with State businesses for projects located in the State.

Other laws. An employer may not discharge, threaten, or take other adverse action against an employee because he or she receives or responds to a summons for jury service, serves as a juror, or attends court for prospective jury service. Employers are not required to pay employees for time spent in such service.

Arizona

Wages. The equal pay law was extended to apply to State employers and employers of political subdivisions which receive State tax monies, aside from private-sector employers as before.

Equal employment opportunity. The requirement that members of the State retirement system retire at the age of 70 was removed. Previously, employment

past age 70 was permitted only upon approval of individual annual requests.

Background clearance. Beginning July 1, 1989, child care personnel must register with the Department of Health Services in order to work in a certified day care group home. A fingerprint check for purposes of conducting a background screening will be a condition of registration.

Persons employed under contracts with the Supreme Court or the Department of Corrections to provide services to juveniles must be fingerprinted as a condition of employment prior to the performance of any services involving direct contact with juveniles. Persons convicted of or awaiting trial on specified criminal charges including murder, kidnapping, and sexual abuse, are prohibited from such work.

Occupational safety and health. An emergency planning and community right-to-know act was approved, establishing a State Emergency Response Commission whose duties include carrying out the State's requirements under the Federal law. Requirements were established for comprehensive and facility emergency response plans, emergency notification of reportable releases of extremely hazardous substances, and for the reporting of hazardous chemicals and substances stored, handled, or processed in a facility as required by Federal law.

Preference. Contractors, who are licensed in the State and who have paid State or county taxes within the State for at least 2 consecutive years immediately prior to submitting a bid, may now receive a preference on public works contracts regardless of the location of their home office.

Arkansas

Wages. By prior legislation, the State minimum wage rate was increased from \$3.25 per hour to \$3.30 on January 1, 1989.

California

Wages. By prior action of the Industrial Welfare Commission, the basic minimum wage rate was increased from \$3.35 an hour to \$4.25 on July 1, 1988.

In order to expedite the establishment of State residents' eligibility under the Federal Immigration Reform and Control Act, the law requiring employers to maintain specified payroll records and to make them available for inspection by employees, was amended to apply to both current and former employees, and to provide the right to inspect and copy such records. Employers are authorized to take reasonable steps to assure the identity of current or former employees.

Agriculture. The surety bond required of farm labor contractors was increased from \$5,000 to \$10,000 and may now be used to pay for interest on wages and for any damages arising from violations of orders of the Industrial Welfare Commission. The separate fund maintained by the Labor Commissioner from a portion of the license fees to pay persons damaged by a licensee when the damages exceed the bond limits may now also reimburse persons damaged by unlicensed farm labor contractors. Licensees subject to two or more final court judgments for failure to pay wages due farm employees in a 5-year period will have their licenses suspended for 1 year. Also, persons operating as farm labor contractors after their license has been suspended or revoked are now subject to fines of from \$1,000 to \$5,000 and/or imprisonment of 6 months to 1 year.

The Department of Housing and Community Development and local jurisdictions assuming enforcement of housing standards and permits for labor camps are to submit an annual report on labor camps for the legislature including the number and location of such camps, those found operating without permits, and data on inspections, complaints, violations, and staff hours dedicated to implementing the Employee Housing Act.

Undocumented workers. The law prohibiting the knowing employment of aliens not entitled to lawful residence in the United States if such employment has an adverse effect on lawful resident workers was repealed. (This inoperative law had previously been preempted by the Federal Immigration Reform and Control Act of 1986.)

Equal employment opportunity. A permanent Limited Examination and Appointment Program was established under the State Personnel Board, replacing an existing demonstration project. The program is to provide an alternative to the traditional civil service process to facilitate the hiring of persons with disabilities in the State civil service.

Employee testing. In the November general election, Proposition 102 which would have, in part, repealed the prohibition on use of AIDS virus tests for employment or insurability was defeated.

Occupational safety and health. Proposition 97, on the November general election ballot, was approved requiring restoration of the California Occupational Safety and Health Administration (CAL/OSHA) program in the private sector which was

eliminated in the Governor's 1987-88 budget by use of his line-item veto authority. The program operated under a State plan in accordance with Federal law. With withdrawal of the State funding, the Federal Occupational Safety and Health Administration reinstated concurrent Federal enforcement over private sector employment in California; the State has continued to enforce in the public sector.

The Contractors' State License Board may not issue the certification required for asbestos-related work unless the contractor is registered with the Division of Occupational Safety and Health of the Department of Industrial Relations. Beginning on July 1, 1989, uncertified and unregistered contractors are prohibited from advertising asbestos removal services.

The owner of any building having asbestos-containing construction materials is to provide notice to all his or her employees working within the building of the existence, location, and potential health risks of the materials and general procedures and handling restrictions necessary to prevent or minimize disturbance, release, and exposure to the asbestos.

Reinspection of a place of employment, by the Division of Occupational Safety and Health, will not be required if the safety or health violation is abated at the time of the initial inspection or investigation.

A joint resolution was adopted urging the Congress to amend the Emergency Planning and Community Right-to-Know Act of 1986 to permit those States with similar laws, enacted prior to the Federal Act, discretion in carrying out the procedural or administrative requirements of the Federal act without lessening its protections of the public health and safety.

A concurrent resolution was adopted asking that the Ad Hoc Advisory Committee on Video Display Terminals, established in 1987 to study the necessity for video display terminal related health and safety standards, report back to the California Occupational Safety and Health Standards Board with proposals by May 1, 1989.

Whistleblower. The law protecting State government employees from any act of reprisal, retaliation, coercion, or similar act for having disclosed improper government activities to designated authorities, was amended to extend coverage to employees of the University of California.

The law protecting employees from being deprived or from an attempt to deprive them of lawful employment because of any past, current, or potential appearance as a witness before any legislative committee, was amended to also make it a misde-

meanor for an employer to, directly or indirectly, harass any such employee.

Other laws. A new provision was enacted to regulate the activities of foreign labor contractors engaged in providing employment services including procuring or arranging employment, transportation, housing and other living accommodations for nonagricultural foreign workers for a fee. Such contractors must enter into written contracts with foreign workers in their primary language, including all material terms, and are prohibited from engaging in specified practices. Violations constitute a misdemeanor, and aggrieved persons may bring an action for injunctive relief and damages.

The Education Code now authorizes teachers to require that the parent or guardian of a pupil, who has been suspended for certain specified disruptive behavior, attend a portion of a school day in his or her child's or ward's classroom. Employers are not to discharge, threaten to discharge, or take any other retaliatory action against a parent or guardian for such absence from work.

Amendments to the State temporary disability insurance laws require employers to give each employee leaving work due to pregnancy or nonoccupational sickness or injury a notice informing them of the disability insurance rights and benefits to which they are entitled.

Colorado

Hours. The legislature approved for consideration by the voters, at the November general election, a proposed constitutional amendment authorizing the legislature to establish exceptions to the maximum 8-hour workday in underground mines and workings, blast furnaces, smelters, ore reduction works, and other industries considered injurious or dangerous. The measure, Constitutional Amendment number 4, was approved by the voters.

Parental leave. Employers who permit paternity or maternity time off for the birth of a child, and who provide other benefits such as job guarantee or pay, must offer the same opportunities for adoptive parents. Employers may not penalize employees for exercising their rights to such leave.

Private employment agencies. The part of the criminal code dealing with fraudulent and deceptive sales and business practices by employment agencies, was amended to specifically apply to employment counselors who represent that they can supply employers or available jobs, and to job listing firms. Several undesirable practices were prohibited including false advertis-

ing, sending applicants to places where labor disputes exist without informing them, and failing to refund fees when required by law. Agencies convicted of misdemeanors under this law must file a \$20,000 surety bond with the Department of Labor and Employment prior to conducting business after the conviction. The State employment agency licensing law was repealed in 1983.

Connecticut

Wages. By prior law, the minimum wage rate was increased from \$3.75 to \$4.25 an hour on October 1, 1988.

Worker privacy. A public agency receiving a request to inspect or copy personnel or other employee records, the disclosure of which it believes to legally constitute an invasion of privacy, must now notify the employee's collective bargaining representative, if any, of the request as well as the employee. The collective bargaining representative, in addition to the employee, may now file a written objection to the disclosure.

Equal employment opportunity. Beginning April 1, 1989, public works contractors with 50 or more employees awarded contracts of between \$50,000 and \$250,000, must develop and submit an affirmative action plan for approval by the Commission on Human Rights and Opportunities. Failure to develop an approved plan will result in ineligibility for future contracts. In addition, contractors on projects costing more than \$250,000 must have an affirmative action plan approved after a bid has been accepted but before the award of a contract on such a project. All public works contractors and subcontractors must file compliance reports with the Commission including information such as employment policies, programs, and statistics. Violation of the antidiscrimination or affirmative action requirements will result in a partial withholding of contract funds in addition to barring the contractor from future State-funded projects.

Labor relations. A provision was enacted stating that no employee is to be denied the right to pursue, in court, a cause of action arising under the State or Federal constitution or under a State statute solely because the employee is covered by a collective bargaining agreement. This right will not apply to actions brought for breach of any provision of a collective bargaining agreement or other claims dependent upon the provisions of such an agreement.

Occupational safety and health. A State Emergency Response Commission was established to implement the provisions of the Federal Emergency Planning and Community Right-to-know Act of 1986. The Commissioner of Environmental Protection is to receive, process, and manage chemical information and notifications made pursuant to that act.

Employment and training. A commission on a Connecticut Partnership Compact was established, including the Commissioners of Economic Development and Labor and legislative, business, labor, and public members. The commission is to hold public hearings, and by March 1, 1989, adopt a partnership compact containing standards of participation for corporations in areas including policies affecting employees such as health benefits, education and job training, affirmative action and fair pay standards, and fair labor practices. Other considerations for participation include policies for safety, environmental protection, and community relations (including hiring and job training to benefit local residents).

Delaware

Equal employment opportunity. The Handicapped Persons Employment Protections Act was approved. This act is applicable to private sector employers of 20 or more, the State and political subdivisions, employment agencies, unions, and training programs. Employment discrimination against qualified physically or mentally handicapped persons is prohibited, and reasonable accommodation must be made in the workplace to enable a handicapped person to satisfactorily perform the essential duties of the job. Enforcement of the law is vested in the Department of Labor and the Review Board established under the Fair Employment Practices Act.

Labor relations. A merger, consolidation, sale of assets, or business combination may not result in the termination or impairment of negotiated labor contracts until their termination date or until otherwise agreed to by the parties to the contract or their legal successors.

Occupational safety and health. The Director of the Division of Boiler Safety or designee is now authorized to obtain and execute administrative inspection warrants and to shut down unsafe boilers and pressure vessels.

District of Columbia

Wages. The basic minimum wage for hotel, restaurant, apartment building, and allied occupations was increased from

\$3.80 an hour to \$4.75, effective October 10, 1988, by adoption of a revised wage order. The order increases the maximum tip credit allowance from \$1.95 per hour to \$2.60, and the minimum wage rate for employees under age 18 from \$3.35 to \$4.30 per hour. Adult learners age 18 or over who have been employed in the industry for not more than 90 calendar days may be paid \$4.45 per hour for the first 30 calendar days of employment with an employer.

Child labor. Children under 7 years who were previously prohibited from receiving theatrical employment permits, will now be permitted to receive them. New safeguards for the younger children include separate maximum work hours restrictions for infants under age 6 months, for those between 6 months and 30 months, and for those between 30 months and 7 years. A nurse with pediatric experience is to be provided for each 3 or fewer infants under the age of 30 months.

Equal employment opportunity. Public school teachers are no longer required to retire at age 70.

Florida

Wages. Among restitution provisions in a new Victim's Rights Act of 1988, deductions from a defendant's income may be ordered by the court for restitution to the crime victim. Payor of the income may not take disciplinary action against an employee because of enforcement of such an order.

Hours. Intrastate commercial motor vehicle operators may now drive 15 hours in any 24-hour period, instead of 12 of the first 15 on-duty hours, before a required 8-hour rest period. Such drivers may not be on duty more than 72 hours in 7 consecutive days, except that carriers operating every day may permit drivers to remain on duty for up to 84 hours in any period of 8 consecutive days. The weekly limit does not apply to persons transporting unprocessed agricultural products from place of harvest.

Agriculture. Farm labor contractors must now furnish, upon the request of an employee who is applying for amnesty under the Federal Immigration Reform and Control Act of 1986, copies of all payroll records concerning such employee. Contractors are prohibited from making any false, fraudulent, or misleading representation as to the performance of seasonal agricultural work by any person.

Employee testing. Unless there is a bona fide occupational qualification, employers may not require AIDS testing as a condition of hiring, promotion or continued employment, nor can employers refuse to hire, discharge, or otherwise discriminate against an employee with respect to compensation, terms, conditions, or privileges of employment on the basis of the results of an AIDS test.

Background clearance. The courts or the Department of Law Enforcement may now refer to and disseminate information contained in sealed criminal history records if the subject of the record is seeking employment, licensing, or a contract involving a sensitive position with direct contact with children, the developmentally disabled or the aged or elderly, or employment or licensing involving teaching or child care.

Occupational safety and health. A Hazardous Materials Emergency Response and Community Right-to-Know Act was approved in order to carry out the State's responsibilities under the Federal Emergency Planning and Community Right-to-Know Act of 1986. Federal requirements such as the furnishing of information and providing notification were adopted by reference, and penalties were established for violations.

Among amendments to the law regulating asbestos abatement projects, persons engaged in monitoring and evaluating such projects must now be licensed. Specific training courses are now required of asbestos consultants, contractors, surveyors, management planners, and project monitors. The Department of Labor and Employment Security was authorized to take disciplinary action, including imposing administrative fines and sanctions, against asbestos surveyors for certain offenses.

Other laws. Among changes in the displaced homemaker act, the Department of Health and Rehabilitative Services is now directed rather than authorized to enter into contracts with, and make grants to, public and nonprofit private entities for purposes of establishing multipurpose service programs. It is to develop a 3-year State plan for the displaced homemaker program (to be updated annually) which will assess program needs and goals and make recommendations. A trust fund was established to be used by the Department for administration of the program, funded by additional fees on marriage license applications and dissolution of marriage filings.

Georgia

Child labor. The child labor law was amended to permit the Commissioner of Labor to seek a court order enjoining any person, firm, or corporation in violation of the law from employing the minor involved in the violation. Also, obsolete provisions were repealed pertaining to physical examinations for 15-year-olds, maximum hours of employment of certain minors under age 18, and prohibition on corporal punishment of minors by employers.

The prohibition on work by minors under age 16 in dangerous employment will not apply to those 14 years of age or over employed during school vacations in the care and maintenance of lawns, gardens, and shrubbery including the operation of equipment in connection with the work, provided the minor furnishes the employer with an employment certificate and is covered by the employer's accident and sickness insurance plan. Such work will be permitted on the grounds of mills, factories, or businesses where employment within the establishment would be prohibited.

Private employment agencies. As the result of previously enacted legislation, the employment agency regulatory law was repealed as of June 30, 1987.

Occupational safety and health. A comprehensive new Public Employee Hazardous Chemical Protection and Right to Know Act was enacted, to be administered by the Department of Labor with the assistance of a Hazardous Chemicals Advisory Council. Public employers and contractors are required to maintain and disseminate information on hazardous substances to which workers are exposed, and to provide training for employees who handle these materials. Employees may request information about hazardous chemicals and may refuse to work with them until the information is provided. Employees are protected from being discharged or disciplined for filing a complaint or participating in a hearing under the act.

The Amusement and Carnival Ride Safety Acts were each amended to authorize the Commissioner of Labor to order the temporary cessation of operation of an amusement or carnival ride if an inspection determines it to be hazardous or unsafe.

Guam

Wages. The minimum wage rate was increased from \$3.35 per hour to \$3.75 effective January 1, 1989. Also, the previous exemption for students employed

during a school summer vacation was replaced by an exemption for full-time students under age 18.

Employers of aliens not admitted for permanent residence must pay all U.S. citizens and permanent residents and citizens of the Federated States of Micronesia, the Republic of Belau, the Republic of the Marshall Islands, or the Commonwealth of the Northern Mariana Islands doing the same or substantially similar work wages equal to or greater than those paid to the nonresident aliens.

Occupational safety and health. A comprehensive Occupational Safety and Health Code was enacted, applicable to the Government of Guam and its departments, agencies, authorities, branches or instrumentalities. The law will be administered by a new Division of Occupational Safety and Health administratively attached to the Department of Labor. The Division is to review and modify safety standards and rules and recommend their enactment; to monitor and enforce those standards enacted; and to assess employee safety, training, and education programs. Among other items, provision is made for inspections of each agency at least annually, for an annual report to the Governor, and for an employee hazard reporting program. Employees may not be compelled to work in unsafe conditions. Every employee must spend a specified number of hours each year in safety training of his or her agency to be eligible for promotion or cost-of-living adjustments.

Hawaii

Wages. By prior law, the minimum wage rate increased from \$3.35 an hour to \$3.85, effective January 1, 1988.

The wage payment law was amended to require employers to maintain and keep basic employment and earnings records for employees for a period of time and in a manner as prescribed by rule of the Director of Labor and Industrial Relations. A similar requirement is contained in the minimum wage law.

Parental leave. The Legislative Reference Bureau was requested by the legislature to study the feasibility of enacting a statute to require employers to grant parental or family leave to employees to care for a newborn child, a child placed with the employee for adoption or foster care, or the employee's seriously ill child or parent. A report is due to the legislature prior to the 1989 Regular Session.

Equal employment opportunity. Beginning July 1, 1989 enforcement of the State's employment, housing, and public accom-

modations nondiscrimination laws will be consolidated in a newly established five-member Civil Rights Commission appointed by the Governor. The Commission is authorized to receive, investigate, and conciliate complaints, hold hearings, institute civil action to seek appropriate relief and to adopt rules. The law prohibiting employment discrimination is currently administered by the Department of Labor and Industrial Relations. For administrative purposes only, the new Commission will be in the same Department.

Private employment agencies. Employment agencies must now include in all contracts with job applicants a statement advising of the existing prohibition against charging a fee to an applicant until employment is obtained and the first pay-check is received. Also required in the contract is a statement advising that a list of the fees charged to applicants by all commercial employment agencies in the State is available for inspection at the Department of Commerce and Consumer Affairs.

Occupational safety and health. Protections against exposure to secondhand smoke, previously enacted for those working in State and county government offices, will now also apply to employees of private corporations, firms, or associations receiving State funding. Protections include a requirement that employers attempt to reach a reasonable accommodation between smokers and non-smokers. If an accommodation cannot be reached, a vote of the employees in each affected area will prevail. If the decision is unsatisfactory to nonsmokers, an appeal can be made to the Director of Health.

In order to meet the State's responsibilities under the Federal Asbestos Hazard Emergency Response Act of 1986, the Department of Health was authorized to adopt rules for the development, review, approval, or disapproval of management plans submitted under the Act and for the accreditation of asbestos inspectors, management planners, and abatement project designers.

Employment and training. The voluntary 2-year nurses' job-sharing pilot project established in the Department of Health in 1986, in an effort to increase available employment options, was extended for another 2 years. Under the project, up to 100 full-time permanent nursing positions may be shared between two employees, with the majority of these positions allocated to neighbor island hospitals.

Other laws. The Legislative Reference Bureau was requested by the legislature to

study the effects of employers offering their employees child care as an optional prepaid benefit, prepaid child care, or long-term care benefit options where the employee agrees to a corresponding decrease in other benefits. A report is due to the legislature prior to the 1989 regular session.

The Employee Stock Ownership Programs law, enacted in 1986 to promote expanded opportunities for employee ownership and participation in State businesses, was extended from June 30, 1988, to June 30, 1993, and was renamed the Employee Ownership and Participation Programs law.

Idaho

Equal employment opportunity. The prohibition against age discrimination, including the ban on mandatory retirement, in the Human Rights Act was extended to include all persons over age 40, rather than only those between 40 and 70 years. The Act was also expanded to prohibit discrimination on the basis of physical or mental handicap and to require employers to make a reasonable accommodation to a worker's disability.

Other laws. The provision permitting the State Transportation Board to use convict labor on State highway projects was repealed.

Illinois

Wages. The State Supreme Court reversed appellate and circuit court decisions by holding that it is outside the grant of home-rule power for home-rule jurisdictions to exclude themselves from coverage of the State prevailing wage law. The decision states that, "compliance with the prevailing wage act is a matter pertaining to Statewide, and decidedly not local, government or affairs."

Labor relations. Among amendments to the Public Labor Relations Act and the Educational Labor Relations Act, in late 1987, it was made an unfair labor practice to use public funds to hire any outside individual, firm, or organization in an attempt to influence the outcome of a representational election. Revisions were also made in mediation and arbitration procedures, and it was specified that if either party to a dispute requests the use of mediation services from the Federal Mediation and Conciliation Service the other party must either join in the request or bear the additional cost of mediation services from another source.

The Illinois Public Labor Relations Act, which grants collective bargaining rights to most public employees in the State other

than teachers, was amended to exclude employees of the legislative branch of the State government from coverage. Teachers have collective bargaining rights guaranteed under a separate law.

Private employment agencies. A Job Referral and Job Listing Services Consumer Protection Act was approved which is applicable to services providing jobseekers with lists of employers, job referrals or openings, or preparing resumes or lists of jobseekers for distribution to potential employers. These services must maintain and make available to the Attorney General or States Attorney certain job and listing authorization records, must furnish jobseekers with specified fee and other information, and are prohibited from engaging in specifically enumerated practices. Criteria for refund of fees to jobseekers were also established if the service fails to furnish at least three suitable employment opportunities within 10 days.

Occupational safety and health. The Illinois Chemical Safety Act was amended to incorporate provisions required by the Federal Emergency Planning and Community Right-to-Know Act of 1986. Both the State Environmental Protection Agency and the Emergency Services Disaster Agency are responsible for carrying out the State's responsibilities.

The Environmental Protection Agency was designated the State agency for coordinating implementation of the program requiring disclosure of routine releases of toxic chemicals into the environment as required by the Federal Emergency Planning and Community Right-to-Know Act of 1986. The agency will maintain an inventory on toxic chemical releases and publish an annual report.

Employment and training. The Department of Public Aid, in cooperation with various State and local agencies, was authorized to establish experimental, community-based programs to increase future employability and career development among "high risk" youth. "High risk" youth includes those between 16 and 21 years and having at least one of the following characteristics: low income, minority, illiterate, school drop out, homeless, disabled, a parent, or is a ward of the State. The programs may provide teaching basic literacy and remedial reading and writing, vocational training, and support services.

Whistleblower. Licensed child care facilities are prohibited from retaliating against employees who file complaints against the employer's violation of licensing or other laws, institute action for such

violations, testify in a proceeding, or refuse to perform work in violation of a licensing or other law or regulation after notifying the employer of the violation. Complaints of employer's violations of this prohibition are to be investigated by the Department of Labor. Remedial action may include court ordered relief, including rehiring and reinstatement with backpay and other benefits.

Other laws. Employers who provide employees with group health insurance coverage or other health care plans or arrangements may not discharge an employee because he or she files a legitimate claim or uses the medical or health care services.

Indiana

Wages. Salaried employees who are eligible for overtime pay under the Federal Fair Labor Standards Act are now exempt from the semimonthly or biweekly pay and payment on separation requirements of the wage payment law.

Occupational safety and health. The Air Pollution Control Board is to adopt rules requiring the Commissioner of the Department of Environmental Management to establish a program for the accreditation of persons engaged in the inspection, management, or abatement of asbestos-containing material at elementary and secondary schools. A person will not be allowed to engage in such activities at these schools without accreditation, must have training and an examination as a precondition to accreditation, and have periodic retraining and reexamination to maintain accreditation.

All private and public employers must provide training on universal precautions and other infection control measures to each employee whose duties require direct contact with blood or body fluids, and such employers must adopt a written personnel policy requiring the use of the universal precautions. Employers are prohibited from retaliating against an employee who files a complaint of a violation of these requirements with the State Board of Health.

Iowa

Employee testing. It was made an unfair employment practice under the civil rights law to solicit or require an AIDS test as a condition of employment of an employee or prospective employee or to take adverse action against an employee who obtains such a test. In addition, the definition of disability, for purposes of civil rights protection, was expanded to include conditions related to AIDS.

A separate law was enacted relating to AIDS testing and confidentiality. It prohibits the disclosure of information to an employer, among others, unless the test was authorized to be required under any other provision of law.

Worker privacy. The law prohibiting employers from requiring job applicants or employees to take a polygraph examination was amended to also prohibit employers from requesting that such an examination be taken, threatening or attempting to administer one, or requesting or requiring an employee or applicant to give a waiver of a practice prohibited by law. Employers were also prohibited from retaliating against an employee for filing a complaint or testifying in any proceeding or action involving violations of the polygraph prohibitions.

Occupational safety and health. An employee may not be discharged or otherwise discriminated against for refusal to work in unsafe conditions, provided that he or she, if possible, has first unsuccessfully sought a correction of the dangerous condition.

The labor commissioner was authorized to seek an injunction to restrain the use of any defective amusement device, ride, concession booth or related electrical equipment if the owner or operator continues to operate it without repair after receiving a notice of defect.

The Hazardous Chemicals Risks Right-to-Know Act was amended to extend coverage to previously exempt agricultural activities, transportation of hazardous chemicals regulated by Federal law, and educational research laboratories.

Other laws. Under a new construction contractor registration law, most contractors must register with the labor commissioner and be issued a public registration number. Only registered contractors will be eligible to be awarded contracts to perform work for the State or agencies of the State. Among conditions for registration, an applicant must provide evidence of compliance with State workers' compensation insurance coverage requirements, and furnish specified information about the business. The labor commissioner was given authority to adopt rules necessary for administration and enforcement, and to impose administrative penalties on violators.

Kansas

Wages. The minimum wage was increased from \$1.60 to \$2.65 per hour, effective July 1, 1988, and the exemption from the law for persons age 60 and older who

work on an occasional or part-time basis was repealed.

Agriculture. The Agricultural Labor Relations Board is scheduled for termination on July 1, 1989, under sunset legislation.

Equal employment opportunity. The Age Discrimination in Employment Act was amended to extend coverage to all persons over the age of 18 instead of only those between ages 40 and 70. Mandatory retirement because of age is no longer permitted except for certain executive and high policymaking employees and, until January 1, 1994, for tenured employees at institutions of higher education. It was also made unlawful to establish or maintain an employee pension benefit plan which requires or permits the cessation or reduction of benefit accrual or account contributions because of age. With respect to public sector employers, the failure to hire or the discharge because of age of firefighters or law enforcement officers, or pursuant to a bona fide hiring or retirement plan will not be prohibited until January 1, 1994.

Employee testing. Establishment of a drug screening program was authorized for persons taking office as governor, lieutenant governor or attorney general and for those applying for safety sensitive positions in State government. The Director of the Division of Personnel Services of the Department of Administration is to establish and implement the program, which may include screening current occupants of these positions if there is a reasonable suspicion of illegal drug use. A person is not to be discharged for a first time positive test if he or she undergoes a drug evaluation and successfully completes any recommended education or treatment program.

Employment and training. Kansas Industrial Training and Retraining Programs were established under the Secretary of Commerce. The programs are to provide training to meet the needs of new or expanding industry and its new or prospective employees, and to provide retraining to meet the needs of a restructuring industry and its employees.

Kentucky

Equal employment opportunity. The affirmative action plan for State employment, promulgated in 1984 and confirmed by executive order, was designated by the legislature as the official affirmative action plan for State government. The plan, administered by the Commissioner of Personnel, requires all agencies to develop

programs consistent with the plan, and provides for an annual review, validation of examination procedures, monitoring appointments and salary adjustments, and semiannual reports to the Governor. In addition, the Commissioner of Personnel was authorized to implement programs to ensure that reasonable accommodations exist for handicapped persons to allow them better access to State government employment.

Background clearance. Child care centers and State and local boards of education must now request all conviction information, rather than only the criminal record of prior sex crime convictions, for all applicants for initial employment in positions involving supervisory or disciplinary power over minors. Persons who are violent offenders or who have been convicted of felony sex crimes may not be employed in such positions.

Occupational safety and health. In order to implement the Federal Asbestos Hazard Emergency Response Act of 1986, the Department of Environmental Protection is to develop, adopt, and maintain a comprehensive asbestos contractor accreditation program which replicates the Federal Environmental Protection Agency model issued in 1987. The program is to include a provision for training and accreditation of asbestos inspectors, contractors, supervisors, abatement workers and others.

Employees in surface coal mine operations may not work alone in any hazardous area which endangers the worker's safety unless the worker can communicate with others, can be heard or can be seen.

A resolution was adopted requesting the Interim Joint Committee on Labor and Industry to consider the need for community right-to-know ordinances, statutes, or regulations.

Employment and training. The legislature, by resolution, encouraged employers to hire employees who have or are working towards a high school diploma or equivalency certificate, and to develop incentives and programs to encourage and enable employees to complete high school or equivalency programs.

Other laws. The legislature, by resolution, called for the creation of a Commission on Kentucky's Government to study each executive agency, including the Labor Cabinet and its sub-units, and its programs, functions and mission to determine that it is serving a legitimate public end and is functioning in the most efficient manner.

Louisiana

Wages. The State prevailing wage law was repealed.

By amendment to a wage payment provision, which requires the employer, in cases of dispute over the amount due to a terminated employee, to pay the undisputed portion of wages due within 3 days, the employee now has a right to file an action to enforce such a wage claim and to proceed under the Code of Civil Procedure.

Equal employment opportunity. A comprehensive human rights law was enacted with administration vested in a newly created Commission on Human Rights in the office of the Governor. Discrimination by private employers of eight or more or public sector employers, unions, employment agencies, or apprenticeship and training programs on the basis of race, creed, color, religion, sex, age for those 40 to 70 years old, or national origin is prohibited. The Commission is authorized to receive, investigate, and conciliate complaints, hold hearings, issue cease and desist orders, and to require corrective action including hiring, reinstatement, and upgrading of employees with or without back pay.

Employee testing. The law prohibiting employers from requiring employees or job applicants to pay for the cost of medical examinations was amended to also include the cost of a drug test required by the employer. The Secretary of Labor was authorized to impose civil monetary penalties and to institute civil court action to obtain injunctive relief to prevent violations of the law or regulations. Civil penalties will be in addition to previously provided criminal penalties.

Occupational safety and health. The law requiring the licensing of contractors was amended to create a new classification of licensee, that of hazardous materials contractor, which includes asbestos removal and abatement and hazardous waste treatment and removal. Asbestos removal and abatement contractors may not be licensed until certified by the Department of Environmental Quality, and any contract dealing primarily with hazardous materials may be awarded only to a licensed contractor.

Employment and training. The Assistant Secretary of the Office of Labor was authorized to impose a civil penalty of up to \$500 against program sponsors and employers who violate the apprenticeship law, rules and regulations, approved program standards, or the provisions of an approved apprenticeship program. The Assistant Sec-

retary was also authorized to institute civil court proceedings to enforce administrative rulings or to seek injunctive relief to restrain and prevent violations of the law or rules and regulations.

Other laws. The law providing for criminal penalties against employers who discharge or otherwise discriminate against employees who testify or furnish information relative to enforcement of State labor laws was amended to now also authorize administrative and civil action. The Assistant Secretary of the Office of Labor is authorized to promulgate rules and regulations, conduct investigations, impose civil penalties of up to \$500, and to institute court proceedings to enforce rulings or to seek injunctive relief to restrain and prevent violations of the act or rules and regulations.

A resolution was adopted requesting that employers not withhold any portion of an employee's pay and benefits for those days on which he or she serves as a juror.

Maine

Wages. The minimum wage was increased from \$3.65 to \$3.75 per hour starting January 1, 1989, with a further increase to \$3.85 scheduled for January 1, 1990, provided that the rate does not exceed the average minimum wage of the other five New England States. In addition, the State minimum wage will automatically increase to match increases in the Federal minimum up to \$5 per hour instead of \$4 per hour as previously provided. The minimum cash wage for employees who receive tips will remain at \$2.01 per hour irrespective of increases in the base minimum wage.

The Director of the Bureau of Labor Standards was authorized to form an informal, ad hoc advisory board to provide advice with respect to issues relating to wage rates on construction projects. The board is to include labor and contractor representatives from both the highway and the heavy building construction segments of the industry.

Parental leave. Private sector and local government employers of 25 employees, or more and the State must grant up to 8 weeks of unpaid family medical leave in any 2 years to any employee who has been employed by the same employer for 12 consecutive months. Employees are entitled to such leave for the birth or adoption of a child, or for a serious illness of the employee, child, parent, or spouse. Employees taking such leave are entitled to reinstatement in the same or equivalent position without loss of benefits, senior-

ity, or pay. The law is scheduled for repeal on July 1, 1990.

Child labor. The section of the child labor law prohibiting the employment of minors under age 16 in manufacturing or mechanical establishments, laundries, dry cleaning establishments, and bakeries was amended to permit employment of these children in retail sales, customer service operations, or office work for these establishments, provided that such work is in a separate room.

Worker privacy. The Director of Human Resources was authorized to release to the Director of Employee Relations, upon request, specific confidential information concerning State employees to be used in negotiations, impasse procedures, grievance proceedings, and certain other proceedings in which the Director of Employee Relations represents the State. Safeguards were enacted governing and limiting the release of the information.

Occupational safety and health. Annual refresher training of employees who are exposed to hazardous chemicals in their work areas is now required under the Chemical Substance Identification Law.

The Director of the Bureau of Labor Standards, in consultation with the Board of Pesticides Control, is to provide assistance to agricultural employers in the development and conduct of training programs for employees with respect to hazardous pesticide chemicals and in satisfying the information requirements of the Federal Hazard Communication Standard.

Employment and training. A Strategic Training for Accelerated Reemployment Program was created to establish an employment training program to provide unemployed or displaced workers receiving unemployment compensation with skills training and support leading to jobs in stable and expanding industries, and to provide employers with workers whose training is consistent with their needs. The program is to be administered by the Department of Labor.

Whistleblower. Employers may not retaliate against an employee who, in good faith, reports a condition or practice that is a health or safety risk, or refuses to carry out a directive that would involve exposure to dangerous conditions. Complaints of violations of employee rights under the "whistleblower" statute may now be made to the Human Rights Commission for action. Under the Human Rights Act, it is now unlawful for an em-

ployer, employment agency, or labor organization to discriminate against an employee or job applicant because of previous actions taken which are protected by the "whistleblower" statute.

Other laws. The Office of Child Care Coordination is to submit to the legislature an annual evaluation of the status of State financed or operated child care facilities and programs operated primarily as a service for children of State employees, along with plans for additional facilities. That office is to conduct a feasibility study prior to the creation of new or additional facilities.

Maryland

Parental leave. State employees in the Executive Branch who have completed their probationary periods could previously be granted unpaid seasonal leave, during periods of low demand for their services, of up to 12 weeks within a 12-month period. The law was amended to now permit a total combined period of 12 weeks unpaid leave in a 12-month period for seasonal leave or to care for a newly born or adopted child, a foster child, a seriously ill child, spouse, parent, or legal dependent, or school-age children under the age of 14 during periods of school vacation. Employers must assure that the employee's position is available after use of any approved family or seasonal leave.

Equal employment opportunity. Mandatory retirement at the age of 70 is no longer required under the State employees and teachers retirement systems. Previously, employment past age 70 was permitted only upon approval of individual annual requests.

A prohibition against employment discrimination based on age must now be contained in the required nondiscrimination clause in all State procurement contracts.

Employee testing. Employers who require employees to be tested for job-related reasons for the use or abuse of any controlled dangerous substance or alcohol must have the specimens tested by licensed, certified or accredited laboratories, and must identify the laboratory to the employee being tested. Employees may request independent testing of the same sample for verification at their own expense.

Employment and training. A Rehabilitation and Employment Advisory Commission was established within the Department of Education's Division of Vocational Rehabilitation and was directed to develop a plan, by July 1, 1989, to (among other things) facilitate the placement of disabled individuals into re-

habilitation and employment settings and to facilitate the establishment of providers of services for the disabled.

Massachusetts

Wages. By prior legislation, the minimum wage rate was increased from \$3.65 an hour to \$3.75, effective July 1, 1988.

Under the wage payment law, employers making deductions from wages for Social Security, unemployment compensation benefits, pension, vacation or health and welfare funds must now notify new employees, in writing, about the nature of such deductions and contributions, and notify all employees in writing at the initial time of any new deduction or contribution from wages. These notification requirements will also apply to building, highway, and public works contractors who are parties to agreements to make contributions to funds for these purposes as well as to apprentice training program funds for the benefit of employees.

An employer who makes a deduction from an employee's wages for the purchase of or contribution toward the purchase of an accident and health insurance policy and fails to purchase such coverage, is now subject to imprisonment, fine, being required to reimburse the employee for the deduction, or being required to pay for all costs incurred by the employee that otherwise would have been covered by such insurance (or a combination of these).

Voters in November defeated a ballot initiative, Question 2, which sought repeal of the Commonwealth's prevailing wage law.

Parental leave. Health and insurance benefits of State employees who are granted parental leave to care for a child under 3 years of age, must be continued for the period of leave, with the employee paying that portion of the premium normally deducted from the employee's salary.

Child labor. The child labor law was amended to permit minors under age 16 to work until 7 p.m., except that from July first through Labor Day they may work until 9 p.m. Previously, these minors were prohibited from working past 6 p.m.

Equal employment opportunity. Certain groups of State and municipal public safety employees may now work beyond age 65 with annual certification of their capability to continue their duties. Uniformed fire department and police personnel and specified others must retire at age 65 unless the Personnel Administrator determines that age is not a bona fide occupational qualification.

Labor relations. The public employees labor relations act was amended to specify that where binding arbitration is provided for grievance resolution under the terms of a collective bargaining agreement, and is selected by an employee, it will be the exclusive procedure for resolving any such grievance irrespective of any contrary provisions of the Public School Code.

Occupational safety and health. Beginning January 1, 1988, persons who smoke any tobacco products become ineligible for appointment as a uniformed member of the State Police, or to a position involving the care, supervision, or custody of prisoners, criminally insane persons, or defective delinquents. Appointees to such positions after January 1, 1988, may not continue in their jobs if they subsequently smoke tobacco.

A Federal District Court judge declared unconstitutional, as an unwarranted restriction on freedom of speech, a provision of the Commonwealth's right-to-know law limiting the disclosure of information about the presence of hazardous substances in the workplace to those authorized to receive it, and making it a criminal offense to convey that data to others.

Other laws. A universal health-care law was enacted designed to provide basic health insurance for every resident of the Commonwealth by 1992 including the employed, those receiving unemployment benefits, and all others not enrolled in health insurance plans. Under the law, employers of six employees or more must offer insurance to workers or pay a surcharge on unemployment insurance. Money from the surcharge and other funds will be used by the Commonwealth to guarantee health insurance for those without coverage. The Department of Medical Security will administer the program.

A late 1987 enactment increased the dollar amount of penalties for violation of several labor standards provisions including various provisions related to strikebreakers, wage payments on public works Sunday and holiday work, meal periods, health and safety, industrial home work, and the weekly payment of wages.

Michigan

Child labor. The Department of Labor adopted new youth employment rules effective July 15, 1988. These deal with supervision of minors, restrictions on hazardous occupations in nonagricultural employment, and deviations from established hours of employment and hazardous occupation standards for 16- and 17-year-olds. In addition to the previous require-

ment that an adult employee be present when cash transactions are performed after sunset or 8 p.m., employers must now provide adult supervision intermittently throughout the work day of all minors. Hazardous occupations provisions were revised with several being made more consistent with Federal standards.

Minnesota

Wages. By prior law, the minimum hourly wage rate was increased for employers covered by the Federal Fair Labor Standards Act from \$3.35 to \$3.55 on January 1, 1988, and \$3.85 on January 1, 1989. A further increase to \$3.95 is scheduled for January 1, 1990. The rate for those employers not covered by the act increased to \$3.50 on January 1, 1988, and to \$3.65 on January 1, 1989, with a further increase to \$3.80 scheduled for January 1, 1990. As of January 1, 1989, the phased elimination of the tip credit allowance against the minimum wage, begun in 1985, was completed.

Hours. Employers must now allow employees adequate time away from work during each 4 consecutive work hours to use the nearest convenient restroom. Different rest breaks may be established in a collective bargaining agreement.

The Commissioner of Employee Relations is to conduct a study of the use of part-time employees in the executive branch of State government with a report of the results of the study to be made to the legislature by January 15, 1989. The report is to include a statistical analysis of the executive branch work force as to full- or part-time status identifying job classifications that are male-dominated, female-dominated, and balanced; a summary of overall trends in the use of part-time workers; and the costs of providing insurance benefits to these workers.

Equal employment opportunity. The Human Rights Act was amended to provide that the prohibition against employment discrimination on the basis of marital status includes protection against discrimination because of the identity, situation, action, or beliefs of a spouse or former spouse.

Metropolitan government agencies and the metropolitan council must develop affirmative action plans, which among other requirements identify protected groups that are underrepresented in their work forces, describe methods for recruiting members of such groups, set goals and timetables for eliminating underrepresentation, provide a plan for retaining and promoting protected group members, and contain methods of auditing, evaluating,

and reporting program success. Such agencies must also adopt written policies prohibiting harassment based on sex, disability, or race.

The agencies and council may not accept any bid or proposal or execute a contract for goods or services in excess of \$50,000 with any employer of 20 or more unless the employer has an affirmative action plan, approved by the Commissioner of Human Rights, for employment of minorities, women, and the disabled.

Employee testing. The law regulating drug and alcohol testing of employees was amended to permit testing for alcohol by breath test as an initial screening provided that the results are confirmed by blood analysis.

Labor relations. Binding interest arbitration is required if requested by either a school board or the exclusive representative of its teachers after 5 years or more have elapsed since the expiration of the last collective bargaining agreement without a successor contract being ratified by both parties.

The city of Minneapolis was authorized, but not required, to negotiate agreements concerning the hiring and terms and conditions of employment for skilled trade and craft workers and apprentices with local labor organizations representing skilled building and construction trades and electrical workers and apprentices.

Private employment agencies. Employment agencies may not accept a placement fee prior to the applicant's actual starting date, instead of at the time of the acceptance of a job as before. Coverage of the licensing law was extended to job listing services, while specific exemptions were added for resumé services, and for various publications of general circulation.

Occupational safety and health. The Occupational Safety and Health Act was amended to increase fines for penalties and to include a new provision for a fine of up to \$10,000 for any violation that causes or contributes to the cause of the death of an employee.

Economic development. Various economic development programs, including the customized training program, were specifically required to serve nonprofit organizations, including community groups and labor organizations, that have a viable proposal in the same manner as businesses applying for assistance.

Employment and training. The youth employment opportunities program for

individuals between 14 and 22 years of age was extended from a summer to a full year program. Employers are specifically prohibited from discharging workers or reducing their hours in order to hire a person with funds available under the program and also may not hire such an individual if other workers are on layoff from the same or similar job. Persons hired under this program must now be paid the higher of the State or Federal minimum wage rather than at the Federal rate as before.

Other laws. Each State agency is required to adopt a smoking policy for the space it occupies, and such policy must either prohibit smoking entirely or permit it only in designated areas. Disciplinary action against any employee complaining of a smoke induced discomfort is prohibited.

The Commissioner of Administration is to consider including space usable for child care services in any State office space leased, purchased, or substantially remodeled after August 1, 1988. Such space must be included if the Commissioner determines that it is needed and can be provided at reasonable cost.

Public and private sector employers may not engage in any reprisal against an employee for declining to participate in contributions or donations to charities or community organizations, including contributions to the employer itself.

Mississippi

Other laws. The Governor was directed to appoint an Executive Branch Reorganization Study Commission, aided by advisory committees as necessary, to conduct a comprehensive study of the executive branch of State government and issue a report making specific reorganization recommendations to the legislature by October 1, 1988.

Missouri

Wages. The Department of Higher Education may issue an order directing any employer to withhold defaulted student loan payments from an employee's wages. An employer may not discharge, refuse to hire, or otherwise discipline an employee as a result of the order to withhold wages.

Background clearance. Upon written request from a youth services agency, the highway patrol will conduct a criminal record review of applicants for paid or voluntary positions with the agency which involve direct contact with minors.

Occupational safety and health. Among changes to the law requiring employers to provide information on hazardous sub-

stances in the workplace to local fire protection services and others, administration of the law was transferred from the Department of Health to the Department of Natural Resources. Various requirements relating to reporting and onsite inspections were conformed to Federal Emergency Planning and Community Right-to-Know requirements, and the exemptions for employers of fewer than 10 agricultural workers and retailers of consumer goods were removed.

Employment and training. Junior college districts, with the approval of the Department of Economic Development, were authorized to enter into cooperative agreements with employers for establishing new job training projects. Training of potential employees may not be for the purpose of replacing or supplanting workers engaged in an authorized work stoppage.

Nebraska

Wages. The wage payment and collection law was extended to include political subdivisions. Employees of such subdivisions who are separated from the payroll must be paid within 2 weeks of the next regularly scheduled meeting of the subdivision's governing body.

Employee testing. Public and private employers of six or more are now authorized to require employees to submit to drug or alcohol testing under penalty of dismissal or other disciplinary or administrative action for refusal to be tested. Confirmation of a positive test may also subject an employee to termination or other adverse actions. Penalties were established for providing, acquiring, or using body fluids to alter test results or for tampering with samples. Testing and retesting procedures approved by the Department of Health are specified.

Labor relations. For purposes of the Industrial Relations Act, administrators employed by Class V school districts, except for those in the office of the superintendent and those holding certain other specified high level positions, may now join a single bargaining unit with teachers and other certificated employees.

State Patrol sergeants are to be included in the law enforcement bargaining unit with investigators and patrol officers for State employee collective bargaining purposes.

Occupational safety and health. The Asbestos Control Act was amended to establish specific training course requirements for the certification of workers, supervisors, inspectors, management planners, and

project designers engaged in asbestos encapsulation, removal, demolition, or dismantling. Annual review courses are now also required for recertification.

A Boiler Safety Advisory Board was created with the responsibility to hold hearings and advise the Commissioner of Labor on rules and regulations for methods of testing equipment and construction and installation of new equipment covered by the Boiler Inspection Act.

New Hampshire

Wages. By prior law, the minimum hourly wage rate was increased from \$3.55 to \$3.65, effective January 1, 1989.

Child labor. As part of an act establishing a comprehensive literacy and school dropout prevention program, the Youth Employment Law was amended to provide that 16- or 17-year-olds who are enrolled in school will not be permitted to work more than 36 hours during a school week. Also, a legislative study committee was created to examine the problems of illiteracy and dropout prevention, including the relationship between the number of hours per week that a student works or participates in sports and the student's academic achievement.

Occupational safety and health. The law setting standards for asbestos abatement management was amended to provide that the necessary training, licensing, and certification requirements for projects, owners, managers, contractors, and employees, as established by the Director of Public Health Services, must be at least as stringent as those under the Federal Environmental Protection Agency's model plan. In addition, provision was made for granting licenses to persons licensed by other States whose standards for licensure are substantially equivalent to those of New Hampshire.

The position of chief boiler inspector was established in the Department of Labor.

New Jersey

Wages. Under the State prevailing wage law the labor commissioner may now require employers to file payroll, hours, and other employment records within 10 days of a request. Failure to comply may result in withholding of payments due the employer on the public work of up to 25 percent, not to exceed \$100,000, until the request for records has been satisfied.

Local boards of education, county or municipal boards of health, or autonomous authorities created by a county or municipality are to deduct overdue student loan payments from the wages of their employees.

Child labor. The child labor law was amended to allow minors under 16 years to work until 7 p.m. rather than 6 p.m. as before, and to permit 14- and 15-year-olds who are employed in supermarkets or other retail establishments to work until 9 p.m., with written parental permission, during the period beginning the last day of school through Labor Day. The maximum hours a minor under 16 may be employed outside school time were changed to 3 hours a day (instead of 8 hours a day combined hours of school and work). Notwithstanding any prohibited occupation provision, minors 15 years of age or older may be employed as cashiers or baggers near supermarket or retail establishment cash register conveyor belts.

Apparel registration. Apparel industry manufacturers and contractors must now register annually with the Department of Labor as a condition of doing business in the State. The labor commissioner was directed to establish a Special Task Force to make inspections for compliance with the registration requirement as well as with State laws relating to wage and hour, industrial homework, unemployment compensation, temporary disability insurance, and workers' compensation. Among possible penalties, registration may be revoked if sufficient violations are found.

Employment and Training. An Occupational Information Coordinating Committee was established in the Department of Labor with responsibility for developing, managing, and overseeing a Statewide comprehensive occupational labor market supply and demand information system that will serve as a guide for the State's job training and education programs and other programs.

The Division on Women in the Department of Community Affairs was directed to establish from two to four Hispanic Women's Demonstration Resource Centers to enhance the employability of Hispanic women. The centers are to provide, among other services, job counseling, career information, job training, and job placement.

New Mexico

Other laws. Among provisions of a new Subcontractors Fair Practices Act, passed to regulate contractor's use of subcontractors on public works projects, a provision was made for subcontractor submission of performance and payment bonds if requested by the contractor.

New York

Private employment agencies. Beginning September 1, 1989, permissible ceilings on

applicant-paid fees for commercial, clerical, executive, administrative, and professional placements will be reduced for all jobs paying less than \$1,650 per month. For example, the maximum fee for positions paying less than \$750 per month will be reduced from 60 percent to 25 percent of the first month's salary, and for those earning between \$1,350 and \$1,500 per month it will be lowered from 60 to 50 percent. The time period over which an applicant may pay placement fees will be extended, and employee reimbursement of an employer-paid placement fee will be prohibited. Employer fee-paid agencies will no longer be required to register with the administrator, but will be subject to specified prohibited activities.

Occupational safety and health. A new Safety in Skiing law was adopted designed to, among other things, promote safety in the downhill ski industry. Under the law, the Commissioner of Labor is to specify the required warning implements or devices on trail maintenance vehicles and the contents of required training of ski area employees, and to receive and investigate reports of fatalities at ski areas.

Suffolk County adopted a local law providing employee protection against possible dangers of video display terminal use. The law requires employers who have 20 or more video display terminals within the County to make available, and pay 80 percent of the cost of, periodic vision examinations of operators; to adopt workstation standards covering items including chairs, backrests, terminal table height and angle, keyboards, and lighting; and to provide flexible work breaks. Operators are to be given education and training on the nature of potential health hazards to which they may be exposed, protective measures, and the requirements of this law. Employees may not be discharged or otherwise discriminated against for filing a complaint, instituting any proceeding under the law or for testifying in any such proceeding.

Plant closings. The temporary program to assist dislocated workers with the payment of health insurance premiums, established in the State Insurance Fund in 1987 for workers terminated from employment because of a layoff involving 50 workers or more, was continued until March 31, 1989.

Ohio

Whistleblower. Public or private employers are prohibited from disciplining or retaliating against an employee who, after first notifying his or her employer, in good faith reports a violation of any State or Federal

statute or regulation that the employee reasonably believes is a criminal offense likely to cause imminent risk of physical harm to persons, or a hazard to public health, or is a felony. Enforcement is through civil action instituted by the employee, and the court may order reinstatement to the same or comparable position, payment of back wages, and full reinstatement of fringe benefits and seniority.

Oklahoma

Wages. Civil court actions by employees or their representatives to recover unpaid wages and liquidated damages are no longer limited to \$1,000 per claim.

Equal employment opportunity. Under a new Fair Employment Practices Act, added to the Oklahoma Personnel Act, applicable to employees of the State, State agencies may use optional hiring procedures to hire qualified women and minorities who are State residents. These procedures may be used only for employment in a job class, group, or category which has been identified as underutilized and in which a hiring goal has been set in the agency's approved affirmative action plan, and a determination has been made that an imbalance exists justifying remedial action to reach the affirmative action goal. Each agency's appointing authority is responsible for affirmative action efforts, and agencies with 200 employees or more must designate an affirmative action officer.

Private employment agencies. Among changes to the private employment agency licensing and regulatory law, coverage is now limited to agencies charging a fee to job applicants instead of those charging fees to either applicants or employers. A list of organizations and services not considered to be private employment agencies was added.

Employment and training. A Jobs Recovery Program was enacted, designed to provide public works jobs and training for persons who have exhausted State and Federal unemployment benefits or those who are economically disadvantaged, or both.

Other laws. A joint resolution was adopted directing that a proposed constitutional amendment be placed on the November general election ballot that, if approved, would make the office of the Commissioner of Labor an elected position with a term of 4 years. At present the Commissioner of Labor is appointed by the Governor. The measure, State Ques-

tion number 613, was approved by the voters.

Oregon

Occupational safety and health. Voters in November defeated a ballot initiative, Measure 6, that would have prohibited nearly all smoking in enclosed public places, including the workplace.

Pennsylvania

Wages. The State minimum wage rate will increase from \$3.35 per hour to \$3.70 effective February 1, 1989.

Labor relations. Employee organizations recognized as exclusive representatives under the Public Employee Relations Act may now negotiate fair share fee agreements and collect these fees from nonmembers whom they represent. The fair share fee will be the regular membership dues less the cost of nonrepresentational activities. Employees who object to making payments on bona fide religious grounds may pay an equivalent amount to a nonreligious charity agreed to by the nonmember and the exclusive representative. Coverage of the provision was specifically defined to include public school employees, aside from other public employees.

Other laws. A Policy, Planning and Evaluation Advisory Committee was created within the Department of Labor and Industry and was assigned many of the functions formerly the responsibility of the Industrial Board. The committee's responsibilities include advising the department on all issues and regulations within the department's jurisdiction including specifically farm labor, child labor, industrial homework, women in the work force, and plans to regularize or improve employment opportunities. The Industrial Board's jurisdiction now includes various safety laws and the employment agency law. The board is authorized to grant variances and hear appeals arising out of enforcement actions of the department, to make suggestions to the department on rules and regulations, and to perform other related functions.

Puerto Rico

Wages. A mandatory decree revision, issued by the Commonwealth Minimum Wage Board, effective March 6, 1988, increased minimum rates in the hotel industry to \$2.50 an hour for waiters and bellboys and to \$3.35 for all other employees in enterprises with an annual gross income of \$362,500 or more; to \$2.25 for waiters and bellboys and to \$2.90 for all other workers in enterprises with annual gross income of less than

\$362,500; and from \$2.00 to \$2.75 an hour for all employees of guest houses. Previously, the minimums for waiters and bellboys ranged from \$1.70 to \$2.15 depending on the size and type of hotel and whether it had an annual gross income of \$250,000 or more. For other employees, the minimum ranged from \$2.25 to \$2.50 an hour. Separate minimum rates for arts and crafts employees were eliminated. An addition to the decree provides that in the event an employee ceases work, the employer is to pay for any accrued vacation leave.

Another mandatory decree revision increased minimum rates in the construction industry from \$1.60 an hour for all workers to \$4.00 an hour for office, supervisory, and skilled workers, and to \$3.45 for all other workers. A separate decree assures construction workers minimum daily pay equivalent to 4 hours of work when, under specified circumstances, work cannot be performed through no fault of the employee.

Equal employment opportunity. Sexual harassment in employment was prohibited.

Other laws. Inclusion of any unlimited right-to-fire clause in an employment contract was prohibited.

Employees may not enter into any agreement under which they agree to forgo their right to receive guaranteed severance pay or health benefits if discharged or laid off.

New regulations were adopted setting weight lifting criteria for employees.

Rhode Island

Wages. The State minimum wage rate was increased from \$3.65 per hour to \$4, effective July 1, 1988.

As the result of an addition to the wage payment law, employers must offer to pay a separated employee who has worked for the employer for more than 1 year and who later returns from a layoff to the same or a similar job, the same wages earned at the time of separation.

Child labor. Under the child labor law, the Department of Labor rather than the Department of Health will now be empowered to declare additional places or occupations as hazardous for employment of all minors under 16 years or of a particular minor, aside from the occupations specifically enumerated in the law.

Notwithstanding other provisions of the child labor law, local school committees were authorized to establish school supervised and administered work experience and career exploration programs, for students over age 14, as approved by the

Wage-Hour Administrator of the U.S. Department of Labor.

Equal employment opportunity. The sex discrimination ban in the Fair Employment Practices Act now requires employers to treat women affected by pregnancy, childbirth, or related medical conditions the same as other employees (not so affected but who are similar in their ability or inability to work) for all employment purposes, including receipt of fringe benefits. Nothing in the Act is to be deemed to repeal provisions of any law relating to parental leave.

A State Equal Opportunity Office was established to oversee equal employment opportunity in State government. Each State agency must prepare an annual affirmative action plan. The Commission for Human Rights is authorized to bring charges of discrimination against State agencies and personnel and to order discontinuance of discriminatory employment patterns or practices. State contractors must meet the same equal opportunity requirements as established for contractors under Federal executive orders, including affirmative action. State licensed organizations, and licensed private education institutions and health care facilities must also meet the nondiscrimination and affirmative action requirements.

Employee testing. As part of a new law regulating the testing for AIDS, employers are prohibited from discriminating in employment on the basis of a positive AIDS test result, or from requiring such a test as a condition of employment except under limited circumstances.

Plant closings. The law entitling involuntarily laid-off employees or the surviving spouse of a deceased employee to continue group hospital, surgical, or medical insurance coverage, by payment of premiums at the group rate, was extended to include employees who lose their jobs due to a workplace closing or a permanent reduction in the size of the work force. In addition, the maximum period of continuing such insurance was extended from 10 to 18 months.

Whistleblower. Coverage of the public employee whistleblower protection law was expanded to include persons employed by companies or associations which did more than \$200,000 in business with the State or a municipal government in the preceding year or which received more than \$200,000 in State or municipal funds for the operation of its programs.

South Carolina

Equal employment opportunity. The Human Affairs Law, applicable to both public and private sector employment, was amended to remove the age 70 upper limit for coverage of the prohibition against age discrimination in employment. Until December 31, 1993, employers may refuse to hire or may discharge firefighters or law enforcement officers because of age pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the law. The ban on mandatory retirement will not apply to persons employed under contracts of unlimited tenure at institutions of higher education until December 31, 1993, or to executive or high policymaking employees at age 65 if they are entitled to retirement benefits of at least \$44,000 a year (rather than \$27,000 a year as before).

Occupational safety and health. Contractors, supervisors, workers, and others involved in the removal, encapsulation, and other activities with respect to friable asbestos containing materials must now obtain a license from the Department of Health and Environmental Control. The Department was authorized to prescribe standards of performance for asbestos removal operations and licensing criteria.

South Dakota

Wages. The State minimum wage rate was increased from \$2.80 per hour to \$3.35 effective July 1, 1988.

Child labor. The law barring persons under age 21 from on-sale alcoholic beverage establishments was amended to permit persons under age 21 to sell or dispense malt beverages if the sales of such beverages are less than 50 percent of the establishment's gross business and the licensee or an employee who is at least 21 is on the premises.

Notwithstanding Hazardous Material Transportation Safety provisions, which require a minimum age of 21 for drivers, persons under age 21 but over 18 may become qualified drivers if certified as private applicators under agricultural pesticide application requirements.

Background clearance. Prior to issuing a child welfare license for group homes, day care centers, foster homes, and other facilities, the Department of Social Services is to conduct a criminal record check of the applicant, of adults responsible for supervising staff or providing care and supervision to children, and adult residents. If it is found that any of these persons has been convicted of specific

crimes, the application is to be denied. Subsequently hired employees or residents are subject to the same record check.

Background checks of unregistered family day care providers and employees were also authorized, and those convicted of child abuse or sex offenses are prohibited from operating child welfare agencies, or registered or unregistered family day care homes.

Specific criteria were established for the Department of Social Services to revoke; refuse to issue, or renew any license or registration certificate to provide child care. These criteria include the failure to provide information on the background and experience of personnel, failure or refusal to submit to an investigation, failure to report suspected child abuse or neglect, and failure to exercise reasonable care in the hiring, training, and supervision of facility personnel.

Occupational safety and health. The Board of Minerals and Environment is to establish an asbestos abatement training program to assure the proper and safe abatement of asbestos hazards through contractor and worker certification. Criteria for asbestos contractor and worker certification and training will be developed by the board, and only certified contractors and workers will be allowed to work on asbestos abatement projects.

Employment and training. The State manpower advisory council, administered by the Department of Labor, was abolished.

Tennessee

Parental leave. Because of an Attorney General Opinion raising questions of possible sex discrimination, the 1987 law requiring the granting of leave to female employees for the purpose of bonding with a newly born or adopted infant was amended to make the law clearly a maternity leave provision by specifying that the leave is for the purposes of pregnancy, childbirth, and nursing, where applicable.

Child labor. The section of the Safety and Health Code regulating the inspection of hotels, food service establishments, and public swimming pools was amended to specify that children 16 years of age or younger do not need to acquire a seller's license or permit to sell bakery goods, soft drinks, or other similar food commodities at public events if the child does not sell these goods more than three times a year.

Equal employment opportunity. The anti-discrimination law applicable to both public and private sector employment

was amended to protect all employees over age 40, instead of only those employees 40 to 70 years of age, from age discrimination. Employers may refuse to hire or discharge firefighters or law enforcement officers because of age pursuant to a bona fide hiring or retirement plan that is not a subterfuge to evade the law. The ban on mandatory retirement will not apply to persons employed under contracts of unlimited tenure at institutions of higher education or to executive or high policymaking employees at age 65 if they are entitled to retirement benefits of at least \$44,000 a year (rather than \$27,000 a year as before).

Employee testing. The Commissioner of Correction was authorized to require drug testing of the Department's security personnel upon reasonable suspicion that an employee's faculties are impaired on the job and that a danger exists as a result of the impairment. Confirmation and review of all positive tests are required before any disciplinary action may be taken and employees are to be given an opportunity to explain or rebut test results. An employee counseling and rehabilitation program must be provided.

Private employment agencies. The law providing for the licensing and regulation of personnel recruiting services was amended to prohibit such services from imposing a fee on a job applicant prior to placement in a job. Coverage of the law was extended to job listing firms, and the exemption from the law for the placement of nurses and public school teachers and administrators is now limited to employee trade associations.

Occupational safety and health. A Governor-appointed Tennessee Occupational Safety and Health Administration Labor Advisory Council was created within the Department of Labor to advise the department on all matters in the State pertaining to occupational safety and health.

Plant closings. Under a new law, upon notifying affected employees of a major layoff, plant closure, or relocation, as defined, employers of 50 full-time employees or more are then to advise the State government by notifying the Executive Director of the Economic Cabinet Council of the circumstances of the reduction in operations and the number of employees affected. In turn, the Executive Director is to advise other designated State officials, including the Commissioners of Employment Security and Education, among others.

Other laws. The law requiring employers to excuse from work and compensate employees summoned for jury duty was amended to limit the excused absence to days on which the employee's responsibility for jury duty exceeds 3 hours. Also, provision was made for excusing employees who are working a night shift or hours immediately preceding normal court hours.

Texas

Labor relations. The U.S. Court of Appeals for the Fifth Circuit, on June 30, 1988, affirmed in large part, a district court ruling that several provisions of the Texas mass picketing law are unconstitutional. Provisions that were struck down include those prohibiting more than two pickets at any time within either 50 feet of any entrance to the premises being picketed or within 50 feet of any other picket or pickets and banning picketing that is accompanied by any oral or written misrepresentations.

Utah

Wages. Specific provisions prohibiting violation of the minimum wage and maximum hours requirements for women and minors and establishing penalties were repealed, however, the Industrial Commission retains the duty to enforce the provisions and has authority to take action as deemed necessary for such purposes.

Equal employment opportunity. The prohibition on employment of women in mines or smelters if the work was found, by the Industrial Commission, to be detrimental to their health or safety was removed.

Occupational safety and health. Occupational safety and health provisions were amended to specifically exclude from the Industrial Commission's jurisdiction authority over mines, including inspection or enforcement of rules and regulations, so long as Federal regulations apply to the State's mines. For any mine subject to Federal law, the sole duty of the Commission is to notify the appropriate Federal agency of any complaints received.

The Air Conservation Committee was authorized to adopt rules for implementation of the Federal Asbestos Hazard Emergency Response Act of 1986, and to establish certification requirements for persons required under that act to be accredited.

Other laws. A resolution directed the Legislative Management Committee to assign appropriate interim committees to study

numerous labor- and nonlabor-related subjects, including a preference for in-State bidders, workers and materials on State contracts; laws relating to harassment and discrimination including AIDS discrimination; a statewide job service; a master plan for economic development; background checks on persons working with children; self-employment for low income persons; and a requirement that group health insurance benefits be provided to part-time employees.

Vermont

Wages. Under prior law, the State minimum hourly wage rate rose from \$3.55 to \$3.65 on July 2, 1988. A new law was adopted providing for three additional annual 10-cent increases that will take effect starting July 2, 1989, and reach a rate of \$3.95 in 1991. Any higher Federal Fair Labor Standards Act (FLSA) rate will be matched. A provision was eliminated which had permitted payment at the prior year's rate for employees working for an employer for less than 90 calendar days.

Child labor. Children working as actors or performers in motion pictures, theatrical productions, radio or television may now be employed after midnight with the written consent of a parent and the Commissioner of Labor and Industry.

Equal employment opportunity. In addition to investigating and enforcing complaints of discrimination in public accommodations and real estate, the Human Rights Commission now also has jurisdiction over employment discrimination complaints against State agencies. Investigation and enforcement of complaints of private sector and other public sector employment discrimination remain the responsibility of the Attorney General.

It was made an unlawful employment practice, under the State fair employment practice law, for an employer, employment agency or labor organization to discriminate against a person because of a positive test result from an HIV-related blood test or to request or require an employee or prospective employee to have an HIV-related blood test as a condition of employment. It was also made an unfair labor practice under the State Employees Labor Relations Act for an employer to engage in these activities. (A separate provision bars school districts and educational institutions from requesting or requiring any applicant, prospective or current student to have an HIV-related blood test and from discriminating on the basis of a positive test result.)

Labor relations. The State Employees Labor Relations Act was amended to extend coverage to employees of the University of Vermont.

Other laws. A 14-member health insurance plan board, including the heads of various State agencies, representatives from business and labor, and advocates of low income and disabled persons, was created to develop a health insurance plan for Vermont residents who are not covered by health insurance. The board is to develop specifications on funding and administration, eligibility, and benefits to be provided. The board is to report its findings and recommendations to the General Assembly by January 15, 1989.

Virginia

Agriculture. The law requiring a permit to operate a migrant labor camp was amended to include all such camps housing one or more workers instead of only those used for living quarters for more than 10 persons.

A resolution urged that a joint legislative subcommittee be established to examine the housing situation for migratory workers and the advisability and feasibility of a State role in funding for migrant camps used by the State's agricultural workers.

Other laws. The law prohibiting employers from discharging or taking other adverse personnel actions against employees summoned to serve on jury duty or from requiring them to use sick leave or vacation time for the absence was amended to also apply to those summoned or subpoenaed to appear in court, except for defendants in criminal cases.

Virgin Islands

Wages. The minimum wage rate was increased to \$3.85 an hour effective May 1, 1988, with further increases to \$4.25 scheduled for January 1, 1989, and to \$4.65 scheduled for January 1, 1990. Beginning January 1, 1991, and annually thereafter, the rate will be revised to be equal to 50 percent of the average private, nonsupervisory, nonagricultural hourly wage as determined by the Virgin Islands Wage Board for the previous November, rounded to the nearest multiple of 5 cents. The rate for minors under age 18, full-time high school students, and employees of businesses with gross annual receipts of less than \$150,000 was raised to \$3.50 per hour on May 1, 1988, with further increases to \$3.90 and \$4.30 scheduled for January 1, 1989, and January 1, 1990. After January 1, 1991, the rate for these workers will be not more than 35 cents an

hour under the basic minimum wage rate. Tipped employees in the tourist service and restaurant industries are exempted from this rate schedule.

Washington

Wages. Initiative number 518 on the November 1988 general election ballot to raise the State minimum wage from \$2.30 an hour to \$3.85 on January 1, 1989, and to \$4.25 on January 1, 1990, was approved by the voters. The measure also extends coverage to farmworkers and domestic service employees.

Hours. The law establishing an 8-hour day on public works contracts now authorizes contractors or subcontractors to enter into agreements with their workers permitting them to work up to 10 hours a day for up to 4 days a week. Under these agreements, overtime pay will still be required after 40 hours a week, but no longer after 8 hours a day.

Parental leave. Public and private sector employers must now allow an employee to use accrued sick leave to care for his or her child, under the age of 18, with a health condition that requires treatment or supervision. Employers must also post notices concerning employee's rights including any law, rule or regulation concerning maternity disability leave. The law is administered by the Department of Labor and Industries.

Child labor. The list of permitted employment activities for persons 18 to 21 years of age in cocktail lounges, bars, and other restricted areas of liquor-licensed premises was amended to add delivering messages, serving food, and seating patrons.

Plant closings. Money was appropriated to the Department of Trade and Economic Development for the establishment of a business and job retention program. The Department is to select local organizations to undertake retention activities, including identification of local firms at risk of closure, mass layoff, or relocation out-of-State; initial assessments of firms or work forces; and the coordination and provision of technical and training assistance to businesses, unions, employee groups, and work forces. The Department is also to develop and administer grants to study the feasibility of various options for continuing or renewing the operation of industrial facilities that are threatened with closure or have closed.

Other laws. Employers must grant a sufficient leave of absence from employment to employees summoned to jury duty, and

may not discharge, threaten, or otherwise penalize an employee who receives a summons, responds to the summons, serves as a juror, or attends court for prospective jury service.

West Virginia

Occupational safety and health. Asbestos abatement project designers, inspectors, contractors, management planners, workers, and supervisors must now obtain a license from the Department of Health. Specific training requirements were established, and employers were prohibited from retaliating against an employee for reporting an instance of wrongdoing or waste or for participating in an investigation, hearing, or inquiry.

The Amusement Rides and Amusement Attractions Safety Act was adopted under which the Department of Labor is to adopt rules for the safe installation, repair, maintenance, use, operation, and inspection of all amusement rides and attractions. Owners or operators must obtain a permit from the Department. Rides must be inspected at least annually and may also be inspected periodically without notice. The Department may order a temporary cessation of operation of any ride or attraction determined to be hazardous or unsafe. Any serious physical injury or fatality is to be reported to the Department within 24 hours of its occurrence.

Among various changes involving the regulation of mining, a Division of Health, Safety and Training was created in the Department of Energy, and given responsibility for health and safety inspections and enforcement and training in surface and underground coal mines, in other specified types of mines, and in cement manufacturing plants.

Whistleblower. A whistleblower protection law was enacted applicable to public sector employees. Under the law, employers are prohibited from discharging or otherwise retaliating against an employee because he or she makes a good faith report or is about to report to the employer or appropriate authority an instance of wrongdoing or waste, or because he or she is requested or subpoenaed by an appropriate authority to participate in an investigation, hearing or inquiry, or in a court action.

Wisconsin

Wages. A legislative attempt to increase the basic, adult nonfarm minimum wage rate from \$3.35 an hour to the higher of \$3.65 or the Federal minimum wage, and other increases for other classes of employees, passed the legislature but was vetoed by the Governor. Consequently, the Department of Industry, Labor and

Human Relations will continue to establish minimum wage rates by rule, as at present.

Parental leave. Employers of 50 or more, including private sector employers and the State government, must now provide unpaid family or medical leave to employees consisting of up to 6 weeks for the birth or adoption of a child; 2 weeks to care for a child, spouse, or parent with a serious health condition; and 2 weeks personal medical leave within a 12-month period. Where practicable, employees are to give employers advance notice of the need for leave. Upon return from family or medical leave, employees are entitled to reinstatement in the same or equivalent position without loss of benefits. Employees are entitled to a continuation of group health insurance coverage during such leave. The law is administered by the Department of Industry, Labor and Human Relations for all employees except those employed by the State (the Personnel Commission administers the provisions for these employees).

Child labor. Effective July 1, 1989, monetary penalties will be increased for first offenses for persons who employ minors in violation of the child labor law or street trades provisions and for parents who permit such employment. Separate, more severe, penalties of up to \$5,000 for employers and \$1,000 for parents for each day of the offense were added for second

or subsequent violations occurring within 5 years of a previous offense. Civil monetary forfeitures will be provided for violations by parents and for first offenses by employers. Criminal penalties will be provided for second and subsequent offenses by employers.

Equal employment opportunity. Exceptions to the fair employment law concerning discrimination on the basis of creed were broadened to permit nonprofit religious associations and related organizations or corporations to give preference to applicants or employees of the same or similar religious denomination in hiring or promotion to all positions instead of only to instructional or policymaking positions including chaplains and counselors. In addition, it will not be considered discrimination because of creed for such associations and related entities to give preference to applicants or employees who adhere to the religious creed of the association if the job description demonstrates that the position is clearly related to the association's religious teachings and belief.

Occupational safety and health. A State Emergency Response Commission was created and given responsibility for carrying out the State's obligation with respect to hazardous substances under the Federal Emergency Planning and Community Right-to-Know Act. The Department of Natural Resources is to receive notification of, and to investigate the re-

lease of hazardous substances. It is also to provide all information contained in any notification to the Commission.

Other laws. A pilot State job opportunity business subsidy program was created to provide wage subsidies to qualified businesses in three counties selected on the basis of extent of unemployment, major plant or business closings or announced closings, and other factors.

Wyoming

Wages. The daily overtime pay requirement for laborers, mechanics, or workers employed on public works projects was eliminated (this had been changed to overtime pay after 10 rather than 8 hours in 1987). The provision that such workers not be required to work more than 8 hours a day was reinstated, but with overtime pay due only after 40 hours a week.

Preference. Community college districts are now subject to the State resident preference requirements when letting public works contracts.

Other laws. All employees of the State, including university and community college employees, who are hired after June 30, 1988 must become residents of and reside in the State within 90 days of their first day of work or their employment will be terminated. □

FOOTNOTES

¹The legislatures did not meet in regular sessions in Arkansas, Montana, Nevada, North Dakota, Oregon, and Texas. A regular session in North Carolina did not enact significant legislation in the fields covered by this article. This article is based on information received by November 7, 1988.

²Unemployment insurance and workers' compensation are not within the scope of this article. Separate articles on each of these subjects are also published in the issue of the *Monthly Labor Review*.

³Alaska, California, Connecticut, the District of Columbia, Guam, Hawaii, Maine, Massachusetts, Minnesota, New Hampshire, Puerto Rico, Rhode Island, Vermont, the Virgin Islands, and Washington.

⁴Florida (1979), Alabama (1980), Utah (1981), Arizona (1984), Colorado, Idaho and New Hampshire (1985), Kansas (1987), and Louisiana (1988).

⁵Hawaii, Kentucky, New Hampshire, and Utah.