

## State labor legislation enacted in 1998

*Increases in minimum wage rates, prevailing wage changes, child labor revisions, workplace surveillance regulations, and bans on employment discrimination were major subjects of State labor legislation*

Richard R. Nelson

A number of major pieces of State labor legislation were adopted in 1998, despite an unusually light volume of enactments.<sup>1</sup> The greatest areas of concentration were in the traditional subjects of minimum wage protection, prevailing wage, and the regulation of child labor. Legislation also was enacted on the emerging issue of employee monitoring, and on other contemporary issues such as balancing work and family, granting immunity for disclosure of work performance information, and banning employment discrimination because of genetic test results. Some significant ballot measures and court decisions also have had an impact on employment standards.

This article provides a summary of significant enactments in labor legislation. It does not, however, cover occupational safety and health, employment and training, labor relations, employee background clearance, and economic development legislation. Articles on unemployment insurance and workers' compensation appear elsewhere in this issue of the *Monthly Labor Review*.

**Wages.** Minimum wage was an important area of State labor legislation and activity again this year, although not as active as in the past few years when it dominated State legislative activity. New legislation increased minimum wage rates in Connecticut, Indiana, and Kentucky.<sup>2</sup> Rates also increased in West Virginia, as the result of a previous law, and in California and Oregon, as the result of ballot measures approved in 1996.

A Washington ballot measure approved in the November general election increases the minimum wage rate in that State.

As a result of this measure, beginning January 1, 2001, Washington will be the first State in the Nation to have a rate that is annually adjusted for inflation.

As of January 1, 1999, minimum wage rates higher than the Federal standard are in effect in Alaska, California, Connecticut, the District of Columbia, Hawaii, Massachusetts, Oregon, Vermont, and Washington.

Major changes were made in the way minimum wage rates will be established in Puerto Rico.

Indiana will now require the payment of overtime, while an overtime pay requirement was eliminated in Idaho. Laws were adopted in Hawaii and Washington specifying that airline industry employers are not required to pay overtime to employees who voluntarily trade shifts.

Thirty-one States and the Federal Government currently have public works prevailing wage laws. This year, prevailing wage bills were introduced in nearly half of the States. Reversing the trend of recent years to weaken these laws, most of those measures adopted in 1998 strengthened laws.

Maine will now require payment of prevailing benefits as well as prevailing wages. Coverage of the Maine law was also expanded to include projects let by the Turnpike Authority. Delaware passed laws pertaining to the maintenance of payroll information, and excusing the Department of Labor from court costs for certain prevailing wage cases. The Department was also authorized to join claimants in one action when filing suit.

In New York, underpayments may now be recovered from successors, subsidiaries, principals, and others related to public works building service contractors who have violated the prevailing wage law. Employers in Hawaii may be penalized if they fail to timely submit records and information or if they interfere with or delay an investigation. Penalty provisions were strengthened in Massachusetts.

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The Kentucky law regulating the awarding of public contracts by the State was amended to add requirements for subcontractors to those already in place for contractors. California revised provisions providing for debarment of contractors and subcontractors from work on public works contracts following violations of the prevailing wage law.

Coverage of the law was reduced in Wisconsin and Ohio where the threshold amount for coverage under the prevailing wage laws for State and municipal contracts was increased administratively. Coverage was also reduced in Minnesota where, as a result of a court decision, the law will not cover school construction.

Other significant wage legislation included a requirement for equal pay for equal work for State employees in West Virginia, and an increase in the maximum wage claim that may be accepted by the Alaska Department of Labor.

Kentucky became the 29th State to adopt legislation authorizing reciprocal agreements with other States for the collection of claims for wages, fringe benefits, and penalties.

*Hours.* Hours of work restrictions were revised for work in underground mines in Arizona and for certain intrastate drivers in Wyoming. As the result of other measures, Rhode Island employers will no longer be required to obtain work permits for work to be performed on Sundays and holidays. Employers in Vermont now are to provide employees with reasonable opportunities to eat and to use toilet facilities during work periods. The North Dakota meal break requirement was revised.

*Family issues.* A few significant laws were adopted relating to work and family. Massachusetts joined a few other States by adopting legislation granting eligible employees up to 24 hours of leave during any 12-month period to participate in school activities, or to accompany children or elderly relatives to medical or other appointments. Minnesota became the first State to pass a law requiring employers to accommodate nursing mothers.

*Child labor.* Child labor continues to be an issue of great interest at both the Federal and State level. A mix of legislation was enacted this year, with laws passed both to strengthen and to relax child labor regulation.

Among the measures enacted, provisions for hours of work during school weeks were strengthened in Connecticut, and penalties were increased in South Carolina. The prohibition of hazardous occupations will be expanded in Maine. Further restrictions were placed on the sale of alcoholic beverages in Maryland and on the employment of infants on motion picture sets in California. The labor department in Florida was given rulemaking authority under the child labor law. Rhode Island now permits suspension of a student's working papers because of absenteeism or conduct that would justify

a suspension from school.

In a first-of-its-kind development, Tennessee enacted an exemption from the child labor law for 16- and 17-year-old students enrolled in a church-related school or who are home-schooled. Virginia enacted an exemption for certain minors employed as sports referees. Children will be allowed to work longer hours or at younger ages in certain specified jobs in Missouri and New Hampshire. New Hampshire also eliminated the requirement for work certificates for 16- and 17-year-olds.

*Agriculture.* Enactments that affect agricultural workers were adopted in a few States. The Florida Department of Labor and Employment Security was given authority to adopt rules prescribing the procedures to register as a farm labor contractor and the procedures to impose civil penalties for violations. New York adopted field sanitation requirements for farm laborers and, in Washington, rules were adopted requiring electricity in all temporary worker housing and establishing minimum requirements to ensure the safe storage, handling, and preparation of food in these camps.

The Maine Department of Labor is to establish a migrant and immigrant worker assistance outreach project to assist these workers in the State.

*Garment industry.* Bills to further regulate the garment industry were adopted in California and New York. In California, provisions were enacted pertaining to persons engaged in the business of garment manufacturing, but who do not employ any workers. These provisions made them liable for civil penalties for labor law violations. Among several provisions of the New York law, apparel articles or components manufactured or assembled in violation of the law may be tagged as "unlawfully manufactured" and sections were added on the liability of manufacturers and contractors including a joint liability section.

*Equal employment opportunity.* The trend to enact legislation banning employment discrimination against individuals based on genetic characteristics, genetic information, or test results continued this year, with new laws passed in California, Connecticut, Delaware, Maine, and Oklahoma.

A number of other measures were enacted, banning various forms of employment discrimination. Among them, the Mississippi State personnel system law assuring the fair treatment of applicants and employees in all aspects of personnel administration was amended to add disability to the list of prohibited forms of discrimination. The Rhode Island law prohibiting discrimination against individuals for seeking or obtaining a domestic abuse protective order was amended to also protect those who refuse to seek or obtain such an order.

In Massachusetts, a plan is to be developed and implemented to eliminate discrimination against female construction workers and to increase the number of these workers at

State construction projects.

In Hawaii, it will not be an unlawful discriminatory employment practice for an employer to inquire about and consider an individual's criminal conviction record when making decisions concerning hiring, termination, or the terms, conditions, or privileges of employment, if the conviction record bears a rational relationship to the duties and responsibilities of the position.

A ballot measure, overturning a 1997 law banning discrimination because of sexual orientation was approved by voters in Maine.

Washington voters approved a ballot measure that will prohibit government entities from discriminating against or granting preferential treatment to any individual or group based on race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

*Drug and alcohol testing.* There were a few significant developments relating to the regulation of employee drug and alcohol testing. Several changes were made in the Iowa private employer drug and alcohol testing law including allowing voluntary testing of both current and prospective employees and permitting unannounced random testing. An Executive Order issued in Louisiana directs State agencies to adopt written policies mandating drug testing of prospective employees. Several bases for testing, including random testing, are specified.

*Worker privacy.* Worker privacy legislation took several forms in 1998, addressing both traditional and emerging issues. Several States adopted laws relating to employee access to their own personnel files or regulating the disclosure of personnel file information. Amendments to lie detector test laws expanded coverage in Connecticut, reduced coverage in Virginia and, in Tennessee, added questions concerning disability to the list of unlawful areas of inquiry.

Hawaii joined several States that have passed legislation recently providing immunity from civil liability to employers

who furnish job performance information about a current or former employee to a prospective employer.

Emerging issues are addressed by new laws in Connecticut which require employers who engage in any type of electronic monitoring to give prior written notice to all employees who may be affected, informing them of the types of monitoring that may occur. In California, it is now unlawful, unless authorized by a court order, for employers to make audio or video recordings of employees in a restroom, locker room, or room designated by the employer for changing clothes.

*Other laws.* Among other laws of interest, a Temporary Employee Protection Act was adopted in Rhode Island. South Dakota employees may continue health care coverage when an employer ceases operations. California employers were barred from requiring an individual to pay a fee in order to apply for employment. New York employers may not use any State funding to train administrators in methods to discourage union organization.

A recent trend continued with Georgia, Utah, and Wisconsin providing paid leave for State employees who are certified by the American Red Cross to be disaster service volunteers. Existing laws of this kind were amended in Minnesota and South Dakota.

The Advisory Committee on Labor and Industrial Relations and the Industrial Accident Board were eliminated in Hawaii.

A ballot proposition was rejected in California that would have required employers and labor organizations to obtain permission from employees and members before withholding pay or using union dues or fees for political contributions. Voters in Oregon approved a ballot measure guaranteeing the right of public employees to have payroll deductions for political purposes, and they rejected a counter measure that would have prohibited spending public funds to collect or assist in the collection of political funds.

The following is a summary, by jurisdiction, of labor legislation enacted in 1998.

## Alabama

*Worker privacy.* For employees in the education field, a new law guarantees their right to review the contents of their personnel files and to receive copies of any documents contained in the file. A representative of the employee may accompany him or her during the personnel file review. The employee may answer or object in writing to any material in the file, and the answer or objection is to be attached to the appropriate material. A copy of all materials to be placed in the employee's record, which could adversely affect the employee's professional or work status, must

be provided to the employee. Anonymous complaints or materials which have not been investigated within 30 calendar days of their receipt by the executive officer of the school board must be destroyed. Employers may transfer an employee's personnel file or copies or any parts of it to another employer, or prospective employer, upon the written request of the employee.

## Alaska

*Wages.* Overtime wage payment requirements will not be applicable to work performed by certain mechanics primarily en-

gaged in the servicing of automobiles, light trucks, and motor homes if specified pay requirements are met.

The section of the wage payment law relating to the assignment of wage claims to the Department of Labor was amended. The maximum claim that may now be accepted will be the amount prescribed in the law governing small claim court actions. This amount is currently \$7,500, up from \$5,000 previously.

## Arizona

*Hours.* The law limiting work in under-

ground mines to no more than 8 hours within any 24-hour period was amended. It now permits work of up to 12 hours within any 24-hour period if the employer has adopted a policy of longer work hours based on a collective bargaining agreement. The contract must be entered into with a labor organization representing the affected employees and must expressly authorize longer periods of employment.

## California

*Wages.* The State minimum wage rate rose from \$5.15 per hour to \$5.75 on March 1, 1998, as the result of passage of Proposition 210 in the November 1996 general election.

The Labor Commissioner may deny a contractor or subcontractor the ability to bid on or be awarded a public works contract or to perform work as a subcontractor on a public works project if found to be in violation of public works laws with the intent to defraud, or if in willful violation of those laws. The Labor Commissioner, not less than semiannually, is to publish and distribute to awarding bodies a list of contractors that are ineligible to bid on or to be awarded a public works contract, or to perform work as a subcontractor on a public works project. It was also specified that any contract on a public works project entered into between a contractor and a debarred subcontractor is void. Every contract for a public works project is to contain a provision specifying that the public entity may not permit a contractor or subcontractor who is ineligible to bid or work on, or be awarded, a public works project, to bid on, be awarded, or perform work as a subcontractor on such a project.

*Child labor.* No infant under the age of 1 month may be employed on any motion picture set or location unless a licensed physician and surgeon, who is board-certified in pediatrics, provides written certification that the infant is at least 15 days old, is healthy, and is physically capable of handling the stress of filmmaking. Any parent, guardian, or employer of a minor, and any officer or agent of an employer of a minor, who violates or permits a violation of this provision, is guilty of a misdemeanor punishable by a fine of \$2,500 to \$5,000, by imprisonment of up to 60 days, or by both.

Continued for 3 years, until January 1, 2002, is a provision permitting 16- and 17-

year-olds in Lake County who are employed in agricultural packing plants to work more than 48 hours, but no more than 60, in any 1 week with written approval of the Lake County Board of Education. This provision amends the child labor law that otherwise limits the number of hours that these minors may work to no more than 48 hours per week and 8 hours a day, or up to 10 hours on any non-school day in agricultural packing plants during the peak harvest season.

*Garment industry.* Provisions were enacted pertaining to those persons who engage in the garment manufacturing business, and do not employ any workers. A civil penalty of \$500 was established for labor law violations by these individuals (they had been exempt from civil penalties that, under prior law, were imposed for each "affected employee"). These individuals will not be guilty of a misdemeanor for failure to register with the Labor Commissioner.

*Equal employment opportunity.* Employment discrimination on the basis of genetic characteristics was banned by adding genetic characteristics to the definition of medical condition. Discrimination because of medical condition is one of the forms of discrimination prohibited under the Fair Employment and Housing Act.

*Worker privacy.* Employers may not cause an audio or video recording to be made of an employee in a restroom, locker room, or room designated by the employer for changing clothes, unless authorized by a court order. An employer may not use a recording, made in violation of this provision, for any purpose.

The law providing that a public safety officer may not be compelled to submit to a polygraph examination against his or her will was amended to apply to all lie detector tests rather than only polygraph examinations. Lie detector is defined as a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device, whether mechanical or electrical, that is used for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

*Other laws.* It was made unlawful for an employer to require an individual to pay a fee or other consideration in order to apply for employment, orally or in writing, or to

receive, obtain, complete, or submit an application for employment. Employers are also prohibited from charging to process employment applications.

A new measure that prohibits the willful and knowing obstruction of access to property, to anyone legally entitled to enter the property, includes a specific exemption for persons who are engaged in lawful labor union activities.

Proposition 226 was rejected by the voters on July 14, 1998. It would have required public and private sector employers and labor organizations to obtain permission from employees and members before withholding pay or using union dues or fees for political contributions. It would also have prohibited contributions to State and local candidates by residents, governments, or entities of foreign countries.

## Connecticut

*Wages.* New legislation increased the State minimum wage rate from \$5.18 per hour to \$5.65 on January 1, 1999 with a further increase to \$6.15 scheduled for January 1, 2000.

*Child labor.* New restrictions were adopted on the employment of minors under age 18 in manufacturing or mechanical establishments; mercantile establishments; restaurants, amusement or recreational establishments; and hairdressing, bowling, billiard or pool room, or photograph gallery establishments. The work hours of these minors, who are enrolled in school, will now be limited to no more than 6 hours in any regularly scheduled school day (8 hours on Friday, Saturday, and Sunday) and 32 hours in any week during which school is in session. Work of up to 8 hours a day and 48 hours a week is permitted when school is not in session. These restrictions will not apply to persons under age 18 who have graduated from high school. Work experience, as part of an approved educational plan will not be counted against the prescribed daily or weekly limits.

Work in manufacturing, mechanical, or mercantile establishments will now be permitted until 11 p.m., rather than 10 p.m. on evenings preceding nonschooldays. Minors between 16 and 18 years of age may now be employed until midnight on days not prior to a school day in restaurants, recreation, amusement, and theater establishments.

Persons under the age of 18 who are not enrolled in and have not graduated from a secondary institution will be limited to work of up to 9 hours a day and 48 hours a week in restaurant, manufacturing, mechanical, recreation, amusement, and theater establishments; 8 hours a day and 48 hours a week in mercantile establishments.

*Equal employment opportunity.* It was made an unlawful discriminatory employment practice for an employer, an employment agency, or a labor organization to request or require genetic information from an employee, an individual seeking employment or a member; or to discharge, expel, or otherwise discriminate against anyone on the basis of genetic information. Genetic information is defined as information about genes, gene products, or inherited characteristics that may derive from an individual or a family member.

*Worker privacy.* New legislation was enacted requiring employers who engage in any type of electronic monitoring to give prior written notice to all employees who may be affected, informing them of the types of monitoring which may occur. This notice requirement will not apply when an employer has reasonable grounds to believe that employees are engaged in conduct which violates the law, violates the legal rights of the employer or of other employees, or creates a hostile workplace environment, and the employer believes that electronic monitoring may produce evidence of this misconduct. The law also does not apply to a criminal investigation, where all information gathered may be used against an employee. "Electronic monitoring" is defined as any means of collecting information about employees' activities or communications in the workplace other than by direct observation, including the use of a computer, telephone, wire, radio, camera, electromagnetic, photoelectronic, or photo-optical systems, provided the collection of information is not prohibited under State or Federal law. Employers found in violation by the Labor Commissioner may be fined up to \$500 for a first offense, up to \$1,000 for a second, and up to \$3,000 for a third and each subsequent offense.

Employees or prospective employees of the Department of Correction were added to the list of those persons who may be required to take a polygraph examination as a condition of obtaining or of continuing employment.

## Delaware

*Wages.* The Department of Labor will no longer be required to pay the filing fee or other court costs for prevailing wage cases involving the underpayment of wages. The Department was also authorized to join claimants in one action when filing suit.

The section of the prevailing wage law requiring that sworn payroll information be furnished to the Department of Labor weekly was amended to require the Department to maintain the information for a period of 6 months from the end of the workweek covered by the payroll.

*Child labor.* A resolution was adopted asking the State business community to work with the public schools in monitoring and encouraging working students' achievement in school. One suggestion is that employers limit the work hours of those students who are frequently absent from school or whose grade point average (GPA) is below 2.0 on a 4.0 scale.

*Equal employment opportunity.* It is now an unlawful employment practice for an employer, employment agency, labor union, or joint labor-management committee controlling apprenticeship (or other training or retraining) to intentionally collect any genetic information concerning any employee or applicant for employment. This enactment also includes the collection of such information on any member of an employee's or applicant's family. Exceptions to this law arise when the information is job related and consistent with business necessity, or the information is sought in connection with the retirement policy or system of the employer or the underwriting or administration of a *bona fide* employee welfare or benefit plan. "Job related and consistent with business necessity" means the condition makes the individual unable to perform the essential functions of the position held or desired. This includes situations in which the individual poses a direct threat to the health or safety of himself/herself or others in the workplace.

## Florida

*Child labor.* The Department of Labor and Employment Security's Division of Labor, Employment and Training was given rulemaking authority under the child labor law. Among rules that may be adopted are

those defining words, phrases, or terms used in the law; prescribing additional documents that may be used to prove the age of a minor; requiring certain safety equipment and a safe workplace environment for minors; and prescribing the deadlines applicable to a response to a request for records.

*Agriculture.* The Department of Labor and Employment Security's Division of Labor, Employment and Training was given authority to adopt rules prescribing the procedures to register as a farm labor contractor. It also can prescribe the criteria to be used to determine the amount of a civil penalty for violations of the law and provide notification to persons assessed a civil penalty. Another amendment requires any insurance carrier, that is licensed to operate in Florida and that has issued a liability insurance policy to operate a vehicle used to transport farm workers, to notify the division when it intends to cancel the policy.

*Worker privacy.* Among amendments to the law relating to law enforcement and correctional officers, any formal interrogation of a law enforcement or correctional officer that could lead to disciplinary action, demotion, or dismissal must be recorded on audio tape or otherwise preserved in such a manner as to allow a transcript to be prepared. Such recording of the session must be made available to the interrogated officer no later than 72 hours (excluding holidays and weekends) following the interrogation. It was also specified that law enforcement or correctional officers have the right to review their official personnel files under the supervision of the designated records custodian. The officers can attach to the file a concise statement in response to any items they identify as derogatory, and to have copies of such items made available to them.

*Other laws.* The State employee telecommuting program, which was scheduled for termination on October 1, 1998, was continued by repeal of the termination provision.

## Georgia

*Wages.* The law establishing fair employment practices for public officers and employees was amended by adding a section prohibiting public employers from requiring public employees, or applicants, as a term and condition of employment, to waive

their right to receive time and one-half paid overtime compensation or time and one-half compensatory time off for overtime hours worked.

*Other laws.* An employee of a State agency who is a certified disaster service volunteer of the American Red Cross may be granted leave from work with pay for up to 15 work-days in any 12-month period to participate in specialized disaster relief services for the American Red Cross, upon the approval of the employee's agency and coordinated through the director of emergency management, without loss of seniority, pay, vacation time, compensatory time, sick time, or earned overtime accumulation. Leave is to be granted only for services related to a disaster occurring within the State or in a contiguous State that has a reciprocal statutory provision.

## Hawaii

*Wages.* The overtime provisions of the minimum wage law were amended to specify that airline industry employers are not required to pay overtime to employees when the overtime hours result from a voluntary agreement between employees to exchange work time or days off.

The section of the State prevailing wage law regulating payrolls and payroll records was amended to provide that contractors are to make payroll records available for examination within 10 days from the date of a written request by a governmental contracting agency, the Director of Labor and Industrial Relations, or their authorized representatives. The Department of Labor and Industrial Relations was also authorized to interview employees during working hours on the job. A contractor who fails to make the records accessible, fails to provide information requested for the proper enforcement of the prevailing wage law, or fails to keep, or falsifies, any record will be assessed a penalty of \$1,000 per project for interference or delay. For each day thereafter that the employer fails to cooperate, the director will assess a penalty of \$100 per project.

*Equal employment opportunity.* It will not be an unlawful discriminatory employment practice for an employer to inquire about and consider an individual's criminal conviction record when making decisions concerning hiring, termination, or the terms, conditions,

or privileges of employment, if the conviction record bears a rational relationship to the duties and responsibilities of the position. Inquiry into and consideration of conviction records of prospective employees may take place only after the prospective employee has received a conditional offer of employment.

*Worker privacy.* An employer that provides information about a current or former employee's job performance to prospective employers is presumed to be acting in good faith and is immune from civil liability for disclosing the information and for the consequences of the disclosure unless the information provided was knowingly false or misleading.

*Preference.* A resolution was adopted requesting the Department of Labor and Industrial Relations to develop a workable definition of the term, "Hawaii resident" by rule. It asked that the U.S. Departments of Defense and Labor propose the use of this definition and develop an appropriate means of implementing the Department of Defense Appropriations Act of 1986. This act provides that contracts awarded by the Department of Defense that are performed in whole or in part in Alaska or Hawaii, when that State has an unemployment rate in excess of the national average, are to include a provision requiring the contractor to employ State residents.

*Other laws.* The Department of Labor and Industrial Relations will no longer issue permits to manufacture, store, or transport explosives. All persons must obtain a certificate of fitness in order to store, deal in, or possess explosives. The section exempting the U.S. Armed Forces and authorized Federal employees from regulation was amended to also exempt State and county police and fire department employees.

The Advisory Committee on Labor and Industrial Relations and the Industrial Accident Board were eliminated.

## Idaho

*Wages.* The portion of the State minimum wage law requiring the payment of overtime by those employers subject to the Federal Fair Labor Standards Act was deleted. As a result, the State law no longer has an overtime pay requirement.

## Indiana

*Wages.* New legislation increased the State minimum wage rate from \$3.35 to \$4.25 per hour on October 1, 1998, with a further increase scheduled for March 1, 1999 to \$5.15. Exempt from the minimum wage requirement are certain employees who provide companionship services to the aged and infirm. The credit against the minimum wage for tipped employees was changed from 40 percent of the applicable minimum wage to the Federally established \$2.13 per hour. Effective March 1, 1999, employers may pay employees under 20 years of age a minimum wage of \$4.25 an hour during the first 90 consecutive calendar days of employment. The law also establishes an overtime pay requirement. Under this provision, employees who work more than 40 hours a week are to receive overtime pay of 1-1/2 times the regular rate. Among categories of workers exempt from the overtime pay requirement are certain employees who work at piece rates or for commission in retail sales; employees working under an individual contract; and employees of a motion picture theater. Employees of hospitals, and similar institutions, may agree to a work period of 14 consecutive days, in lieu of a 7-day week for purposes of overtime compensation (provided that overtime is paid for work in excess of 8 hours a day and in excess of 80 hours in the 14-day period).

## Iowa

*Employee testing.* Several changes were made in the drug-testing law pertaining to the private sector. The voluntary testing of both current and prospective employees is allowed. The testing must be carried out within the terms of a written policy that has been provided to employees and prospective employees. The law now permits unannounced random testing; drug and alcohol testing on the entire employee population; testing for employees and supervisors in safety sensitive positions; and testing during and after completion of a rehabilitation program. Alcohol and drug testing is also permitted if the employer has reasonable suspicion to believe that an employee has taken illegal drugs and for employees involved in workplace accidents. Companies are authorized to implement disciplinary procedures ranging from requiring employees to enroll in an employee assistance pro-

gram to termination of employment. Any testing must be at the employers expense, must occur during or contiguous to normal working hours, and can only be done on those employees scheduled to work. The law requires that specific labeling and chain of custody procedures be followed, and that strict confidentiality be maintained in regards to testing and test results. Employers must provide a list of drugs that will be tested for, and employees may rebut test results and provide information relative to the test, such as current prescriptions or over-the-counter drugs taken around the time of the test, and other relevant medical information. All positive tests are to be confirmed by a second test using a different chemical process for the confirmation than used in the original screen. An aggrieved employee or prospective employee can seek affirmative relief for disciplinary action based on known false positive test results or for a violation of confidentiality by an employer who discloses a false positive test result to unauthorized persons.

## Kansas

*Whistleblowers.* The State whistleblower law was expanded to include under its protection employee disclosure of information concerning matters of public concern, including matters relating to the public health, safety, and welfare in addition to the operations of the State agency as before. Protection was also extended for information provided to auditing agencies in addition to information provided to the legislature. The appeal process for filing was extended from 30 days to 90 days. The State board, hearing the case or its appeal, has the right to award the prevailing party all or a portion of the costs of the proceedings before the board, including the costs of the appeal and reasonable attorney fees and witness fees. Disclosure of any information or communication that is confidential or privileged under law is not authorized under this act.

## Kentucky

*Wages.* The State minimum wage law was amended to adopt the Federal minimum wage rate by reference. Therefore, the State rate rose from \$4.25 per hour to \$5.15, effective July 15, 1998. The tip credit provision was changed to match the Federal requirement of a \$2.13-per-hour cash wage for tipped employees (the law previously permitted a 50-

percent credit toward the minimum wage).

The law regulating the awarding of public contracts by the State, including those subject to the prevailing wage law, was amended to add requirements for subcontractors to those already in place for contractors. A subcontractor's failure to disclose a final determination of a law violation within the previous 5 years, or failure to comply with the law for the duration of the contract will be grounds for cancellation of the contract and disqualification from eligibility for future State contracts for 2 years.

The labor commissioner was authorized to enter into reciprocal agreements with other States for the collection of wage claims and judgments.

*Worker privacy.* Any references to criminal allegations against a teacher are to be removed from the teacher's personnel file if he or she is found not guilty, the charges are dismissed, or if the allegations did not lead to formal charges.

## Louisiana

*Wages.* April 3, 1998, was designated as National Pay Inequality Awareness Day. It marks the day that a woman's pay combined with her earnings from the previous year equals the wages a man is paid in a calendar year.

*Employee testing.* An Executive Order was issued on August 10, directing State agencies to adopt written policies mandating drug testing of prospective and current employees. Testing is to take place prior to hiring or appointing a prospective employee. Testing also can occur when reasonable suspicion of an employee's drug use exists, or following a workplace accident that involves circumstances leading to a reasonable suspicion of an employee's drug use, following a workplace accident that results in a fatality, or results in or causes the release of hazardous waste. Such testing can occur randomly, as part of a monitoring program established by the executive agency to assure compliance with terms of a rehabilitation agreement; prior to promoting an employee to a safety-sensitive or security-sensitive position; and randomly, for all employees in safety-sensitive or security-sensitive positions. An applicant for employment who tests positive will not be hired. A current employee who tests positive may, but is not required to, be given the

opportunity to undergo rehabilitation without termination of employment.

## Maine

*Wages.* The State prevailing wage law now requires the payment of prevailing benefits on public works construction projects as well as prevailing wages as previously required. Benefits are defined as health and welfare contributions, pension or individual retirement account contributions, vacation and annuity contributions, per diem in lieu of wages, and any other form of payment, except for wages, made to or for the employee. One change increases the penalty from not more than \$100 per violation to not less than \$250 per violation for any contractor who knowingly and willfully violates the law. Another change specifies that the ad hoc advisory board that advises the director on wage rate issues consist equally of persons and contractors covered by collectively bargained labor agreements and those not covered by these agreements.

Coverage of the State prevailing wage law was extended to include Turnpike Authority construction and reconstruction projects.

A new law, establishing and regulating economic development incentives, specifies that subsidized corporations are expected to provide their employees with health and pension benefits and to pay wages that are prevailing in the labor market area in which the employees are employed.

*Child Labor.* The child labor law was amended to delete a limited statutory list of hazardous occupations for minors under age 18 and to replace it with a requirement that the Director of the Bureau of Labor Standards establish a list of hazardous occupations by rule. The list is to conform, as far as practicable, to the child labor provisions enforced by the U.S. Department of Labor.

*Migrant workers.* The Department of Labor is to establish a migrant and immigrant worker assistance outreach project to assist these workers in the State. The project is to promote efforts that educate employers and workers about State and Federal labor laws; facilitate access for non-English-speaking workers to necessary translation services and language programs; assist migrant and immigrant workers in obtaining services necessary to improve their health and safety and broaden their employment opportunities; and

advocate for workers who seek redress of their grievances or access to legal services. This would require coordination with employers, employees, labor unions, nonprofit agencies, and government agencies that serve migrant and immigrant workers.

*Equal employment opportunity.* A ballot measure was approved by the voters, overturning a law enacted in 1997 banning discrimination because of sexual orientation.

A new law bans employment discrimination on the basis of genetic information or genetic testing. It is now unlawful for an employer to fail or refuse to hire, discharge, or otherwise discriminate against an employee, or applicant for employment, with respect to the compensation, terms, or conditions of employment on the basis of genetic information. Also, an employer cannot discriminate because of an individual's refusal to submit to a genetic test or make available the results of such a test or because the individual received a genetic test or genetic counseling. The law will be enforced by the Maine Human Rights Commission.

The Commissioner of Labor is to review the mission and services provided by the Division of Deafness within the Bureau of Rehabilitation Services. The Commissioner is to assess the extent to which statutory responsibilities are being met, and is to identify the core needs for which services should be provided by the State for persons who are deaf or hard of hearing. The Commissioner also is to assess the funding necessary to meet these needs, and determine the most appropriate means of providing those services. Recommendations for statutory change, reorganization, or restructuring were to be made to the legislature by September 15, 1998.

## Maryland

*Other laws.* Various boards and commissions under the Department of Labor, Licensing, and Regulation were authorized to contract for the testing of applicants and licensees.

## Massachusetts

*Wages.* Penalties were strengthened for violations of laws pertaining to prevailing wage, nonpayment of wages, overtime, minimum wage, and misclassification of employees. A uniform civil citation process was established for wage violations where previ-

ously State law only allowed the Attorney General's office to pursue criminal prosecution of these violations. Revised criminal penalties provide for up to a \$50,000 fine or 2 years imprisonment, or both, per violation for willful violations plus a 5-year debarment for prevailing wage law violations. First-time non-willful violations are punishable by a fine of up to \$10,000 or 6 months imprisonment, or both, per violation plus 6-month debarment for prevailing wage violations. Second and subsequent offenses are punishable by a fine of up to \$25,000 or 1-year imprisonment, or both, plus 3-year debarment for prevailing wage violations. The alternate civil citation process provides for fines of up to \$25,000 for each violation for first-time willful offenses and up to \$10,000 for nonwillful offenses. Second and subsequent offenses may result in fines of up to \$25,000 per violation. Three citations with a finding of intent in a 3-year period will result in a 2-year debarment in prevailing wage law violations.

*Family issues.* Eligible employees will now be entitled to up to 24 hours of leave during any 12-month period, in addition to leave available under the Federal Family and Medical Leave Act. This act allows employees to participate in school activities, such as parent-teacher conferences or interviewing for a new school; routine medical or dental appointments for their children; or routine appointments for medical, dental, or other professional services related to an elderly relative's care. Employees are to give 7 days advance notice of the necessity for the leave, if possible. Employers may require that the leave be supported by a certification and may require the employee to substitute any of his or her accrued paid vacation leave, personal leave, or sick leave for this leave. Employers are not required to provide paid sick or medical leave for any situation in which such leave would not normally be provided.

*Child labor.* The law authorizing the attorney general to suspend the application or operation of any provision of the child labor law regulating, limiting, or prohibiting the employment of minors over age 16 was extended to September 1, 1999.

*Equal employment opportunity.* The Secretary of the Executive Office of Administration and Finance and the Secretary of the Executive Office of Transportation and Con-

struction are to develop and implement a comprehensive plan to eliminate discrimination against women and to increase the number of female construction workers at State construction projects. Goals for women's participation in State funded contracts are to be established based on the broadest and most inclusive pool of available women capable of performing and interested in working in the construction trades. Annual progress reports are to be submitted to the legislature and the Commission Against Discrimination.

*Worker privacy.* The law giving employees the right to review their personnel files was amended to specify that the opportunity to review the files is to take place within five business days of a request. It was also specified that copies of personnel records are to be furnished within five business days following submission of a written request.

The law regulating the disclosure of public records was amended to prohibit the disclosure of the names and telephone numbers of Department of Social Service personnel.

## Michigan

*Wages.* A resolution was adopted, designating April 3, 1998, as National Pay Inequality Awareness Day. It marks the day that the public recognizes that a woman's pay, combined with her earnings from the previous year, equals the wages a man is paid in a calendar year.

Another resolution asks the U.S. Congress to overturn the ruling of the United States Department of Labor that subjects workfare/welfare recipients to the provisions of the Fair Labor Standards Act and other regulations.

## Minnesota

*Wages.* A July 1 court decision voided legislation enacted in 1997 extending coverage of the State prevailing wage law to school construction. The court ruled that the legislature acted unconstitutionally by adding the prevailing wage measure to the State's omnibus tax bill. Under the State Constitution, bill amendments are to be related to the subject matter of the original bill. The State Attorney General has indicated that the ruling will be appealed.

*Family issues.* A new law requires employ-



ers to accommodate nursing mothers. Employers are to provide a reasonable unpaid break daily and a room or other location, other than a toilet stall, to an employee who needs to express breast milk for her infant child. If possible, the break is to run concurrently with any break time already provided to the employee. Provision of this break time will not be required if it would unduly disrupt the operations of the employer.

*Other laws.* State employees on leave to serve as certified disaster service volunteers of the American Red Cross will now be entitled to full rather than half-pay for the time absent from work.

## Mississippi

*Equal employment opportunity.* The section of the State personnel system law assuring the fair treatment of applicants and employees in all aspects of personnel administration was amended to add disability to the list of prohibited forms of discrimination.

## Missouri

*Child labor.* The child labor law was amended to allow children between the ages of 14 and 16 to be employed at regional fairs or expositions from June first to Labor Day, if they do not work after 10:30 p.m., are adult-supervised, and have parental consent. This provision does not apply to those entities covered by the Federal Fair Labor Standards Act.

*Other laws.* New provisions were enacted pertaining to political activities by employees of State agencies. Employees may take part in the activities of political parties and political campaigns provided that they are not on duty or in the workplace and are not wearing a uniform or official insignia identifying the office or position of the employee. An employee may not use his or her official authority or influence to interfere with the results of an election; to knowingly solicit a political contribution from a subordinate; to run for a partisan political office; or influence any person doing business or being investigated by his or her agency.

## New Hampshire

*Child labor.* Youth employment certificates will no longer be required for 16- and

17-year-olds. Instead, the employer is to maintain on file a signed written document from the youth's parent or legal guardian authorizing the employment.

The minimum age for youth employed as entertainers in dining rooms licensed to sell liquor was lowered from 17 to 15. Dancers working in these establishments must be at least 21 years old.

## New York

*Wages.* The Department of Labor and the New York City Comptroller's Office are now authorized to recover prevailing wage underpayments from successors, subsidiaries, principals, and other entities related to public works building service contractors who have violated the prevailing wage law. Such entities may also be debarred from bidding on or being awarded any public work contracts or subcontracts under certain circumstances.

*Agriculture.* A new section, pertaining to field sanitation requirements for farm laborers, was added to the labor law. Every grower or processor who employs or uses paid farm-hand workers, farm field workers, or farm food processing workers, whether or not a farm labor contractor is used, must provide or make toilet and handwashing facilities available to these workers, including transportation to such facilities. Violation will be a misdemeanor punishable by a fine ranging from \$500 to \$1,000, or up to 30 days in jail, or both such fine and imprisonment. Any second or subsequent offense will be a misdemeanor punishable by a fine ranging from \$1,000 to \$3,000, or up to 60 days in jail, or both.

*Garment industry.* Several changes were made in the law requiring registration of apparel industry manufacturers and contractors. These include authorizing the Commissioner of Labor to tag as "unlawfully manufactured" any article of apparel or component manufactured or assembled by workers employed in violation of the minimum wage or wage payment laws. It will be a misdemeanor for anyone, other than the Commissioner or the consumer of the article, to remove, alter, deface, or otherwise interfere with the tag. A manufacturer or contractor who contracts with another manufacturer or contractor for the performance of any apparel industry service and who knew or should have known of their failure to com-

ply with minimum wage or wage payment laws in performing the service will be jointly liable for the failure. If the Commissioner has issued an order within the previous 5 years to any apparel industry employer directing compliance, or if an employer has been convicted of a violation within 5 years, the Commissioner may require a surety bond. An employer who fails to deposit the bond as required will be liable for a civil penalty of \$1,000 per day until the bond is furnished or the employer ceases operations. The registration form requirements were amended to add a requirement that each owner or partner submit photographic proof of identity.

*Other laws.* It will now be an unfair labor practice for an employer to use any State funding to train managers, supervisors, or other administrative personnel regarding methods to discourage union organization, or to discourage employees from participating in a union organizing drive.

## North Carolina

*Equal employment opportunity.* Any employee of the State having a grievance, alleging unlawful workplace harassment because of his or her age, sex, race, color, national origin, religion, creed, or handicapping condition is to submit a written complaint to his or her department or agency. The department or agency will have 60 days in which to take appropriate remedial action. If the employee is not satisfied with the department or agency's response to the complaint, the employee will have the right to appeal directly to the State Personnel Commission.

## North Dakota

*Wages.* Among administrative rule changes effective March 1, 1998, the exemption from overtime pay requirements for those mechanics paid on a commission basis off a flat rate schedule was codified.

Another rule change provides that paid vacation and other paid time off that has been earned will be considered as wages due to the employee regardless of the length of employment. Previously, an employee had to be employed for a year before the Department of Labor would deem the paid time earned to be wages due.

It also was specified that employers are not required to have time clocks. Employ-

ers will also be allowed to round time to the nearest 5 minutes or quarter hour using total minutes worked for the day.

*Hours.* An administrative rule change permits any 30 minutes or more of time for which an employee is relieved of productive work duties to satisfy the State meal break requirement. Previously, it was required that the employee have the time uninterrupted and away from the business premises.

## Ohio

*Wages.* The threshold amount for coverage under the State prevailing wage law was changed administratively, on January 1, 1998, from \$15,900 to \$16,692 for remodeling contracts and from \$53,000 to \$55,574 for new construction.

## Oklahoma

*Child labor.* On September 5, 1997, the Commissioner of Labor issued an executive proclamation rescinding the Hazardous Order issued on May 15, 1985, prohibiting children under 15 years of age from being employed in door-to-door sales.

*Equal employment opportunity.* A Genetic Nondiscrimination in Employment Act was adopted. It prohibits an employer from seeking to obtain, using, or requiring a genetic test or genetic information of an employee, or prospective employee. A "genetic test" shall not include a routine physical examination; a chemical, blood, or urine analysis; a test to determine drug use; a test for the presence of the human immunodeficiency virus; or any other test commonly accepted in clinical practice. Any employer in violation will be guilty of a misdemeanor and may be punished by a fine of up to \$25,000 or by imprisonment in the county jail for up to 1 year, or both.

*Private employment agencies.* A resolution was adopted directing the State House and Senate appropriations committees to expand their oversight of State agencies during the 1998 legislative interim to examine the use of temporary employees and for-profit temporary employment agencies by the State agencies. The committees are to initiate any reforms they deem appropriate from their study.

*Other laws.* The Professional Boxing Li-

ensing Act was amended to add booking agents who secure engagements and contracts for boxers to the list of persons and entities who are required to apply to the Department of Labor for a license.

## Oregon

*Wages.* The State minimum wage rate rose from \$5.50 per hour to \$6.00 on January 1, 1998, and to \$6.50 on January 1, 1999, as the result of passage of Ballot Measure 36 in the November 1996 general election.

*Other laws.* Voters approved ballot Measure 62 in the November general election amending the State constitution. The measure, titled the Open and Fair Elections Act, guarantees the right of public employees to have payroll deductions for political purposes. Counter ballot Measure 59 was defeated. This measure would have amended the State Constitution to prohibit spending public funds to collect or assist in the collection of political funds. Public agencies would not have been allowed to collect funds for an organization that had used funds collected in the past for political purposes. Public entities would have been prohibited from providing a prohibited service even if reimbursed for the cost of doing so.

## Pennsylvania

*Other laws.* Essential corrections personnel and employees of radio or television stations engaged in the gathering and dissemination of news were added to the list of those employees not protected by the law prohibiting the termination and discipline of an employee for failing to report to work during a state of emergency.

## Puerto Rico

*Wages.* The minimum wage law which had created the Puerto Rico Minimum Wage Board and the Mandatory Decree Program was repealed and replaced with a new Puerto Rico Minimum Wage, Vacation and Sick Leave Law intended to conform as closely as possible to the Federal Fair Labor Standards Act. Among the provisions of the new law, the Minimum Wage Board was abolished and its residual functions transferred to the Secretary of Labor and Human Resources. All employers covered by the Federal act will be subject only to the Federal

minimum wage and all applicable regulations including exemptions and credits. Employers not covered by the Federal act will be subject to a minimum wage that is at least 70 percent of the Federal minimum wage or the applicable mandatory decree rate, whichever is higher. The Secretary of Labor and Human Resources may authorize a rate based on a lower percentage for any employer who can show that implementation of the 70-percent rate would substantially curtail employment in that business. The statute of limitations for wage claims was reduced from the previous 10 years to 2 years (3 years if the complainant is still employed by the employer).

## Rhode Island

*Wages.* Nursery workers were added to the list of those agricultural employees who are exempt from State overtime pay requirements.

A special house commission was to be created to examine the amount of overtime worked by nursing staff in hospitals in the State and the impact of overtime on staffing and employment patterns and on patient care. A report is to be made to the House of Representatives by January 28, 1999.

April 7, 1998 was declared Pay Inequality Awareness Day in recognition of the gender wage gap in the State.

*Hours.* Employers will no longer be required to obtain work permits, from the Director of Labor and Training, for work to be performed on Sundays and holidays.

*Child labor.* The child labor law was amended to provide that a student's work permit may be revoked or suspended by the issuing school committee if it is determined that the issuance of the permit appears detrimental to the well-being of the student or to the academic success of the student. Also, the permit may be revoked or suspended if the student has failed to comply with school attendance requirements. The child will be given notice and may have a hearing before the school committee prior to the revocation or suspension.

*Equal employment opportunity.* The definition of sexual harassment in the Sexual Harassment, Education and Training in the Workplace law was amended to comport with the definition used by the courts, and

State and Federal enforcement agencies. The definition now includes cases in which an individual's submission to or rejection of unwelcome advances or requests becomes either explicitly or implicitly a term or condition of their employment. This includes such conduct, advances, or requests that have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

The law prohibiting employers, employment agencies, or licensing agencies from discriminating against individuals for seeking or obtaining a domestic abuse protective order was amended to also protect those who refuse to seek or obtain such an order.

*Private employment agencies* A Temporary Employee Protection Act was adopted. Before any worker is given a new job assignment, regardless if the assignment is with the same contracting company, employment agencies are to provide the employee with the opportunity to see and have a copy of a written notice that includes a job description with classification requirements, anticipated pay rate, benefits, and work schedules. The act also creates a joint legislative commission to investigate issues and to recommend improvements regarding temporary employment practices.

## South Carolina

*Child labor.* Penalty provisions for violations of the child labor law were revised. Fines for a first offense were made optional rather than mandatory as before. Fines for second or subsequent offenses were increased to a maximum of \$5,000 for each offense. Criteria was listed for determining the amount of a fine, including the size of the business of the employer being charged, the gravity of the violation, the good faith of the employer, and the history of previous violations by the employer. A section of the child labor law was repealed which related to the liability of employers to the parents of minor employees.

*Worker privacy.* Materials relating to the recruitment and employment of public employees are now exempt from disclosure under the Freedom of Information Act.

## South Dakota

*Plant closing.* A new act requires that

whenever an employer ceases operations and terminates health care coverage, employees are to have the right to have the coverage continue for themselves and their eligible dependents for up to 18 months at the employees' expense. These employees will also have the right to an individual conversion policy or contract without additional underwriting restrictions. To be eligible, an employee must have been continuously insured under the group policy for 6 months prior to the closure and must not be covered for similar benefits by another individual or group policy.

*Other laws.* The law authorizing paid leave from work for certified State employees to participate in disaster relief services for the American Red Cross during a declared disaster was amended. It now provides that this leave will not be granted to an employee who is needed to perform job-related disaster services for his or her appointing authority.

## Tennessee

*Child labor.* The child labor law was amended to permit minors, ages 16 or 17, who are enrolled in a church-related school or who are "home-schooled," to work during school hours, provided they have parental consent. Students must also provide the employer with a letter, signed by the superintendent of schools, confirming the student's enrollment and his or her authorization to work.

*Worker privacy.* Questions concerning any disability covered by the Americans With Disabilities Act were added to the list of unlawful areas of inquiry under the polygraph examiner regulatory law for examinations with respect to employment. Another change increases the time that the examiner is required to keep polygraph charts and other materials pertinent to polygraph examinations from 2 to 3 years, from the date of examination.

The Judiciary Committees of the Senate and House of Representatives were directed to study issues relative to the confidentiality of State employee personnel records and to report their findings and recommendations, including any proposed legislation, to the legislature by February 15, 1999.

## Utah

*Family issues.* A concurrent resolution of the legislature and the governor was adopted

urging businesses in the State to work with parents to explore and implement alternative work schedule options to reduce the time their children spend in child care.

*Other laws.* An employee of a State agency who is a certified disaster service volunteer may, with approval of the agency, be granted leave from work with pay for up to 15 work days in any 12-month period to participate in disaster relief services for the American Red Cross in connection with any disaster.

## Vermont

*Hours.* Employers are to provide employees with reasonable opportunities to eat and to use toilet facilities during work periods.

*Worker privacy.* A party in any civil action seeking an employee's personnel records in such action must notify the employee whose records are being sought. Prior to the disclosure of the records, the employee will have 20 days after service of the notice to respond to the request. The response filed with the court may include an objection to the production of the records.

## Virginia

*Child labor.* The child labor law was amended to exempt from all provisions (except those prohibiting work that is hazardous to health or morals) those minors 13 years old or older who are employed as sports referees by a charity organization or a unit of State or local government. Minors who work for an organization of referees, sponsored by an organization recognized by the U.S. Olympic Committee, are also exempted.

*Agriculture.* The Migrant and Seasonal Farmworkers Board was authorized to request and receive, for its benefit and that of the Interagency Migrant Worker Policy Committee, periodic reports from persons or entities receiving federal grants or other federal funding for the purpose of assisting the Commonwealth's migrant and seasonal farmworker population.

*Worker privacy.* Regional jails were added to coverage of the law making it unlawful for any law-enforcement agency to require employees to submit to lie detector tests, or to discharge, demote, or otherwise discrimi-

nate against any employee who refuses or fails to take a lie detector test. A corresponding change permits the superintendent of a regional jail, by written directive, to require an employee to submit to a lie detector test related to a particular internal administrative investigation concerning allegations of misconduct or criminal activity. Previously, only the chief executive of a law-enforcement agency was able to require a test for these purposes.

## Washington

*Wages.* A minimum wage ballot initiative was approved by voters in the November general election. Initiative 688 provides that employees over age 18 receive an increase in the State minimum wage rate from \$4.90 per hour to \$5.70 on January 1, 1999, and to \$6.50 per hour on January 1, 2000. Beginning January 1, 2001, and annually thereafter, the rate will be adjusted for inflation by a calculation using the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), or a successor index, for the prior year.

The overtime provisions of the minimum wage law were amended to specify that airline industry employers are not required to pay overtime to employees who voluntarily trade shifts with one or more coworkers. It was also specified that the act does not alter the terms of any collective bargaining agreement.

*Agriculture.* Among other changes in a law relating to developing and funding housing for temporary workers, the Department of Labor and Industries was to adopt rules, by December 1, 1998, requiring electricity in all housing for temporary workers and establishing minimum requirements to ensure the safe storage, handling, and preparation of food in these camps.

*Equal employment opportunity.* Ballot Initiative 200, creating the Washington State Civil Rights Act, was approved by the voters in the November general election. This affirmative action-related measure prohibits government entities from discriminating or granting preferential treatment to any individual or group, based on race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

*Private employment agencies.* The employment agency regulatory law exempts

theatrical agencies from coverage. The definition of theatrical agency in the law was amended to exclude any person charging an applicant a fee prior to procuring employment for the applicant; giving or providing the applicant information regarding where or from whom employment may be obtained; allowing or requiring the applicant to participate in any instructional class, audition, or career guidance, or counseling; or allowing the applicant to be eligible for employment through the person. As a result, these activities are now subject to regulation under the law.

## West Virginia

*Wages.* The State minimum wage rate increased from \$4.75 per hour to \$5.15 on September 1, 1998, as the result of prior legislation.

A new article was enacted requiring equal pay for equal work for State employees. State agencies are prohibited from discriminating between the sexes when paying wages for work of comparable character which requires comparable skills. Different wages may be paid under a bona fide seniority system; a merit system; or a system that measures earnings by quantity or quality of production. An employee's wages may not be reduced to eliminate an existing, past, or future wage discrimination or to achieve wage equalization. An equal pay commission was created to study both the methodology and funding for the implementation of a gender discrimination prohibition. Procedures were established to remedy complaints of pay inequalities.

## Wisconsin

*Wages.* The threshold amount for coverage under the State prevailing wage laws for State and municipal contracts was changed administratively, on February 13, from \$150,000 to \$160,000 for contracts where more than one trade is involved, and from \$30,000 to \$32,000 where a single trade is involved.

Requirements were adopted for the payment of commissions to independent sales representatives. These representatives are defined as persons, other than insurance agents, or brokers, who contract with a principal to solicit wholesale orders and who are compensated by commission. Commissions are due as provided in a contract between the principal and the independent sales representative. If there is no

contract, a commission becomes due according to the past practice of the parties. If a past practice cannot be determined, payment is due according to the custom in the State for the particular industry of the principal and independent sales representative. Violators are subject to civil liability.

*Plant closings.* As the result of legislation enacted late in 1997, notice of a business closing or mass layoff in the State is now to be given to the Commissioner of Insurance in addition to other specified agencies. The Commissioner of Insurance is to provide information and technical assistance to employees and former employees who lose health care coverage under a group health insurance plan or self-insured health plan. Information is to include any rights that the individuals may have under State or Federal laws affecting health benefit plans, including laws that relate to portability, continuation coverage, or conversion coverage, and the availability of individual health benefit plans in the area in which the individual resides.

*Whistleblowers.* It was made unlawful to discharge or otherwise retaliate or discriminate against any person for reporting instances of elder abuse or neglect to any State official including the Board on Aging and Long-Term Care. Violators may be fined up to \$1,000 or imprisoned for up to 6 months or both.

*Other laws.* An employee of a State agency who is a certified disaster service volunteer of the American Red Cross may be granted leave from work with pay for up to 30 workdays each year, upon the approval of the employee's appointing authority, without loss of seniority, pay or pay advancement, and performance awards. The leave is to be used for disasters occurring in the State, unless otherwise approved by the governor.

## Wyoming

*Hours.* The section of the State commercial vehicle law specifying hours of operation for commercial vehicle drivers was amended. Intrastate drivers of passenger vehicles, with a capacity of 7 to 15 passengers, will be subject to the Federal hours restrictions applicable to vehicles with occupant capacities of 15 or more. This law prohibits any motor carrier from permitting or requiring a driver to drive more than 10 hours fol-

lowing 8 consecutive hours off duty or for any period after having been on duty 15 hours following 8 consecutive hours off duty. It is also unlawful for a driver to drive for any period after having been on duty 60 hours in any 7 consecutive days if the employing motor carrier does not operate commercial motor vehicles every day of the week. It is also unlawful for them to drive for any pe-

riod after having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier operates commercial motor vehicles every day of the week.

*School attendance.* The school attendance law that had required children to attend school until completion of the eighth grade or reaching age 16 was amended to now re-

quire attendance until completion of the tenth grade or reaching age 16.

*Other laws.* The provision authorizing employees 1 hour of paid leave to vote in primary, general, and special elections was amended to no longer apply to employees who have 3 or more consecutive hours off from work during the time the polls are open.

## Footnotes

<sup>1</sup> Legislatures did not meet in 1998 in Arkansas, Montana, Nevada, North Dakota and Texas. The Oregon legislature met in special session only and did not enact any labor legislation. Colorado, the District of Columbia, Illinois, Nebraska, New

Jersey, New Mexico, Ohio, and the Virgin Islands did not enact significant legislation in the fields covered by this article. Information about Guam was not received in time to be included in the article, which is based on information received

by November 6, 1998.

<sup>2</sup> A New Jersey bill to set the State minimum wage rate the same as the Federal minimum wage passed the legislature on December 17, 1998 and was awaiting action by the governor at press time.

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## Shiskin Award nominations

The Washington Statistical Society and the National Association of Business Economists invite nominations for the annual Julius Shiskin Award in recognition of outstanding achievement in the field of economic statistics.

The award is designed to honor an unusually original and important contribution in the development of economic statistics or in the use of economic statistics in interpreting the economy. The contribution could be in statistical research, in the development of statistical tools, in the application of computer techniques, in the use of economic statistical programs, in the management of statistical programs, or in developing public understanding of measurement issues. Either individuals or groups in the public or private sector can be nominated.

The award will be presented with an honorarium at the Washington Statistical Society's annual dinner in June 1999. A nomination form may be obtained from the Julius Shiskin Award Committee, American Statistical Association, 1429 Duke Street, Alexandria, VA 22314-3402 or via e-mail at [nancyh@amstat.org](mailto:nancyh@amstat.org). Completed nominations must be received by April 1, 1999.

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