

State labor legislation enacted in 2003

Minimum wage rates, child labor, employment discrimination, crime victim protection, and military re-employment rights were among major legislation enacted or revised during the year

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A greater volume of labor legislation was enacted in 2003 than in recent years, despite the fact that budget concerns were a priority for many States.¹ California, Illinois, and Texas enacted particularly large numbers of laws.

Legislation enacted addressed several areas of employment standards and included many important measures: increased minimum wage rates; expanded coverage of family and medical leave laws; additional prohibitions on children working in hazardous occupations; and new measures addressing workplace security.

Additional States provided leave for employees who are crime victims; protected the earnings of children working in the entertainment industry; eased regulation of the private employment agency industry; and protected the jobs of reserve and guard members returning from military active duty.

New protections from discrimination were enacted for transgender individuals, prohibitions were enacted on the purchase of goods produced through forced labor, and a California law requires employers to provide healthcare benefits.

This article summarizes significant State labor legislation enacted in 2003. It does not, however, cover legislation on occupational safety and health, employment and training, labor relations, employee background clearance, economic development, and local living wage ordinances. Articles reporting on changes in unemployment insurance and workers' compensation laws appear separately in this issue.

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Wages. Minimum wage rates increased as the result of new legislation in Illinois, New Mexico, Rhode Island, and Vermont; as a result of previous laws in Alaska, Connecticut, Hawaii, and Maine; and as a result of prior ballot measures in Oregon and Washington. In Alaska, a 2002 enactment that provided for indexed rate increases was repealed.

As of January 1, 2004, minimum wage rates were higher than the Federal standard in Alaska, California, Connecticut, Delaware, the District of Columbia, Hawaii, Illinois, Maine, Massachusetts, Oregon, Rhode Island, Vermont, and Washington. Of the 43 States with minimum wage laws, only 2 have rates lower than the Federal rate of \$5.15 per hour.²

Santa Fe, New Mexico, and San Francisco, California, adopted local minimum wage ordinances. Conversely, a new Texas law provides that State law supersedes a wage established in an ordinance, and, in Florida, political subdivisions are barred from establishing, or otherwise requiring an employer to pay a minimum wage, other than a Federal minimum wage, or applying a Federal minimum wage to those wages exempt from Federal coverage.

Enactments in Utah and Vermont changed the amount of the tip credit authorized for employers to meet a portion of the minimum wage.

New minimum wage and overtime law exemptions were enacted in Arkansas and Montana, and a new overtime exemption was enacted in Alaska.

A Maine law permits State employees to be awarded compensatory time in lieu of overtime pay.

Prevailing wage laws pertaining to public works construction projects currently exist in 32 States and the Federal Government.³ This year, as usual, a mix of laws was enacted, with some strengthening and with others weakening existing laws.

The threshold amount for coverage was increased by legislation in Maine and administratively in Ohio and Wisconsin. Exemptions from coverage were enacted in Montana and Oregon, while law coverage was expanded in California, Illinois, Nevada, and New Jersey.

The Montana law was amended to require that additional trades be included in the prevailing wage survey, and the Washington Department of Labor is to establish a goal of conducting surveys for each trade every 3 years.

Among other developments, primary contractors are to be identified in Alaska; new recordkeeping requirements were enacted in Illinois; penalties for violation of prevailing wage laws were increased in Nevada and revised in California; and the Maryland Advisory Council on Prevailing Wage Rates was abolished. Contractors in California may now bring court action to recover increased labor costs in certain circumstances.

In Illinois, an Executive order requires State agencies to consider project labor agreements for public works projects. An Executive order issued in Michigan permits the debarment of a contractor who has violated any State or Federal law.

Among several changes to the Colorado wage payment law, the State and its agencies were exempted from coverage. Several classifications of employees were exempted from coverage of the Wisconsin law. Payment of wages by direct deposit was authorized in Arkansas and Texas, and the North Dakota provision was amended. The Maryland Advisory Committee on the Wage and Hour Law was abolished.

Civil penalties for failure to pay wages increased in California. The Nevada, Oklahoma, and Tennessee penalty provisions were revised.

Coverage of the wage payment law was expanded in Kansas. California enacted wage protections for workers in the car wash industry.

New payroll deductions were authorized in Maryland, North Carolina, and Texas. Payment into a trust account was approved in Virginia.

It was specified that the Nevada labor commissioner is to enforce all labor laws without regard to whether an employee is lawfully or unlawfully employed.

Hours. Despite several bills introduced on the subject, no new legislation was enacted this year regulating mandatory overtime. A committee established in Louisiana will assess the extent of registered nurse mandatory overtime use.

An Arkansas statute limiting work hours in saw and planing mills was repealed, and changes were made in the West Virginia law regulating passenger motor carriers.

Certain exceptions were authorized from the meal period provision in California, and in the rest and meal period provisions in Washington.

Family issues. In a continuing expansion of benefits and rights under family and medical leave laws, the Connecticut law was amended to require employers to permit employees the use of up to 2 weeks of sick leave to attend to a serious health condition of a family member, or for the birth or adoption of a child. In Hawaii, employees in the public sector will again be covered under the State Family and Medical Leave Act. Additionally, public sector employees are now entitled to at least 4 hours of paid leave per calendar year to attend parent-teacher conferences.

Illinois enacted a law requiring certain employers to provide unpaid leave for an employee victim of domestic or sexual violence, or one who has a victimized family or household member. Oregon employers with six or more employees must provide leave to attend criminal proceedings for eligible employees who have been crime victims or who have an immediate family member who has been a crime victim. A similar law enacted in California also extends protection to registered domestic partners of victims. Texas will provide limited compensation to a family member of a deceased violent crime victim to attend the funeral, or for lost compensation, resulting from bereavement leave.

Rhode Island employers may provide unpaid breaks for nursing mothers, while a Wyoming resolution encourages breastfeeding and commends employers who make accommodations.

Health insurance. A California law requires that employees of large and medium-sized employers receive healthcare benefits.

Child labor. A trend continued with Minnesota exempting children working as referees, umpires, or officials from the minimum age requirement of the child labor law, while Virginia lowered the minimum age for referees from 13 to 12. Hours and night work changes were enacted in Hawaii, Louisiana, and New York, while Maine revised its hazardous occupation orders concerning confined spaces and heights. Hawaii also prohibited employment in the adult entertainment industry. Indiana now requires that minors be accompanied by an adult for work after 10 p.m. Civil penalty assessment procedures were revised in Tennessee.

Louisiana employers are no longer required to keep work permits on file. In addition, employment certificates are to be submitted electronically by school superintendents.

Laws providing for judicial approval of artistic contracts of minors and requiring that a percentage of earnings be set aside in trust were enacted in Nevada, New York, North Carolina, and Tennessee, and amended in California.

Industrial homework. California changed the procedures for the disposition of articles or materials unlawfully manufac-

tured at home, while adding an appeal process for the confiscation and disposition of the goods.

Equal employment opportunity. An Illinois Civil Rights Act of 2003 bars any public-sector employer from discriminating on the basis of race, color, or national origin. An Executive order issued in Arizona prohibits State entities from discriminating on the basis of sexual orientation, and New Mexico now bans employment discrimination based on sexual orientation and gender identity. Gender identity discrimination is also now prohibited in California and in Pennsylvania for State agencies. An Executive order issued in Kansas requires State agencies to adopt policy statements prohibiting sexual harassment. California law was amended to hold employers potentially liable for sexual harassment of workers by clients, customers, and other third parties. California also prohibited State agencies from contracting with companies that discriminate against domestic partners in the provision of benefits.

Among other measures that were enacted relating to various forms of employment discrimination, Illinois employers of four or more employees are prohibited from wage discrimination based upon sex. Illinois also will now prohibit employers from placing native language restrictions on employees during non-job-related activities. Vermont revised mandatory retirement age limits for State Supreme Court justices, and Wyoming removed the upper age limit for age discrimination protection. Training will be required for certain State employees on disability employment law in California, and on State and Federal discrimination laws and investigation techniques in Connecticut.

The Florida Attorney General may now bring civil action for damages, and school districts in South Dakota may consider the sex of an employee for employment duties in locker rooms.

Worker privacy. Over the last few years, several States have adopted legislation providing immunity from civil liability to employers who furnish information about a current or former employee's job performance to a prospective or current employer. New measures were adopted in Louisiana and in Utah for law enforcement employers. A similar law in Montana was repealed. Provision was also made for the disclosure, under certain circumstances, of peace officer records in California, and Indiana public employee disciplinary action records.

Laws were enacted providing for the confidentiality of employee information in Arkansas for non-elected municipal and county officials; in Florida concerning employee assistance information of public employees; in Louisiana for direct deposit payroll information and medical records; in North Dakota for mediation records; in Ohio for firefighter and emergency medical technician personnel records; in Oregon for

public safety officer photographs; and in Virginia for nursing facility staff records and reports.

Workplace violence/security. A growing body of legislation is being enacted addressing issues of workplace violence and security. Background checks for workers in various sensitive positions were enacted in 2003 in North Dakota, Texas, Utah, and Virginia.

Employee leasing. Arkansas repealed its Employee Leasing Act and replaced it with a comprehensive Professional Employer Organization Recognition and Licensing Act. Professional employer organizations in Utah will now be required to register annually rather than be licensed, and the Montana law was amended to add an exemption for certain arrangements by healthcare facilities.

Private employment agencies. The trend of easing regulation of the industry continued this year with Maryland eliminating the licensing and regulation of employment agencies and employment counselors; Minnesota repealing the law regulating and requiring licensing of entertainment agencies; with Louisiana and North Dakota no longer requiring licensing of employer-fee-paid employment services; and with Oregon excluding employment listing services from coverage.

The North Carolina Commissioner of Labor now has the authority to enforce the law dealing with the personal service industry.

In Illinois, employers are now prohibited from knowingly contracting with day and temporary labor service agencies to provide replacements for striking or locked out workers.

Whistleblowers. A Whistleblower Act, applicable to private-sector employers, was enacted in Illinois, protecting employees from retaliation for disclosing information about employer violations of State or Federal laws, rules, or regulations. An Executive order was issued providing similar protection for State agency employees.

Arkansas, California, and Oklahoma expanded the scope of their whistleblower protection acts.

Military re-employment rights. Continuing the trend that began following the events of September 11, 2001, and the ensuing military actions in Afghanistan and Iraq, several additional jurisdictions enacted legislation related to reinstatement rights of reserve or guard members returning from active duty. Many of these measures amended laws to provide guard members with the same rights as provided to those called for Federal duty. Some of the measures provide for supplemental pay or continuation of health benefits while an individual is on military leave.

State labor departments. In Michigan, the name of the Department of Consumer and Industry Services was changed to the Department of Labor and Economic Growth, and a new Wage and Hour Division was created within the department. In Idaho, the Disability Determinations Service was transferred from the Executive Office of the Governor to the Department of Labor.

The Utah Labor Commission is to assume certain coal mine regulatory functions previously performed by the Labor Commission's Safety Division.

The Maryland Commissioner of Labor and Industry may now charge a fee to cover the cost of providing mediation services.

Other laws. Among other laws enacted, Arkansas and Iowa will provide employment leave for State employees to serve as bone marrow or organ donors. The Arkansas law also applies to public school employees. Hawaii joins several other States by now providing for paid leave for American Red Cross disaster volunteers. A Mississippi measure creates a program of paid educational leave for hospital employees.

A California measure permits employees to sue their employers for violations of the State labor code. A Minnesota law permits civil actions against the State to be brought in Federal court by current, former, or prospective employees of the State who are aggrieved by the State's violation of various Federal laws.

Alabama

Other laws. The law allowing persons who are regularly employed by the State to engage in employment in the private sector—if the employment is not specifically prohibited by statute, and there is no conflict with the job of the State employee—was amended to limit this authorization to those employees whose pay is \$75,000 or less exclusive of benefits. In addition, the law provides that no employee is to engage in employment in the private sector during their scheduled working hours. The entity that employed the State employee may not do business with or be employed by the department that employs the State employee.

Alaska

Wages. As the result of prior legislation, the State minimum wage rate rose to \$7.15 per hour, from \$5.65, on January 1, 2003.

The minimum wage law was amended to eliminate a provision enacted in 2002 that would have required annual adjustments to the minimum wage rate based on the rate of inflation. The first indexed rate would have become effective on January 1, 2004.

The section of law requiring the payment of overtime was amended to provide

Idaho adopted a Voluntary Contributions Act regulating political contributions by labor organizations.

A law enacted in Tennessee prohibits the termination of an employee who is a volunteer firefighter if his or her absence or lateness to work is due to responding to an emergency. Illinois made it unlawful to use a false academic degree for the purpose of obtaining employment.

Application of the New York anti-sweatshop laws were expanded to allow public schools and colleges in the State to consider labor standards when evaluating bids for sports equipment. An Illinois State Prohibition of Goods from Forced Labor Act provides that each contract entered into by a State agency for the procurement of equipment, materials, or supplies must specify that foreign-made goods produced under the contract were not produced in whole or in part by forced, convict, or indentured labor. A similar law was enacted in California. Also, California made it unlawful to enter into a contract for labor or services with a construction, farm labor, garment, janitorial, or security guard contractor, if it is known that the contract does not provide sufficient funds to permit compliance with all applicable laws. Texas made it unlawful to traffic another person with the intent that the trafficked person engage in forced labor or services.

The following is a summary, by jurisdiction, of labor legislation enacted in 2003.

that it applies to all claims for overtime based on employment on and after July 1, 1990, and before June 2, 1999, and to all pending administrative and judicial actions that are based on the calculation of overtime for employment during that time period. The requirement for the payment of overtime at the rate of one and one-half times the regular rate of pay for hours worked in excess of 8 hours a day and 40 hours a week had been invalidated by a court decision and then reenacted in 1999. In determining whether an employee has worked more than 40 hours a week, the number of hours worked is calculated without including those hours worked in excess of 8 a day, because the employee is paid overtime compensation separately, based on those hours.

The overtime pay requirements of the minimum wage law were amended to exempt from coverage work performed by flight crew members employed by air carriers subject to the Federal Railway Labor Act. Flight crew is defined as the pilot, co-pilot, flight engineer, and flight attendants.

The submission of payroll information by contractors and subcontractors performing work on a public construction contract is now to be made every second week rather

than weekly. By July 1, 2004, the Department of Labor and Workforce Development is to provide for filing these reports by secure online electronic filing.

Before commencing work on a public construction contract, the person entering into the contract with a contracting agency is to designate a primary contractor who must file a notice of work with the Department of Labor and Workforce Development. The notice of work must list work to be performed under the public construction contract by each contractor who will perform any portion of work on the contract and the contract price being paid to each contractor. The primary contractor must pay all filing fees for each contractor performing work on the contract, including a filing fee based on the contract price being paid for work performed by the primary contractor's employees. Upon completion of all work on the contract, the primary contractor must file with the department a notice of completion together with payment of any additional filing fees owed due to increased contract amounts. Within 30 days after the department's receipt of the notice of completion, the department is to inform the contracting agency of the amount, if any, to be withheld from the final payment.

Inmate labor. A Correctional Industries Program Act of 2003 was adopted. This Act allows the administrative costs of the Correctional Industries Program, including employee salaries and benefits, to be paid from product revenues obtained from the correctional industries fund rather than the General Fund.

Other laws. The Governor, through the issuance of an administrative order, may authorize State employees who are members of a reserve or auxiliary component of the armed forces of the United States—including the organized militia of Alaska, consisting of the Alaska National Guard, the Alaska Naval Militia, and the Alaska State Defense Force—and who are called to active duty by the appropriate State or Federal authority to continue to receive the equivalent of their State compensation and some or all of their State benefits. Benefits include credited service in a State retirement system, membership in the supplemental employee benefits system, and group life and health insurance provided under State law or under a collective bargaining agreement.

Arizona

Equal employment opportunity. The Governor issued an Executive order directing that no State agency, board or commission is to discriminate in employment solely on the basis of an individual's sexual orientation, and providing that notice is to be given to all State employees that acts of sexual harassment or other harassment based on sexual orientation will be a cause for discipline, up to and including termination of employment with the State. No State agency will be required to establish employment goals based on sexual orientation.

Other laws. A resolution was adopted urging the U.S. Congress to enact legislation that would establish a legal worker program for immigrants who enter the United States through ports of entry, including regulations that require employers to pay minimum wages to these workers; that require the workers to pay payroll taxes; that protect the workers from exploitation; and that allow the workers to be eligible for employer-offered health insurance.

Arkansas

Wages. The minimum wage law was amended to exempt from coverage nonprofit child welfare agency employees who serve as houseparents who are directly involved in caring for children residing in residential fa-

cilities of the nonprofit welfare agency, and who are orphans, in foster care, abused, neglected, abandoned, homeless, in need of supervision, or otherwise in crisis situations that lead to out-of-home placements; and who are compensated at an annual rate of not less than \$13,000, or at an annual rate of not less than \$10,000 if the employee resides in the residential facility and receives board and lodging at no cost.

Employers may now pay workers by electronic direct deposit into the employee's account in addition to payment in currency or by check as before. The employee may opt out of electronic direct deposit by providing the employer a written statement requesting payment by check. An employee has a right to be paid in currency if the employer has ever paid the employee with a check drawn on an account with insufficient funds.

Hours. The statute that had restricted work hours in saw and planing mills to 10 hours a day was repealed.

Child labor. The law making it unlawful for any wholesaler, retailer, or transporter of alcoholic beverages to allow any employee or any other person under 21 years of age to sell, transport or handle alcoholic beverages was amended to allow persons 19 years of age and older, with written consent of a parent or guardian, to serve and handle alcoholic beverages at on-premises consumption outlets where food service is a permit requirement.

Worker privacy. The law exempting the home addresses of non-elected State employees, contained in employer records, from being considered public records under the Arkansas Freedom of Information Act was expanded to also apply to the home addresses of non-elected municipal and county employees.

Employee leasing. The Arkansas Employee Leasing Act was repealed, and a comprehensive Arkansas Professional Employer Organization Recognition and Licensing Act was enacted. "Professional employer organization" is defined as any person engaged in the business of providing the service of entering into a co-employment relationship in which at least a majority of the employees providing services to a client or to a division or work unit of a client are covered employees and in which the arrangement is intended to be, or is, ongoing rather than temporary in nature—and employer responsibilities, including the right of direction and control of the employees, are shared by the professional

employer organization and the recipient. The license application is to include the name and address of the organization, a taxpayer or employer identification number, a statement of ownership, a statement of business experience, and a financial statement. Workers' compensation coverage is required.

Whistleblower. The scope of the State Whistle-Blower Act, which protects public employees from adverse action for reporting, in good faith to an appropriate authority, the existence of waste of public funds, property, or manpower, or the violation of any State law, rule or regulation was expanded to also protect disclosures concerning waste of Federal funds, property, or manpower administered or controlled by a public employer.

Other laws. A law was enacted providing employment leave for State employees or public school employees to serve as bone marrow or organ donors. These employees are entitled to no more than seven days of leave to serve as a bone marrow donor and no more than thirty days of leave to serve as an organ donor in any calendar year. In order to receive the leave they must: 1) request the leave in writing; 2) provide the employing agency written verification by the physician who is to perform the transplant that the employee is to serve as a human organ or bone marrow donor; and 3) provide the employing agency written verification by the physician performing the transplant that the employee did serve as a human organ or bone marrow donor. The State or public school employee may use the leave without loss or reduction in pay, leave, or credit for time of service. A State agency or public school may not penalize an employee for requesting or obtaining this leave.

An archaic statute was repealed that had made it unlawful for the person in control of any establishment where three or more persons are employed, and where any of the employees are women, to permit in the workplace any influence, practices, or conditions calculated to injuriously affect the morals of the female employees.

California

Wages. Voters in the City of San Francisco approved an ordinance, effective January 1, 2004, that requires most employers to pay a minimum wage of \$8.50 per hour for work performed within the city to those employees who work two or more hours per week. The wage will be adjusted effective January 1st of each year based on increases in the

Consumer Price Index for urban wage earners and clerical workers for the San Francisco-Oakland-San Jose, California, metropolitan statistical area. The wage requirement will not apply to businesses with fewer than 10 employees or non-profits until January 1, 2005. Starting on that date, those small businesses and non-profits would pay a minimum wage of \$7.75 per hour. Effective January 1, 2006, all small businesses and non-profits would pay the minimum wage of \$8.50 per hour as adjusted based on the indexed increases. Employees who assert their rights to receive the minimum wage will be protected from retaliation.

The prevailing wage law was amended to permit contractors to bring court action to recover increased labor costs, penalties, and legal fees from an awarding body if 1) the awarding body has told the contractor in writing that the work to be covered by the bid was not a "public work," or 2) the awarding body received actual written notice from the Department of Industrial Relations that the work to be covered by the bid or contract is a "public work" and failed to disclose that information to the contractor before the bid opening or awarding of the contract. Additionally, the law now permits the contractor to recover increased costs from an awarding body that result from the classification of the work as a "public work" after the job has begun, or the awarding body accepted the contractor's bid, or the contractor was awarded the contract in circumstances where no bid was solicited. "Awarding body" for purposes of applicability excludes the Department of General Services, the Department of Transportation, and the Department of Water Resources.

The prevailing wage law was amended so that required per diem wages now include employer payments for worker protection and assistance programs or committees established under the Federal Labor Management Cooperation Act of 1978, to the extent that the activities of the programs or committees are directed to the monitoring and enforcement of laws related to public works. Additionally, per diem wages also include industry advancement and collective bargaining agreement administrative fees, provided that these payments are required under a collective bargaining agreement pertaining to the particular craft, classification, or type of work within the locality or the nearest labor market area at issue.

If the State or a political subdivision thereof agrees by contract with a private entity that the private entity's employees receive, in performing that contract, the general prevailing rate of per diem wages and the

general prevailing rate for holiday and overtime work, the Director of Industrial Relations, upon a request by the State or the political subdivision, is to determine the wage rates for each craft, classification, or type of worker that is needed to execute the contract, and provide these wage rates to the entity requesting them.

The prevailing wage law was amended to provide that employers may take credit for employer payments to pension plans or other contributions against their prevailing wage obligation, even if the payments are not made during the same pay period for which credit is claimed, as long as the employer regularly makes the contributions, or regularly pays the costs, for the plan, fund, or program on no less than a quarterly basis.

The information that the Contractor's State License Board is required to post on the Internet concerning the status of licensees is now to include information regarding a licensee's willful or deliberate violation of the Labor Code. The Labor Commissioner is to maintain a quarterly updated list of contractors and subcontractors who were found to have willfully violated the prevailing wage law or to whom a final order has been issued. Interest will accrue, from the date the wages were due and payable, on all due and unpaid wages. Additionally, the violator will pay a penalty of not less than \$10 per day for each employee paid less than the prevailing wage—unless the failure to pay the prevailing wage was a good-faith mistake that was promptly and voluntarily corrected. The penalty will not be less than \$20 per day if the violator was assessed penalties within the 3 previous years for prevailing wage violations, and it will not be less than \$30 per day if the Labor Commissioner determines that the violation was willful. The maximum penalty remains at \$50 per worker for each day of violations. Back wage claims against the contractor must be satisfied before funds surrendered by the contractor may be applied to imposed penalties.

A resolution was adopted reaffirming the intent of the legislature for the State prevailing wage law to apply broadly to all projects subsidized with public funds, including the projects of chartered cities.

A Labor Code Private Attorneys General Act of 2004 was enacted. Under this law, any provision of the Labor Code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of the code, may as an alternative, be recovered through a civil action brought by an aggrieved

employee on behalf of himself or herself and other current or former employees. Any employee who prevails in any action will be entitled to an award of reasonable attorney's fees and costs. A civil penalty is established where one is not specifically provided under the Labor Code. An action may not be maintained if the agency or any of its departments, divisions, commissions, boards, agencies, or employees has cited a person for the same violation that the aggrieved employee is attempting to recover a civil penalty. A civil penalty will not be awarded if the alleged violation is a failure to act by the Labor and Workplace Development agency.

Civil penalties were increased for various labor law violations. If an employer fails to pay wages or unlawfully withholds wages, the penalty for a first violation was increased from \$50 to \$100, and the penalty for subsequent or willful or intentional violations was increased from \$100 to \$200 plus 25-percent of the amount unlawfully withheld. Twelve and one-half percent of the penalty recovered will be placed in a fund within the Labor and Workforce Development Agency to educate employers about State labor laws. The penalty for an employer who pays less than the minimum wage rose from \$50 to \$100 per underpaid employee for each pay period. The minimum penalty for a railroad corporation that violates laws regulating work hours was increased from \$200 to \$500, and the maximum penalty rose from \$1,000 to \$5,000. The penalty for violating the laws regulating work hours of employees in underground mines, smelters, or plants for the reduction or refining of ores or metals was increased from \$50 to \$100 for the first intentional violation and from \$100 to \$200 for each subsequent violation. The penalty for any person who does not hold a State contractor's license and who employs workers to perform services for which a license is required was increased from \$100 to \$200 per employee for each day of employment.

Legislation was enacted to regulate the employment of workers in the car washing and polishing industry. Car wash employers must register annually, after meeting local licensing, bonding and other criteria, with the Labor Commissioner and pay a registration fee of \$250 for each branch location. A separate annual fee of \$50 for each branch location is to be deposited into a Car Wash Worker Restitution Fund to ensure the payment of wages, penalties, and other damages. Employers are also to post a surety bond of \$15,000 for the protection of employees. Failure to register may result in a civil fine of \$100 being assessed for each day of violation up to a total of \$10,000. Each employer

must keep accurate and complete employment records for 3 years including wages paid, hours worked and tips received. Renewal registrations may not be completed until the employer has satisfied final judgments for any unpaid wages, and contributions to the Unemployment Insurance Code, the Employment Development Department, and Social Security and Medicare contributions are up to date.

In response to a 2002 court decision (*Smith v. Rae-Venter Law Group*), an amendment was made to the wage claim procedure to specify what determines a successful appeal of a decision of the labor commissioner. An employee claiming to be owed wages may either file a civil action against the employer or file a wage claim with the labor commissioner seeking administrative relief. If the labor commissioner's decision is appealed to trial court and the party seeking review is unsuccessful, the trial court is to assess costs and reasonable attorney's fees against the party who filed the appeal. It is now specified that an employee is successful so long as the employee recovers a judgment in his or her favor. This overturns the court holding that the appealing party is unsuccessful unless the court judgment is more favorable to the appealing party than the labor commissioner's award.

The law regulating the payment of salary or wages by State agencies, which requires that the employee be furnished with a written itemized statement showing all deductions made from his or her salary or wages, was amended to permit—at the discretion of the employee—a State agency to issue the required statement electronically rather than in writing. The provision of an electronic statement of itemized deductions will be contingent upon certain funding contingencies.

A resolution was adopted proclaiming April 15th, 2003, to be Equal Pay Day in California and urging California citizens to recognize the full value of women's skills and significant contributions to the labor force. The resolution also urged Congress to protect the rights of all American women and provide more effective remedies to victims of discrimination in the payment of wages on the basis of sex and for other purposes. April 15th symbolizes the day on which wages paid to American women catch up to the wages paid to men from the previous year.

Hours. The law requiring employers to provide meal periods was amended to exempt employees in the wholesale baking industry who are subject to an Industrial Welfare Commission Wage Order and who are cov-

ered by a valid collective bargaining agreement that provides for a 35-hour workweek consisting of 5 7-hour days, payment of one and one-half times the regular rate of pay for time worked in excess of 7 hours per day, and a rest period of not less than 10 minutes every 2 hours.

Family issues. Employers are to allow an employee who is a victim of a crime, an immediate family member of a victim, a registered domestic partner of a victim, or the child of a registered domestic partner of a victim to be absent from work in order to attend judicial proceedings related to that crime. Prior to the absence, the employee is to give the employer a copy of the notice of each scheduled proceeding that is provided to the victim. When advance notice is not feasible or an unscheduled absence occurs, the employer is not to take any action against the employee if he or she, within a reasonable time, provides the employer with documentation evidencing the judicial proceeding. An employee who is absent from work may use his or her accrued paid vacation time, personal leave time, sick leave time, compensatory time off that is otherwise available to the employee, or unpaid leave time, unless otherwise provided by a collective bargaining agreement. The employer is to keep confidential any records regarding the employee's absence from work. An employer may not discharge from employment or in any manner discriminate against an employee because of his or her absence.

Health insurance. A Health Insurance Act of 2003 was enacted. This law provides for creation of the State Health Purchasing Program administered by the Managed Risk Medical Insurance Board. Large and medium-sized employers will be required to provide their employees with healthcare benefits either directly or through the purchasing program by payment of a fee to the board for coverage. Employees and their dependents of large employers (employers of 200 or more persons in the State) are to be covered beginning January 1, 2006. Employees and their dependents of medium-sized employers (employers of 20 to 199 persons in the State) are to be covered beginning January 1, 2007. Small employers are exempt from coverage. "Dependent" is defined as the spouse, domestic partner, minor child of a covered enrollee, or child 18 years of age and over who is dependent on the enrollee, as specified by the board.

Child labor. Laws concerning minors with artistic employment contracts were amended. A maximum of 15 percent of the minor's gross earnings was set as the amount that must be deposited in a trust account. The parent, trustee or guardian must provide the employer, within 10 business days, a photocopy of the trustee's statement regarding the established account. In cases where the parent, guardian or trustee fails to provide the employer with evidence of the trust being established within 180 days of the commencement of employment, the employer is then required to deposit 15 percent of the minor's gross earnings into a special account held by the Actors' Fund of America. The Actors' Fund is required to notify the beneficiary of their fund entitlement within 60 days of the minor reaching 18 years of age. The Labor Commissioner may only issue a work permit for 6 months, and if the permit is not accompanied by a trustee's statement demonstrating the creation of a trust account, then the permit is invalid after 10 business days from the date of issuance.

Apparel industry. The Public Contract Code was amended to require the State to provide a "Sweatfree Code of Conduct" and procurement policy that requires State agency procurement contracts (other than those related to public works contracts) to include provisions that prohibit the production of material, equipment, or supplies by forced labor, convict labor (not including work or services provided by an individual employed by the Prison Industry Authority), indentured labor under penal sanction, abusive forms of child labor, or exploitation of children in sweatshop labor. This prohibition includes the procurement or laundering of apparel, garments, and accessories including uniforms. Contractors must certify that no covered items have been laundered or produced by or with the benefit of sweatshop labor under penalty of perjury. False certifications will be considered to be misdemeanors. Copies of the code of conduct must be attached to the submitted certification. Contractors must comply with minimum wage, overtime, child labor laws, and benefits applicable to local, State and national laws of the jurisdiction in which the labor is performed.

Industrial homework. Changes were made in the procedures for the disposition of articles or materials unlawfully manufactured at home, and an appeal process was added. An item unlawfully manufactured at home may be confiscated by the Division of Labor Standards Enforcement, which will be

responsible for destroying or disposing of them. The articles or material must not enter the mainstream of commerce and must not be offered for sale. The division is to, by certified mail, give notice of the confiscation and the procedure for appealing the confiscation to the person whose name and address are affixed to the article or material. The notice will state that failure to file a written notice of appeal with the labor commissioner within 15 days after service of the notice of confiscation will result in the destruction or disposition of the confiscated article or material. To contest the confiscation, a person must, within 15 days of service of the notice, file a written notice of appeal with the labor commissioner. A hearing on the appeal will be held within 30 days. Based on the evidence presented at the hearing, the labor commissioner may affirm, modify, or dismiss the confiscation, and may order the return of none, some, or all of the confiscated articles or material.

Equal employment opportunity. The prohibition on employment discrimination on the basis of sex was expanded by including gender in the definition of sex. For this purpose “gender” means an employee or applicant’s actual sex or the employer’s perception of his or her sex, and includes the employer’s perception of the employee or applicant’s identity, appearance, or behavior, whether or not that identity, appearance, or behavior is different from that traditionally associated with his or her sex at birth. Employers may require employees to comply with reasonable workplace appearance, grooming, and dress standards consistent with State and Federal law, provided that employees are allowed to appear or dress consistently with their gender identity.

Language in the Fair Employment and Housing Act was clarified to ensure that under State law employers may potentially be liable for sexual harassment committed against their workers by clients, customers and other third parties if they knew or should have known of the harassment, and failed to take immediate and appropriate corrective action to stop the harassment. In reviewing cases involving the acts of non-employees, the extent of the employer’s control and any other legal responsibility that the employer may have with respect to the conduct of those non-employees will be considered. This change is in response to a 2002 court of appeal decision (*Salazar v. Diversified Paratransit, Inc.*), which held that the legislature did not intend the State’s Fair Employment and Housing Act to hold employers potentially responsible for protecting their

workers from sexual harassment if such harassment was committed by outside parties in the workplace.

No State agency may enter into any contract for the acquisition of goods or services in the amount of \$100,000 or more with a contractor who, in the provision of benefits, discriminates between employees with spouses and those with domestic partners, or discriminates between the domestic partners and spouses of those employees.

The requirement that each supervisor employed by the State, upon his or her initial appointment to a supervisory position, be provided with a minimum of 80 hours of training was amended to specify that the training is to include training on the subject of employment law relating to persons with disabilities.

Drug and alcohol testing. The law governing the application for an original or a renewal commercial motor carrier permit now requires that the application include certification of enrollment in a controlled substance and alcohol use and testing program.

Worker privacy. The law providing for the confidentiality of peace officer or custodial officer personnel records was amended to provide that the provisions insuring confidentiality do not apply to investigations or proceedings concerning the conduct of peace officers or custodial officers, or an agency or department that employs these officers, conducted by a grand jury, a district attorney’s office, or the Attorney General’s office.

Private employment agencies. The State Business and Professions Code, relating to contractors, was amended. The term contractor now includes temporary labor service agencies that provide short-term employees to a licensed contractor for the performance of construction work. Such contractors are now required to provide their State contractor’s license number to the temporary labor service agency providing the short-term employees. The law does not apply when a properly licensed contractor exercises supervision and is directly responsible for the final results of the work product. The law does not require that a qualifying individual be present during the supervision of work covered by the contract.

Plant closing. The law that requires the operator of a solid waste landfill to submit a plan for the closure and post-closure maintenance of the landfill to the California Integrated Waste Management Board was amended to also require submission of a La-

bor Transition Plan that includes provisions that ensure, subject to any requirements already established pursuant to a collective bargaining agreement, preferential reemployment and transfer rights of displaced employees to comparable available employment with the same employer for a period of no less than 1 year following the closure of the solid waste facility; provisions to provide displaced employees assistance in finding comparable employment with other employers; and provisions to ensure compliance with existing statutory requirements for relocations, terminations, and mass layoffs that are applicable to certain employees.

Displaced workers. A 10-percent bidding preference was established for public transit contractors and subcontractors who agree to retain, for a period of at least 90 days, bus and rail employees who were employed to perform essentially the same services by the previous contractor or subcontractor. If a successor contractor or subcontractor determines that fewer employees are needed than under the prior contract, qualified employees will be retained by seniority within the job classification. The existing contractor, when required by the awarding agency, must provide employment information relating to wage rates, benefits, dates of hire, and job classifications of employees under the existing service contract to the awarding authority or a successor contractor. A contractor or subcontractor found to have substantially breached the contract will be ineligible to bid on or be awarded a service contract with that awarding agency for a period of 1 to 3 years.

Whistleblowers. The law prohibiting employers from making, adopting, or enforcing a policy that prevents an employee from disclosing violations of a State or Federal law or regulation to a government or law enforcement agency, or from retaliating against an employee who makes a disclosure, was amended to extend this protection to employees who refuse to participate in an illegal activity or activity that may result in violations of State or Federal law or regulation. It was also made unlawful for an employer to retaliate against an employee for having exercised his or her whistleblower rights in any former employment. A “whistleblower hotline” is to be established in the office of the Attorney General to receive telephone reports of violations by an employer. Employers are to display a list of employee’s rights under whistleblower laws, including the telephone number of the hotline. An employer in violation of the law is liable for a civil penalty of up to \$10,000 for each violation.

Other laws. It was made unlawful for a person or entity to enter into a contract or agreement for labor or services with a construction, farm labor, garment, janitorial, or security guard contractor, where the person or entity knows or should know that the contract or agreement does not include funds sufficient to allow the contractor to comply with all applicable local, State, and Federal laws or regulations governing the labor or services to be provided. This does not apply to a person or entity who executes a collective bargaining agreement covering the workers employed under the contract or agreement, or to a person who enters into a contract or agreement for labor or services to be performed on his or her home residences. A rebuttable presumption is established that the law is not violated if the labor contract or any material change to the labor contract is in writing, contained in a single document and meets certain requirements including identifying the person or entity, the labor or services to be performed, the number of workers to be employed, the total amount of wages to be paid, and when payment is to be made.

Where a person claiming to be aggrieved by an unlawful employment practice is represented by private counsel—and not the Department of Fair Employment and Housing—the private counsel will now serve the complaint. In either case, service is to be completed within 60 days rather than 45 days as was previously required.

A resolution was adopted recognizing March 31st as the anniversary of the birth of Cesar Chavez, and calling upon all Californians to participate in appropriate observances to remember him as a symbol of hope and justice to all persons.

Colorado

Wages. The State compensation for employment law was amended to exclude the State or its agencies from coverage. Additionally, wages or compensation now includes vacation pay, if an employer provides paid vacations, and bonuses or commissions earned for labor or services performed, but not severance pay. Also, employers may make deductions for the amount of money or value of property that employees failed to pay or return to an employer as long as the employer pays the balance due within 10 days of termination of employment. There is no authorization for deductions below the Federal minimum wage. If wage payments are not mailed to the place of receipt within the 10 days, the employer will be liable to the

employee for a penalty. If an employer is indebted to an employee at his or her time of death, the employer must pay the amount due to the deceased employee's surviving spouse. If the employee's wage claim is disputed by the employer, and the employer makes legal tender of the amount believed due, the employer is not liable for a penalty unless the employee receives more wages than tendered, in a legal action. If the employee fails to receive a greater sum in a legal action, he or she must pay the cost of the action and the employer's attorney fees.

A resolution was adopted proclaiming April 15th, 2003, to be Equal Pay Day in Colorado and urging Colorado citizens to recognize the full value of women's skills and significant contributions to the labor force, and further encouraging employers to conduct an internal pay evaluation to ensure women are being paid fairly. April 15th symbolizes the day on which wages paid to American women catch up to the wages paid to men from the previous year.

Connecticut

Wages. As the result of prior legislation, the State minimum wage rate rose to \$6.90 per hour, from \$6.70, on January 1, 2003, and to \$7.10 per hour on January 1, 2004.

Family issues. The family and medical leave law was amended to require employers to give employees the right to use up to 2 weeks of accumulated sick leave to attend to a serious health condition of a son or daughter, spouse or parent of the employee, or for the birth or adoption of a child of the employee. It will be unlawful for an employer to discharge, threaten to discharge, demote, suspend or in any manner discriminate against an employee for using, or attempting to use, the leave. The law was also amended to change the method of determining the eligibility for use of family and medical leave. Previously, entitlement was for a total of 16 workweeks of leave during any 24-month period, with the 24-month period beginning with the first day of leave taken. Now it will be determined using any one of the following methods: 1) consecutive calendar years; 2) any fixed 24-month period, such as two consecutive fiscal years or a 24-month period measured forward from an employee's first date of employment; 3) a 24-month period measured forward from an employee's first day of leave taken under the law; or 4) a rolling 24-month period measured backward from an employee's first day of leave taken.

Equal employment opportunity. The Commission on Human Rights and Opportunities and the Permanent Commission on the Status of Women are to provide a minimum of 10 hours of training a year concerning State and Federal discrimination laws and techniques for conducting internal investigations of discrimination complaints to persons designated by State agencies, departments, boards or commissions as affirmative action officers and to persons designated by the Attorney General to represent the entities before the Commission on Human Rights and Opportunities and the Equal Employment Opportunity Commission. In addition to completing this training, affirmative action officers are to be responsible for mitigating any discriminatory conduct within the agency, department, board or commission; investigating all complaints of discrimination made against the State agency, department, board or commission; and report all findings and recommendations upon the conclusion of an investigation to the commissioner or director of the State agency, department, board or commission for proper action.

The act concerning alternative dispute resolution procedures and complaint representation before the Commission on Human Rights and Opportunities was amended to provide that the commission may, rather than must, adopt regulations to establish procedures and standards for alternate dispute resolution. In complaint hearings, it is now provided that if the Attorney General or the commission counsel determines that the interests of the State will not be adversely affected, the attorney for the complainant is to present all or part of the case in support of the complaint.

Worker privacy. No employee assistance professional, employee or State employee will be required to disclose any information or records concerning or confirming his or her voluntary participation in an employee assistance program sponsored or authorized by an employer or the State or any of its agencies. No employee assistance program may disclose any information or records concerning or confirming an employee's voluntary participation in the program without his or her prior written consent, except where disclosure is necessary to prevent harm to the employee or others.

The law guaranteeing employees access to their personnel files was amended to specify that "personnel file" includes electronic mail and facsimiles pertaining to a particular employee that has been used by an employer in making a personnel decision.

District of Columbia

Other laws. A District of Columbia government employee who serves in a reserve component of the United States Armed Forces and who has been or will be called to active duty as a result of Operation Enduring Freedom or Operation Iraqi Freedom, will receive, upon application and approval, an amount that equals the difference in compensation between the employee's District government basic pay and his or her basic military pay. This amount will be paid from the time the employee is called to active duty until the employee is released from active duty.

Florida

Wages. Political subdivisions are barred from establishing, or otherwise requiring an employer to pay a minimum wage, other than a Federal minimum wage, or applying a Federal minimum wage to those wages exempt from Federal coverage. A minimum wage other than the Federal minimum wage can be established for the employees of the political subdivision; for the employees of an employer contracting to provide goods or services for the political subdivision, or for the employees of a subcontractor of such an employer; or for the employees of an employer receiving a direct tax abatement or subsidy from the political subdivision, as a condition of the direct tax abatement or subsidy. A Federally authorized and recognized tribal government may establish a minimum wage in excess of the Federal minimum wage for persons employed within any territory over which the tribe has jurisdiction.

Equal employment opportunity. An amendment to the Civil Rights Act authorizes the Attorney General to bring a civil action for damages, injunctive relief, civil penalties of up to \$10,000 per violation, and such other relief as may be appropriate under State law, where the Attorney General has reasonable cause to believe that any person or group either has engaged in a pattern or practice of prohibited discrimination, or has been discriminated against and the discrimination raises an issue of great public interest.

Worker privacy. Acts relating to a public records exemption for State, county, and municipal employee assistance program records were amended to provide that an employee's personal identifying information contained in employee assistance program records is confidential and exempt from disclosure.

Other laws. As part of a Florida Uniformed

Servicemembers Protection Act, employing authorities are to adhere to all provisions contained in the Federal Uniformed Services Employment and Reemployment Rights Act with respect to those serving in the State National Guard and the United States Armed Forces.

The law concerning the health benefits and job protections afforded to members of the State National Guard and the State Department of Military Affairs was amended. School district employees are now specifically included as employees of political subdivisions of the State who may take a leave of absence, not to exceed 30 days, for each emergency or disaster as established by Executive order. As such, these employees are protected from being discharged, reprimanded, or penalized as a result of being activated for State duty. Additionally, the requirement for employees to notify their employers that they wish to continue their health insurance coverage upon being called to active duty has been modified to allow the appropriate military authority to provide authorization. Consistent with Federal law, such notice is not required if it is precluded by military necessity or if such notice is impossible or unreasonable.

Georgia

Wages. Resolutions were adopted declaring April 15, 2003, to be Equal Pay Day and urging the citizens of Georgia to recognize the full value of women's skills and significant contributions to the labor force and encouraging businesses to conduct an internal pay evaluation to ensure that women are being paid fairly. April 15th symbolizes the day on which the wages paid to American women catch up to the wages paid to men from the previous year.

Hawaii

Wages. As the result of prior legislation, the State minimum wage rate rose from \$5.75 per hour to \$6.25 on January 1, 2003.

Family issues. The State Family and Medical Leave Act was amended by revising the definition of "employers" and by defining "sick leave" and specifying how it can be used. "Employer" now includes the State and any of its political subdivisions or instrumentalities, reversing the exclusion of public-sector employees enacted in 2000 that became effective on July 1, 2002. "Sick leave" is an accrued increment of compensated leave provided by an employer for employees' use when: the employee is physically or mentally unable to perform

his or her duties due to illness, injury or a medical condition; the absence is for the purpose of obtaining professional diagnosis or treatment for an employee's medical condition; or the absence is for other medical reasons of the employee, such as pregnancy or obtaining a physical examination. It does not include any other type of insurance, compensation or disability benefit not payable from the employer. Employers who provide sick leave must permit an employee to use his or her accrued sick leave, not to exceed 10 days per year, for purposes defined in the Act, unless an express provision of a valid collective bargaining agreement authorizes the use of more than 10 days for family leave purposes.

Public-sector employers are now to provide employees with at least 2 hours of paid leave during normal business hours to attend either a mutually-scheduled parent-teacher conference for the employee's minor child, or a mutually-scheduled parent-caregiver conference for a preschool-aged child attending a licensed group childcare center. The employee may take leave for no more than two mutually-scheduled conferences per child in a calendar year, and travel time may be included as part of the 2 hours permitted for each conference. The provision of paid leave may not adversely interfere with the operations of the work unit nor require the applicable agency to incur additional human resources or overtime costs.

Legislation was enacted to assist victims of domestic or sexual violence and stalking. Employers with 50 or more employees must allow employees to take up to 30 days of unpaid victim leave per calendar year. Employers with 49 or fewer employees must allow employees to take up to 5 days of unpaid victim leave per calendar year. Employees are entitled to the leave provided it is for the purpose of 1) seeking medical attention; 2) obtaining services from a victim services organization; 3) obtaining psychological or other counseling; 4) temporarily or permanently relocating; or 5) taking legal action. An excused absence may be taken when the domestic abuse or sexual violence is against an employee or the employee's minor child. Employers may require employees to report their status once a week and may require employees to provide a medical and/or legal certification prior to return to work. Upon returning, an employee shall return to the same position or one of comparable status and pay with no loss of accumulated service credits and privileges. Employees are to exhaust other paid and unpaid leave benefits before victim leave benefits may be applied.

Child labor. The Child Labor Law was amended in order to prohibit minors under the age of 18 from working in adult entertainment. Additionally, the hours of work restrictions of minors from 14 to 16 years of age were modified so that these minors may not work: 1) more than 18 hours during a school week nor more than 40 hours in a non-school week; 2) more than 3 hours on a school day nor more than 8 hours on a non-school day. Previously, the combination of hours of work and hours in school of a minor employed outside school hours could not exceed 10 hours per day. To accommodate year-round school schedules, minors may now work between 6:00 a.m. and 9:00 p.m. during any authorized school break rather than from June 1 through the day before Labor Day as before.

Other laws. The Governor or mayor may grant a State or county employee who is a certified American Red Cross disaster volunteer up to 30 days paid leave of absence to perform disaster relief services for the American Red Cross when a disaster has been designated as level III or higher by American Red Cross regulations; officially declared by the President of the United States; or declared a state of emergency by the Governor. The employee must have prior authorization from the Governor or mayor, and the leave may not impose an undue hardship on State or county operations. Employees granted leave will be paid at their regular rates of pay, without loss of seniority, vacation, sick leave, or earned overtime accumulation.

Idaho

Agriculture. The Idaho Agricultural Labor Act enacted in 1972 was repealed. This act created an Agricultural Labor Board that was never used and was not necessary because of more recent State and Federal laws addressing agricultural labor concerns.

Drug and alcohol testing. The Employer Alcohol and Drug-Free Workplace Act was amended to extend coverage to public sector employers. The law specifies that it is lawful to test employees or prospective employees for the presence of drugs or alcohol as a condition of hiring or continued employment if the employer has a written testing policy. The State of Idaho or any political subdivision that conducts drug and alcohol testing of all those employees and applicants for whom such testing is not constitutionally prohibited will qualify for the workers' compensation insurance premium

reduction that is available to private sector employers.

Department of labor. An Executive order was issued renaming the Disability Determinations Unit the Disability Determinations Service and transferring it from the Executive Office of the Governor to the Idaho Department of Labor.

Other laws. A Voluntary Contributions Act was adopted. This law requires that labor organizations that engage in political activities keep a segregated fund for all political contributions. Union dues are not to be used for political activities, transferred to the fund, or intermingled in any way with fund moneys. Employee contributions to the fund must be on a voluntary basis without fear of reprisal and are to be made directly by the donor. Payroll withholding of funds to be used for political purposes is prohibited.

Illinois

Wages. New legislation increased the State minimum wage rate for employees 18 years of age or older from \$5.15 per hour to \$5.50 per hour on January 1, 2004, with a further increase to \$6.50 per hour scheduled for January 1, 2005. Employees under 18 years of age may be paid up to 50 cents less than the regular rate. A provision that the wage rate paid by employers be not less than the Federal hourly minimum wage rate was eliminated.

Among changes in the prevailing wage law, prevailing wage rate requirements are now to be inserted in project specifications as well as in public works contracts. It will also be mandatory for each contractor, subcontractor, and lower-tiered subcontractor to insert these requirements into the contracts they let. The contractor and each subcontractor or the officer of the public body in charge of the project is to make and keep, for at least 3 years, records of the name, address, telephone number when available, social security number and occupation of all laborers, workers and mechanics employed by them on the public works project. In addition to actual hourly wages paid, records are now to show the hours worked each day by each employee. Every employer, upon request, is to furnish the Director with a sworn statement of the accuracy of the records. Objections to a rate determination may be made within 30 days after the Department of labor has published a prevailing wage schedule on its official Web site. A hearing is to be held within 45 days after the objection is filed, and a final determination

by the Department of Labor or a public body is to be rendered within 30 days after the conclusion of the hearing.

Executive Order No. 13 was issued requiring State agencies, on a project-by-project basis, to consider a project labor agreement for a public works project where the agency determines that such an agreement advances the State's interests of cost, efficiency, quality, safety, timeliness, skilled labor force, labor stability or the State's policy to advance minority- and women-owned businesses and minority and female employment. Project labor agreements are a form of pre-hire collective bargaining agreement covering all terms and conditions of employment on a specific project. Any decision by a State agency to use a project agreement is to be supported by a written publicly disclosed finding setting forth the justification for its use. Criteria for project agreements include procedures for immediate and binding settlement of jurisdictional disputes and grievances, no-strike provisions, lowest qualified responsible bidder language, and a guarantee of a reliable source of skilled and experienced labor.

The prevailing wage law was amended to expand coverage by removing the "for public use" phrase from the definition of covered public works projects. The previous wording exempted some public works projects from prevailing wage obligations because the projects were not developed essentially for public use. Amendments also specify that the law will cover all projects financed in whole or in part with funds from the Fund for Illinois' Future program and acts designed to finance school and transportation infrastructure improvements.

The State Procurement Code was amended to expand application of the prevailing wage requirement provisions to now include building and grounds services, site technician services, and natural resources services. The prohibition against considering State employee collective bargaining agreements when determining the prevailing wage rate was eliminated.

The Illinois Renewable Fuels Development Program Act was adopted, establishing a \$15 million grant program providing financial assistance for constructing or modifying plants capable of annually producing at least 30 million gallons of renewable fuels such as ethanol and bio-diesel fuel. The law requires that projects receiving such funds be subject to the prevailing wage law and enter into project labor agreements. Project labor agreements are to include provisions establishing the minimum hourly wage, benefits and other compensation for each class of labor organi-

zation employee, and provisions establishing that no strike or disputes will be engaged in by the labor organization employees.

The prevailing wage law was amended to cover all projects financed in whole or in part with funds from the Department of Commerce and Community Affairs under the Illinois Renewable Fuels Development Program Act for which there is no project labor agreement. The law also added provisions specifying that the wage for a tradesman performing maintenance is equivalent to that of a tradesman engaged in construction, and making it mandatory to post the prevailing wage rates for each craft or type of worker or mechanic needed on the project at the project site at a location that is easily accessible to the workers engaged on the project.

Family issues. The Department of Commerce and Community Affairs may establish a family-friendly workplace initiative. The Department may develop a program to annually collect information regarding the State's private eligible employers providing the most family-friendly benefits to their employees. The same program may be established for public employers. Employers chosen by the Department may be recognized with annual "family-friendly workplace" awards and a Statewide information and advertising campaign publicizing the employers' awards, their contributions to family-friendly childcare, and the methods they used to improve the dependent care experiences of their employees' families.

A Victims' Economic Security and Safety Act was enacted. Under this act, the State, any unit of local government or school board, or any employer of 50 or more employees must allow an employee who is a victim of domestic or sexual violence or who has a family or household member who is a victim to take up to 12 workweeks of unpaid leave during any 12-month period and to maintain health benefits during the leave. Leave may be taken to: (A) seek medical attention for, or recover from, physical or psychological injuries caused by the domestic or sexual violence; (B) obtain services from a victim services organization; (C) obtain psychological or other counseling; (D) participate in safety planning, temporarily or permanently relocating, or taking other actions to increase the safety of the employee or the employee's family or household member from future domestic or sexual violence, or to ensure economic security; or (E) seek legal assistance or remedies including preparing for or participating in any civil or criminal legal proceeding related to or derived from domestic or sexual violence. If possible, the employee

is to provide the employer with at least 48 hours' advance notice of his or her intention to take the leave. The employer may require the employee to provide certification of the need for the leave. Upon returning, an employee is to be restored to the same or an equivalent position with no loss of any accrued employment benefit. Employment discrimination is prohibited against an individual because he or she is perceived to be a victim of domestic or sexual violence.

Equal employment opportunity. The State enacted the Equal Pay Act of 2003. Under the Act no employer with four or more employees may discriminate between employees, in the matter of the wage rate paid, on the basis of sex for the same or substantially similar work on the performance of jobs that require equal skill, effort, and responsibility, performed under similar working conditions unless payment is based upon seniority, merit, production quality or quantity, or a differential factor other than sex. Employers may not interfere with the employee's exercise of his or her rights under the Act, discharge the employee because the employee filed a charge, has given or is about to give information in a proceeding, or has testified or is about to testify in such a proceeding. Employers found in violation will be required to pay the wage differential to the affected employees and pay legal costs and damages. Violators may also be subject to a civil fine of up to \$2,500 per violation. Notices regarding this Act are to be posted in a conspicuous place on the premises of the employer where employee notices are customarily posted.

The Illinois Civil Rights Act of 2003 was enacted. This act prohibits any unit of State, county, or local government from excluding a person from participation in, denying a person the benefits of, or subjecting a person to discrimination under any program or activity on the grounds of his or her race, color, or national origin, and from using criteria or methods of administration that have the effect of subjecting individuals to such discrimination. Any party aggrieved by a violation may bring a lawsuit, in a State circuit court, against the offending unit of government.

It is now a civil rights violation for an employer to impose a restriction that has the effect of prohibiting a language from being spoken by an employee in communications that are unrelated to the employee's duties. "Language" is defined as being a person's native tongue.

The State Lawsuit Immunity Act was amended to provide that a current, former or prospective employee of the State who is

aggrieved by any conduct or action or inaction of the State that would constitute a violation of the Federal Age Discrimination Act of 1967, the Federal Family and Medical Leave Act, the Federal Americans with Disabilities Act of 1990, or Title VII of the Civil Rights Act of 1964 may bring a civil action under that Act against the State. In addition, an employee of the State who is aggrieved by any conduct or action or inaction of the State that would constitute a violation of the Federal Fair Labor Standards Act of 1938 may bring a civil action under that Act against the State.

A resolution was adopted creating a 10-member Commission on Opportunity in State Public Construction to undertake a comprehensive study to determine the existence and the extent of racial and gender discrimination on public construction contracts in the State. This determination shall be accomplished via public hearings and social-scientific research. If such discrimination is discovered, the Commission is to develop policy recommendations to remedy the discrimination. If the Commission determines that there are racial and gender-neutral barriers to minority and female participation on State public construction projects, the Commission is to develop policy recommendations to reduce the barriers to full participation. The Commission will have investigatory powers and is to deliver a report of its findings, the transcripts of its public hearings, and its research to the Governor and the General Assembly by June 30, 2004.

Private employment agencies. The Day and Temporary Labor Services Act was amended to provide that third-party employers are prohibited from entering into contracts for the employment of day or temporary laborers with any person or entity not registered as a day and temporary labor service agency. The Department of Labor was authorized to inspect contracts for the employment of all day or temporary laborers entered into by a third-party employer if the department has received a complaint indicating that the third party employer may have contracted with an unregistered agency. Upon request, the department will provide to a third-party employer a list of entities registered as day and temporary labor service agencies. This list will also be available on the Internet.

The ban on the employment of any professional strikebreaker in the place of an employee, whose work has ceased as a direct consequence of a lockout or strike, was amended to also prohibit an employer from knowingly contracting with a day and temporary labor service agency to provide a

replacement for the employee. A day and temporary labor service agency may not send any such laborer to any place where a strike, a lockout, or other labor trouble exists. A day or temporary laborer who had been assigned to work for the employer at the time that the strike or lockout began may continue to be employed.

Whistleblowers. A Whistleblower Act applicable to private sector employers was enacted. It provides that an employer may not make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a government or law enforcement agency if the employee has reasonable cause to believe that the information discloses a violation of a State or Federal law, rule, or regulation. An employer may not retaliate against an employee for disclosing such information or for refusing to participate in an activity that would result in a violation of a State or Federal law, rule, or regulation. Violation of the law is a Class A misdemeanor. If an employer takes any action against an employee in violation of the act, the employee may bring a civil action against the employer for relief, including but not limited to reinstatement, back pay, compensation for damages, litigation costs, expert witness fees, and reasonable attorney's fees. The act does not apply to disclosures that would constitute a violation of the attorney-client privilege.

Executive Order No. 4 was issued specifying that any officer, employee or appointee of any State agency is banned from retaliating against, attempting to retaliate against, or in any manner interfering with a whistleblower for reasons arising out of his or her activities as defined in the State Whistle Blower Protection Act. Any officer, employee or appointee of any agency who knowingly violates the provisions of the Executive order will be subject to disciplinary action, including but not limited to discharge.

The Whistleblower Reward and Protection Act was amended to provide that the Attorney General may, instead of shall, delegate the authority to issue subpoenas, subject to conditions as the Attorney General deems appropriate. Additionally, the person issuing the subpoena shall advise that the person receiving the subpoena has 20 days from the date of service or up until the return date specified in the demand, whichever date is earlier, to move, modify, or set aside the subpoena. Finally, the amendment removed all language concerning service of notice in foreign countries.

Other laws. Executive Order No. 6 was issued providing that any full-time employee of the State under the control of the Governor, who is a member of any reserve component of the United States Armed Forces, including but not limited to the Illinois Army or Air National Guard, who is mobilized to active duty in response to the war with Iraq or other potential threats to national security, will continue to receive his or her regular compensation as a State employee, plus any health insurance and other benefits he or she is currently receiving, minus the amount of his or her base pay for military activities.

Legislation similar to Executive Order No. 6 was enacted providing that any full-time employee of the State, other than an independent contractor, who is a member of the Illinois National Guard or a reserve component of the United States Armed Forces or the Illinois State Militia and who is mobilized to active duty must continue during the period of active duty to receive his or her benefits and regular compensation as a State employee, minus an amount equal to his or her military active duty base pay.

Coverage of the Military Leave of Absence Act was expanded to now include employees of units of local government and school districts in addition to employees of the State as before. The law now provides that any full-time employee of the State, a unit of local government, or a school district, other than an independent contractor, who is a member of the Armed Forces will be granted leave from his or her public employment for any period actively spent in military service. Home rule units are barred from regulating their employees in a manner inconsistent with the law.

A State Prohibition of Goods from Forced Labor Act was enacted. It provides that each contract entered into by a State agency for the procurement of equipment, materials, or supplies must specify that foreign-made goods produced under the contract were not produced in whole or in part by forced, convict, or indentured labor. A contractor in violation may be subject to a penalty of the greater of \$1,000 or 20 percent of the value of the equipment, materials, or supplies; the contract may be voided; and the contractor may be suspended from bidding on a State contract for up to 360 days. Sanctions may be waived if it is determined that the contractor acted in good faith.

It was made unlawful for a person to knowingly use a false academic degree for the purpose of obtaining employment.

A resolution was adopted recognizing March 31st as Cesar Chavez Day in Illinois and encouraging public and private

entities throughout the State to celebrate his birthday.

Indiana

Child labor. The child labor law was amended to make it unlawful to permit a child who is under age 18 to work after 10 p.m. and before 6 a.m. in an establishment that is open to the public, unless another employee at least 18 years of age also works in the establishment during the same hours as the child. Violation will be considered to be a hazardous occupation violation subject to a warning letter for any violations found during an initial inspection; a \$100 fine per instance for each violation identified in a subsequent inspection; \$200 per instance for a third violation; and \$400 per instance for a fourth or subsequent violation that occurs not more than 2 years after a prior violation. Another amendment changes the rest break requirement for children who work at least 6 consecutive hours—from a single break of at least 30 minutes to one or two breaks totaling at least 30 minutes with the time period specified for making the break available eliminated.

Equal employment opportunity. The Governor issued an Executive order establishing a Native American Indian Affairs Commission to study issues common to Native American Indian residents of Indiana in the areas of employment, education, civil rights, health, and housing. The commission may make recommendations to appropriate Federal, State, and local government agencies concerning issues including measures to stimulate job skill training and related workforce development, including initiatives to assist employers to overcome communication and cultural differences, and programs to encourage the growth and support of Native American-owned businesses. The commission is to report on its activities to the Governor at least annually.

Worker privacy. The law relating to public records was amended to provide that the factual basis of a disciplinary action in which final action has been taken resulting in the suspension, demotion, or discharge of a public employee is a public record. Another change allows a governing body in an executive session to receive information about misconduct and discuss the status of a school bus driver, who is an independent contractor, before the governing body makes a determination.

Other laws. A law was enacted extending active duty military rights and protections

to members of the State National Guard ordered to training or duty under Federal law or ordered by the Governor to State active duty for 30 or more consecutive days. The law specifies that the provisions of the Federal Soldiers and Sailors Civil Relief Act and the Federal Uniformed Services Employment and Reemployment Rights Act apply when members of the State Guard are called up in the above circumstances.

Iowa

Wages. The law prescribing when unclaimed intangible personal property is presumed to be abandoned was amended to specify that unpaid wages, including wages represented by payroll checks or other compensation for personal services owing in the ordinary course of the holder's business that remain unclaimed by the owner for more than 1 year after becoming payable, are presumed to be abandoned.

Other laws. State employees, other than those covered under a collective bargaining agreement that provides otherwise, will now be granted paid leaves of absence of up to 5 workdays to serve as a bone marrow donor and of up to 30 workdays to serve as a vascular organ donor if the employee provides written verification from his or her physician or the hospital involved that the employee will serve as such a donor. Employees granted such leaves of absence will not suffer loss of seniority, pay, vacation time, personal days, sick leave, insurance and health coverage benefits or earned overtime accumulation. In addition, grants from the anatomical gift and transplantation fund, may now be available upon application to living organ donors or recipients, or their legal representatives.

Kansas

Wages. The definition of "employer" in the wage payment act was amended to now include limited liability companies or other organizations employing any person. Additionally, any officer, manager, major shareholder or other person who has charge of the affairs of an employer, and who knowingly permits the employer to engage in violations of required pay periods, or timely payment when the employee is discharged, may be deemed the employer for purposes of this act. This language replaces a provision that had deemed the corporation or any officer or agent having the management of the corporation to be the employer.

Equal employment opportunity. The Govern-

nor issued an Executive order directing the head of each executive branch State agency under the jurisdiction of the Governor to 1) adopt a policy statement prohibiting sexual harassment and distribute the policy statement throughout the agency; 2) provide training that sensitizes managers, supervisors, and employees on the subject of sexual harassment; 3) develop and provide employees with proper procedures for expressing complaints or concerns on sexual harassment, including information on the procedures for filing complaints with enforcement agencies when requested; 4) develop and implement an internal mechanism to assure prompt, confidential, and appropriate handling of sexual harassment complaints within the State agency, which includes the enforcement of appropriate disciplinary action; and 5) submit the policy statement and internal complaint and investigation mechanism procedures to the Secretary of Administration for review.

Inmate labor. The law related to the charging of inmate fees in order to defray the maintenance costs of county jails was amended by raising the allowable fee to a maximum of \$20 per day. This fee will be required of any inmate who participates in a work release or job training program for which the inmate receives compensation or a subsistence allowance.

Kentucky

Inmate labor. Among provisions of a law enacted regarding work by State prisoners on public agency projects, it was specified that the labor of State inmates is not to be used on any construction, building, or building maintenance project outside of the prison where use of such labor would reduce skilled employment opportunities for citizens of the Commonwealth.

Other laws. A Kentucky National Guard and Reserve Employers' Council was created to advise public and private sector employers of the importance of supporting the National Guard and U.S. military reserves by providing employee members with time off for training, and with job security during times of mobilization. The council may recommend solutions to employment problems encountered by members of the National Guard or military reserves who are mobilized, and it may offer proposed policy or statutory changes to deal with those problems.

Louisiana

Wages. The law requiring that an employee who resigns be paid his or her wages on or

before the next regular payday or no later than 15 days following the date of resignation, whichever occurs first, was amended to specify that the payday refers to the next regular payday for the pay cycle during which the employee was working at the time of separation.

A resolution was adopted proclaiming Tuesday, April 15, 2003, as Equal Pay Day in Louisiana and urging residents of the State to recognize the full value of women's skills and significant contributions to the labor force. Businesses were urged to conduct an internal pay evaluation to ensure that women are being paid fairly. April 15th symbolizes the day on which the wages paid to American women catch up to the wages paid to men from the previous year.

Overtime limits. A resolution was adopted establishing a Mandatory Overtime Study Committee to assess the extent of registered nurse mandatory overtime use in the State and to work with the Nursing Supply and Demand Commission to make specific recommendations to the legislature by March 1, 2004, regarding committee findings and any recommended legislation.

Child labor. The child labor law was amended to repeal an exemption for employment or training related to curriculum while attending a business or vocational-technical school, and to revise provisions relating to employment certificates and permissible hours of employment. The employer obligation to keep on file an employment certificate or work permit for each minor no longer applies to work permits. The requirement that certificates be provided in triplicate was eliminated and replaced with one that the school superintendent complete and electronically submit—the Employment Certificate Form—found on the Department of Labor's Web site, with the original certificate being signed by the minor and the issuing authority and given to the employer. The requirement for different colored certificates issued based upon the age of the applicant was repealed. The requirement that minors under age 16 not be employed before 7 a.m. or after 7 p.m., or after 9 p.m. from June 1 through Labor Day, was revised to now prohibit minors who have not graduated from high school from working after 10 p.m. on any day prior to a day during which school is in session, or after midnight on any day prior to a day during which school is not in session. Minors under the age of 16 who have not graduated from high school are

prohibited from working before 7 a.m. or after 7 p.m. on any day prior to a day during which school is in session or after 9 p.m. on any day prior to a day during which school is not in session. No minor under the age of 16 who has not graduated from high school is to be employed more than 40 hours in any one week.

Worker privacy. Any employer who has conducted a background check of an employee or prospective employee after having obtained his or her written consent or at the request of the owner or operator of any facility where the employer performs or may perform all or part of its work will be immune from civil liability for claims arising out of the disclosure of the background information obtained. The limitation of liability will extend to all claims of the employee based upon a failure to hire, wrongful termination, and invasion of privacy, as well as all claims of any owner, operator, or any third person for claims of negligent hiring or negligent retention.

The law governing public records was amended to specify that all medical records, claim forms, insurance applications, requests for the payment of benefits, and all other health records of public employees, public officials, and their dependents in the personnel records of any public body will be confidential.

The law governing public records was amended to add the name and account number of any financial institution to which the public employee's wages or salary are directly deposited by an electronic direct deposit payroll system or other direct deposit payroll system to the list of items in the personnel records of a public employee body that will be confidential.

Private employment agencies. The employment agency regulatory law was amended to exempt employer-fee-paid employment services from testing, licensing, and bonding requirements.

Inmate labor. The ban on participation in work release programs by persons convicted of production, distribution or possession with intent to distribute cocaine or marijuana was amended to permit participation, during the last 6 months of their terms, by any person convicted of distribution or possession with intent to distribute cocaine where the offense involved less than 28 grams of cocaine or by any person convicted of distribution or possession with intent to distribute marijuana where the offense involved less than one pound of marijuana.

Other laws. The prohibition against discharging an employee who is called to serve or who is serving on jury duty was amended to also prohibit any other adverse employment action. The protection was modified to apply if the employee notifies his or her employer of a summons within a reasonable period of time after its receipt and prior to his or her appearance for jury duty. A Lengthy Trial Fund is to be established to provide full or partial wage replacement of up to \$300 per day to jurors who serve for more than 10 days on civil and criminal petit juries if conviction of the alleged crime carries a sentence of 20 years or more at hard labor, and whose employers pay less than full regular wages during the jury service.

After military leave with pay has been exhausted, any State employee called to active duty service in the uniformed services of the United States pursuant to a declaration of war, congressional authorization, or presidential proclamation pursuant to the War Powers Resolution, or national emergency whose military base pay is less than his or her State base pay must be paid the difference between the military base pay and the State base pay in his or her regular position. The payment is to be made in the same frequency and manner as the employee's regular State pay. Any employee receiving the pay differential is to provide to his or her employer all such documentation appropriate to ensure that the amount of the payment is accurately calculated.

A resolution was adopted urging the State Department of Labor to review its operation of the incumbent worker training program in rural areas, in that the current process for applying for admission into the program is tedious and is difficult for companies in rural areas.

Maine

Wages. As the result of prior legislation, the State minimum wage rate rose from \$5.75 to \$6.25 per hour on January 1, 2003.

A law was enacted which permits, to the extent permitted under the Federal Fair Labor Standards Act, public employees of the executive or judicial branch of the State to be awarded compensatory time in lieu of overtime pay. Additionally, limitations have been placed on the recovery of unpaid overtime wages for executive or judicial branch employees. In actions to recover such wages, the judgment or award is limited to the compensation due without liquidated damages or attorney's fees. Such actions must be brought within 2 years after the cause of action accrued. When the cause arises from a

willful violation, the action must then be brought within 3 years.

A resolution was adopted pertaining to the legislative review of the proposed Rules Governing Alternative Methods of Payment of Overtime for Certain Drivers and Driver's Helpers, a substantive rule of the Department of Labor, Bureau of Labor Statistics which was submitted to the legislature for review as required by law. The resolution stated that the Department of Labor was to ask the Attorney General to provide a legal opinion as to the ability of the Department of Labor to take into account hours worked outside of the State when determining whether overtime pay is required for work within the State. The Department of Labor was to meet in September 2003 with the Joint Standing Committee on Labor in order to report on the Attorney General's opinion and the department's response to the opinion including any proposed changes to the rule.

The prevailing wage law was amended to raise the dollar threshold amount for public works construction contracts let by the State from \$10,000 to \$50,000.

Contractors and subcontractors in charge of the construction of a public work must now keep accurate records showing the names and occupations and wages and benefits of all independent contractors working under contract with them as well as all laborers, workers and mechanics employed by them as before. A copy of each such record is to be filed monthly with the public authority that let the contract. The filed record is a public record except that the authority must adopt rules to protect the privacy of personal information such as Social Security numbers and taxpayer identification numbers.

Child labor. The section of the child labor law regarding prohibited hazardous employment for minors under age 18 was amended to provide that the Director of the Bureau of Labor Standards is to adopt rules prohibiting any such minor from working in confined spaces or at a designated height when regulations of the Federal Occupational Safety and Health Administration require special precautions or procedures for such work. The rules must provide exceptions to the prohibition in specific exceptional circumstances, such as work required for public safety.

Worker privacy. The law providing for employee access to their personnel files was amended to require that, in each calendar year, the employer must provide, at no cost to the employee, one copy of

the entire personnel file upon request by the employee or former employee, and, upon request, one copy of all material added to the file after the copy of the entire file was provided. The cost of copying any other material requested during that calendar year will be paid by the person requesting the copy.

Maryland

Wages. The Advisory Committee on the Wage and Hour Law and the Advisory Council on Prevailing Wage Rates were abolished.

An employer who withholds an employee's dues to an employee membership entity must now also collect any contributions specified by the employee for one or more affiliated political action committees of the employee membership entity, and then transmit the contributions to that entity.

Drug and alcohol testing. Saliva derived from the human body was added to the list of specimens that may be used for job-related substance abuse testing. The others that may be used are blood, urine, and hair.

Private employment agencies. Licensing and regulation of employment agencies and employment counselors were eliminated. An employment agency will now be required to submit a \$7,000 penal bond to the Commissioner of Labor and Industry. A list of prohibited employment agency activities includes knowingly referring a client to a job if any condition of the job violates any law; referring a client to an establishment where a labor dispute exists; advertising for a job for which there is no order by an employer on file; charging a client a registration fee or collecting in advance from a client a payment for service to be performed for the client to obtain employment; and publishing any false, fraudulent, or misleading information or promise. Nurse registries will be subject to the law.

Other laws. The Commissioner of Labor and Industry was authorized to charge a fee to cover the cost of providing mediation services.

The law relating to leave of absence for State employees who are members of the organized militia and who are ordered to active duty was amended to provide for military administrative leave. An eligible State employee is entitled to military administrative leave in an amount sufficient to compensate the employee, during each pay period for which he or she is eligible for the leave, for the difference between the

employee's active duty base salary paid by the Federal government and the employee's State base salary or direct wages. The compensation provided may not exceed an employee's State base salary or direct wages. An eligible employee must elect to use either the military administrative leave or other available paid leave to which he or she is entitled.

Michigan

Wages. The Unclaimed Property Act was amended concerning the treatment of unpaid wages. The provision that unpaid wages which are unclaimed by the owner for more than 1 year after becoming payable are presumed to be abandoned will now apply only to unpaid wages greater than \$50. Unclaimed unpaid wages of \$50 or less are no longer subject to the act.

The Governor issued an Executive order which stipulates that the Department of Management and Budget may debar a vendor from consideration for the award of a contract for the provision of goods or services to the State, or suspend the procurement of goods or services from a vendor if, within the past 3 years, an officer of the vendor, or an owner of a 25-percent or greater interest in the vendor has been convicted of an offense, violated any State or Federal law, as determined by a court or an administrative proceeding, which, in the opinion of the Department, indicates that the vendor is unable to perform responsibly or which reflects a lack of integrity that could negatively impact or reflect upon the State or has failed or refused to provide requested information. An offense or violation of this statute may include, but is not limited to laws relating to prevailing wages on State projects, the payment of wages and fringe benefits, and occupational safety and health.

Department of labor. The Governor issued Executive Order Number 18 changing the name of the Department of Consumer and Industry Services to the Department of Labor and Economic Growth. A new Wage and Hour Division is created within the department headed by a Wage and Hour Administrator. Any authority, powers, functions, duties and responsibilities of the former Wage and Hour Division of the Department of Consumer and Industry Services, transferred to the Bureau of Worker's and Unemployment Compensation under an Executive order in 2002, are transferred to the new Wage and Hour Division, including, but not limited to, responsibility for the minimum wage, wage payment, prevailing wage, and youth employment laws.

Minnesota

Child labor. A minor at least 11 and less than 14 years of age will be exempt from the minimum age provisions of the child labor law if employed as a youth athletic program referee, umpire, or official for an age bracket younger than the minor's own age if an adult representing the State or local athletic program is on the premises at which the event is occurring and a person responsible for the program has a written acknowledgment signed by the minor's parent or guardian consenting to the minor's employment.

A similar law was enacted exempting children at least 11 and less than 14 years of age from the minimum age provisions of the child labor law for employment as assistant referees in youth soccer athletic program events in which the participants are under 14 years of age. An adult representing the State or local athletic program must be on the premises where the event is occurring, and a person responsible for the athletic program possesses a written acknowledgment signed by the minor's parent or guardian consenting to the minor's employment as an assistant soccer referee.

Private employment agencies. The law regulating and requiring licensing of entertainment agencies was repealed.

Other laws. It was specified that civil actions against the State may be brought in Federal court by an employee, former employee, or prospective employee of the State who is aggrieved by the State's violation of the Federal Age Discrimination Act of 1967, the Federal Family and Medical Leave Act, or the Federal Americans with Disabilities Act of 1990. An employee of the State who is aggrieved by the State's violation of the Federal Fair Labor Standards Act of 1938 may also bring a civil action in Federal court.

Each State agency must—and cities, counties, towns, school districts, and other political subdivisions may—pay to each eligible member of the national guard or other reserve component of the armed forces of the United States an amount equal to the difference between the member's basic active duty military salary and the salary the member would be paid in his or her regular job, including any adjustments the member would have received if not on leave of absence. Payments must not extend beyond 4 years from the date the employee reported for active service, plus any additional time the employee may be legally required to serve. State agencies must continue the employee's enrollment in health and dental coverage, and the employer contribution to

ward that coverage, until the employee is covered by health and dental coverage provided by the armed forces. The agency must also permit the employee to continue participating in any pre-tax account in which the employee participated when he or she reported for active service, to the extent of employee pay available for that purpose. Political subdivisions have total discretion regarding employee benefit continuation.

Mississippi

School attendance. The Compulsory School Attendance Law was amended to apply to any child who has attained or will attain the age of 5 years on or before September 1 and has enrolled in a full-day public school kindergarten program. Provided, however, that the parent or guardian of any child enrolled in a full-day public school kindergarten program will be allowed to remove the child from the program on a one-time basis, and the child will not be deemed a compulsory school-age child until he or she becomes 6 years old.

Other laws. A law was passed creating a program of paid educational leave for hospital employees. Hospitals may grant paid educational leave to an employee(s) who 1) is working at the sponsoring hospital at the time of application; 2) attends any college or school approved and designated by the sponsoring hospital; and 3) agrees to work in a healthcare occupation as a licensed practical nurse, registered nurse, nurse practitioner, speech pathologist, occupational or physical therapist, or other healthcare professional in the sponsoring hospital for period of time equal to the paid educational leave time, but not less than 2 years. Before leave is granted, each applicant shall enter into a contract with the sponsoring hospital agreeing to the terms and conditions of the leave being issued. Failure to meet the terms of the contract shall be grounds for revocation of the professional license that was earned through the paid educational leave program.

Montana

Wages. The exemption from minimum wage and overtime payment requirements for those individuals providing companionship services to the aged or infirm was amended to specify that this exemption also applies to those individuals providing respite care and that the exemption applies only when the person providing the service is employed directly by a family member or an individual who is a legal guardian. This exemption is more restrictive than Federal law

as the person providing the service must be employed directly by a family member and not by a third-party provider.

The prevailing wage law was amended to require the Department of Labor and Industry to include work performed by licensed electrical contractors and licensed master plumbers in the wage survey used to determine the standard prevailing wage rate for public works construction contracts.

The prevailing wage law was amended to provide an exception from the requirement to pay standard prevailing wages for an employer who, as a nonprofit organization providing vocational rehabilitation, performs a public works contract for non-construction services and who employs an individual whose earning capacity is impaired by a mental, emotional, or physical disability if the employer conforms with the Federal Fair Labor Standards Act requirements for the employment of workers with disabilities and pays the individual wages that are equal to or above the State's minimum wage.

The wage payment law was amended to provide that on those occasions when an employee submits a time sheet after the employer's established deadline for processing time sheets for a specific time period and the employer does not pay the employee within the 10 business days provided for in the statute, the employer may pay the employee the wages due in the ensuing pay period. Employers may not withhold payment of the employee's wages beyond the next ensuing pay period. If there is not an established time period or time when the wages are due and payable, the pay period is presumed to be semimonthly.

Child labor. The Department of Labor and Industry is now authorized rather than required to adopt rules to implement and to prevent circumvention or evasion of the child labor standards act.

Worker privacy. A law was repealed that had placed limits on the liability of nonpublic employers who disclosed employment information. The law had provided that a nonpublic employer who provided information about a former or current employee's employment-related performance to a prospective employer of the employee upon request of the prospective employer or former or current employee would not be liable for civil damages for the disclosure or any consequences related to the disclosure unless the employer knowingly, purposely, or negligently disclosed information that was false.

Employee leasing. The professional employer organizations and groups licensing law was amended to exempt from coverage arrangements by healthcare facilities to provide their own employees to perform services at and/or on behalf of another healthcare facility or at and on behalf of a private office of physicians, dentists, or other licensed and regulated physical or mental healthcare workers.

Preference. The law providing for a public employment hiring preference for eligible former or current members of the United States Armed Forces was amended to extend the hiring preference to former or current members of the Montana army or air national guard who have satisfactorily completed a minimum of 6 years service in the Armed Forces, the last 3 years of which have been served in the Montana army or air national guard.

The law providing a preference for State residents for employment on State construction projects was amended to ensure that at least 50 percent of workers of each contractor performing labor on a State construction project are bona fide Montana residents if qualified personnel are available. Previously, contractors, subcontractors, or employers were required to ensure that at least 50 percent of the work be performed by State residents on the entire project. The preference requirement applies to any State construction project funded by State or Federal funds, except a project partially funded with Federal aid money from the United States Department of Transportation or when residency preference laws are specifically prohibited by Federal law.

Nebraska

Equal employment opportunity. The Fair Employment Practice Act was amended to revise provisions relating to hearings before the Equal Opportunity Commission. It was specified that individuals who have suffered physical, emotional, or financial harm because of whistleblower protection provision violations are added to the list of those complainants who are entitled to, at any stage of the proceedings prior to dismissal, file an action directly in the district court of the county where the alleged violation occurred. The deadline for filing an action directly in the district court is 90 days after the complainant receives notice of the last action the commission will take on the complaint or charge. When entering the last action, the commission is to issue written notice of the 90-day deadline to the complainant by certified mail. The last action on the complaint

or charge includes the issuance of the final order after hearing, the determination of reasonable cause or no reasonable cause, and any other administrative action that ends the commission's involvement.

Other laws. A Non-English-Speaking Workers Protection Act was adopted, merging the functions of the existing Meatpacking Industry Worker Rights Coordinator position and the Non-English-Speaking workers program to achieve General Fund expenditure savings.

Canvassing board members or any other election workers were added to coverage of the law protecting judges, clerks of election, precinct or district inspectors from discharge, loss of pay, loss of overtime pay, loss of sick leave, loss of vacation time, the threat of any such action, or any other form of penalty as a result of their absence from work due to such service in any county if reasonable notice has been given to the employer. An employer may reduce the pay of an employee for each hour of work missed by an amount equal to the hourly compensation other than expenses paid to the employee by the county for such service.

Nevada

Wages. The law establishing the duties of the Commissioner of Labor was amended to provide that except where enforcement authority is vested in another officer, board, or commission, the Labor Commissioner is to enforce all labor laws of the State, including those relating to compensation, wages and hours, occupational safety and health, and public works projects, without regard to whether an employee is lawfully or unlawfully employed.

A resolution was adopted recognizing April 15, 2003, as Equal Pay Day in Nevada and encouraging all employers in the State to compensate all employees fairly, based on an objective evaluation of their jobs, considering factors such as the skill, effort, responsibility and working conditions required for each job. The resolution also congratulates public and private employers in Nevada for ranking among the highest in the Nation in paying their employees equal pay for equal work.

The law relating to the payment of prevailing wages on public works projects was amended. Except, where the workers or mechanics are covered by a collective bargaining agreement which provides that the mechanic or worker will work a scheduled 10 hours per day for 4 calendar days within any scheduled workweek, contractors or subcontractors are to pay mechanics or

workers employed by them on a public work not less than one and one-half times the prevailing rate of wages applicable to the class of the mechanic or worker. This rate shall apply whenever the mechanic or workman works: 1) more than 40 hours in any scheduled workweek or 2) more than 8 hours in any workday unless by mutual agreement the mechanic or worker works a scheduled 10 hours per day for 4 calendar days in any scheduled workweek.

The prevailing wage law was amended so that a contractor engaged on a public work shall forfeit a penalty of not less than \$20 and not more than \$50 for each calendar day, or portion thereof, for each worker employed on the project for which the contractor or subcontractor willfully included inaccurate or incomplete information in the monthly record required to be submitted to the public body. Similar penalties shall be assessed for each day a worker employed on the project is not reported by the contractor or any subcontractor up to a maximum of \$1,000 for a first violation and \$5,000 for subsequent violations. If a violation involves more than one provision of the law for the same worker, the contractor shall forfeit the penalty assessed for each violation. The Labor Commissioner may, for good cause shown, waive or reduce any penalty imposed under the Act.

The law relating to public works contracts let by public bodies or the Department of Transportation for the construction, maintenance, or operation of transportation facilities was amended to specify that contracts awarded to design-build teams must comply with the provisions of the law requiring the payment of prevailing wage rates on public works projects.

Child labor. A law was enacted providing for the judicial approval of contracts for the artistic, creative or athletic services or the intellectual property of minors under age 18. The term of such contracts may not extend beyond 5 years from the date of approval by the court. The contract must be shown to be objectively fair and reasonable; consistent with industry standards; consistent and in compliance with the laws of Nevada, including the laws governing the conduct and employment of minors; and in the best interests of the minor. Upon granting approval of a contract, the court will issue an order appointing a special guardian to receive and hold from 15 to 50 percent of the net earnings of the minor to be set aside for the benefit of the minor. A contract approved by the court may not later be disaffirmed by the minor.

Inmate labor. The section of the Department of Corrections code pertaining to the disposition of funds received from the operation of conservation camps was amended to make the State Forester Firewarden responsible for determining the amount of wages that must be paid to offenders who participate in conservation camps and who perform work relating to fire fighting and other work projects of conservation camps.

Department of labor. Labor law provisions enforced by the Commissioner for certain violations of labor laws and regulations were amended. Employers who violate a labor law or regulation or refuse to furnish required information are guilty of a misdemeanor and may now be assessed up to a \$500 administrative penalty for such violations in addition to other fines. Such persons must be provided notice and an opportunity for a hearing before any fines are finalized. Additionally, employers may not change an established regular payday or place of payment unless, not fewer than 7 days before the change is made, affected employees are provided with written notice. It is now unlawful for an employer to pay employees' lower wages, salary, or compensation than the amount earned when the work was performed. Additionally, employers may not decrease employees' wages, salary, or compensation unless the employer either provides written notice 7 days before the decrease or follows the provisions of any collective bargaining agreement in effect. The Commissioner may assess a fine of not more than \$5,000 for each violation of these provisions.

New Jersey

Wages. The Delaware River and Bay authority, which was created pursuant to the "Delaware-New Jersey Compact," is not to pay less than the prevailing wage rate to workers employed in the performance of any construction contract undertaken in connection with an authorized project. The prevailing wage rate will be the rate determined by the Commissioner of Labor under the New Jersey Prevailing Wage Act.

New Mexico

Wages. New legislation increased the State minimum wage rate from \$4.25 to \$5.15 per hour on July 1, 2003. The minimum wage rate for employees who regularly receive more than \$30 a month in tips rose from \$2.125 to \$2.575 per hour. The employer may consider tips as part of wages, but such a wage credit is not to exceed 50 percent of the minimum wage.

The city of Santa Fe adopted a Living Wage Ordinance that requires the payment of a minimum wage rate by the city to all full-time permanent workers employed by the city, while complying with the Fair Labor Standards Act and the Bateman Act. The minimum wage rate is also to be paid by contractors for the city who employ more than 25 workers that have a service or construction contract with the city equal to or in excess of \$30,000, excluding the purchase of goods; businesses receiving assistance relating to economic development in the form of grants, subsidies, loan guarantees, or industrial revenue bonds in excess of \$25,000; and businesses required to have a business license or registration from the city and, during any given month, have 25 or more workers, or in the case of non-profit entities that have 25 or more workers. Beginning January 1, 2004, the minimum wage will be \$8.50 per hour with increases to \$9.50 per hour scheduled for January 1, 2006, and to \$10.50 per hour scheduled for January 1, 2008. Beginning January 1, 2009, and each year thereafter, the minimum wage shall be adjusted upward based upon the consumer price index. The value of health benefits and childcare will be considered as an element of wages.

An equal pay task force was appointed by the Governor. The task force is to study the extent of wage disparities, both in the public and private sectors, between men and women and between minorities and non-minorities; study the factors that cause wage disparities, including segregation between men and women and between minorities and non-minorities across and within occupations and professions, payment of lower wages for female-dominated occupations, child-rearing responsibilities and education and training; study the consequences of wage disparities on the State's economy and on families; and develop actions, including legislation, that are likely to lead to the elimination and prevention of wage disparities. A final report is to be presented to the Governor and the legislature by December 15, 2003.

Equal employment opportunity. The Human Rights Act was amended to add discrimination based on sexual orientation or gender identity to the forms of unlawful employment discrimination applicable to employers, labor organizations, joint apprenticeship committees, and employment agencies. This provision is not to be used to adopt or implement a quota on the basis of sexual orientation or gender identity.

Employee leasing. The law requiring registering and licensing of employee leasing contractors does not apply to temporary workers. The law was amended to define temporary services employers and to provide that a worker who is employed by a temporary services employer works and should be classified in any construction class or in any oil and gas well service or drilling class under Insurance Code regulations will be presumed to be a temporary worker, and the temporary services employer that provides the worker must comply with the provisions of the Employee Leasing Act.

New York

Child labor. A law was enacted ensuring that child performers who work in the State have a portion of their earnings kept in a trust account for them until the age of majority, and that they are provided with an adequate education. The child's custodian or guardian must establish the trust account within 15 days of the start of employment and notify the child's employer of the account's existence. Employers must transfer 15 percent of the gross pay to the child's trust account within 30 days after the end of employment unless the period of employment is longer than 30 days. In such a case, the funds must be transferred every payroll period. The child performer may terminate the trust account upon reaching the age of 18. Child performer employment permits are valid for 6 months from date of issuance. To possess such a permit the child must be in good educational standing. In those instances where the child performer is unable to meet State educational requirements because of the employment schedule, the employer is to provide a certified or State-recognized teacher so that he or she may fulfill educational law requirements.

The section of the child labor law establishing restrictions on the hours of work for minors 16 and 17 years of age was amended to exempt 17-year-old minors employed as counselors, junior counselors, or counselors-in-training at camps for children during the months of June, July, and August.

Apparel industry. The law that allows the State University of New York and the City University of New York to consider labor standards when evaluating bids for school apparel and uniforms was expanded to also include bids for the purchase of sports equipment including balls, bats, and other goods intended for use by those participating in sports and games. Labor standards to be considered include employee compensation,

working conditions, employee rights to form unions, and the use of child labor.

North Carolina

Wages. Obsolete provisions establishing a training wage under the minimum wage law were repealed.

An employee of the State may authorize, in writing, a payroll deduction from his or her salary or wages for deposit in the Parental Savings Trust Fund administered by the State Education Assistance Authority.

A measure was enacted to permit a vote in November 2004 to authorize a constitutional amendment allowing units of local government to borrow money to finance economic development projects within a defined area. A development financing plan would be required to include a requirement that the initial users of a new manufacturing facility to be located in the district, and included in the plan must pay its employees an average weekly manufacturing wage that is either above the average manufacturing wage paid in the county in which the district will be located or not less than 10 percent above the average weekly manufacturing wage paid in the State.

Child labor. A law was enacted regulating contracts of minors for artistic, creative, or athletic services including actors, actresses, musicians, singers and other performers or entertainers. The law provides for court approval of contracts and for financial safeguards in court orders approving contracts and in situations where there is no court order. At least 15 percent of the minor's gross earnings pursuant to the contract are to be set aside by the minor's employer in trust, in an account or other savings plan, and preserved for the benefit of the minor. Requirements were adopted for establishing a trust and for appointing trustees.

Private employment agencies. A law was enacted abolishing the Labor Commissioner's Private Personnel Service Advisory Council that had performed duties related to the private personnel service industry. The Commissioner is now authorized to adopt rules necessary to carry out and administer the provisions of the law dealing with the personnel service industry including those involving hearings, penalties, and criminal penalties for violations of the law. Such penalties can include the denial, suspension, revocation of a license issued under the law, or the levying of a fine not to exceed \$250. The licensee will be notified in writing of the denial, revocation, or suspension via a letter signed by the Commissioner or designee, and will have the right to appeal the decision.

Other laws. Among amendments to the law establishing and regulating the Board of Nursing, it was specified that before hiring a registered nurse or a licensed practical nurse in the State, a healthcare facility must verify that the applicant has a current, valid license to practice nursing.

A member of a volunteer fire department, rescue squad, or emergency medical services agency called into service of the State after a proclamation of a state of disaster by the Governor or the General Assembly, or upon the activation of the State Emergency Response Team in response to a disaster or emergency, will have the right to take leave without pay from his or her civilian employment. No such individual will be forced to use or exhaust his or her vacation or other accrued leave from his or her civilian employment for a period of active service. For the volunteer member to be entitled to take leave without pay, his or her services must be requested in writing by the Director of the Division of Emergency Management or by the head of a local Emergency Management Agency. The request is to be directed to the Chief of the member's volunteer fire department, rescue squad, or emergency medical services agency, and a copy is to be provided to the member's employer. The law will not apply to those members whose services have been certified by their employer as essential to the employer's own ongoing emergency or disaster relief activities.

The State Board of Education is to adopt rules relating to leaves of absence, without loss of pay or time, for periods of military training and for State or Federal military duty or for special emergency management service. The rules will apply to all public school employees employed by local boards of education or by charter schools. The rules will provide that (1) the State pays any salary differential to all public school employees in State-funded positions; (2) the employing local board of education pays any pay differential to all public school employees in locally funded positions; (3) the employing charter school pays any pay differential to all public school employees in the charter school; and (4) the employing local board of education pays the local supplement.

North Dakota

Wages. The section of the wage collection law relating to direct deposit of wages was amended to eliminate a provision that had prohibited employers from requiring employees to receive their pay by direct deposit into a financial institution. The law now provides that payment will be made in

lawful money of the United States, by check or by direct deposit in the financial institution of the employee's choice.

Worker privacy. The law relating to confidentiality of central personnel division mediation service records was amended. Division records relating to its mediation services are now exempt from the law that identifies these records as public records, and as such, open and accessible for inspection during reasonable office hours. Additionally, an employee may not be discharged, disciplined, or penalized concerning his or her compensation, conditions, location, or other privileges of employment because of the employee's request for or participation in the mediation services provided by the division.

Workplace security. The Information Technology Department was authorized to require as a condition of employment that individuals who have unescorted physical access to the facilities or other security-sensitive areas of the department be fingerprinted and subject to security background checks.

Private employment agencies. The State employment agency licensing law was amended to stipulate that employment agencies are not subject to licensure if they charge fees exclusively to employers.

Other laws. The section of law relating to the authority of the labor commissioner to adopt rules on wages and working conditions in the State was amended to clarify that orders issued by the Commissioner of Labor must be promulgated as administrative rules under the Administrative Practices Act to have the force and effect of law. Provisions were repealed relating to the commissioner calling conferences of employers, employee representatives, and the public to consider and make recommendations concerning changes in hours, minimum wages, and working conditions, and to issue orders based on these recommendations.

Ohio

Wages. By law, threshold amounts for contract coverage under the State prevailing wage law are adjusted every 2 years according to the change in the Census Bureau's Implicit Price Deflator for Construction, provided that no increase or decrease exceeds 6 percent for the 2-year period. As a result, effective January 1, 2004, the threshold amount for new construction rose from \$62,549 to \$65,843 and the threshold

amount for reconstruction, remodeling, or renovation increased from \$18,764 to \$19,752.

Worker privacy. The law regarding privacy of peace officer records was amended to include the positions of firefighters and emergency medical technicians (EMT). Firefighter is defined as any regular, paid, or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district or village. EMT is defined as an EMT-1, EMT-basic and paramedics that provide emergency medical services for a public emergency medical service organization. Residential and familial information is not to be included in the public record. This includes the employee's name, residential address and phone number, name and address of employer, social security number, bank account, debit card, charge card or credit card number, the name of any beneficiary of employment benefits, emergency telephone number of spouse, a former spouse, or any child of a firefighter or EMT.

Oklahoma

Wages. An employer who is found to have violated the State wage payment law on two or more occasions within any 6-month period may be assessed an administrative fine of \$500 per violation. Previously, the fine could be imposed only in instances of two or more knowing violations.

Worker privacy. Employers who conduct employee-owned vehicle searches of their employees must conduct the searches on their own property. Searches that are conducted on property not owned or rented by the employer will require a search warrant issued according to law.

Whistleblower. The Whistleblower Act was amended to provide that a State agency may not take disciplinary action against an employee who discusses the operations and functions of the agency with the print or electronic media.

Oregon

Wages. A minimum wage ballot initiative was approved by the voters in the November 2002 general election. It provided for an increase in the State minimum wage rate from \$6.50 per hour to \$6.90 on January 1, 2003. It also provided that beginning January 1, 2004, and annually thereafter, the rate will be adjusted for inflation based on data from the U.S. Bureau of Labor Statistics Consumer Price Index. As a result, the rate was

increased to \$7.05 per hour on January 1, 2004.

The law establishing a penalty for failure to pay wages upon termination of employment was amended to limit the penalty wage liability of businesses that primarily sell motor vehicles or farm implements in the case of employees paid on a commission basis where there is a dispute between the employer and the employee regarding the amount of commission due upon the employee's termination, and where the amount of unpaid commission ultimately found due is less than 20 percent of the amount of unpaid commission claimed by the employee. In these cases, the penalty wage liability of the employer may not exceed the amount of the unpaid commission or \$200, whichever is greater. These penalty limitations do not apply if the employer has violated final pay provisions one or more times in the preceding year, or when an employer terminated one or more other employees on the same date that the employee's employment ceased.

The law relating to the Oregon Youth Conservation Corps was amended to specify that corps members are exempt from the State public works prevailing wage law.

Family issues. Employers of 6 or more persons in the State are to provide leave from employment to attend criminal proceedings for eligible employees who have been crime victims or who have an immediate family member who has been a crime victim. The leave may be unpaid; however, paid accrued vacation leave or other paid accrued leave may be used. Reasonable notice is to be given to the employer, and the amount of leave that an employee takes may be limited by the employer if the employee's absence creates an undue hardship to the employer's business. An employee is eligible if he or she has worked an average of more than 25 hours per week for a covered employer for at least 180 days immediately before the date that the employee takes leave to attend a criminal proceeding. An employer who denies leave to an employee or who discharges, threatens to discharge, intimidates or coerces an employee because he or she takes this leave commits an unlawful employment practice and is subject to a civil action.

Worker privacy. A law was enacted prohibiting public bodies (State, local, and special government bodies) from disclosing the identification badge or card of an employee of the public body without the written consent of the employee when the badge or card contains the photograph of the employee and it

was prepared solely for internal use by the public body to identify employees of the public body. Additionally, the public body may not disclose a duplicate of the photograph on the badge or card.

The Board of Public Safety Standards and Training and the Department of Public Safety Standards and Training may not disclose a photograph of a public safety officer without the written consent of the officer or his or her employer. A public safety agency is to provide the department with access to personnel records of an employee or former employee of the public service agency if the department requests access to the records; the department is conducting an investigation relating to the employee or former employee's qualifications for employment, training or certification as a public safety officer; and the records are related to the issue being investigated. A public safety agency that discloses this information is presumed to be acting in good faith and, unless lack of good faith is shown by a preponderance of the evidence, is immune from civil liability for the disclosure or its consequences.

Private employment agencies. The act regulating employment agencies was amended to specifically exclude employment listing services from coverage. An employment listing service is defined as a business that provides lists of specified positions available with an employer other than the service or that holds itself out to individuals as able to provide information about specific positions of employment with an employer other than the employment listing service; charges an individual a fee for its services; and does not arrange interviews or otherwise intercede between an individual and a prospective employer but may offer limited counseling and employment-related services to an individual that includes, but is not limited to, personal grooming and appearance and interview preparation. The Commissioner of the Bureau of Labor and Industries is to adopt rules governing terms of contracts and fees charged. The service is to make contract and fee schedule information available to clients.

Other laws. The law governing State militia duty, pay, allowances, and re-employment rights was amended to provide that members of the organized militia while on active State duty, for reasons including those related to homeland security, will receive not less than the pay and allowances of their corresponding grades of the Armed Forces of the United States. Those members of the organized State militia who are ordered to

active State duty will be considered temporary employees of the military department except that they are not subject to the collective bargaining and arbitration rules and regulations that apply to public or private employees within the State. When the employee's leave of absence for active service of the State is terminated, the employee is to return to his or her employment within 7 calendar days.

The State law regarding benefits for State employees or public officers while absent on military leave was amended. The State will provide coverage under an employer-sponsored health plan to a public officer or employee of the State for a period not exceeding a total of 12 months while the individual is absent on leave. This applies both to individuals serving in the United States Armed Forces and to employees who are members of the organized State militia who are called into active service of the State by the Governor. Employers other than the State may provide such coverage. The position of an employee serving in the United States armed services will not become vacant nor shall the officer or employee be subject to removal as a consequence of such service unless it exceeds 5 years.

Pennsylvania

Wages. A resolution was adopted designating April 15, 2003, as "Equal Pay Day" in Pennsylvania and encouraging all residents to support and maintain pay equity throughout the Commonwealth.

Equal employment opportunity. An Executive order was issued barring State agencies from discriminating against employees based on their gender identity, adding transgendered people to the list of those rights are protected. The order adds "gender identity or expression" to the list that also includes race, color, religious creed, ancestry, union membership, age, gender, sexual orientation, national origin, AIDS or HIV status, or disability.

An Executive order was issued reestablishing the Pennsylvania Commission for Women. Duties and functions of the commission include monitoring women's educational and employment needs and opportunities; promoting job training, educational programs and upward mobility for women; encouraging the development of and access to funding for small business enterprises owned or operated by women; issuing periodic reports on new State laws, regulations and governmental policies affecting women; serving as a liaison between government and nongovernmental groups and organizations

whose purposes relate to the interests of women; and, as appropriate, providing to the Governor and the General Assembly reports and recommendations for legislative or other governmental action.

Plant closing. A resolution was adopted asking the President and U.S. Congress to take all necessary action to preserve the healthcare benefits of steel industry retirees and retirees in other similarly affected industries where there have been massive layoffs or plant closings.

Rhode Island

Wages. New legislation increased the State minimum wage rate from \$6.15 to \$6.75 per hour on January 1, 2004.

A resolution was adopted declaring April 3, 2003, to be “Rhode Island Pay Equity Day” and asking all Rhode Islanders to join in urging all other States to establish equitable compensation that eliminates sex and race-based wage discrimination.

Family issues. Employers, including the State and any political subdivision of the State, may provide reasonable unpaid break time each day to an employee who needs to breastfeed or express breast milk for her infant child to maintain milk supply and comfort. The break time must, if possible, run concurrently with any break time already provided to the employee. An employer is not required to provide break time if to do so would create an undue hardship on the employer’s operations. An employer must make a reasonable effort to provide a private, secure and sanitary room or other location in close proximity to the work area, other than a toilet stall, where an employee can express her milk or breastfeed her child.

Equal employment opportunity. It was made an unlawful employment practice for any employer, when an employee has presented to the employer an internal complaint alleging harassment in the workplace on the basis of race or color, religion, sex, disability, age, sexual orientation, gender identity or expression, or country of ancestral origin, to refuse to disclose in a timely manner in writing to that employee the disposition of the complaint, including a description of any action taken in resolution of the complaint. Provided, however, no other personnel information will be disclosed to the complainant.

South Carolina

Other laws. Permanent full-time State employees who are members of Federalized

National Guard units or activated reserve units, or members of National Guard Units who have volunteered for active duty in “Operation Enduring Freedom,” “Operation Noble Eagle,” or “Operation Iraqi Freedom,” or any combination of these duties, were authorized to use up to 45 days of accumulated annual leave in 2003 in connection with absences resulting from the military service. In addition, such employees were authorized to use up to 90 days of accrued sick leave in calendar year 2003 as if it were annual leave without regard to the 30-day limit on annual leave that may otherwise be used in a year.

South Dakota

Equal employment opportunity. The ban on sex discrimination in employment will not prevent a school district from considering the sex of an employee in relation to employment duties in a locker room or toilet facility used only by members of one sex.

Tennessee

Wages. Amendments to the wage payment law specify that the civil penalty applicable to second and subsequent violations of requirements regarding payment of compensation for employees in private employment or misrepresentation of wages for such employment may be assessed at the discretion of the Commissioner of Labor and Workforce Development, and that the commissioner is to provide the employer with 30 days’ notice and an opportunity for a hearing prior to the imposition of any civil penalty. If an employer fails to notify the commissioner in writing within 30 days from the receipt of notification of penalties of its intent to contest the imposition of a penalty, the assessment of the penalty as stated in the notification will be deemed a final order of the commissioner and not subject to further review. All penalties owed are to be paid to the commissioner.

Child labor. Amendments to the child labor law provide that the civil penalty applicable to second or subsequent law violations may be assessed at the discretion of the Commissioner of Labor and Workforce Development, and that if an employer fails to notify the commissioner in writing within 30 days from the receipt of notification of penalties of its intent to contest the imposition of a penalty, the assessment of the penalty as stated in the notification will be deemed a final order of the commissioner and not subject to further review. All penalties owed are to be paid to the commissioner.

The State child labor law was amended by establishing requirements on contracts entered into on behalf of entertainers under the age of 18. The law pertains to every minor who desires to perform artistic and creative services in the State. The minor, parent, or guardian, are required to petition the court for approval of a contract for such services. Petitions will be filed in the probate court of the county where the minor resides or performs. If approved, the minor will not be allowed to disaffirm the contract on the grounds of minority status or grounds that the parent or guardian lacked personal authority. Upon contract approval, all types of earnings become the sole property of the minor. There is a court requirement that 15 percent of the minor’s gross earnings be placed in trust for the minor’s benefit; and the minor or the parents or guardian may request that an additional percentage be placed in trust. Court-approved contracts will include all requirements for rendering of the minor’s services and protect the interest of the minor. The court may revoke approval or modify the contract if necessary to protect the physical or mental well-being of the minor.

Equal employment opportunity. Administration of title V of the Federal Older Americans Act was transferred from the Commission on Aging and Disability to the Department of Labor and Workforce Development. Existing funding to community providers will continue so long as the Federal funding continues and providers meet program goals.

The complaint procedure was revised for persons claiming to be aggrieved by a discriminatory practice, on the basis of race, color, or national origin, under Title VI of the Federal Civil Rights Act of 1964. Enforcement duties and powers were transferred from the Human Rights Commission to the Title VI Compliance Commission.

The Governor issued an Executive order directing that no State executive branch agency, department, board, or commission is to discriminate in employment on the basis of race, religion, gender, age, handicap, or national origin. The order also creates the Governor’s Advisory Committee on Equal and Fair Employment Opportunity. This committee will monitor the implementation of this Executive order and regularly review the State’s progress in achieving fair and equal employment opportunity, and advise the Governor on the level of compliance and additional actions needed to enable the State to fulfill the mandate of the Executive order. This Executive order supersedes and rescinds Executive Order No. 2, signed February 27, 1995.

Worker privacy. Among several changes in the law governing the licensure of polygraph examiners, provisions were eliminated which had required that, in employment examinations, each prospective examinee be shown a list of the questions to be asked and that the questions be reviewed with the examinee prior to the commencement of the examination, and that each prospective examinee be shown a list of those areas that the examination will not cover.

The law dealing with the confidentiality of public records was amended to provide that an employee of the Department of Correction is to be allowed to inspect investigative records of the Internal Affairs Division of the Department of Correction prior to a due process hearing at which disciplinary action is considered or issued unless the commissioner specifically denies in writing the employee's request to examine the records prior to the hearing.

Other laws. A law was enacted prohibiting the termination of an employee who is a volunteer firefighter due to his or her absence or lateness to work because of responding to an emergency. Any employee who is terminated in violation of this law may bring a civil action against the employer within 1 year from the date of the violation seeking reinstatement, payment of back wages, and reinstatement of fringe benefits and seniority rights. An employer may charge any time that an employee loses from employment because of his or her response to an emergency against the employee's regular pay. The employer also has the right to request an employee, who loses time for such reason, to provide a written statement from the supervisor or acting supervisor of the volunteer fire department stating that the employee responded to an emergency and listing the time and date of the emergency.

Texas

Wages. A law was enacted specifying that the hourly rate provided for in the State minimum wage law supersedes a wage established in an ordinance, order, or charter provision governing wages in private employment, other than wages under a public contract. This provision does not apply to any State or Federal job training or workplace development program or to a minimum wage established by a government entity that applies to a contract or agreement entered into by a government entity and a private entity.

The wage payment law was amended to authorize employers to pay wages by direct deposit to employees who maintain accounts at financial institutions that qualify for elec-

tronic funds transfer. An employer who wants to pay wages through a direct deposit plan must notify each affected employee, in writing, at least 60 days before the date on which the direct deposit payroll system is scheduled to begin, that the employer is adopting a direct deposit payroll system, and obtain from the employee any information required by the financial institution in which the employee maintains the account that is necessary to implement the electronic funds transfer.

Payroll deductions from the wages of county employees previously limited to payments to a credit union, payment of labor union or employee association membership dues, payment of fees for parking in a county-owned facility, or payments to a charitable organization, may now be authorized for other approved purposes.

Cash paid as wages will now be presumed abandoned if, for longer than 6 months if the amount is \$100 or less, or for longer than 3 years if greater than \$100 provided the existence and location of the employee or former employee to whom the wages are owed is unknown to the employer and a wage claim has not been filed under the wage payment law. A check paid as wages for \$100 or less is presumed to be abandoned on the latest of: (1) the 180th day after the check was payable; (2) the 180th day after the date the issuer of the check last received documented communication from the payee; or (3) the 180th day after the date the check was issued if, during that period, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised. A check for wages for more than \$100 is presumed abandoned on the latest of: (1) the 3rd anniversary of the date the check was payable; (2) the 3rd anniversary of the date the issuer of the check last received documented communication from the payee of the check; or (3) the 3rd anniversary of the date the check was issued if, during that period, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised.

Among several amendments to the Industrial Development Corporation Act, it was specified that a corporation may spend tax revenue received under the act for job training offered through a business enterprise only if the business enterprise has committed in writing to create new jobs that pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area, or to increase its payroll to pay wages that are at least equal to the prevailing wage for the applicable occupation in the local labor market area.

Family issues. Limited compensation will be provided to an immediate family member of a deceased violent crime victim for travel expenses associated with attending the funeral or for lost wages resulting from bereavement leave, taken in connection with the death of the victim, for up to 10 work days, or a maximum of \$1,000.

Child labor. The Alcoholic beverage law was amended to authorize the holder of a permit or license providing for the on-premises consumption of alcoholic beverages, who also holds a food and beverage certificate, to employ a person under 18 years of age to work as a cashier for transactions involving the sale of alcoholic beverages if the alcoholic beverages are served by a person 18 years of age or older.

Equal employment opportunity. The Commission on Human Rights was abolished, and its powers, duties, functions and activities were transferred to the Texas Workforce Commission, Civil Rights Division. By November 1, 2003, the Governor was to have appointed members to a new Human Rights Commission that will be responsible for governing the Civil Rights Division, with authority to grant or seek relief from an unlawful employment practice, or to institute criminal proceedings.

Genetic testing. A person who unlawfully discloses genetic information will now be liable for a civil penalty of up to \$10,000. The attorney general may bring an action in the name of the State to recover the penalty, plus reasonable attorney's fees and court costs.

Workplace security. A commercial nuclear power plant licensee and its contractors, for security reasons and consistent with requirements of the United States Nuclear Regulatory Commission, are entitled to obtain criminal history record information, from the Department of Public Safety, that relates to a person who has or is seeking employment at or access to a commercial nuclear power plant.

Employee leasing. The law regulating staff leasing companies was amended to provide that a client company is solely obligated to pay any wages for which obligation to pay is created by an agreement, contract, plan, or policy between the client company and the assigned employee, and the staff leasing company has not contracted to pay. The staff leasing company is to disclose this information to all its assigned employees. Prior law required the staff leasing company to take

the responsibility of paying assigned employees' wages even if they had not contracted for such payments.

Department of labor. Legislation was enacted extending the Texas Workforce Commission through September 1, 2009. Among other provisions, it also adopted guidelines regarding the functions of the commission, amended the qualifications for commission members, revised the grounds for removal from the commission, and established member training requirements.

All functions and activities performed by the Texas Department of Licensing and Regulation relating to conducting administrative hearings at the department were transferred to the State Office of Administrative Hearings.

The requirement, under dispute resolution procedures, that the Texas Workforce Commission enter an order in accordance with the final determination of an action under the Judicial Review of Commission Decision subchapter was repealed.

Other laws. An addition to the Penal Code makes it unlawful for a person to knowingly traffic another person with the intent that the trafficked person engage in forced labor or services or in prostitution or child pornography. An offense will be a felony of the second degree, except that it will be a felony of the first degree if the offense involves prostitution or child pornography and the person who is trafficked is younger than age 14, or if the commission of the offense results in the death of the person who is trafficked. "Traffic" means to transport another person or to entice, recruit, harbor, provide, or otherwise obtain another person for transport by deception, coercion, or force.

The law establishing guidelines relating to acceptable off-duty employment by commissioned officers of the Texas Department of Public Safety was amended to specify that the guidelines are to be applied uniformly to all supervisory and non-supervisory commissioned officers, and to provide that if the department denies approval of an officer's secondary employment or proposed secondary employment, he or she must be promptly notified in writing of the specific guideline on which the department's decision was based and why the employment is prohibited by the guideline.

A member of the State military forces, who is ordered to active State duty by the Governor or by other proper authority under State law, will now be entitled to the same benefits and protections as those pro-

vided to certain persons in the uniformed services and military service of the United States including protection from job discrimination and reemployment rights when returning from active duty.

A person who is called to active military duty as a member of the Texas National Guard in the service of the State or the United States and who suffers an economic hardship as a result of serving on active duty will now be eligible to receive supplemental pay. The comptroller is to establish the Texas National Guard members' supplemental active duty pay account in the general revenue fund. A Guard member may receive an amount, to be determined by the adjutant general, not to exceed the lesser of the amount required to alleviate the economic hardship the member suffers as a result of serving on active duty, or the difference between the amount of income that the member has lost from civilian employment as a result of being called to active duty and the amount of military pay and allowances the member receives from State or Federal sources while on active duty.

Employees of the State called to active duty during a national emergency to serve in a reserve component of the Armed Forces may use any accrued vacation leave, earned compensatory leave, or overtime leave to maintain benefits for the employee or his or her dependents while on military duty. The State agency is to grant sufficient emergency leave as differential pay to a State employee on unpaid military leave if the employee's military gross pay is less than the employee's State gross pay. The combination of emergency leave and military pay may not exceed the employee's actual State gross pay.

If a municipal or county employee who is a member of a reserve component of the Armed Forces of the United States, including any part of the State military forces, is called to active military duty and subsequently exhausts all military leave to which he or she is entitled under State law, the municipality or county may continue the individual's salary payments until the person is no longer on active duty.

If a firefighter or police officer employed by a municipality is called to active military duty for any period of time, his or her employer must continue to maintain any health, dental, or life insurance coverage and any health or dental benefits coverage that the firefighter or police officer received through the municipality on the date he or she was called to active military duty until the municipality receives written instructions from

the firefighter or police officer to change or discontinue the coverage. A firefighter or police officer may, without restrictions as to the amount of time, voluntarily substitute for a firefighter or police officer who has been called to active Federal military duty for a period expected to last 12 months or longer. Municipalities are to maintain military leave time accounts to receive and distribute donated leave.

The Education Code was amended to provide that a school district employee with available personal leave is entitled to use the leave for compensation during a term of active military service. In addition, school districts were authorized to adopt a policy providing for the paid leave of absence of employees taking leave for active military service.

Utah

Wages. The section of the minimum wage law establishing the wage rate for employees who regularly receive tips was amended to delete a provision that tipped employees could be paid not less than 55 percent of the minimum wage when the balance received from tips was sufficient to bring the employee to the minimum wage. The law now refers to the cash wage obligation established by administrative rule that matches the Federal minimum cash wage of \$2.13 per hour.

The Department of Human Resource Management was directed to conduct a study regarding salary data related to whether or not compensation paid to State employees differs between genders. A report, including any proposed legislation, was to be made to the Government Operations Interim Committee during the 2003 interim. Benchmark positions were to be established and examined for factors including for the percentage of each gender in the position, the average length of employment by the State and in each position for each gender, and the average salary of male and female employees. The study was also to examine the percentage of part-time State employees of each gender.

The section of the payment of wages law prohibiting retaliation against an employee who files or is about to file a complaint, who testifies or is about to testify in an enforcement proceeding, or who the employer believes may file a complaint or testify was amended. Previously, the law protected employees from discharge or threat of discharge. It now prohibits discharge, demotion, or any other form of retaliation against an employee in the terms, privileges, or conditions of employment.

Equal employment opportunity. Among amendments to the Antidiscrimination Act, the procedure for an aggrieved person to file a claim was revised to authorize the Antidiscrimination and Labor Division to transfer a request for agency action filed with the division to the Federal Equal Employment Opportunity Commission (EEOC) in accordance with any work share agreement that exists between the division and the EEOC and that is in effect on the day on which the agency action request is transferred. This transfer is considered the commencement of an action under Federal law. The director may issue a determination and order to the respondent to cease any discriminatory or prohibited employment practice and provide relief to the aggrieved party as is determined appropriate.

Worker privacy. Current or former employers of law enforcement and training academy applicants are now required to provide employment history information to the law enforcement agency or academy if proper notice and authorization procedures are followed. Information provided may include dates of employment, compensation paid, attendance record, any disciplinary action taken, and a statement regarding whether the employer would rehire the applicant and, if not, the reasons why. In the absence of fraud or malice, an employer is not subject to any civil liability resulting from the release of the information requested.

Workplace violence/security. Political subdivisions of the State that operate public water systems were authorized to require prospective and current employees and contractors and those seeking access to public water system facilities to submit to a criminal background check. If employment is denied or terminated because of information obtained through a criminal background check, the public water utility must notify the person in writing of the reasons for denial or termination and give him or her an opportunity to respond to the reasons and to seek review of the denial or termination through established administrative procedures.

Employee leasing. The law requiring the licensing of professional employer organizations was amended to now provide for annual registration rather than licensing. It also eliminated the Professional Employer Organization Board, established qualifications for registration and specified the information to be filed by registrants. A professional employer organization that is domiciled outside of the State and employs less than 50 employees who are employed or domiciled

in the State is not required to file the entity information.

Inmate labor. The section of the Code of Criminal Procedure regarding court-ordered restitution to crime victims was amended to permit the court to award up to 5 days of the individual victim's wages that were lost due to the theft or damage to tools or equipment items of a trade that were owned by the victim and were essential to his or her employment.

Other laws. The Labor Commission is to assume certain responsibilities relating to coal mine certification and fee collection that were previously performed by the Labor Commission's Safety Division.

The law providing State employees with a pay allowance for time spent on duty in the United States Armed Forces or the Utah National Guard was amended to also apply to county and municipal employees. These employees may be allowed up to full pay for all time not in excess of 15 days a year spent on duty at annual encampment or rifle competition or other duties in connection with the reserve training and instruction requirements. This leave is at the discretion of the employing county or municipality and, if granted, shall be in addition to annual vacation leave with pay.

Vermont

Wages. New legislation increased the State minimum wage rate from \$6.25 to \$6.75 per hour on January 1, 2004, with a further increase to \$7 per hour scheduled for January 1, 2005. An employer in the hotel, motel, tourist place, and restaurant industry may not employ a service or tipped employee at a wage rate less than \$3.58 an hour. Beginning on January 1, 2005, this rate is scheduled to rise to \$3.65 an hour, and thereafter to a rate to be determined when the basic minimum wage rate is increased. A "service or tipped employee" is defined as all those, in either hotels, motels, tourist places, and restaurants who customarily and regularly receive more than \$30 per month in tips for direct and personal customer service.

Child labor. A resolution was adopted designating March 26, 2003, as Child Labor Awareness Day in Vermont.

Equal employment opportunity. The mandatory retirement age for justices of the State Supreme Court and judges of all subordinate courts was raised from 70 to 90.

Virginia

Wages. The law relating to the payment of wages was amended to permit wages to be paid into a trust account on which the employee is a named beneficiary. Such payment must be with the consent of the employee.

Child labor. The minimum age was reduced from 13 to 12 for children to be exempt from the child labor law (except for those sections prohibiting work that is hazardous to health or morals) for employment as sports referees by a charity organization, a unit of state or local government, or for an organization of referees, sponsored by an organization recognized by the U.S. Olympic Committee.

Equal employment opportunity. The section of the Freedom of Information Act relating to record exemption for employment discrimination investigations was amended to expand the record exemption for investigator notes, correspondence and information, which is furnished in confidence with respect to an active investigation of individual employment discrimination complaints that are made to the Department of Human Resource Management to include any such investigations conducted by personnel of the local governing body who are authorized by law to conduct these investigations in confidence, including local school boards.

Worker privacy. The law relating to the certified nursing facility education initiative was amended to repeal the previously established expiration date for the program. Another amendment provides that the records, reports, and communications of any staff member or other person acting on behalf of the nonprofit organization are privileged communications and may not be disclosed or obtained by legal discovery proceedings unless a circuit court, after a hearing and showing of good cause arising from extraordinary circumstances, orders the disclosure of such records, reports, and communications.

Workplace security. The Department of Human Resource Management is to develop a Statewide policy for designating sensitive positions within each State agency. Such sensitive positions will include positions generally described as being directly responsible for the health, safety and welfare of the general populace, or for protection of critical infrastructures. Final candidates for employment in a sensitive position will be required, as a condition of employment, to

submit to a criminal background check, submit to fingerprinting and provide personal descriptive information, all of which will be forwarded through the Central Criminal Records Exchange to the Federal Bureau of Investigation.

As a condition of employment, any county having the county manager form of government must require any applicant who is offered or accepts employment at the county's water treatment facility to submit to fingerprinting and to provide personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history information. Such applicants will, if required by ordinance, pay the cost of fingerprinting or a criminal records check or both.

The section of the law relating to commercial driver's licenses and hazardous materials endorsements was amended to meet the requirements of the Federal U.S.A. Patriot Act of 2001. This act, in part, prohibits issuance by States of commercial driver's licenses with hazardous materials endorsements unless the U.S. Secretary of Transportation certifies that the applicant poses no security risk.

Washington

Wages. The State minimum wage rate is adjusted for inflation annually in September by a calculation using the U.S. Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-U) for the previous year. As a result, the rate for employees older than age 18 increased from \$6.90 per hour to \$7.01 on January 1, 2003, and to \$7.16 on January 1, 2004. Also receiving these rates are 16 and 17-year-olds, the result of an administrative rule requiring that they earn the same minimum wage as adults; 14 and 15-year-olds may be paid 85 percent of the adult minimum wage.

The law relating to an employer's indebtedness to a deceased person for unpaid wages, labor, or services performed was amended to provide that if the decedent's employer is the State of Washington, then the amount of the indebtedness that can be paid under the law will not exceed \$10,000. At the beginning of each biennium, the director of financial management may, by administrative policy, adjust the amount of indebtedness that can be paid to levels not to exceed the percentage increase in the consumer price index for all urban consumers, CPI-U,

for Seattle, or a successor index, for the previous biennium as calculated by the United States Department of Labor. Adjusted dollar amounts of indebtedness will be rounded to the nearest \$500 increment.

Among provisions relating to the prevailing wage law, all intent and affidavit fees paid by contractors are now to be dedicated to the sole purpose of administering the prevailing wage program. The Department of Labor and Industries is to establish a goal of conducting surveys for each trade every 3 years; actively promote increased response rates from all survey recipients in every county both urban and rural; actively work with businesses, labor representatives, public agencies, and others to ensure the integrity of information used in the development of prevailing wage rates, and ensure uniform compliance with the law; maintain a timely processing of intents and affidavits, with a target processing time no greater than 7 working days from receipt of completed forms; and develop and implement electronic processing of intents and affidavits and promote the efficient and effective use of technology to improve the services provided by the prevailing wage program. In establishing the prevailing wage rates, all data collected by the department may be used only in the county for which the work was performed.

Hours. An amendment to the labor law specifies that rules adopted regarding appropriate rest and meal periods as applied to employees in the construction trades may be superseded by a collective bargaining agreement covering such employees if the terms of the agreement specifically require rest and meal periods and prescribe requirements concerning them.

Agriculture. The Department of Labor and Industries and stakeholders representing agricultural employers and employees were to report to the House Commerce and Labor Committee and the Senate Agricultural Committee by September 1, 2003, and by December 1, 2003, on the status of the rule development and implementation process for cholinesterase medical monitoring of farm workers who handle cholinesterase-inhibiting pesticides.

West Virginia

Hours. A new section was added to the code regulating motor carriers of passengers and property for hire, providing for the regulation of intrastate driving hours and duty hours of for-hire carriers that transport passengers. Drivers of for-hire carriers may not

drive for more than 10 consecutive hours without 8 consecutive hours off duty; drive after the driver has on-duty time of 15 hours without 8 consecutive hours off duty; or drive after he or she has been on duty for a total of 70 consecutive hours within 8 consecutive days. On-duty time is defined as all time from when a driver begins work or is required to be in readiness to work until the time he or she is relieved from work and all responsibility for performing work.

Preference. Among amendments to the West Virginia Jobs Act, the 6-month residency requirement was eliminated from the local labor market resident preference for work on public improvement projects, the threshold amount for construction project coverage was increased from \$500,000 to \$1 million, and law coverage was extended to include projects let by counties and municipalities.

Wisconsin

Wages. On January 1, 2003, the threshold amount for coverage under the State prevailing wage laws for State and municipal contracts was changed administratively from \$175,000 to \$180,000 for contracts in which more than one trade is involved, and from \$36,000 to \$37,000 for contracts in which a single trade is involved. On January 1, 2004, these amounts were changed administratively to \$186,000 for contracts in which more than one trade is involved, and \$38,000 for contracts in which a single trade is involved.

The Wage Payment and Collection law was amended to exclude from the definition of an "employee", for purposes of coverage, any independent contractor, or a person employed in a managerial, executive, or commissioned sales capacity or in a capacity in which the person is privy to confidential matters involving the employer/employee relationship. This law provides the authority to process wage claims and to collect unpaid wages due regarding minimum wage payments, overtime premium pay, prevailing wages, and child labor penalties.

Wyoming

Family issues. A resolution was adopted encouraging breastfeeding and commending employers, both in the public and the private sector, who make accommodations for breastfeeding mothers whenever feasible.

Equal employment opportunity. The upper limit of age 70 was removed from the

ban on age discrimination in the Fair Employment Practices Act. The prohibition will now apply to all persons at least 40 years of age.

Revisions were made in the hearing procedures and remedies available under the Fair Employment Practices Act. Among these, the hearing procedure will now apply to employment agencies and labor organizations as well as to employers and employees. The Department of Employment is to issue an order within 14 days of the hearing officer's decision requiring compliance, and if the employer, employment agency or labor organization does not appeal or comply within 30 days, the department may petition the

district court for enforcement of the order. Remedies available were specified. These include: (1) requiring the employer, employment agency or labor organization to cease and desist from the discriminatory or unfair practice; (2) requiring remedial action which may include hiring, retaining, reinstating or upgrading of employees, referring of applications for employment by a respondent employment agency, or the restoration to membership by a respondent labor organization; (3) requiring the posting of notices and making reports as to the manner of compliance; or (4) requiring the employer, employment agency or labor organization to pay back pay or front pay. □

Notes

¹ All of the State legislatures met in regular session in 2003. Delaware, Guam, Massachusetts, Missouri, and New Hampshire did not enact significant legislation in the fields covered by this article. Information about Puerto Rico and the Virgin Islands was not received in time to be included in the article, which is based on information received by November 10, 2003.

² Several tables displaying State labor law information, including a table on State minimum wage rates and a table on State prevailing wage laws, are available on the U.S. Department of Labor, Employment Standards Administration Web site at <http://www.dol.gov/esa/programs/whd/state/state.htm>

³ Ibid.