

State labor laws: changes during 1987

Major laws were enacted on a variety of subjects, including minimum wage, employment discrimination, parental leave, drug testing, and wrongful discharge

RICHARD R. NELSON

A greater volume of State labor legislation was enacted in 1987 than in any of the past several years.¹ Laws of major significance were enacted in several employment standards subject areas, including the traditional fields of minimum wage protection and bans on employment discrimination, as well as in newer emerging areas of parental leave, employee drug testing, asbestos abatement, plant closings, and restrictions on workplace smoking. First time legislation was also enacted prohibiting the wrongful discharge of employees.

There was considerable minimum wage activity in 1987 with hourly minimum wage rates increased through new legislation or administrative action for all employers in nine States (Arkansas, Connecticut, Delaware, Hawaii, Minnesota, Nebraska, Nevada, Texas, and Wisconsin) and for certain occupations in the District of Columbia and Puerto Rico. Also, rates rose in Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont as the result of increases provided by previous enactments. In addition, a proposal to increase the California rate is under consideration.

In Hawaii and Minnesota, the 1987 legislation increased the rates above the \$3.35 per hour Federal standard (in effect since 1981). The Federal rate is now exceeded in 10 jurisdictions (Alaska, Connecticut, the District of Columbia, Hawaii, Maine, Massachusetts, Minnesota, New Hampshire, Rhode Island, and Vermont). Bills to further increase

the rate in Maine and to raise the Wisconsin rate above the Federal level passed the legislatures but were vetoed. North Carolina provided for matching increases up to \$4 an hour in the State minimum if the Federal rate is increased before June 1, 1989. As of January 1, 1988, 24 jurisdictions had minimum wage rates at or near \$3.35 per hour for some or all occupations. Rates are significantly lower than \$3.35 in 11 States, and nine States do not have minimum wage laws.

Among other minimum wage and overtime actions, new exemptions from one or both of these provisions were enacted in Delaware, Illinois, and Montana. Montana also made the existing prohibition against tip credits specific within the minimum wage law and extended coverage to employees covered by the Federal Fair Labor Standards Act if the State minimum wage is higher. Amendments in the District of Columbia and Minnesota dealt with the recognition of subminimum wage rates for handicapped workers under certificates issued by the U.S. Department of Labor. Wyoming will require overtime pay on public works projects for hours worked in excess of 10 a day or 40 a week instead of after 8 hours a day, as was previously required.

Civil penalties for certain violations of the New York minimum wage and wage payment acts were extended to include violations concerning minimum wage standards for farmwork and to be authorized for nonmonetary violations, including those involving recordkeeping, posting, and wage statements. In other legislation involving the collection of wages due, the ceiling was removed on acceptance of wage claims by the Utah Industrial Commission, and the Commission was authorized to enter into reciprocal agreements

Richard R. Nelson is a State standards adviser in the Office of State Liaison and Legislative Analysis, Employment Standards Administration, U.S. Department of Labor.

with other States for the collection of wage claims; the Director of Labor and Industries in Washington may now bring legal action to collect unpaid minimum wages and prevailing wages for all underpaid employees, and was authorized to conduct investigations to ensure employer compliance with the prevailing wage, minimum wage and wage payment—wage collection acts where a violation is suspected; and Rhode Island specified that vacation pay accrued by workers separated after 1 year's service, will become wages due. New Jersey enacted a Construction Workers' Fringe Benefit Security Act to ensure payments to fringe benefit funds and New Hampshire amended reporting requirements under a similar law.

The issue of equal pay for jobs of comparable value in State government was addressed by a few States in 1987. In Oregon, each branch of the State government is to adopt a method of determining the comparability of the value of work and report to the legislature on proposals to upgrade undervalued classifications, and a Pay Equity Adjustment Fund was created to pay for needed adjustments. The Connecticut law designed to eliminate sex-based inequities in the State service was amended to include coverage of unclassified positions held by employees in collective bargaining units, and North Dakota directed that a study be made of the feasibility and desirability of such legislation. Money for implementation was appropriated in some other States which enacted pay equity legislation in prior years.

While there was not as much State prevailing wage legislation in 1987 as in some recent years, there were some significant developments. The Kansas prevailing wage and public work 8-hour-day law was repealed, while repeal attempts failed in nine other States. Among amendments to the Montana law, rates will now be determined for each of 10 districts rather than the county or locality in which the work is performed, the prevailing rate was defined to be a weighted average based on hours worked by craft or classification in the district including both private and public projects, and a \$25,000 threshold amount was established for coverage. Changes were made in rate-setting procedures in Massachusetts, in bid advertisement requirements in Oregon, and in the definition of locality in Wyoming. Washington extended coverage to new facilities built by private parties for lease to State agencies. Rhode Island now requires contractors and subcontractors who perform work on public works projects to furnish the Director of Labor with certified copies of their payroll records weekly rather than upon demand following a complaint as before.

Parental leave for the birth, adoption, or serious illness of a child was a subject of active interest in 1987. About half the legislatures had bills before them to require employers to grant unpaid leave of varying durations, and to guarantee returning employees reinstatement to the same job or a similar one. Laws applicable to both private and public sector employers were enacted in Minnesota (up to 6 weeks leave), Oregon (12 weeks), Rhode Island (13 weeks), and Tennes-

see (4 months for female employees only). A new law in Connecticut provides for up to 24 weeks leave for State employees and a task force is to study various aspects of parental leave in private sector employment. Also, the North Carolina Legislative Research Commission was authorized to study all aspects of granting such leave. Private and public sector employees in New York and public employees in Missouri who adopt children are to be given the same opportunities for leave as granted to biological parents. A leave of absence because of disability on account of pregnancy or a related medical condition was authorized for up to 8 weeks in Iowa and for up to 4 months in Louisiana.

New or amending legislation regulating the employment of children was enacted in 18 States in 1987. Among these were new provisions enacted in Arkansas and Vermont establishing conditions for the employment of children as actors. In other actions, the age at which children may sell or deliver newspapers was lowered from 12 to 9 in Massachusetts, and the minimum age for employment was lowered in Connecticut for work in mercantile establishments under certain conditions, and in Michigan for certain farming operations. In Alabama, the child labor law was amended to conform the nightwork, daily, and weekly hours restrictions of minors under age 16 to Federal law and to add restrictions on permissible nightwork hours of 16- and 17-year-olds. Nightwork hours restrictions were eased for minors under age 16 in Delaware and Rhode Island. Minors under age 18 in North Carolina, meeting certain requirements, will now be permitted to drive a truck or automobile as part of their employment, while restrictions were placed on the operation of commercial motor vehicles by minors of this age in Florida.

Compulsory school attendance laws were amended in Louisiana to require attendance until age 17, rather than 16, and in Mississippi, to require attendance to age 17 by the 1989-90 school year.

Federal Age Discrimination in Employment Act amendments, effective January 1, 1987, included removal of the age-70 upper limit on coverage. This law applies to private and public sector employment with the exception of Federal employees. Mandatory retirement provisions for public sector employees in Ohio were specifically conformed to those prescribed by the Federal law. The age-70 upper limit from age discrimination or mandatory retirement provisions was removed for various public sector employees by amendments to laws in Louisiana, Minnesota, Nebraska, South Dakota, Vermont, and Virginia and for both public and private sector employees by amendments in Illinois, Nevada, Oregon, and Utah. In West Virginia, an age-65 upper limit was removed from the law prohibiting age discrimination in public and private employment. The Illinois Human Rights Act was also amended to prohibit age discrimination between 18 and 40 in apprenticeship or training programs.

Other forms of employment discrimination, primarily on the basis of sex or handicap, were the subject of legislation

in 21 jurisdictions. A Virginia Human Rights Act was enacted making it unlawful to discriminate on the basis of race, color, religion, national origin, sex, age, marital status, or disability. In Massachusetts, sexual harassment of employees was specified as a form of sex discrimination and prohibited. In Iowa, criminal penalties were added for sex discrimination violations. The prohibition against discrimination in public employment on the basis of handicap was extended to include private employers in Tennessee, and in Alaska, mental disability was added to physical disability as a prohibited form of discrimination. The Illinois Human Rights Commission and Department of Human Rights were authorized to receive and collect information on employment discrimination regarding persons affected by the Federal Immigration Reform and Control Act of 1986.

Substance abuse testing of job applicants or employees was the subject of proposed legislation in more than half of the legislatures. These bills included measures to prohibit, to limit, or to specifically permit testing. Laws were enacted in eight States—Connecticut, Iowa, Louisiana, Minnesota, Montana, Rhode Island, Utah, and Vermont. Differing approaches to the issue varied between those permitting testing provided certain conditions are met and those prohibiting testing except for probable cause or other specified reasons. Utah, for example, permits the testing of employees and applicants within the terms of a written policy provided certain safeguards are met with respect to sample collection and testing procedures, and permits test results to be used as the basis for adverse personnel actions. Rhode Island, on the other hand, prohibits drug testing of employees except if the employer has reasonable grounds to believe that an employee's use is impairing job performance and the testing is done in conjunction with a rehabilitation program. Job applicants and current employees are covered by the laws in Connecticut, Iowa, Minnesota, Montana, Utah, and Vermont. The laws of Louisiana and Rhode Island cover only employees. Most laws provide the right to retest in the event of a positive test finding, provide the right to explain a positive test result, and specifically protect the confidentiality of results. In Iowa, Minnesota, Rhode Island, and Vermont, employees may not be discharged for a first time positive drug test and must be given the opportunity to participate in counseling or rehabilitation.

Michigan requires all applicants for employment by the State police to submit to a controlled substance test. A study commission in North Carolina is to examine drug testing of job applicants and to recommend procedures or regulations for the administration of tests.

First of their kind wrongful discharge laws were enacted in Montana and the Virgin Islands under which the discharge of an employee for reasons other than those specifically enumerated is considered to be wrongful and remedies are provided for. Under the Montana law, which establishes an exclusive remedy for redress, employees who are wrongfully discharged may file an action for recovery of lost

wages and interest, and where employer fraud or malice is found, may recover punitive damages. The Virgin Islands law provides for reinstatement and back pay upon order of the Commissioner of Labor and permits employees to bring court action for compensatory and punitive damages.

One or more laws dealing with various aspects of worker safety and health were enacted in 33 jurisdictions. Most involved laws regulating asbestos abatement work, restricting smoking in the workplace, and giving workers the right to be informed of and given training on workplace chemical hazards. Asbestos abatement laws regulate various aspects of this work, including the regulation or licensing of contractors, safety training of workers, and advance notification of any asbestos work to be performed. A few of these laws were enacted in prior years, but this became a major area of legislative activity in 1987 with new legislation adopted in 15 States and amendments made to the laws of two others.² Some of this activity may have been in response to the Federal Asbestos Hazard Emergency Response Act of 1986, administered by the Environmental Protection Agency, which requires, among other things, State certification of contractors performing asbestos abatement work in schools, and Federal Occupational Safety and Health Administration (OSHA) asbestos standards effective January 17, 1987, that require training of all persons doing asbestos work in the private sector. The OSHA standards do not require licensing or certification. New laws regulating smoking in the workplace were enacted in Arkansas, Hawaii, Indiana, Maine, Oklahoma, and Vermont, and amendments were made to the laws of Arizona and Connecticut. These laws usually require employers to implement policies prohibiting or restricting smoking in the workplace. If reasonable accommodation between smokers and nonsmokers cannot be achieved, preference is generally given to nonsmokers. Of the 12 hazardous chemical right-to-know laws, 8 were amendments to existing legislation. Workers in New Mexico will now be given hazardous substance information, and laws were enacted in Kansas and Utah to provide for carrying out the requirements of the Federal Emergency Planning and Community Right-to-Know Act of 1986.

Other safety enactments include a new comprehensive Occupational Safety and Health Act in West Virginia applicable to State employees with provision for optional coverage by political subdivisions of the State, a new Boiler Safety Act in Florida, and a new Amusement Ride Act in Nebraska. Public agencies in Texas may now consider the safety record of bidders in the award of public works construction contracts.

Interest continued in efforts to aid workers and communities facing mass layoffs or plant closings. New laws were enacted in Hawaii and the Virgin Islands. The Hawaii law requires that employees and the Director of Labor and Industrial Relations receive advance notice of a closing or out-of-State relocation and that employees receive a dislocated worker allowance to supplement unemployment com-

compensation benefits for 4 weeks. The Virgin Islands law requires that advance notice of a closing or major reduction in the work force be given to the employees, their union, and the Commissioner of Labor. Affected employees are to receive severance pay, continuation of disability insurance, a preference in hiring at other employer facilities, and have the opportunity to purchase a facility being closed. Employer sanctions are to be developed in Massachusetts for failure to notify laid-off workers of their right to extended health insurance. Connecticut extended the time for continuation of employee health benefit coverage, and New York established a temporary program to assist dislocated workers with the payment of health insurance premiums. Also, in New York, the governor and business and labor leaders signed an agreement to improve labor-management cooperation in the private sector and to deal with the problems of plant closings and layoffs. In related legislation, an Employee Ownership Opportunity Act was passed in Oregon to encourage the formation of employee-owned enterprises, and Washington enacted a law authorizing and regulating employee cooperative corporations.

Alabama

Child labor. Child labor law restrictions on permissible hours of work for minors under age 16 were amended to permit employment until 9 p.m. during the summer school vacation and to reduce from 8 p.m. to 7 p.m. the latest permissible hour at other times. In addition, a new provision states that no child under age 18 who is enrolled in school is to work between 10 p.m. and 5 a.m. on any night preceding a schoolday, except that those enrolled in specified training programs may work past 10 p.m. The hours of 16- and 17-year-olds were not previously restricted. School superintendents were given authority to grant exemptions to the 10 p.m. provision in individual cases. Work for those under age 16 will not be permitted for more than 3 hours in any schoolday, rather than 4 hours as before, and is limited to 18 hours in any school week, instead of the previous 28 hours.

Private employment agencies. Agents for athletes must now be registered with the newly created Athlete Agent Regulatory Commission, and post a \$50,000 surety bond conditioned on the agent's compliance with the law and ensuring payment of all sums due any athlete represented. Agent's fees are limited to 10 percent of the athlete's total annual compensation under any professional sports service contract negotiated, and certain undesirable practices are prohibited.

Other laws. The Polygraph Examiners Board, scheduled to terminate on October

1, 1987, under sunset legislation, was continued for 4 years.

Alaska

Equal employment opportunity. The prohibition against discrimination in employment was extended to include mental disability in addition to physical disability as before.

Occupational safety and health. The law requiring the Department of Labor to publish annually a list of toxic and hazardous substances, to assist employers, upon request, to develop employee safety education programs and to identify and obtain information on toxic and hazardous substances, and to require the posting of notices in the workplace will now also apply to hazardous physical agents.

Preference. A joint resolution encourages the Federal Government to hire as many State residents as possible for Federal positions located in the State, including temporary and seasonal positions, and also seeks the passage of Federal legislation giving an employment preference to unemployed qualified State residents on all construction projects in the State wholly or partially financed with Federal funds.

Arizona

Child labor. Civil penalties of not more than \$1,000 will now be included in any cease-and-desist order issued for a violation of the child labor law. Previously, a civil penalty of this amount could be im-

posed only after a cease-and-desist order became final.

Other enactments included several laws requiring background clearance checks of prospective employees in occupations involving supervision of children; a new Farm Labor Contractors Registration Act and a new comprehensive State Employees Collective Bargaining Act in Nebraska; changes in public sector collective bargaining coverage in Washington; a law repealing the Texas Labor Agency Law; a measure transferring administration of the Montana employment agency regulatory law from the Department of Labor and Industry to the Department of Commerce; several measures enacting or amending contractor or resident preferences in the awarding of public contracts; and a law in New Mexico creating a new single, consolidated cabinet-level Labor Development. Nine States enacted, expanded coverage of, or modified "whistleblower" laws designed to protect employees from employer retaliation for reporting violations to a public body, or for participating in an investigation, hearing, or court action.

The following is a summary, by jurisdiction, of labor legislation enacted during 1987.

posed only after a cease-and-desist order became final.

Background clearance. An addition to the criminal code made it unlawful for a person convicted of certain crimes against children, including murder, kidnapping, and sexual offenses, to fail to report this information when applying for employment or volunteering for service with any business or organization which sponsors any activity in which adults supervise children, including schools, preschools, child care providers, and youth organizations.

Occupational safety and health. The Director of the Occupational Safety and Health Division within the Industrial Commission is to prepare an educational pamphlet relating to asbestos to help contractors identify asbestos in the workplace and to inform them of State and Federal asbestos rules and of the health hazards associated with asbestos contact. Also, the Division is to implement procedures to make asbestosis and mesothelioma diseases reportable to the Commission.

The law restricting smoking in State buildings was amended to extend the deadline for the establishment of smoking rules to November 1, 1987. Other changes prohibit termination or disciplinary action against an employee who makes a formal complaint regarding the rules on smoking and nonsmoking, and provide that if an accommodation cannot be reached which is satisfactory to smoking and nonsmoking employees in a given work area, smoking in that area will be banned.

Other laws. The Department of Administration was directed to develop and submit to the Governor and the legislature a plan to establish an employee assistance program to aid with alcohol and drug abuse and related issues affecting State employees. In developing the plan, consideration is to be given to the need for training, diagnostic, treatment, and referral services for State employees, and to confidentiality for participants.

A former employer may lawfully provide to a requesting employer information concerning a former employee's education, training, experience, qualifications, and job performance to be used for the purpose of evaluating the person for employment provided that a copy of any written communication is sent to the employee. A person providing such information will be immune from civil liability unless the information is knowingly false and defamatory and is acted on to the harm of the employee or prospective employee. Also, information concerning current or prospective employees provided to a government body or agency, as required by law, rules, or policies, are privileged and the person providing the information may not be held civilly liable. A person who knowingly exchanges, solicits, or gives out any labor blacklist will be guilty of a misdemeanor.

The previous protection against loss of job seniority afforded to employees serving as grand jury members was extended to trial jurors.

Arkansas

Wages. The State minimum wage rate was increased from \$3.15 per hour to \$3.25 on January 1, 1988, with a further increase to \$3.30 scheduled for January 1, 1989.

Child labor. A new law was enacted establishing conditions for the employment of children under age 16 as actors in the entertainment industry. Requirements include a permit issued by the Director of the Department of Labor, written parental consent, and provision for the parent or guardian to be present and within sight and sound during worktime. Employers are not to employ children in a role or in an environment that is hazardous or detrimental to their health, morals, education, or welfare and are to furnish suitable dressing rooms and rest or play areas. These children are exempted from the child labor law.

The ban on the employment of persons under age 21 in the sale, transporting, or handling of alcoholic beverages was amended to permit, with written parental consent, persons age 18 and older to be employed by licensed liquor and beer wholesalers and by licensed native wineries

to handle alcoholic beverages at the place of business.

Worker privacy. The Freedom of Information Act was amended to add personnel records, to the extent that disclosure would constitute a clearly unwarranted invasion of personal privacy, to the list of items protected from disclosure.

Occupational safety and health. Each State agency was required to adopt and implement a smoking policy for its general office space by September 1, 1987. The policy is to consider the rights of both non-smokers and smokers.

The law requiring licensing of contractors engaged in the removal of friable asbestos materials was amended to also apply to contractors engaged in the encapsulation and enclosure of these materials.

Preference. To be eligible to receive a resident preference over out-of-State contractors on public works projects, contractors must now maintain a staffed office in the State, in addition to the previous requirements of having satisfactorily performed prior contracts and having paid State taxes for at least 2 years prior to submitting a bid.

Other laws. A Governmental Waste Elimination Program in State government was established, providing for monetary awards for savings resulting from complaints or suggestions received, and prohibiting the firing or disciplining of a State employee for filing a complaint of governmental waste.

The Vocational and Technical Division of the State Department of Education is to develop and monitor apprenticeship programs for all State agencies that have employees working in apprenticeable trades which are, or may be, recognized by the U.S. Department of Labor, Bureau of Apprenticeship and Training. An advisory board for the apprenticeship program was established consisting of two State employees to represent labor, a private citizen, and designees of specified State agencies, including the Director of the Department of Labor.

California

Wages. The Industrial Welfare Commission, which establishes minimum wage standards by wage order action, issued proposals on September 11, 1987, to increase the basic minimum rate from \$3.35 an hour to \$4, to permit a 15-percent tip credit (now prohibited), and to permit a rate for full-time students under age 21 at 85 percent of

the basic rate (student rates are not currently permitted). Final action on the proposals was planned for December 18.

The Governor vetoed a bill that would have increased the minimum wage by legislative action to \$4.25 an hour. The Governor's veto message explained that this bill would have circumvented the Industrial Welfare Commission process.

Child labor. The fine for the misdemeanor penalty applicable to the illegal employment of minors was increased from a range of \$100 to \$500 to a range of \$500 to \$1,000.

Undocumented workers. Employers who provide a wage statement to any present or former undocumented worker requesting one in order to document eligibility for legalization under the Federal Immigration Reform and Control Act of 1986, are not subject to criminal or civil penalties based upon information disclosed in the wage statement relevant to the Revenue and Taxation and Unemployment Insurance Codes.

A joint legislative committee on Refugee Resettlement, International Migration, and Cooperative Development was created to, among other things, develop recommendations addressing specific concerns relating to international migration and the implementation of the Federal Immigration Reform and Control Act.

Background clearance. Among changes to the laws regulating the licensing of various care facilities by the Department of Social Services, applicants for licenses to operate family day care homes for children, and all other persons residing in the home are subject to a criminal record clearance check.

In order to allow time for appeal, the Department of Justice is to notify a prospective professional child care provider, in writing, that substantiated child abuse information has been found before notifying a parent who requested such information. The Department is also to adopt regulations to determine whether a person applying for a day care license may be granted an exemption to work in a day care facility despite a determination of substantiated child abuse.

Private employment agencies. Job listing firms that do not provide, offer, or imply the offer of services related to employment, do not sell lists of employers or job openings on an inperson basis, and meet certain other tests are now exempt from licensing, posting surety bonds, and certain other requirements of the employment agency law.

Occupational safety and health. The Governor used his line-item veto authority to delete funds from the budget for the State Occupational Safety and Health program, which operated under a State plan in accordance with Federal law. An override attempt by the State Senate was unsuccessful. In view of the situation, the Federal Occupational Safety and Health Administration reinstated concurrent Federal enforcement. Subsequent judicial challenges make the final outcome uncertain.

Other laws. The law prohibiting discharge or other retaliation against employees of licensees of the Department of Social Services for making a complaint of violations of a law to the Department, participating in a proceeding against the employer relating to a violation, or refusing to perform work in violation of a licensing law or regulation was amended to require written notification to employees of their rights under the law at the time of hiring.

Private employers of 25 or more must make a reasonable accommodation to any employee who wishes to voluntarily enter and participate in a drug rehabilitation program. Employees may use such leave to which they are entitled for such a program. Previously, these provisions applied only to alcoholic rehabilitation programs.

Public or private employees who are members of the State Military Reserve are now entitled to an unpaid temporary leave of absence of up to 15 calendar days a year for inactive duty training.

Colorado

Hours. Persons working in open cut or open pit workings, reduction works, stamp or concentrating mills, chlorination or cyanide processes, and coke ovens will no longer be limited to working no more than 8 hours within any 24-hour period, except in certain emergencies. This limit remains in effect for those working in underground mines, underground workings, and smelters.

Occupational safety and health. Comprehensive new provisions were enacted concerning asbestos abatement practices. Among these, any person wishing to perform asbestos abatement work must first obtain a certificate from the Division of Administration in the Department of Health by submitting an application describing the applicant's employee training program for asbestos abatement and identifying those employees certified as trained supervisors following the completion of an approved training course and passing an examination. An applicant or at least one of his or her employees must be a trained supervisor

in order to be certified to perform asbestos abatement work.

Employment and training. The State Apprenticeship Council within the Department of Labor and Employment was abolished. The apprenticeship program is now being administered by the Federal Bureau of Apprenticeship and Training.

Preference. Resident bidders on contracts for State commodities and services are to be given a preference over nonresident bidders, until July 1, 1989, equal to the preference given or required by the State in which the nonresident bidder is a resident unless this would cause denial of Federal funds or would otherwise be inconsistent with Federal law.

Equal employment opportunity. The Governor issued a new Executive Order on equal employment opportunity in State service, directing each department to eliminate discrimination in employment practices including, but not limited to selection, promotion, training, and appraisal and to take necessary action to recruit and hire members of protected groups. In addition, the State Personnel Board adopted new affirmative action measures including rules on recruitment, minimum qualifications, examinations, and establishment of trainee and intern classifications for jobs in which underutilization is identified. These actions were in response to the repeal of the State's former affirmative action program.

Connecticut

Wages. The minimum wage rate was increased from \$3.37 to \$3.75 an hour on October 1, 1987, with a further increase to \$4.25 scheduled for October 1, 1988. Also, the wage payment-wage collection law was amended to specifically cover public employers.

The Commissioner of Administrative Services is to adopt and implement a system for a full classification and job evaluation study of all unclassified positions in State service held or to be held by employees in collective bargaining units. Workers in this category were previously exempted from legislation designed to eliminate sex-based inequities in the State service. Money was appropriated for salary adjustments resulting from the job evaluation process.

Hours. Permanent State employees are now entitled to a family leave of absence without pay for up to 24 weeks within any 2-year period upon the birth or adoption of a child or the serious illness of a child,

spouse, or parent. Employees are also entitled to unpaid medical leave of up to 24 weeks if they become seriously ill. Employees taking either type of leave are entitled to reinstatement in their original job or an equivalent position without loss of accumulated benefits.

A task force was established to study the prevalence of paid and unpaid parental and medical leaves of absence in private sector employment and ways to promote the availability of such leave, and to study basic family needs and develop methods by which public and private sector employees could meet those needs and still satisfy their workplace requirements. A report on recommendations and findings is to be made to the legislature by July 1, 1988.

Child labor. The prohibition on work by minors under age 16 in mercantile establishments was amended until September 30, 1992, to permit minors at age 15, with certificates, to work outside regular school hours as baggers, cashiers, or stock clerks. Such employment is limited to 8 hours a day, 40 hours a week when school is not in session, 3 hours a day and 18 hours a week when school is in session and on not more than 2 consecutive schooldays without a day off. Work for these minors will be limited to the hours between 7 a.m. and 7 p.m. except that they may work until 9 p.m. from July 1 to the first Monday in September.

Employee testing. Private sector employers may not require employees to submit to a urinalysis drug test unless there is reasonable suspicion that the employee is under the influence of drugs or alcohol, the test is required by Federal law, the employee serves in a high-risk or safety-sensitive position, or as part of a voluntary employee assistance program. Job applicants may be tested if informed in writing when applying that a test will be given and if given a copy of any positive test results. All testing must provide for confirmation of positive results through the use of two additional tests using reliable methodology. Test results are to remain confidential.

Labor relations. Local and regional boards of education and teachers' representatives now have the duty to negotiate with respect to hours in addition to salaries and other conditions of employment as before. For this purpose, hours negotiations will be limited to the length and the scheduling of teacher lunch and preparations periods.

The cost of employees hired by hospitals and other health care facilities to persuade other employees to support or oppose unionization may not be considered in com-

puting State aid for such hospitals or facilities.

In the event of a strike, work stoppage, or lockout involving employees of a licensed health care institution, the Commissioner of Labor shall, upon the request of either party to the dispute, appoint an impartial factfinder if the dispute is endangering or could endanger the health, welfare, and safety of the patients of the institution or the general community. The factfinder shall investigate the dispute and issue a report of his or her findings to the commissioner of labor and the parties, including nonbinding recommendations for settlement of the dispute.

Municipal employers and municipal employee organizations were prohibited from submitting, for binding arbitration, any issue or proposal which was not presented during the negotiating process unless the submission is agreed to by the parties.

Occupational safety and health. Any person wishing to work as an asbestos contractor or asbestos consultant in the State will be required to be licensed by the Department of Health Services effective 1 year following adoption of regulations under this act. To qualify for a license, a contractor must, among other requirements, demonstrate that all employees have passed a Department approved training course. An asbestos consultant must also complete an approved training course, pass an examination, and hold a bachelor degree in engineering, architecture, industrial hygiene, or a closely related environmental science field to qualify.

The requirement that employers establish written rules governing smoking in the workplace, which may include designated smoking and nonsmoking areas, was modified to specifically require employers to establish nonsmoking work areas for employees who request it, and to permit them to designate an entire business facility as a nonsmoking area. The Commissioner of Labor may exempt employers from the requirements if a good faith effort to comply is made, and if any further attempts would constitute an unreasonable financial burden. The Commissioner is to adopt regulations by April 1, 1988, for the granting of exemptions.

Plant closings. The law requiring employers closing or relocating an establishment to pay for continued employee health benefit coverage for up to 120 days was amended to entitle employees to continue coverage at their own expense for an additional 78 weeks instead of 39 weeks. The surviving or former spouse and dependents covered by the group plan, upon the death

of the individual or dissolution of marriage, may continue the coverage for up to 156 weeks.

Other laws. The law protecting employees who disclose illegal activities by employers was amended to specify that municipal employees may not be discharged, disciplined, or penalized for reporting to a public body unethical practices, mismanagement, or abuse of authority by the municipal employer.

The prohibition against requiring employees or applicants to execute an employment promissory note for a payment to the employer if he or she leaves the job before a stated period of time, was clarified. Specifically permitted are agreements requiring repayment of advances, payment for property sold or leased to the employee, requiring educational personnel to comply with terms or conditions of sabbatical leaves, or those entered into through collective bargaining.

Delaware

Wages. The minimum wage law was amended to increase the wage rate from \$3 an hour to \$3.35 effective May 20, 1987.

Persons under age 18 employed by nonprofit organizations as junior counselors or counselors-in-training in summer camp programs were exempted from coverage under the minimum wage law.

Child labor. Child labor law restrictions on permissible hours of work for 14- and 15-year-olds were amended to permit employment until 10 p.m. on days preceding nonschool days. These children may not work later than 7 p.m. at other times.

Fines for violation of the child labor law were increased significantly for first and second offenses, with the fine for a willful violation being set at \$2,000. Fines collected will now go to the State Treasury rather than to the county where the proceedings are brought.

Worker privacy. A law enforcement agency is exempt from the ban on use of polygraph tests as a condition of employment. This exemption was clarified to exempt also the use of such tests in background investigations of police officer applicants.

Occupational safety and health. Under a new asbestos abatement law, any contractor or worker wishing to perform asbestos abatement work in the State must first apply to the Department of Administrative Services for certification. Certification criteria for contractors includes previous experience or training in this work and

with the type and size of equipment utilized, and demonstrated ability to perform the work. Asbestos workers must prove physical ability to perform the work safely, absence of any respiratory and/or health disorders that would prevent the wearing of protective respiratory equipment, and completion of an approved training program. Workers certified by other States may request certification by reciprocity.

Other laws. A new chapter governing jury selection and service was adopted replacing repealed sections. Among the new provisions is a prohibition on employers discharging, threatening, or otherwise coercing employees because they receive or respond to a summons, or serve as jurors or prospective jurors. Employers in violation may be subject to both criminal and civil action.

District of Columbia

Wages. Under a revised wage order applicable to occupations not covered by other industry wage orders, the basic minimum wage was increased from \$3.90 per hour to \$4.85 on December 18, 1987. This order includes construction, finance, insurance, real estate, business and personal services, health and legal services, automotive repair, and other types of businesses. The minimum wage for day laborers, ticket takers, and ushers was set at \$4.65 per hour. Parking lot and garage attendants may be paid \$4.20 if they receive at least 50 cents an hour in tips, and car wash attendants \$4.35 if they receive at least 15 cents an hour in tips. Newly hired employees may be paid \$4.25 per hour for the first 30 calendar days.

Employment of handicapped workers at less than the minimum wage is no longer permissible except for those employed under certificates issued by the U.S. Department of Labor pursuant to the Fair Labor Standards Act.

Florida

Hours. Persons who operate commercial motor vehicles solely within the State must receive 8 hours rest between specified on-duty hours.

Child labor. Minors under age 18 are not to operate commercial motor vehicles except for those with a gross vehicle weight of 26,000 pounds or less used in transporting agricultural products, including horticultural or forestry products, from farm or harvest place to storage or market.

Equal employment opportunity. Persons serving in the Armed Forces Reserves may not be discriminated against in employment

because of their reserve military obligations.

Occupational safety and health. An asbestos management program for public buildings was established within the Department of Labor and Employment Security. The program provides for each State agency to survey the public buildings for which it is responsible for the presence of asbestos and to initiate procedures to clean up previously released fibers and to prevent future release of fibers. All consultants and contractors performing such work must be licensed by the Department of Professional Regulation. Onsite contractor supervisors and abatement workers must complete asbestos related training.

A Boiler Safety Act was enacted under which the Department of Insurance is to be responsible for the safe construction, installation, inspection, maintenance, and repair of boilers in the State.

Employers who only store toxic substances in the workplace are not required to maintain safety data sheets on the premises but must have them available for employees within 10 working days, and, if their employees are not normally exposed to those substances, are only required to provide training concerning procedures for dealing with toxic substances under foreseeable emergency situations. Toxic substances stored in sealed containers and sold as consumer products in retail establishments are now exempt from a number of provisions including posting, recordkeeping, and public safety notification requirements. Changes were also made in the administration and penalties of the public safety agency notification requirements.

Georgia

Child labor. A House resolution was adopted calling for the creation of a Study Committee on School Completion to examine possible factors contributing to the State's high student dropout rate, including the system of work permits for youths and the child labor laws.

Equal employment opportunity. A resolution was adopted urging the Governor to establish a task force to develop a formal State policy to promote the employment of qualified severely disabled persons and that any such policy also be incorporated into the employment procedures of the State Merit System.

Occupational safety and health. The Asbestos Safety Act was amended to exempt licensed electrical contractors, plumbers, conditioned air contractors, and low-voltage contractors when performing lim-

ited asbestos removal or installation which is incidental to performance of their regular business or profession.

The law providing for inspection and safety for elevators, escalators, and other similar devices was amended to require the reporting by telephone within 24 hours (and by writing within 7 days) of all accidents involving personal injury or death, and the removal from service, until inspected, of all such equipment involved in personal injury, death, or structural damage to the equipment. Previously, reports of personal injury were to be made to the enforcement agency within 7 days.

Employment and training. A Georgia Youth Conservation Corps was created within the Department of Natural Resources to develop the State's youth resources through meaningful work experiences and training on labor intensive conservation, public improvement, or community service projects. Corps members are to be unemployed State residents age 14 to 25 with a preference for those residing in areas of high unemployment.

Other laws. An employer may not threaten, discharge, discipline, or otherwise penalize an employee because he or she has been absent from work for the purpose of attending a judicial proceeding in response to a subpoena, summons for jury duty, or other court order or process requiring attendance except where the employee is charged with a crime. Employers may require employees to give them reasonable notice of the expected absence or delay in reporting to work.

The State Personnel Board was authorized to establish an employee assistance program to help State employees in coping with and overcoming persistent problems that jeopardize their effective job performance. Program related records which might disclose the identity of the employee or the nature of the services provided are to be kept confidential.

Guam

Equal employment opportunity. Each board or commission appointed by the Governor is to include at least two members of each sex.

Worker privacy. A freedom of information act was adopted, making public most government records, including information on employee salaries, names, ages, and mail addresses. The personnel file of any government employee may not be inspected without his or her consent, except in certain specified situations.

Hawaii

Wages. The State minimum wage rate was increased from \$3.35 to \$3.85 an hour effective January 1, 1988.

Background clearance. Employers of private detectives and guards were authorized, with written employee permission, to conduct a criminal history records check of all new workers.

Occupational safety and health. Contractors engaged in the application, removal, enclosure, encapsulation, renovation or other activities involving friable asbestos must be licensed by the Contractors License Board. In cooperation with various agencies, including the Department of Labor and Industrial Relations, the Board is to develop rules for the registration and training of employees, protective equipment standards, health examinations, continuing education, and other matters. Inspections of job sites may be conducted by the Board, and by the departments of Commerce and Consumer Affairs, Labor and Industrial Relations, and Health.

State and county agencies must adopt, implement, and maintain a written smoking policy which provides at the minimum, that if any nonsmoking employee objects to the employer about smoke in the workplace, an attempt must be made to reach a reasonable accommodation between smokers and nonsmokers. If an accommodation cannot be reached, a vote of the employees in each affected area shall prevail. If the decision is unsatisfactory to nonsmokers, an appeal can be made to the Director of Health.

The House of Representatives, by resolution, requested the State Department of Health to coordinate the implementation of the Federal Emergency Planning and Community Right-to-Know Act of 1986.

Plant closings. Employers of 50 or more must provide employees and the Director of Labor and Industrial Relations at least 45 days advance notice of a full or partial permanent closing or out-of-State relocation of an establishment and must pay each affected employee, for 4 weeks, a dislocated worker allowance of the difference between unemployment compensation benefits received and the employee's average weekly wages. All wages, benefits, and other compensation due to employees are to be paid on the effective date of the closing or relocation, and employers failing to conform are liable for such compensation for the 3 preceding months. The Director of Labor and Industrial Relations was given rulemaking authority for administration of the law.

Employment and training. A New Industry Training Program was established to be administered by the Department of Labor and Industrial Relations. The Program is designed to promote economic expansion in the State by providing preemployment or employment training or on-the-job training for local residents hired by businesses relocating to Hawaii or expanding their local operations.

A community-based employment program for the chronically mentally ill was established within the Mental Health Division of the Department of Health. The program is to create business enterprises for employment of the chronically mentally ill, to teach skills and attitudes to enable them to become employed, and to provide support services so they can secure and maintain employment and live within the community.

Public contract performance and payment bond requirements were waived for nonprofit qualified rehabilitation facilities with respect to contracts which provide job training and employment for handicapped persons.

Other laws. A new Whistleblower's Protection Act prohibits public and private sector employers from discharging, threatening, or otherwise discriminating against an employee because the employee reports or is about to report to a public body, a violation of law or rules or because he or she is requested to participate in an investigation, hearing, inquiry, or court action. Enforcement is through civil action, and courts may order reinstatement, back wages, restoration of benefits and rights, and actual damages in addition to costs of litigation.

Employers, other than commercial employment agencies, are prohibited from requiring an employee or prospective employee to pay a fee for processing a job application. Violators will be subject to a fine of from \$100 to \$1,000.

Idaho

Background clearance. The Department of Health and Welfare is to obtain a criminal history check on the owners, operators, employees, and volunteers of day care centers, who have direct contact with children and who have lived in the county in which the day care center is located for less than 3 years.

Preference. For purposes of the law granting a preference to State resident bidders on public contracts, bidders domiciled outside Idaho may be considered as resident bidders if they have had a significant economic presence in the State for 1 year

preceding the date of the bid. This presence is evidenced by maintaining an office, sales outlet, manufacturing facility, or warehouse in Idaho and being registered and licensed to do business in the State.

Other laws. Employees who are discharged in violation of the law prohibiting such discharge for jury service may now bring civil action for recovery of triple the amount of lost wages instead of only the actual wages lost, and the 6-week limit on recovery of lost wages was deleted. Employers are no longer subject to imprisonment for violations.

Illinois

Wages. In conjunction with a new Aquaculture Development Act designed to help expand the aquaculture industry and administered by the Department of Agriculture, the minimum wage law was amended to add an exemption for aquaculture if the employer did not use more than 500 man-days of labor during any calendar quarter in the preceding year, similar to the existing exemption for agriculture.

Camp counselors employed at day camps of organized nonprofit corporations are not subject to the adult minimum wage if they are paid a stipend on a onetime or periodic basis and, if they are minors, have written parental approval of the terms of payment before employment begins.

Child labor. The section of the child labor law exempting 14- and 15-year-olds from employment certificate requirements if working in summer programs funded under the Federal Job Training Partnership Act will now be applicable May 1 through September 30, rather than June 1 through September 15.

Equal employment opportunity. The Human Rights Act was amended to remove the age 70 upper limit for coverage of the prohibition against age discrimination in employment, and the exceptions from the ban on mandatory retirement for persons including those in executive and high policymaking positions were conformed to those of the Federal Age Discrimination in Employment Act.

Another amendment to the Human Rights Act makes it a violation for any employer, employment agency, or labor organization to discriminate on the basis of age against a person age 18 to 40 in the selection, referral for or conduct of apprenticeship or training programs.

The Human Rights Commission and the Department of Human Rights were authorized to receive and collect information concerning employment discrimination in re-

lation to persons affected by the Federal Immigration Reform and Control Act of 1986. The information may be furnished to the U.S. General Accounting Office for the preparation of the report on discrimination and the implementation of employer sanctions under the act.

Labor relations. Where a collective bargaining agreement between an employer and a labor organization contains a successor clause, the clause will be binding upon and enforceable against any successor employer taking over the contracting employer's business until the expiration date of the agreement, provided that this period of time does not exceed 3 years.

Occupational safety and health. An Asbestos Abatement Authority was created to develop and implement a program for the identification and abatement of asbestos in all State governmental buildings and to adopt rules and regulations consistent with this purpose.

The Chemical Safety Act was amended to authorize the Emergency Services and Disaster Agency to exempt from the requirement to have chemical safety contingency plans, those businesses or facilities that use, store, or manufacture any chemical substance in an innocuous amount that is not likely to result in a release which threatens the environment or the public health.

The Safety Inspection and Education Advisory Committee and the Occupational Safety and Health Advisory Committee were abolished.

A Senate resolution requested the Illinois Chamber of Commerce and specified trade associations to study and monitor the development, progress, implementation, and results achieved through the program of voluntary compliance with a private support program of policies and guidelines with respect to smoking in the workplace and elsewhere. A report of findings and evaluations is to be submitted by May 1, 1988.

Employment and training. The Farmer in Transition Program created to help those being forced out of farming because of adverse economic conditions was renamed the Rural Transition Program and expanded to provide this help to other rural residents and small rural businesses. Career counseling, financial management training, and job search skill training were added to the various employment and educational programs provided.

Other laws. Protection against the disclosure of an employee's name or the taking of any disciplinary action for disclosing

information relative to violations of laws or regulations or mismanagement, gross waste of funds, abuse of authority, or specific danger to the public, was extended to employees of Constitutional Officers of the State. Such officers include the governor, lieutenant governor, attorney general, secretary of state, comptroller, and treasurer. Previously, employees subject to the State personnel code were protected.

Indiana

Occupational safety and health. Amendments to the law establishing safety standards for underground coal mines included changes with respect to use and storage of explosives, roof supports, ventilation, and the use of methane detectors and shot-firing devices approved by the Federal Mine Safety and Health Administration.

As part of a new Clean Indoor Air Law, the State Board of Health was authorized to adopt rules to restrict or prohibit smoking in public buildings where the close proximity of workers causes smoking to affect the health and comfort of nonsmoking employees.

Other laws. Beginning July 1, 1988, employees of State universities and colleges, of public contractors, and of political subdivisions are protected against reprisals for reporting violations of Federal, State or local law, rules or regulations, or the misuse of public resources. Previously, only State employees not employed by institutions of higher education had such protection.

The requirement for execution of a payment bond by a public works contractor will now apply only to those projects costing more than \$75,000.

Iowa

Hours. Employers, under any health or temporary disability insurance or sick leave plan in connection with employment, must treat disabilities resulting from pregnancy, miscarriage, legal abortion, and childbirth in the same manner as any other temporary disability for all job-related purposes, including payment, seniority accrual, and reinstatement among other matters. Termination of an employee because of pregnancy disability is banned, and exclusion from employment of employees or job applicants because of pregnancy is unlawful. If leave is not available or is insufficient under a plan, the employer must grant up to 8 weeks leave of absence for a pregnancy-related disability. Employees are to provide timely notice of the period of leave requested.

Equal employment opportunity. The law

that makes it a misdemeanor for an employer or labor union to discriminate on the basis of race, religion, color, national origin, or ancestry was amended to also prohibit sex discrimination. Violations are prosecuted by county attorneys. The Iowa Civil Rights Act, administered by the State Civil Rights Commission already prohibits sex-based job discrimination, and provides administrative and civil relief, but not criminal penalties.

Employee testing. A new law regulates the circumstances and procedures for drug testing of employees or job applicants. Employees may be tested with probable cause and if impairment presents a safety hazard or when impairment due to the effects of a controlled substance is a violation of a known employer rule. Drug tests may also be conducted as part of a regularly scheduled physical exam if at least 30 days advance notice is given. Preemployment drug tests are permitted if applicants are notified in job advertisements or applications and in person. Specific procedures must be followed in all testing, employees are to be given an opportunity to rebut or explain the results of a drug test, and employers are to provide treatment if recommended.

Background clearance. The Department of Public Health may now receive criminal history data from the Department of Public Safety for the purpose of screening employees and applicants for employment in licensed substance abuse treatment programs which admit juveniles and may release this information to the administrators of such programs.

Kansas

Wages. The State prevailing wage and public work 8-hour-day law was repealed.

Equal employment opportunity. The Senate adopted a resolution deploring employment discrimination against military veterans and stating that such discrimination must not be tolerated.

Worker privacy. As part of a new polygraph operators' licensing law, limitations were placed on the asking of questions concerning union affiliation or activities, sexual behavior, or political or religious beliefs during any polygraph examination. Subjects of an examination are to be made aware that taking the examination is voluntary.

Occupational safety and health. An Emergency Planning and Community Right-to-Know Act was approved, creating the State Emergency Response Commis-

sion for the purpose of carrying out all of the State's requirements under the Federal Emergency Planning and Community Right-to-Know Act of 1986. Federal requirements such as the providing of information and giving of notifications were adopted by reference, and penalties for violation were established.

Kentucky

Other laws. The Department of Workers' Claims and the responsibility for workers' compensation were removed from the direction and control of the Labor Cabinet, with administration now vested in a Workers' Compensation Board appointed by the governor.

Louisiana

Hours. The State Sunday closing laws were repealed and replaced in 1986 with a provision authorizing parishes and municipalities to adopt ordinances regulating or prohibiting Sunday opening or sales if approved in an election.

Child labor. The Alcoholic Beverage Control Law was amended to permit minors under age 18 to be employed by a covered establishment whose main business is not the sale of alcoholic beverages as long as these persons are not directly involved in selling beverages to be consumed on the premises, and to permit employees under age 18 to participate in the sale or bagging of packaged alcoholic beverages, under supervision, where such beverages are not consumed on the premises.

School attendance. Under the compulsory school attendance law, children must now remain in school until they are 17 years of age, rather than 16 as before, unless they graduate from high school prior to that age. Sixteen-year-olds may withdraw from school prior to graduation with parental approval.

Equal employment opportunity. The provision requiring the mandatory retirement of public employees at age 70 was repealed and compulsory retirement at any age is now prohibited. Mandatory retirement of law enforcement personnel and firefighters continues to be required at age 65.

Employers of 25 or more may not discriminate against a female employee because of pregnancy, childbirth, or related medical condition. Female employees are entitled to take a leave of up to 4 months due to disability on account of these conditions. Employers may require employees to give reasonable advance notice of the date such leave is to commence and the estimated duration. Employers are also to

transfer pregnant employees to less strenuous work, if available, upon request.

For purposes of an employer sponsored or initiated affirmative action program, designed to cure or eradicate the effects of employment discrimination, the term minority was defined to mean persons who are black, Hispanic, Asian American, American Indian, or Alaskan Native.

Members of the reserve component of the Armed Forces of the United States and the Louisiana National Guard are not to be denied employment, retention in employment, or any promotion or other advantage of employment because of any obligation resulting from such membership.

Employee testing. Employees discharged from employment for the use of illegal drugs are ineligible for unemployment compensation benefits. Employee testing is permitted pursuant to a written employer policy to investigate possible individual employee impairment, to investigate workplace accidents or theft, to maintain safety, security, productivity, or quality of products or services. Sample collection and testing for drugs must follow specific procedures including verification or confirmation of positive test results using reliable analytical methods. Employees are to be allowed to provide information relevant to the test, including identification of any currently or recently used prescription or nonprescription drugs, or other relevant medical information.

Private employment agencies. Under a new law, athlete agents must register with the Secretary of State, file a schedule of fees charged and any agent contract used. A number of specific activities were prohibited including misrepresentation, dividing fees with or receiving compensation from a professional league or team, and entering into agreements with or giving anything of value to athletes with remaining intercollegiate eligibility.

Occupational safety and health. Among changes to the law providing for the collection and dissemination of information regarding the presence and location of hazardous materials, the Hazardous Material Information Development, Preparedness, and Response Advisory Board was abolished and replaced by the Emergency Response Commission. The Commission's duties include the coordination of State and Federal activities concerning community "Right-to-Know" legislation with regard to hazardous substances. Additions were made in the types of material that need not be reported as hazardous materials, and in the types of establishments that qualify for alternate reporting procedures.

Employment and training. Among new provisions for establishing and operating apprenticeship programs, the apprenticeship council was given responsibility for establishing standards and procedures for approval of apprenticeship agreements and for registration and deregistration of apprenticeship programs, in conformity with established programs approved by the Bureau of Apprenticeship Training in the U.S. Department of Labor. The council is to make an annual report on its activities to the legislature and the public. Provisions creating State and local apprenticeship committees were repealed.

Other laws. A resolution was adopted urging all public and private employers to grant their employees additional time off to allow parents to attend school with their children.

Maine

Wages. By prior law, the minimum wage rate increased from \$3.55 an hour to \$3.65, effective January 1, 1987. A bill which would have increased the minimum rate from \$3.65 to \$3.95 an hour over a 3-year period was vetoed by the Governor.

Child labor. The section of the child labor law prohibiting work by minors under age 16 in manufacturing or mechanical establishments was amended to exempt those who are employed on the grounds of such an establishment, but who are assigned nonhazardous work performed outside of any building in which manufacturing or mechanical operations are undertaken.

Equal employment opportunity. In order for a maximum age limitation in an apprenticeship agreement to be lawful, prior approval from the Human Rights Commission is now required. Approval is contingent on the existence of a reasonable relationship between the maximum age limitation and a legitimate expectation of the employer in receiving a reasonable return on the investment in an apprenticeship program.

Occupational safety and health. Contractors engaged in the removal, repair, encapsulation, or other activities involving friable asbestos must first obtain a license from the Commissioner of Environmental Protection. Certification by the Commissioner is required for asbestos abatement design consultants, evaluation specialists, project supervisors, and workers. Specific training is required for all applicants for licenses or certificates. Reciprocity agreements may be developed with other States having licensing and certification require-

ments as stringent as those provided in this law.

A section of the new law prohibiting smoking in public areas of publicly owned buildings provides that if public employees' rights provided in collective bargaining agreements are affected by the ban, they will have the right to reopen negotiations to bargain for smoking areas in non-public areas of these buildings.

Economic development. A Department of Economic and Community Development was established to encourage economic growth and development policies of the State and to coordinate the policies and programs as part of an overall economic development strategy. The Department is directed to encourage the creation and retention of quality jobs through increased private sector investment.

Employment and training. The State Job Training Coordinating Council was replaced by the Human Resource Development Council with similar duties and responsibilities for State employment and training programs. The Commissioner of Labor is to be one of the 30 members of the Council.

The State's job training partnership program was amended to provide for specific program activities to be operated by private industry councils, including retraining of displaced workers, training of workers ineligible for other programs because of household income, and general job creation programs. Individuals eligible for the program include unemployed workers, low-income persons, the working poor, displaced workers, persons having difficulty finding and keeping work, and individuals with traditional barriers to employment, including the handicapped, women, youth, and older workers.

The Commissioner of Agriculture is to establish an agricultural internship and training program to provide opportunities for on-farm and off-farm training for persons desiring to enter farming or associated employment.

Other laws. Under sunset legislation, the legislature must review the evaluations and analyses of justification reports for the programs of the Department of Labor by June 30, 1989. The Maine Labor Relations Board is scheduled for termination June 30, 1989.

Maryland

Occupational safety and health. The Commissioner of Labor and Industry is to inspect for excessive safety violations the work sites and practices of each industry

and employer which has been identified by the Workmen's Compensation Commission as having an excessive number or high rate of injuries.

Employment and training. The Departments of Economic and Employment Development and Housing and Community Development were created replacing the abolished Departments of Economic and Community Development and Employment and Training. Included in the new Department of Economic and Employment Development is the Division of Employment and Training which is responsible for administering the State's job training, placement, and service programs, the Job Training Partnership Act, and the unemployment insurance program.

The Apprenticeship Training Council may not deny any otherwise qualified application for an apprenticeship program where apprentices constitute a number equal to or less than 25 percent of the total number of apprentices and journeymen employed, except that for the purpose of equal employment opportunity it will be a number equal to or less than 50 percent of the total number employed.

Other laws. Local governments are required to provide a legal defense for employees in any action that alleges damages resulting from acts or omissions committed within the scope of employment. Employees are not personally liable for damages unless they acted with malice.

Massachusetts

Wages. By prior legislation, the minimum wage rate was increased from \$3.55 an hour to \$3.65, effective July 1, 1987. A further increase to \$3.75 is scheduled for July 1, 1988.

Rate-setting procedures under the prevailing wage law which provided that wage rates established are to be no less than the rates set in collective bargaining agreements were amended to limit this requirement to those agreements in the private construction industry.

Child labor. The age at which children may be employed in the sale or delivery of newspapers was lowered from 12 to 9. Parental permission is now required and publishers or distributors were given new responsibilities for training, orientation, and furnishing in advance written policies regarding sales or delivery. Fines were established for employer violation.

Equal employment opportunity. In a late 1986 enactment, sexual harassment of employees by employers or their agents was

specified as a form of sex discrimination and prohibited.

Occupational safety and health. The Department of Labor and Industries is to monitor, inspect, and investigate all work including construction, demolition, alteration, or repair which involves the use or handling of asbestos or material containing asbestos. The Commissioner will issue licenses for engaging in this type of work and will establish rules and regulations for the protection of the occupational health and safety of asbestos workers. The regulations will require that workers employed in such work be trained in health risks, precautionary measures, protective equipment, and other safeguards.

The Commissioner of Labor and Industries may now seek a cease-and-desist order upon finding any improperly heated workroom.

Plant closings. The division of employment security, in consultation with the division of insurance, was directed to develop recommendations on sanctions under the mature industries law to be imposed on employers who fail to either notify laid-off workers that they are eligible for extended health insurance under their existing employer-sponsored plan or fail to make health insurance premium payments on behalf of workers who have elected to continue participation. The division was to report to the legislature by September 1, 1987.

Michigan

Child labor. The provision of the child labor law establishing 14 as the minimum age for employment of minors was amended to allow children age 13 or older to be employed in farming operations involving detasseling, roguing, hoeing, or any similar act involved in the production of seed. Also, work permit requirements will not apply to minors age 13 or older employed in these farming operations during school vacation periods or when a minor is not regularly enrolled in school. An employer is to keep on file at the place of employment evidence of the age of any minor employed under this work permit exception.

Agriculture. The Department of Public Health is to report to the Department of Management and Budget and the legislature on the funded program to upgrade migratory labor housing. The Department is also to report to the legislature on the number of housing units licensed and the number of units not meeting State migrant housing license standards. Operators of

labor camps upgraded with grant funding may not convert housing units to other uses or charge rent to occupants within 3 years after receipt of the grant.

Equal employment opportunity. The Department of Public Health must report to the legislature and the Department of Management and Budget by March 1, 1988, on its affirmative action program including recruitment, training and career ladder development.

Employee testing. All applicants for employment by the State police must now submit to a controlled substance test, and the law enforcement officers and fire fighters training councils are to develop and evaluate plans for requiring controlled substance testing for applicants for basic training programs.

Minnesota

Wages. The minimum wage rate was increased for employers covered by the Federal Fair Labor Standards Act (FLSA) from \$3.35 and \$3.55 an hour on January 1, 1988, with further increases to \$3.85 to \$3.95 scheduled for January 1, 1989, and January 1, 1990. The rate for those employers not covered by the FLSA increased to \$3.50 on January 1, 1988, with further increases to \$3.65 and \$3.80 scheduled for January 1 of 2 succeeding years. Minors under age 18 are to receive rates that are 90 percent of the adult rates. Employees receiving \$35 or more in gratuities per month are to be paid \$3.35 an hour (\$3.02 for those under 18) until January 1, 1989, thereafter, the same rate as for nontipped employees.

The law regulating work activity centers for severely handicapped workers was amended to make it clear that subminimum wage rates authorized under certificates issued by the U.S. Department of Labor will be accepted under the State minimum wage law.

Hours. Public and private sector employers of more than 20 at one site must grant an unpaid leave of absence of up to 6 weeks to an employee in conjunction with the birth or adoption of a child. Employers may not retaliate against an employee for requesting or taking such leave, and employees are entitled to reinstatement in the same job or in a position of comparable duties, number of hours, and pay.

Equal employment opportunity. Mandatory retirement at age 70 was eliminated for State employees in the executive branch under the State retirement system or the teachers' retirement system, except for

those serving as faculty members or administrators with unlimited tenure at an institution of higher education. Specific mandatory retirement provisions remain in effect for correctional and law enforcement personnel. Also, more stringent requirements for compliance with affirmative action hiring goals were established for State agencies.

Accommodations for disabled job applicants which cost in excess of \$50 are no longer considered an undue hardship on the prospective employer, under the Human Rights Act which requires employers of 50 or more to make reasonable accommodations. Local human rights commissions must now advise complainants of their option to file charges under the State law if the local ordinance provides for lesser protections and remedies.

The Commissioner of Human Services is to ensure a comprehensive mental health service system, including a community support services program for the development of employability and supportive work opportunities for persons with serious and persistent mental illness.

Employee testing. Under a comprehensive new law, an employer's authority to require drug and alcohol testing of employees was limited. Job applicants may be tested only after a job offer has been made and if the same test is requested or required of all applicants conditionally offered employment for that position. Employees may be tested as part of a routine physical exam no more than once annually and with at least 2 weeks advance written notice. Employees may also be tested if there is a reasonable suspicion of drug or alcohol usage, violation of work rules relating to alcohol or drugs, or in relation to personal injuries or work-related accidents. Random testing may be required for employees in safety-sensitive positions or for employees referred for chemical dependency treatment or evaluation. Employers must adopt a written testing policy, follow specified procedures, use only licensed testing laboratories and provide for retesting if test results are positive. Employees testing positive for the first time must be given the opportunity to participate in counseling or rehabilitation, before any adverse action may be taken against them.

Labor relations. The authority to appoint special mediators, factfinding commissions, labor referees, and arbitrators under the State Labor Relations Act was transferred from the governor to the Director of Mediation Services. Provision was made for hearings before labor referees for violations of the Labor Union Democracy Act and for labor organization suspension by the director for noncompliance.

Occupational safety and health. An asbestos abatement act was adopted directing the Commissioner of Health to regulate and license persons or entities engaged in enclosing, removing, or encapsulating asbestos. Before an employee may perform asbestos-related work, a certificate must be obtained from the commissioner certifying that the employee has passed a course of training in asbestos control and removal and has demonstrated ability to perform the work safely. Employers must give at least 5 calendar days notice to the Commissioner before engaging in asbestos-related work. Discrimination against an employee who complains to or cooperates with the Commissioner in administering the act is prohibited.

Employment and training. The law regulating the operation of sheltered workshops was amended to provide for long-term employment programs on the premises of workshops, and training services on or off the premises. Provision was also made for community-based employment programs and work component programs which provide work activities on a limited scale.

Other laws. Employers are prohibited from discharging, disciplining, threatening, or otherwise discriminating against an employee who in good faith reports a violation or suspected violation of State or Federal law, who refuses to participate in any activity that the employee believes to be a violation of law, or who is requested by a public body or office to participate in an investigation, hearing, or inquiry. Employees must be provided, upon request, with the reason for an involuntary termination of employment. Employees may bring civil action to recover damages resulting from an employer violation, and may be awarded injunctive and other equitable relief.

An employer must provide immediate written notification to all employees and persons offered jobs that it has filed a petition for bankruptcy or has had an involuntary bankruptcy petition filed against it.

Leave of absence requirements for State employees elected to State or Federal public office were amended to provide that these employees may not be required to take a leave of absence upon becoming a candidate for any elected public office. Also, the requirement that employees take leave if elected to the State legislature will now be limited to times during which the legislature is in session.

Mississippi

School attendance. The Compulsory School Attendance Law which previously

provided for mandatory attendance to age 14 by the 1989-90 school year was amended to require attendance to age 17 by that date.

Background clearance. A Sex Offense Criminal Record Information Act was enacted authorizing employers to obtain sex offense criminal records on present or prospective employees or volunteers in positions having supervisory or disciplinary control over children. Employers may use this information in deciding to hire, retain, suspend, or discharge an employee or applicant. The act includes provisions limiting and restricting the release of these records and establishes penalties for violation.

Missouri

Hours. Employees of the State or political subdivisions are authorized to use sick or annual leave, or the same leave without pay granted to biological parents to take time off to arrange for the adoption of a child or to care for the child after adoption.

Occupational safety and health. The law requiring employers to provide information on toxic substances used or produced in the workplace to local fire protection services and the Department of Health was amended to extend coverage to such substances stored by the employer, and to include certain pesticides and other hazardous substances as defined in Federal Emergency Planning and Community Right-To-Know requirements. The Director of the Department of Health was authorized to add or delete substances from the list of toxic substances, after holding public hearings.

Other laws. A new law protects from employer retaliation any State employee who discloses any alleged prohibited activity under investigation or related activity or who reports a violation of law, waste of funds, mismanagement, or a specific danger to public health or safety. Protection does not apply to the knowing disclosure of false information.

Montana

Wages. The existing prohibition against tip credits was made specific within the minimum wage law, and minimum wage coverage was extended to employees covered by the Federal Fair Labor Standards Act if the State minimum wage is higher than the Federal. FLSA-covered employees remain exempt from the State overtime pay provision.

Resident managers employed in lodging establishments or personal care facilities are now specifically exempt from mini-

imum wage and overtime requirements. Also, employees paid on a commission or contract basis primarily engaged in selling advertising for a newspaper or radio or television employer are now exempt from overtime pay requirements.

The prevailing wage law was amended to require the labor commissioner to divide the State into at least 10 districts and to determine the prevailing rate of wages to be paid on public works construction projects in each district, except that heavy highway construction wage rates will be established Statewide and not taken into consideration in determining the district rates. Previously, rates were determined for the country or locality in which the work was to be performed. Standard prevailing rate of wages was defined as a weighted average wage rate based on all of the hours worked, by craft, classification or type of worker needed, on jobs of a similar character performed in the district including private or commercial projects as well as work on public projects. A \$25,000 threshold amount was established for coverage of the law.

Employee testing. Employers are prohibited from requiring job applicants to submit to a blood or urine test except for employment in hazardous work environments or in jobs in which the primary responsibility is security, public safety, or fiduciary responsibility. Blood or urine testing as a condition for continued employment is prohibited unless the employer has reason to believe that the employee's faculties are impaired on the job as a result of alcohol or illegal drug use. Prior to administering drug or alcohol tests, employers must adopt a written testing procedure containing specified safeguards.

Labor relations. Employees of local public agencies designated as head start agencies, as provided under Federal law, will now be covered by the law granting collective bargaining rights to public employees.

Private employment agencies. Administration of the employment agency regulatory law was transferred from the Department of Labor and Industry to the Department of Commerce, and authority of the administrator to investigate complaints was repealed. All complaints against employment agencies will now be forwarded to the county attorney having jurisdiction.

Occupational safety and health. Provisions, exempting from State workplace hazardous chemical lists and material safety data sheets requirements, those manufacturers and distributors regulated by and

complying with provisions of the Federal Occupational Safety and Health Administration (OSHA) standard, and those nonmanufacturing employers that adopt and comply with the OSHA standard, were repealed and replaced with a provision exempting any employer complying with the OSHA standard, whether or not regulated by it. In addition, an exemption for sealed containers of hazardous chemicals at distributor facilities was added to the existing exemption for these chemicals during transportation or while in storage at transportation terminals. Employer requirements for emergency and community information were deleted, with employers now being required to comply with the Federal Emergency Planning and Community Right-To-Know Act of 1986.

Preference. The definition of State resident for purposes of granting a preference in the award of public contracts was amended to apply to the resident bidder preference in awards or contracts let by the Department of Administration.

In addition to other provisions granting preferences for resident bidders, public contracts for the purchases of goods will be awarded to State resident bidders if the goods are manufactured in the State and the bids are not more than 5 percent higher than those of the lowest responsible nonresident bidders.

Other laws. A Wrongful Discharge from Employment Act was adopted providing an exclusive remedy. An employee who is wrongfully discharged may file an action for recovery of lost wages and fringe benefits for up to 4 years from date of discharge, plus interest. A discharge, including constructive discharge, is wrongful if it was in retaliation for the employee's refusal to violate public policy or for reporting a violation of public policy; the discharge was not for "good cause", as defined, and the employee had completed the employer's probationary period; or the employer violated the express terms of its own written personnel policy. A claim may not be filed based upon tort or express or implied contract. There is no right to damages for the employee's emotional distress, but punitive damages may be recovered if the employer engaged in actual fraud or malice. Alternative resolution of disputes by arbitration is authorized upon written agreement of the parties. The law does not apply to an employee covered by a written collective bargaining agreement or a written contract of employment for a specified term, or to a discharge covered by remedies under other specific statutes such as a nondiscrimination law.

Nebraska

Wages. The minimum wage law was amended to increase the minimum hourly rate from \$1.60 to \$3.35 effective August 29, 1987. The minimum cash wage for persons compensated primarily by way of gratuities was increased from 90 cents per hour to \$2.01, and persons employed as student learners in vocational training programs are to be paid at least 75 percent of the applicable minimum wage.

Agriculture. The Farm Labor Contractors Act was enacted under which such contractors must obtain a license from the Department of Labor and post a surety bond of at least \$5,000 to ensure the prompt payment of employees' wages and other obligations. Contractors must furnish workers written information on wages, housing, terms and conditions of employment, and workers' rights and remedies. An annual license fee of \$750 was established, with all fees to be used for the enforcement of the act.

Equal employment opportunity. Mandatory retirement may no longer be required under the retirement systems for State, county, or school employees or for judges. With the exception of tenured faculty members or law enforcement personnel, employees of public institutions of higher education are no longer required to retire at age 70.

Labor relations. A comprehensive new State Employees Collective Bargaining Act grants collective bargaining rights to non-supervisory employees of State agencies and meet-and-confer rights to supervisory employees. The law includes procedures for contract impasse resolution including factfinding, mediation, and final and binding arbitration with possible appeals to the Commission of Industrial Relations or the State Supreme Court, as well as requirements for certification, unit determination, and permissible subjects of bargaining. Unfair labor practices for both employers and employee organizations were established. A Division of Employee Relations was created within the Department of Personnel to administer the law.

The Nebraska Teachers' Professional Negotiations Act was repealed, with the Commission of Industrial Relations assuming jurisdiction over collective bargaining between and disputes involving teachers and their employers.

A new Uniform Arbitration Act was adopted establishing procedures for the enforcement of written agreements to arbitrate disputes, including those between employers and employees or between their

respective representatives. Prior provisions dealing with arbitration were repealed.

Occupational safety and health. The Nebraska Amusement Ride Act was adopted under which owners of amusement rides must obtain a permit to operate from the Commissioner of Labor. Rides must be inspected at least annually, and are subject to inspection by the Commissioner without notice at any time they are operating. A minimum age of 16 was established for amusement ride operators, and operators are required to be in attendance at all times a ride is in operation.

Nevada

Wages. The labor commissioner was authorized to revise the minimum wage rate by regulation from \$2.75 and hour up to \$3.35. Following a hearing procedure, a \$3.35 rate became effective on September 10, 1987. For minors under age 18, the rate became \$2.85. In addition, severely handicapped persons with certificates issued by the Rehabilitation Division of the Department of Human Resources were exempted from minimum wage coverage.

Equal employment opportunity. The prohibition against employment discrimination based on age 40 to 70 was amended to remove the upper age limit.

Employers who grant leave, with or without pay, or leave without loss of seniority to employees for sickness or disability because of a medical condition, must now extend the same benefits to pregnant employees.

Cities and counties were encouraged and authorized to make temporary limited appointments to positions of employment of qualified handicapped persons certified by the Rehabilitation Division of the Department of Human Resources.

Background clearance. Employers were authorized to request notice of information relating to sexual offenses against children, by an employee or prospective employee, from the central repository for records of criminal justice and may consider such information when making a decision to hire, retain, suspend, or discharge the employee. Employees must provide a signed consent to the search, be informed of the types of information being sought, and of the employer's right to seek the information as a condition of employment, and have the right to challenge the accuracy or sufficiency of any information furnished. Employers, other than voluntary organizations, will be liable to children they serve for damages suffered as a result of a sexual offense committed against them by an em-

ployee hired on or after January 1, 1988, if, at the time of hire, the employee was the subject of information relating to sexual offenses for which notice was available for dissemination and the employer failed to request notice.

Foster home operators, prospective employees, applicants for a license to operate a foster home, or residents of a foster home age 18 or older must submit to the Welfare Division of the Department of Human Resources a complete set of fingerprints and written permission to conduct a background and personal history check to determine if they have been arrested for or convicted of any crime.

Labor relations. The Local Government Employee-Management Relations Act requires binding arbitration for firefighter and police officer disputes. A provision of the act which would have eliminated this requirement for police officers on July 1, 1987, was repealed.

Materials and supplies for classrooms and the policies for the transfer and reassignment of teachers were added to the list of subjects within the scope of mandatory bargaining for local government employers.

Employment and training. To be eligible for registration and approval by the State Apprenticeship Council, proposed apprenticeship programs must conform with Federal equal employment opportunity and affirmative action requirements. In addition, the programs must contain several specific provisions including a schedule of wages, ratio of apprentices to journeymen, reasonable probationary period, a starting age of not less than 16 years, periodic review and evaluation of the apprentice's progress, and adequate and safe equipment and facilities for training. Discrimination based on religion was added to the forms of discrimination prohibited in apprenticeship agreements.

Preference. For purposes of the provision granting a preference to domestic contractors on public works contracts, domestic contractor was defined as being one who has been doing business in the State continuously for at least 3 years.

Other laws. Any employee who has been threatened with termination or terminated from a job because he or she was a juror or was summoned to serve as a juror or prospective juror may now be awarded punitive or exemplary damages up to \$50,000, and any person advising or attempting to advise another person not to appear for or serve on jury duty is guilty of a misdemeanor.

If an employer of fewer than 20 workers provides group health insurance coverage, the policy must include a provision permitting employees to continue coverage at their own expense should their employment be terminated for any reason other than gross misconduct, or if their working hours are reduced so as to make them ineligible for coverage. The right to continue coverage is to be accorded to the spouse or dependent child of employees in these situations as well as in other instances, including divorce or the employee's death. The period of continued coverage shall not exceed 18 months for an employee and 36 months for the spouse or dependent child. Premiums are not to exceed 125 percent of that charged to the employer.

New Hampshire

Wages. By prior law, the minimum hourly wage rate was increased from \$3.45 to \$3.55, effective January 1, 1988, with a further increase to \$3.65 scheduled on January 1, 1989.

The law requiring payment of health and welfare fund or pension fund contributions within 30 days of demand now requires that the labor commissioner be notified of subcontractors who fail to make payments on time, and that the commissioner, in turn, notify the prime or general contractor that such contributions are overdue. Prime or general contractors may be pursued for these contributions only after all reasonable efforts have been made to obtain them from the subcontractor.

Labor relations. The Public Employee Labor Relations Board, scheduled to be abolished by sunset legislation in July 1987, was extended to July 1, 1993.

Occupational safety and health. The July 1, 1987, expiration date for rulemaking authority granted to the labor commissioner, under the Administrative Procedure Act, over sanitation facilities and workplace safety for employees was eliminated.

Other laws. A Whistleblowers' Protection Act was adopted prohibiting both public and private sector employers from discharging, threatening, or otherwise discriminating or retaliating against employees for reporting, in good faith, violations of law or rules after first notifying their supervisor of the violation, or for participating in an investigation, hearing, or court action. Employees are also protected if they refuse to take part in an illegal activity. The labor department will enforce the act.

A 1986 health insurance law, effective January 1, 1987, forbids insurers, medical

or health service corporations, and health maintenance organizations from excluding part-time employees who work at least 15 hours a week. Such insurers must offer the same group benefits as are offered to the corresponding groups of full-time employees.

New Jersey

Wages. A new Construction Workers' Fringe Benefit Security Act provides that if a contractor or subcontractor is at least 4 weeks delinquent in payments to a fringe benefit fund and proper notice is given to the prime contractor and public or private project owner or subcontractor, as provided, the project owner is to withhold the amount claimed by the fund from the sums otherwise due the prime contractor. Procedures were prescribed for payment to the fund claiming the delinquency.

Child labor. The provision of the child labor law making vacation certificates unnecessary during the first 14 days for minors age 16 or over employed in food service, restaurants or retail occupations when schools are not in session, was amended to reduce the age to 15 or over, to extend the provision to employment in seasonal amusement establishments, and to specify that minors under age 16 are not to operate or work in or around power-driven machinery.

Minors age 12 through 17 will be permitted to work as volunteers at noncommercial recycling centers operated by municipalities or community service organizations if under adult supervision and the work is not in connection with any power driven machinery or hazardous waste products or other hazardous substances.

Equal employment opportunity. The Director of the Division on Aging in the Department of Community Affairs is to establish a Retiree Retraining and Employment Demonstration Program to develop approaches to the effective employment of retirees.

Background clearance. A Board of Education may now employ a person for up to 6 months pending completion of a criminal history records check as required by law provided the person submit a sworn statement attesting that he or she has not been convicted of any crime against children or disorderly persons offense. Persons rehired annually in substitute positions will only be required to undergo a criminal history record check upon initial employment.

Employment and training. Among changes in provisions related to job train-

ing, the criteria used in funded job training programs now specify that currently employed workers may not be displaced by a program enrollee by any means, that program enrollees may not be placed in jobs previously held by a regular worker who was terminated by the employer with the intention of hiring a worker whose wages would be subsidized, and that no funded job training program may impair existing contracts for services or collective bargaining agreements without the written concurrence of the labor organization and employer.

New Mexico

Equal employment opportunity. The Human Rights Commission, scheduled to terminate on July 1, 1987, under sunset legislation, was extended until July 1, 1993.

A Senate Memorial was adopted requesting the Human Services Department to conduct an indepth study of work incentive programs designed to promote the employment of the handicapped including job training and placement programs, possibilities of offering tax incentives to employers hiring the handicapped, and recommendations for legislative consideration in making long term improvements in various laws.

Background clearance. Financial institutions may provide written employment references with respect to illegal financial activities upon the request of another financial institution if a copy of the reference is mailed to the applicant for employment. A financial institution will not be liable in a civil action for providing an employment reference under this act unless it knowingly provides false information.

Occupational safety and health. Amendments to the Occupational Health and Safety Act were adopted to ensure that employees be given information on hazardous substances in their places of employment. Employers are to obtain, maintain, and make available during each work shift, material safety data sheets for all hazardous chemicals used in the workplace, and must provide workers with information and training on such materials.

Employment and training. A House Memorial was adopted directing the Legislative Council to have the appropriate interim committee, in conjunction with the Governor and the State's Job Training Council, coordinate and implement the Job Training and Partnership Act job training programs and other programs that have a direct bearing on employment, training, and human resources within the State.

Other laws. The Labor Department Act was enacted creating a new single, consolidated cabinet-level Labor Department, headed by a Secretary, which will consist of employment security, workmen's compensation, labor and industrial, human rights, job training, and administrative services divisions. The unified department will administer all laws and exercise all functions formerly performed by the Employment Security Department, the Office of Human Rights Commission, the Labor Commissioner, and the Workmen's Compensation Administration which were all abolished. The duties of the former Labor Commissioner will be performed by the Department's Labor and Industrial Division.

Public works construction bond requirements were repealed and replaced with new provisions including a requirement that for all contracts in excess of \$25,000 a payment bond be executed in an amount equal to 100 percent of the contract price, for the protection of all persons supplying labor and material to the contractor or subcontractors. State agencies or local public bodies awarding the contract may impose this requirement at their discretion for those contracts under \$25,000.

New York

Wages. The law providing for civil penalties for certain violations of the wage payment and minimum wage acts was extended to include violations concerning minimum wage standards for farmwork, the migrant registration law, and farm labor camp commissaries, and to permit civil penalties of up to \$2,000 for violations for reasons other than an employer's failure to pay wages, benefits, or wage supplements found to be due including recordkeeping, posting, wage statement, and other non-monetary violations.

Hours. Private or public sector employees who adopt a child are entitled to take the same leave of absence on the same terms as permitted by the employer upon the birth of an employee's child. Entitlement ceases when the adopted child reaches 5 years of age.

Equal employment opportunity. The State Civil Service Commission was authorized to classify up to 300 positions as noncompetitive and to be filled only by qualified physically or mentally handicapped armed forces veterans who served during time of war.

Labor relations. The provision for resolution of disputes in the course of collective negotiations, through mediation and bind-

ing arbitration, under the Public Employees' Fair Employment Law due to expire on July 1, 1987, was extended for 2 years.

Plant closings. A temporary program to assist dislocated workers with the payment of health insurance premiums was established in the State Insurance Fund for workers terminated from employment solely as a result of a lay-off involving 50 workers or more and who meet other eligibility criteria. By October 31, 1987, the Governor was to submit to the legislature a plan for the administration and financing of a permanent program to assist such workers with the payment of health insurance premiums.

On December 10, 1986, the Governor and business and labor leaders signed a compact to improve labor-management cooperation in the private sector and to deal with the problems of plant closings and layoffs. Under the compact, the State will use economic development funds to help laid off workers find employment, to help troubled businesses, and to provide maximum assistance to communities involved in shut-downs or major layoffs. Labor agreed to use strikes as a last resort after considering mediation, binding arbitration, and other impasse resolution mechanisms. Employers will strive to avoid layoffs using means including creation of shared work programs, uniform reductions in hours for both labor and management, furlough programs, and early retirement incentives. Employers also agree to voluntarily give advance notice of plant closings and layoffs.

North Carolina

Wages. The minimum wage law was amended to require matching increases up to \$4 an hour in the State minimum if the Federal minimum of \$3.35 is increased before June 1, 1989. Prior law provided for rate matching up to \$3.60 an hour if the Federal rate was increased before July 1, 1987.

Hours. The Legislative Research Commission was authorized to study all aspects of granting parental leave in employment.

Child labor. Any youth under age 18 having a State driver's license, valid for the type of driving involved, and who has completed an approved driver-education course may drive, as part of his or her employment, a truck weighing up to 6,000 pounds or an automobile within a 25-mile radius of the principal place of employment. Towing of vehicles is not permitted.

Employee testing. A Study Commission on the Uniform Regulation of Sub-

stance Abuse Testing was created to examine existing drug testing of job applicants and employees, to recommend procedures or regulation for the administration of tests by employers that protect both employers and employees, and to recommend legislation addressing the problems associated with establishing these standards.

Other laws. Employers are now prohibited from discharging or demoting any employees because they are called for jury duty or serve as jurors.

North Dakota

Wages. The Legislative Council was directed to study comparable worth to determine the feasibility and desirability of legislation requiring governmental entities to pay their employees based upon work of equal value.

Hours. A concurrent resolution was adopted directing the Legislative Council to study and report on the differences in employee benefits between part-time and full-time employment in the private sector and the extent to which employers may be hiring part-time workers to avoid paying economic benefits such as health and accident insurance, sick leave, vacation pay, and holiday pay.

Equal employment opportunity. A State agency may not discriminate against an employee or job applicant with respect to working conditions, workplace assignment or other privileges of employment because his or her spouse is also an employee of that agency. This will not apply where the spouse has the power to hire or fire or make performance evaluations with respect to the position involved.

Employers who hire developmentally disabled or chronically mentally ill workers may claim an income tax credit for a portion of the wages paid those individuals.

Background clearance. The Bureau of Criminal Investigation and other criminal justice agencies are to disclose and exchange criminal history record information for use in decisions to hire or retain employees.

Labor relations. Labor unions or organizations may now collect actual representation expenses from nonunion employees who specifically request in writing to use representation by the union or organization in processing grievances. Such an assessment will not be considered an abridgement of any rights guaranteed under the State right-to-work law.

A new Uniform Arbitration Act was adopted establishing procedures for the enforcement of voluntary written agreements to arbitrate disputes, including those between employers and employees or between their respective representatives. Prior provisions dealing with arbitration were repealed.

Occupational safety and health. The Employee Information Program on Hazardous Substances will no longer apply to any employer regulated under any Federal law that requires such programs, and the section authorizing the Workmen's Compensation Bureau to grant variances from the law for employers who demonstrate regulation under Federal or other State laws having such programs was repealed. The Bureau may still conduct normal safety inspections as otherwise provided by law.

Contractors and their workers engaged in asbestos abatement must be certified by the Department of Health. The Department is authorized to establish performance standards for abatement and to require training and examination of contractors and workers on safe practices.

Other laws. The law protecting employees summoned for jury duty from discharge or other adverse action was amended to also cover those subpoenaed to serve as witnesses.

Ohio

Wages. Overtime pay, compensatory time off, and exemptions from overtime provisions applicable to employees paid wholly or partially by the State or by a State-supported college or university were conformed to comparable public-sector provisions in the Federal Fair Labor Standards Act.

Public employees may now, upon written authorization, have deductions made from their wages for payment to their exclusive representative.

Equal employment opportunity. Mandatory retirement provisions for public sector employees were conformed to those prescribed by the Federal Age Discrimination in Employment Act which prohibits mandatory retirement with certain limited exceptions.

Occupational safety and health. Employers engaged in asbestos hazard abatement activities must obtain a license from the Department of Health. Employees performing this work must complete an approved course including training on such topics as health hazards, worker protection, work practices, and use and care of respira-

tors, and must obtain a certification of completion. The Public Health Council is to adopt rules including employee training standards, work practices that reduce the risk of contamination, worker protection equipment and practices and other health and safety standards for employees.

Other laws. A concurrent resolution was adopted urging the U.S. Congress to take the necessary action to ensure that corporations that go bankrupt are still responsible for meeting pension and insurance obligations of current and retired employees.

Oklahoma

Equal employment opportunity. State residents who are certified as "special handicapped persons" are exempt from entrance examinations and other specified hiring procedures required for State employment.

Occupational safety and health. State and local government agencies are to designate smoking and nonsmoking areas in all buildings owned or operated by them and used by the general public or serving as workplaces for public employees.

Oregon

Wages. Among amendments to the Wage Security Fund, established in 1985 to pay valid wage claims of employees whose employers have ceased doing business and do not have sufficient assets to pay the claims, the amount appropriated continuously from the Fund to the Commissioner of the Bureau of Labor and Industries to administer the act was increased from \$200,000 to \$700,000, and it was clarified that money recovered by the Commissioner under the act is to be returned to the Fund.

Advertisements for bids for public contracts, previously required to specify that bids received contain a statement by the bidder that State prevailing wage rate requirements are to be complied with, are now to specify also that Federal Davis-Bacon Act requirements are to be complied with for projects subject to that law.

In order to achieve the State's policy of pay equity for work of comparable value in State employment, each of the branches of State government is to adopt a neutral and objective method of determining the comparability of the value of work. Each branch is to submit a biennial report to the legislature containing proposals to upgrade undervalued classifications. A Pay Equity Adjustment Fund was created, with any appropriations to be applied as a first priority to pay adjustments for the most undervalued jobs in the lowest salary ranges. No employee is to have his or her wages re-

duced as a result of these adjustments.

Hours. Employers of 25 employees or more are now required to grant up to 12 weeks unpaid parental leave for the birth of a child or adoption of a child under 6 years of age. Employers may require employees to give at least 30 days advance notice except for unanticipated circumstances. Employees are entitled to reinstatement in the same or equivalent job, without loss of benefits, at the conclusion of the leave of absence. Administration of the law is vested in the Bureau of Labor and Industries.

Agriculture. Beginning no later than March 1, 1988, agricultural employers are required to provide adequate information to all employees about hazardous chemicals used and to which they may be exposed, to furnish protective safety equipment, and give training for employees handling hazardous chemicals. The Accident Prevention Division of the Workers' Compensation Department is to adopt rules to implement these requirements and to develop and make available basic information for employer use in informing and training employees.

Equal employment opportunity. The prohibition against employment discrimination based on age was extended to include those persons 70 and older.

The Director of Affirmative Action is to set affirmative action goals for employment of the handicapped in each division of State service.

Labor relations. Mass transit districts are now considered public employers for purposes of the law regulating public employee collective bargaining.

No State agency may require as a condition of eligibility to receive benefits or services provided by that agency that a person apply for or accept employment at any workplace where there is a dispute in progress. Also, the probation or parole status of individuals may not be revoked because the probationer or parolee fails to apply for or accept employment where a labor dispute exists.

The Department of Human Resources may not send any person on a job referral which would aid in the filling of a job opening which exists because of a labor dispute.

Private employment agencies. The employment agency regulatory law, scheduled for repeal on June 30, 1988 under sunset legislation, was continued. Also, coverage of the law was extended to executive recruitment firms, and employment counseling firms were exempted.

Occupational safety and health. The Environmental Quality Commission was directed to establish an asbestos abatement program to assure the proper and safe abatement of asbestos hazards. The program is to include criteria for contractor licensing and training and worker certification and training, standardized training courses, and procedures for inspecting asbestos abatement projects. Training courses must include material on personal and public health protection, safe techniques, and other safety and health matters. Only licensed contractors and employees with certificates are to work on asbestos abatement projects.

Employment and training. An Employment and Training Policy Board was created to oversee and facilitate the coordination of the State's employment and training programs, and the Job Training Coordinating Council was established to assist in implementing and overseeing job training programs pursuant to the Federal Job Training Partnership Act.

Preference. The law governing public contracts and purchasing was amended to provide that, in determining the lowest responsible bidder, public contracting agencies are to add a percent increase on the bid of a nonresident bidder equal to the percent, if any, of the preference given to that bidder in the State in which the bidder resides. Each bid is to contain a statement as to whether the bidder is an Oregon resident.

Other laws. An Employee Ownership Opportunity Act was passed to encourage the formation of employee-owned enterprises and to specifically include such businesses within the scope of any business assistance program operated by the State or political subdivisions. The Economic Development Department is to provide technical assistance on the establishment and successful management of these enterprises.

The Department of Commerce was abolished and its duties and functions transferred to other agencies. Enforcement of laws regulating service of consumer electronic entertainment equipment was transferred to the Bureau of Labor and Industries.

Pennsylvania

Equal employment opportunity. Among amendments adopted in late 1986 to the Human Relations Act, the State and local Human Relations Commissions must now notify each other of complaints each re-

ceives within their jurisdiction; the State Human Relations Commission is specifically prohibited from authorizing imposition of remedial quotas in cases involving hiring or promoting of public sector employees; and voluntary adoption of affirmative action plans is permitted. The State Commission, scheduled for termination under sunset legislation, was continued until December 31, 1991.

Employment and training. A new Dislocated Worker Training Assistance Act provides for payments to dislocated workers for support services necessary for them to enroll in and remain in job training programs funded under the Federal Job Training Partnership Act.

Preference. A new law was adopted in late 1986 requiring on public contracts exceeding \$1,500 that resident bidders be granted preference over nonresident bidders from any State that gives or requires a preference to bidders from that State in an amount equal to the amount of the preference applied by the State of the nonresident bidder. Also, purchases are not to be made of products from any State which prohibits the purchase of out-of-State products. These provisions will not be applicable when their use could jeopardize the receipt of Federal funds.

Other laws. A Whistleblower Law was enacted in December 1986, prohibiting public employers from discharging, threatening, discriminating, or retaliating against a public employee who makes a good faith report, or is about to report wrongdoing or waste, or who is requested to participate in an investigation, hearing or inquiry held by an appropriate authority or in a court action.

The Department of Public Welfare was authorized to establish a program of grants to various organizations for the implementation of projects to provide employment opportunities for transitionally needy welfare recipients and chronically needy recipients who are participating in drug or alcohol treatment programs and who have barriers to employment or special needs. The programs are to include work experience projects, integrated training projects, on-the-job training, and supported work.

In a separate late 1986 enactment, employers were prohibited from discharging, penalizing, or threatening an employee who attends court by reason of being a victim of, or a witness to, a crime. Employers need not compensate employees for employment time lost because of such court attendance.

Puerto Rico

Wages. Mandatory decree revisions, is-

sued by the Commonwealth Minimum Wage Board, increased minimum rates in the paper, paper products, printing, and publishing industry from \$2.20 to \$3.35 an hour effective May 16, 1987; in the alcoholic beverage and industrial alcohol industry from \$2.30 to \$3.35 an hour effective March 21, 1987; and in the food and related products industry from a range of a \$1.60 to \$2.50 per hour to a range of \$2.60 to \$3.35 effective January 5, 1987. The minimum number of hours that must be worked in a month to be eligible for accrual of vacation time and sick leave was reduced in each of these industries, and the rates of accrual of vacation time and sick leave were increased for certain employees in the paper industry. An addition to each of these mandatory decree revisions as well as one for the theaters and movie houses industry provided that in the event an employee ceases work the employer is to pay for any vacation time accumulated.

Rhode Island

Wages. By prior law, the basic minimum hourly wage rate was increased from \$3.55 per hour to \$3.65 on July 1, 1987.

The minimum wage law was amended to provide that in any workweek in which an employee of a retail establishment is employed on a Sunday and/or holiday at a rate of time and one-half his or her regular rate (as required by another law), such hours are to be excluded when calculating premium overtime pay entitlement under the minimum wage law.

Employers who separate employees from the payroll may now pay them their unpaid wages or compensation on the next regular payday rather than within 24 hours of separation as before. For those workers separated after completing at least 1 year of service, any vacation pay accrued will become wages due. The requirement that employees separated because of a business closure, merger, or move receive pay for holiday and vacation pay and insurance benefits due them was amended to now apply only to those with 1 year or more of service.

Contractors and subcontractors who perform work on public works projects are now required to furnish the Director of Labor with a certified copy of their payroll records weekly. Previously, such records were available to the Director only upon demand following a written complaint that the required prevailing wage rates were not being paid. The Director of Labor was given authority to adopt reasonable rules and regulations to enforce this provision.

Hours. Private sector employers of 50 or more, any political subdivision of the State

that employs 30 or more, and any State agency that employs any employees must grant up to 13 consecutive weeks unpaid parental leave in any 2-year period to employees who provide at least 30-days notice. Parental leave is to be granted for the birth or adoption of a child or due to the serious illness of a child. Employees exercising their rights to parental leave are entitled to reinstatement in the same or equivalent position and employers must maintain any existing health benefits for the duration of the employee's leave. Employers are prohibited from retaliating against any employee for exercising any right under the law or for opposing any unlawful practices.

Child labor. Fourteen and 15-year-old children, who could previously be employed only between the hours of 6 a.m. and 7 p.m., will now be permitted to work until 9 p.m. during school vacations.

Equal employment opportunity. Where necessary to comply with Federally mandated affirmative action programs, employers, employment agencies, unions, and others may now elicit information and maintain records on information relating to the race, color, religion, sex, handicap, age, or country of ancestral origin of an applicant for a job or membership.

The special legislative commission to study the Rhode Island Affirmative Action Program was reinstated and authorized to continue its study and to make a report to the legislature by February 24, 1988.

Employee testing. Drug testing of employees as a condition of continued employment is now prohibited, except if the employer has reasonable grounds to believe that the employee's use of controlled substances is impairing the ability to perform the job, and the testing is conducted in conjunction with a bona fide rehabilitation program. Samples must be taken in privacy, positive test results confirmed by scientifically accurate means, and employees must be provided the opportunity to have samples independently tested or evaluated and a reasonable opportunity to rebut or explain the results. In civil action, violations may result in the granting of actual and punitive damages, attorneys' fees and costs, and injunctive relief. Violations also constitute a misdemeanor.

Worker privacy. The law banning the use of lie detector tests as a condition of employment or continued employment was amended to define the term lie detector test to include tests utilizing polygraph or similar devices and written exams. Written examinations may be used as long as the

results are not used to form the primary basis for an employment decision.

Occupational safety and health. The Hazardous Substances Right-to-Know Act was amended to require that, in addition to maintaining a list of hazardous substances to which employees may be exposed in the workplace, a poster be displayed at conspicuous locations listing the rights of employees under the Act and a statement that the Department of Labor may be contacted for further information.

Employers must have available for the department of labor, employees, employee organizations, treating physicians, and local fire departments a written outline of their Right-to-Know training program including how workers will be informed of chemical hazards, nature of protective measures adopted for workers' protection, nature of the State law, and how labeling, lists, and the material safety data sheet program works.

Plant closings. A resolution was adopted extending the life of the special legislative commission created by the General Assembly in 1986 to study the feasibility of employee ownership of businesses including those that would otherwise close. The commission will now make a report to the General Assembly by February 2, 1988.

Other laws. A Senate resolution was adopted requesting the State Department of Labor to investigate the labor laws to determine how they pertain to the practice of laying off employees just prior to being vested.

South Carolina

Wages. State employees and retirees may, upon request, have deductions taken from their wages or retirement benefits for the payment of membership dues to the South Carolina State Employees' Association. No deduction is permitted if the association at any time engages in collective bargaining or encourages its members to strike.

South Dakota

Equal employment opportunity. Career State employees and teachers, except for tenured employees at State colleges, are no longer required to retire at age 70. The prohibition against age discrimination of State executive branch and law enforcement personnel was amended to cover all those age 40 and over instead of those between 18 and 70.

Labor relations. The law requiring meetings of public agencies to be open was

amended to now allow executive or closed meetings to prepare for contract negotiations or negotiating with employees or employee representatives.

Preference. It will now be mandatory rather than optional for resident bidders to receive a preference on public contracts against bidders from any other State which enforces or has a preference for resident bidders. The amount of the preference given is to be equal to the preference in the other States.

Tennessee

Hours. Full-time female employees employed for at least 12 months by employers of 100 or more are entitled to receive up to 4 months maternity leave for the birth or adoption of a child. The leave may be with or without pay at the employer's discretion. With certain exceptions, employees are entitled to reinstatement in the same or similar job without loss of accumulated benefits. Enforcement of the act is through the courts.

Equal employment opportunity. The prohibition against discrimination in public employment on the basis of handicap was extended to include private employers, and infectious, contagious, or transmittable diseases or conditions were specifically excluded from the definition of handicap.

Plant closings. A joint resolution was adopted requesting that a special legislative committee be appointed to conduct a comprehensive study of the impact major permanent job cutbacks and plant closings have on the economy of the State and to make recommendations to the General Assembly by April 30, 1988.

Other laws. The Institute for Labor Studies, created within the Department of Labor to develop an association between labor and higher education for the development and delivery of educational services to workers, scheduled to be abolished by sunset legislation, was extended to June 30, 1994. In addition, the Institute was authorized to charge reasonable fees for its educational programs. If sufficient revenue is collected from these fees, then the Institute's programs are to include the training of labor and management in communication skills and conflict resolution.

Texas

Wages. The minimum wage rate was increased from \$1.40 to \$3.35 an hour, effective September 1, 1987, for farm and nonfarm employment. The law continues to exempt employment covered by the Fed-

eral Fair Labor Standards Act, but other coverage provisions were changed. For example, agricultural employers who use less than 300 man-days of labor in any calendar quarter of the preceding year are no longer exempt. Also eliminated was the former lower weekly rate for an employee living on the premises in employer-furnished quarters and the noncoverage of such an employee's family. As before, the Commissioner of Agriculture is responsible for establishing agricultural piece rates and the Department of Labor and Standards for the dissemination of information.

Hours of work and overtime provisions for fire department personnel providing fire fighting and emergency medical services in cities of more than 10,000 population, were conformed to the provisions of the Federal Fair Labor Standards Act. Such personnel in cities of more than 1.5 million population may not work more than an average of 46.7 hours per week, and must be paid time and one-half after 48 hours per week. In all cities of over 10,000 population, the hours of fire department personnel not performing emergency services, and police officers are limited to the weekly hours of nonpublic safety city workers.

Child labor. The penal code was amended to create the offense of employment harmful to minors younger than age 17. It will be a Class A misdemeanor for any person to employ, authorize, or induce a child to work in a sexually oriented commercial activity or in any place of business permitting, requesting, or requiring a child to work nude or topless.

Agriculture. A new law was adopted to ensure that agricultural workers employed by covered employers have access to information concerning hazardous chemicals to which they may be exposed. Employers are to compile and maintain workplace chemical lists containing specified information by crop for each chemical. Employers are also to maintain and make available to employees current material safety data sheets for each chemical purchased. The Department of Agriculture is to develop and provide ongoing training programs for agricultural laborers including information on proper storage and handling of chemicals, protective clothing, first aid treatment, general safety, and the acute and chronic affects of chemicals, and employers are to provide any special protective clothing or devices recommended. Employers are prohibited from retaliating against a worker who files a complaint, assists in an inspection or participates in a hearing under the act.

Background clearance. The Texas School for the Blind was authorized to ob-

tain criminal information records from the Department of Public Safety, the Federal Bureau of Investigation and other law enforcement agencies to investigate persons applying for or employed in positions involving the direct delivery of care to children. A person may be denied employment or discharged if a complete set of fingerprints is not submitted upon request.

Provision was also made for criminal conviction checks of prospective employees of nursing or custodial care homes by the Department of Public Safety. Applicants must be informed of the requirement to conduct a criminal investigation check but may be hired temporarily pending the results.

The authority of the Department of Mental Health and Mental Retardation and community centers to obtain criminal conviction data on applicants for employment will now also apply to employees of a person who contracts with the department or a center to provide residential services to mentally ill patients or mentally retarded clients, if the employee's work involves direct patient or client contact.

Worker privacy. Officers commissioned by the Department of Public Safety may not be suspended, terminated, or subjected to any other form of discrimination because of their refusal to take a polygraph examination.

Permanent personnel files are to be maintained on each firefighter and police officer in cities of 1,500,000 population or more. The files are to contain any letter, memorandum, or document relating to such actions as commendations, honors, misconduct, disciplinary measures, or periodic evaluations. Employees are entitled to receive upon request a copy of any such item placed in the file, and to make a written response to any entry. Information is not to be released without the employees' permission unless required by law.

Private employment agencies. The Labor Agency Law regulating persons procuring employment for unskilled laborers and agricultural workers was repealed.

The employment agency licensing law was amended to prohibit personnel services from imposing any fees on applicants until employment has been accepted, and the Commissioner of the Department of Labor and Standards was specifically authorized to enforce the prohibition. The law now specifically covers executive search or consulting services, overseas placement services, job listing firms, and resume services that provide job market investigation, research, or evaluation.

A new law was adopted regulating the activities of career counseling services. A certificate of authority must be obtained

from the Commissioner of Labor and Standards, and a \$10,000 bond filed by the service. Such firms may not offer or imply any guarantee that a job will be obtained for a client, and also must adopt a program for consumer complaint resolution. No contract may be signed until the service has held at least two interviews with the prospective client and clients may cancel any contract within 3 days of signing.

Another new law requires athlete agents to register with the Secretary of State. Any agents entering into financial services contracts with athletes must also post a \$100,000 surety bond. Specific contract, advertising and recordkeeping requirements were established and certain undesirable practices were prohibited.

School districts are no longer prohibited from listing job opportunities with private employment agencies, from paying agency fees, or from employing any applicant referred by an agency, but may not contract to use an agency as a sole method of employment procurement.

Occupational safety and health. In determining who is a responsible bidder on public works construction contracts, public agencies may now take into account the safety record of bidders.

A person may not engage in the business of removing asbestos from or encapsulating asbestos in a public building unless licensed by the Department of Health. Qualifications of licensure include ensuring that employees are familiar with Federal standards for such work and have completed a course of instruction approved by the U.S. Environmental Protection Agency, proving capability of performing the work, and having access to at least one appropriate disposal site. Employees of the licensed contractor must register with the Department. Notice in writing is to be given to the Department at least 10 days prior to beginning a removal or encapsulation project.

All public construction projects requiring trench excavations exceeding a depth of 5 feet must provide for adequate safety systems meeting Occupational Safety and Health Administration standards.

Employment and training. Among the functions of the newly created Department of Commerce is primary responsibility for attracting and locating new businesses in the State and for implementing and managing the job-training program and other duties previously performed by the Department of Community Affairs in administering the State Job-Training Partnership Act. Administration of the Texas Enterprise Zone Act was also transferred to the new Department from the Economic Development Commission and the Enterprise Zone

Board. The Department will be governed by a six-member Board appointed by the governor and is to employ an executive director.

Preference. When two identical bids or more are submitted for a city or district contract, the bid of a resident bidder will be selected over that of a nonresident.

Other laws. A Child Day Care Advisory Committee was created to advise the Texas Employment Commission on day care initiatives for public and private employers and employees, on options for including day care as a State employee benefit, and on other employment-related day care issues. The Commission was authorized to provide technical assistance to State agencies and to public and private employers regarding offering child day care as an employee benefit.

A concurrent resolution was adopted asking that a special committee be established to study the organization and structure of the State agencies in the executive branch and to recommend policies, procedures, and related areas of management improvement. Among its considerations, the committee is to consider the feasibility of combining the Texas Employment Commission, the Committee on Human Rights, the Industrial Accident Board, and the Department of Labor and Standards to create a new Department of Labor. A written report including its findings, recommendations, and drafts of any proposed legislation necessary to implement its recommendations is to be submitted to the legislature.

Utah

Wages. The \$1,000 ceiling was removed on acceptance of wage claims by the Industrial Commission and on the preferred status of individual wage claims in cases of court seizure of assets or bankruptcy. The lowest wage claim that the Commission may accept was set at \$50. The Commission was authorized to enter into reciprocal agreements with agencies in other States for the collection of wage claims.

Requirements for the posting of security to guarantee the payment of wages for mining employees were repealed.

Equal employment opportunity. The Antidiscrimination Act was amended to extend coverage of the age discrimination prohibition to those age 70 and over instead of only those between 40 and 70. Mandatory retirement is no longer permitted, except that certain executives and high policymaking employees may be required to retire at age 65.

Employee testing. Private sector employers, public utilities, and transit districts may require testing of employees and prospective employees for the presence of drugs or alcohol within the terms of a written policy distributed to employees and available to job applicants. Samples may be collected and tested to investigate possible individual employee impairment, workplace accidents, or theft, for the maintenance of employee or public safety, productivity, quality of products or services, or security of property or information. Specific testing procedures must be followed, and employers and management in general must submit to testing themselves on a periodic basis. Test results may be used as the basis for adverse personnel actions.

Occupational safety and health. The Executive Directors of the Departments of Public Safety and Health were designated as the Hazardous Chemical Emergency Response Commission to carry out the requirements of the Federal Emergency Planning and Community Right-to-Know Act of 1986. The Department of Public Safety was assigned planning responsibilities and the Department of Health is to receive, process, and manage hazardous chemical information and notifications.

Various statutory mine safety provisions were repealed, and the Industrial Commission was directed to adopt rules that substantially incorporate Federal coal mine safety and health standards, including those promulgated under the Federal Mine Safety and Health Act of 1977. Coal mine operators must submit to the Industrial Commission an annual report, including a written emergency preparedness plan.

Other laws. A resolution directed the Legislative Management Committee to assign appropriate interim committees to study, and make recommendations for legislative action, several labor and other subjects including whether the State Industrial Commission should be replaced by a division and division director; ways to strengthen the collaboration between local Chambers of Commerce, local government, business and industry, and educational institutions to enhance the State's economic climate; ways to encourage the growth of high technology industry; to receive and evaluate a report from the Board of Vocational Education on the Displaced Homemaker Program; and to study preferences for State employers on public contracts.

Vermont

Wages. By prior law, the minimum hourly wage rate was increased from \$3.45

to \$3.55, effective July 1, 1987, with a further increase to \$3.65 scheduled on July 1, 1988.

Child labor. Various amendments were made to the child labor law with respect to employment of children as actors or performers in motion pictures, theatrical productions, radio or television. The ban on employment under age 14 will not apply to these children, those under age 16 may be employed until midnight instead of 7 p.m. as otherwise provided, and the medical certificate requirement for obtaining an employment certificate may be waived by the Commissioner of Labor. The Commissioner of Education must approve the educational program being provided to any such child and employment of this kind may not exceed 90 days during the school year.

Equal employment opportunity. Among other changes to the municipal employees retirement system, retirement at age 70 is no longer mandatory.

Employee testing. Private and public employers and employment agencies are prohibited from requesting or requiring job applicants to submit to a drug test except that employers may require a test only after a conditional offer of employment is made, advance notice is given, and the testing is done in conjunction with a comprehensive physical exam. Employees may not be tested except for probable cause and only if an employee assistance program for alcohol or drug abuse is available. Employees whose test results are positive may not be terminated if they agree to participate and successfully complete the employee assistance program. A subsequent positive test may result in dismissal. All permitted tests must follow specified procedures, and employees or applicants must have the opportunity for retesting if the original test is positive.

Occupational safety and health. All employers are to establish or negotiate a smoking policy which prohibits smoking throughout the workplace or restricts smoking to designated enclosed areas. Smoking may be permitted in designated unenclosed areas if it will not be a physical irritation to any nonsmoking employee and three-fourths of the employees agree. Employers are prohibited from discharging or disciplining an employee because the employee assists in the supervision or enforcement of the law.

Other laws. A 1986 law provided that any employee whose group hospital and

medical insurance would end because of the termination of employment, for reasons other than misconduct, is to be entitled to continue this coverage for up to 6 months by paying the group rate premiums. These employees also have the option of having a converted policy issued to them by the group policy insurer.

The Architectural Barrier Compliance Board was reorganized with the Commissioner of Labor and Industry becoming chairperson in place of the State Buildings Commissioner. A representative of the labor department previously served on the Board.

Virgin Islands

Plant closings. Employers of at least 10 employees or more closing a plant or reducing employment by at least 50 percent must give at least 90 days advance notice to the employees, their union, and the Commissioner of Labor. Affected employees are entitled to a severance payment of 1 week's pay for every year of service with the employer, and must be given permanent preference in hiring at other workplaces of the employer. Employees affected by a plant closing have the right of first refusal to purchase the facility within 90 days of the employer's notice. Group disability insurance policies must provide that in the event of a plant closing, insurance will continue for 90 days, with premiums paid in the same manner as before the closing.

Preference. The law requiring hiring preference for local residents on public works projects was amended to require that all job vacancies be listed with the Virgin Islands Employment Service.

Other laws. A wrongful discharge law was enacted under which the discharge of an employee for reasons other than those specifically enumerated is considered to be wrongful. The exceptions include dismissal for negligent work, continuous absences, incompetence or inefficiency, use of intoxicants or controlled substances which interfere with work performance, insubordination, and dishonesty. Employees discharged for other reasons may file a complaint with the Commissioner of Labor who may hold a hearing and order reinstatement and backpay if warranted. Employees may also bring court action for compensatory and punitive damages. The law does not apply to dismissals caused by business closings or general cutbacks in the work force because of economic hardship.

Virginia

Agriculture. The State Department of Labor and Industry rather than the Virginia

Employment Board is now to provide staff support to the Migrant and Seasonal Farmworkers Board and serve as fiscal agent for any funds received.

Equal employment opportunity. The Virginia Human Rights Act was enacted under which conduct violating State law governing discrimination or Title VII of the Federal Civil Rights Act of 1964 or the Federal Fair Labor Standards Act on the basis of race, color, religion, national origin, sex, age, marital status, or disability is considered unlawful. A Council on Human Rights was created, with a Human Rights Director, all appointed by the Governor. Within Council guidelines, the Director is authorized to accept, investigate, and conciliate complaints, and the Council is empowered to receive, investigate, seek to conciliate, refer to another agency, hold hearings, and make findings and recommendations upon complaints. With the approval of the Attorney General, the Council may seek, through appropriate enforcement authorities, prevention of or relief from alleged unlawful discriminatory practices.

Local governments were authorized to enact municipal or county human rights ordinances which are not inconsistent with nor more stringent than State law.

State employees and professional or clerical employees of county, city, or other local public school boards are no longer required to retire at age 70.

The legislature adopted a resolution asking that a joint subcommittee be established to evaluate the supported employment program currently serving the mentally disabled, and to determine the feasibility of including the physically disabled in the program. A report of the subcommittee's recommendations is to be made to the 1988 General Assembly.

Labor relations. Employees of the Metropolitan Washington Airports Authority may not participate in any strike or assert any right to strike against the Authority.

Background clearance. Applicants for a license to operate a child-care facility are to provide the Commissioner of Public Welfare with a sworn statement on any past convictions or pending charges for offenses involving criminal sexual assault or taking indecent liberties with children. Any person wishing to work at such a licensed facility is to provide it and the Commissioner with a similar sworn statement. A statement by prospective employees may also be required by unlicensed facilities.

Occupational safety and health. Admin-

istrative search warrants for inspections of workplaces under occupational safety and health laws may be issued by the courts based upon a petition demonstrating probable cause.

Cases for civil penalties of up to \$10,000 per violation arising under the State occupational safety and health laws or standards may be tried and decided by the general district court.

After July 1, 1988, contractors engaged in removing or encapsulating asbestos must obtain a license from the Department of Commerce, and all employees coming into contact with asbestos must obtain an asbestos worker's license. The Department of Commerce is authorized to approve training courses for license applicants and to develop an examination for testing them. Contractors must notify the Department of Labor and Industry prior to undertaking each asbestos project, and the Department is to conduct at least one onsite inspection of each licensed contractor's procedures. Employers are prohibited from discriminating against or otherwise penalizing any employee who complains to or cooperates with the Department of Commerce or any other governmental agency in conjunction with this act.

Surface mining operations will now be inspected at least every 180 days rather than at least every 90 days as before. Inspections at least every 90 days are still required of underground mine operations except that those meeting specified safety and other qualifications will automatically be considered for a reduced number of inspections each year up to 50 percent of the normal inspections. A provision for reduced inspections of certain other mining operations was repealed.

In addition to other powers and duties, the Commissioner of Labor and Industry will now serve as executive officer of the Virginia Safety and Health Codes Board and of the Apprenticeship Council, with responsibility to ensure that the regulations are carried out. The Commissioner of the Employment Commission was added to the ex officio membership of the Apprenticeship Council.

Employment and training. Separate resolutions urged the Governor's Council on Employment and Training to assume leadership in requesting business and industry to extend employment and training incentives and opportunities to teenage parents and other at-risk youth, and requested the State Department of Education to explore and utilize its cooperative linkages with business and industry to provide work-study and training opportunities for these individuals.

Washington

Wages. The labor commissioner may now bring legal action to collect unpaid minimum wages and prevailing wages for all underpaid employees (instead of only for those who have filed wage claims and who are financially unable to employ counsel), and was authorized to conduct investigations to ensure employer compliance with the prevailing wage, minimum wage, and wage payment/wage collection acts where a violation is suspected.

Private parties who build new facilities for State agencies, which contract to rent, lease, or purchase at least 80 percent of the facility to the agency, must comply with the State law requiring the payment of prevailing wages on public works.

Agriculture. Persons bringing suit against the surety bonds or deposits filed by farm labor contractors are no longer required to first obtain a judgment against the contractor prior to filing suit. Wage claims, including employee benefits, are specifically the first priority claim if total claims exceed the amount of the bond.

Equal employment opportunity. A disability accommodation revolving fund was established for the use of State agencies in accommodating the unanticipated jobsite or equipment needs of disabled State employees.

The Employment Security Department was directed to establish an information clearinghouse for use by disabled persons and private and public sector employees. Information is to be provided and published on services available to assist disabled persons in their training and employment needs, and incentive programs and services available to employers of disabled workers. An interagency task force was created to develop and implement recommendations to promote greater use of disabled workers in the work force, greater interagency program coordination, and improved services to the disabled and prospective and current employers.

A resolution was adopted directing the Governor's Committee on Disability Issues and Employment and the Developmental Disabilities Planning Council to report to the governor and the legislature, by January 1, 1988, on the progress made in implementing the Committee's recommendations directed toward the achievement of employment, independence, and economic well-being by citizens of disability.

Background clearance. The State Patrol Criminal Identification System was authorized to disclose a prospective employee's record for convictions of offenses

against persons, adjudications of child abuse in a civil action, and disciplinary board final decisions to the State Board of Education, law enforcement agencies, the Department of Social and Health Services, and to any business or organization that educates, trains, treats, supervises, or provides recreation to developmentally disabled persons or children under age 16. Applicants may be employed on a conditional basis pending completion of such a background investigation.

Labor relations. Academic employees of community colleges now have collective bargaining rather than meet and confer rights. Other major changes in the law regulating community college negotiations include establishing employer and employee organization unfair labor practices, and permitting the negotiation of union security provisions other than the closed shop. Strikes are prohibited.

The Public Employees' Collective Bargaining Act was amended to cover University of Washington printing craft employees in the Department of Printing.

Members of the State patrol are now covered by the State Public Employees' Collective Bargaining Act; unlike other covered employees, they may not bargain over wages and wage-related matters. Fact-finding and mediation are provided for in the event of negotiation impasse and strikes are prohibited.

Employment and training. The State Youth Employment Exchange created within the employment security department to help unemployed young adults obtain available job opportunities in both public and private agencies was renamed the Washington Service Corps. Programs of educational assistance were added to existing job training and placement programs and a program emphasis in distressed areas of high unemployment and low family income was mandated.

Other laws. A new law was enacted authorizing and regulating employee cooperative corporations. The Department of Community Development is to include an employee ownership program within its existing technical assistance programs. This program is to provide technical assistance and conduct educational programs on employee ownership and self-management.

Employers are required to arrange em-

ployees' worktime to allow each employee up to 2 hours for voting on primary or election days during the time the polls are open. If the employee's work schedule does not allow 2 free hours, an employer is required to grant up to 2 hours with pay during the employee's work schedule for voting purposes. These provisions will not apply if there is sufficient time for employees to submit absentee ballots following the scheduling of work hours.

West Virginia

Equal employment opportunity. The prohibition against age discrimination in public and private employment now applies to all persons over age 40 instead of those between age 40 and 65. The time limit for filing complaints of discrimination with the Human Rights Commission was extended from 90 to 180 days after the alleged act of discrimination.

Occupational safety and health. A comprehensive Occupational Safety and Health Act was enacted for public State employment administered by a new Division of Occupational Safety and Health within the Department of Labor. The Commissioner of Labor is to provide for the adoption of all standards of the Federal Occupational Safety and Health Act of 1970, and of additional or more stringent standards as deemed advisable. Among other provisions, the Commissioner is authorized to make inspections and to issue citations, variances and other determinations, subject to appeal to a governor-appointed Review Commission, and subsequent judicial review. The Labor Commissioner is to provide for coordination with the workers' compensation commissioner. The law does not apply to the Department of Corrections, the Department of Health, and the Legislature. Political subdivisions have the option to elect coverage.

Coal miners have the right to refuse to work in an area or under conditions which they believe to be unsafe. Changes were made in the requirements or procedures for testing for gases, haulage equipment, protective equipment, and fire protection. Mine operators must now provide a copy of the proposed annual ventilation plan to the miners' representative at least 10 days before it is submitted.

Other laws. The Department of Labor, scheduled to terminate on July 1, 1987

under sunset legislation, was extended to July 1, 1988.

Employers are prohibited from discharging an employee who loses time from work as a result of emergency duty as a volunteer firefighter.

Wisconsin

Wages. The State basic minimum wage rate was increased administratively from \$3.25 to \$3.35 per hour effective September 1, 1987. The rate for minors under age 18 was increased from \$2.90 to \$3, the rate for tipped employees rose from \$1.95 to \$2.01 (from \$1.65 to \$1.71 for minors), and the hourly rate for agricultural workers was increased from \$3.05 to \$3.15 (from \$2.70 to \$2.80 for minors).

Separate legislative attempts to increase the basic minimum wage rate in two steps to \$3.85 per hour by January 1989 passed the legislature but were vetoed by the Governor.

Wyoming

Wages. Overtime pay of time and one-half the regular hourly rate for laborers, mechanics, or workmen working on public works projects, previously required for all work over 8 hours a day, will now be required instead for hours worked in excess of 10 a day or 40 a week.

Under the State prevailing wage law, the definition of locality for purposes of establishing prevailing wage rates on public construction was changed from nine judicial districts to four geographic districts.

Courts issuing a money judgment against an individual may now order a continuing wage garnishment for payment. The maximum portion of disposable income subject to continuing garnishment is the same as under the Federal wage garnishment law, and employers are prohibited from discharging an employee because a creditor has subjected or attempted to subject an employee's earnings to a continuing garnishment.

Preference. The law granting resident contractors preference in the awarding of public contracts was amended to clarify the definition of resident and to require the labor commissioner to certify residency and enforce the law and authorize the commissioner to issue certain regulations. The labor commissioner was also directed to enforce the law providing a preference for State laborers.

FOOTNOTES

¹Unemployment insurance and workers' compensation are not within the scope of this article, which is based on information received by November 5, 1987. Separate articles on each of these subjects are also published in the *Monthly Labor Review*.

²New asbestos abatement laws were enacted in Arizona, Colorado, Connecticut, Delaware, Florida, Hawaii, Illinois, Maine, Massachusetts, Minnesota, North Dakota, Ohio, Oregon, Texas, and Virginia. Amendments were made to prior laws in Arkansas and Georgia.