

# State labor legislation enacted in 1986

*Important new labor standards legislation was enacted on a variety of subjects, including minimum wage, employment of illegal aliens, workplace smoking, and drug and AIDS testing*

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Many significant laws covering a wide variety of employment standards subjects were enacted in 1986, despite the fact that some legislatures did not meet in regular session and others met only in special or abbreviated sessions.<sup>1</sup> Laws were enacted in many traditional labor fields, including minimum wage protection, collection of unpaid wages, child labor, collective bargaining, and employment discrimination.<sup>2</sup> Important legislation was also adopted involving whistleblower protection, prohibitions on the employment of illegal aliens, asbestos abatement, and on the emerging issues of regulation of workplace smoking and on testing employees for drugs and AIDS.

New legislation in 1986 increased hourly minimum wage rates above the \$3.35 per hour Federal standard (which became effective in 1981) in three New England States—Massachusetts, New Hampshire, and Rhode Island. In addition, the District of Columbia raised the minimum hourly wage of beauty culture occupations from \$3.75 to \$4.50 and the rate applicable to building service occupations from \$3.70 to \$4.75; Puerto Rico raised minimum rates to varying levels in three industries; and the minimum rate was increased to \$3.35 an hour in Kentucky and West Virginia. Wage rates were raised in Maine, Montana, and Vermont as the result of increases provided for by previous enactments.

As of January 1, 1987, 19 jurisdictions had minimum wage rates equal to the Federal standard for some or all

occupations, and 8 jurisdictions (Alaska, Connecticut, the District of Columbia, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) exceeded this level.

In other wage actions, New Hampshire added an overtime pay standard to the minimum wage law, requiring payment of time-and-one-half the regular rate after 40 hours per week for employment other than that covered by the Federal Fair Labor Standards Act, and several jurisdictions enacted legislation conforming public employee overtime pay and compensatory time-off provisions to the revised requirements of the Act; Indiana repealed its tip credit allowance, the allowance was reduced in Maine, and employers in Delaware were prohibited from taking any part of an employee's tips. New York administratively changed its overtime standard from time-and-one-half the State minimum wage rate to time-and-one-half the employee's regular rate, and eliminated all regulatory provisions for various subminimum rates.

In the courts, separate decisions in Hawaii and New York held that the Federal Motor Carrier Act, which authorizes the Interstate Commerce Commission to establish requirements with respect to maximum hours of service for employees of interstate carriers, does not preempt State regulation of overtime wages for these workers.

South Carolina enacted a new comprehensive wage payment law applicable to public and private sector employers, and coverage of the Kansas wage payment and collection law was extended to public employers. The labor departments in Delaware and Wisconsin were authorized to collect

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unpaid wages for all underpaid employees of an employer instead of only for those who have filed wage claims. Wisconsin also passed a law to bar from State public works contracts, for 3 years, contractors who have failed to pay required prevailing wage or overtime rates.

In the area of comparable worth, Hawaii authorized a study of work performed by State and county civil service employees in certain occupations to determine if pay inequity exists among specific job classes dominated by one sex.

Again this year, as in the last several years, a number of bills were introduced to repeal or modify State prevailing wage laws, but no significant legislation was enacted.

Child labor law revisions were enacted in 10 States. The more significant of these were enacted in Florida and Arizona. Florida imposed limits on permissible daily and weekly hours of 16- and 17-year-old students during the school year, reduced permissible weekly hours for minors under age 16 during the school year (these restrictions do not apply during holiday and summer vacations), and revised nightwork hours for minors 17 and under. Amendments to the Arizona law permitted the labor department to grant individual variances from the law, added detailed definitions of prohibited occupations similar to those under Federal law, and extended the permissible work hours by those under age 16 on nights preceding nonschool days. The latest that minors under age 16 may work in Minnesota was reduced. In other actions, proof-of-age certificates in Connecticut will no longer be required for persons over age 18 employed in hazardous occupations; in Iowa, the labor commissioner was given authority to adopt rules on employment of minors; and in Tennessee, the labor department's authority to issue rules and regulations was expanded beyond the determination of hazardous occupations for minors, and new recordkeeping responsibilities were added.

Twenty jurisdictions enacted laws addressing one or more forms of employment discrimination, primarily on the basis of age, sex, or handicap. In Missouri, separate laws pertaining to discrimination in employment, housing, and places of public accommodation were repealed and replaced with a law consolidating all of these measures. Also, age discrimination between the ages of 40 and 70 was added to the list of prohibited unlawful employment practices, and provisions were repealed which formerly permitted sex-based differences in employment under certain conditions and in the age of retirement and in annuity, death, and survivors benefits. Age discrimination was banned in Colorado under the State civil rights law; the age of mandatory retirement for public safety personnel was increased in Indiana; and State employees in Delaware were permitted to work beyond the mandatory retirement age of 70, on a year-to-year basis, upon approval.

Discrimination in employment on the basis of physical or mental disability unrelated to job performance was prohibited under the South Dakota Human Relations Act. Ohio

enacted a Bill of Rights for mentally retarded and developmentally disabled persons, and in Rhode Island, the Fair Employment Practices Act was amended to add to the list of unlawful employment practices the failure by an employer to reasonably accommodate a worker's handicap.

The testing of employees for drugs and for the AIDS antibody as conditions of employment emerged as subjects of legislation. In Wisconsin and Massachusetts, employers are prohibited from requesting or requiring a test for the presence of the AIDS antibody as a condition of employment. Maine established a commission to examine the issues involved in testing employees for the use of alcohol and controlled substances, and San Francisco adopted an ordinance prohibiting drug testing. The San Francisco ordinance also prohibits employer interference in an employee's personal relationships, organizations, or activities.

A new comprehensive Occupational Safety and Health Act was enacted in West Virginia applicable to employees of the State with provision for optional coverage by political subdivisions of the State. Among a number of other worker safety measures adopted were laws in six States (Connecticut, Florida, Michigan, Missouri, New Hampshire, and Vermont) dealing with various aspects of asbestos abatement work including provisions relating to such matters as regulation or licensing of contractors, safety training of employees, and advance notification of any work to be performed; a similar law in California regulated contractors engaging in the removal of hazardous substances. Amendments were made in some of the State laws which afford workers the right to be informed of and given training on toxic substances found in the workplace, including an amendment in Michigan incorporating the Federal Occupational Safety and Health Administration's Hazard Communication Standard by reference into the State law. Other laws were enacted concerning mine, elevator, and amusement ride safety, and a resolution was adopted in Tennessee requesting a study of the need for minimum health and safety standards for the operation of video display terminals.

California, Florida, Kentucky, New Jersey, and Puerto Rico enacted or amended laws protecting employees from retaliation for reporting violations of law to a public body, or for participating in an investigation, hearing, or court action.

Among other legislation enacted in 1986, several additional States required background checks of prospective child care operators or workers; collective bargaining laws in Delaware, Illinois, Maryland, and Wisconsin were either enacted or amended to expand public sector coverage; several States amended laws regulating private employment agencies; Kentucky, Michigan, and Missouri passed legislation aimed at assisting workers and communities facing mass layoffs or plant closings; laws prohibiting the taking of polygraph examinations as a condition of employment were amended in Maryland, Massachusetts, Rhode Island, and Tennessee; and Arizona, New Hampshire, Rhode Island,

and Utah passed laws regulating smoking in the workplace. New York enacted an apparel industry registration law establishing a special task force to enforce labor standards in that industry. The Tennessee law banning the knowing employment of illegal aliens was amended to authorize exemp-

tions from the law, and the Louisiana law prohibiting the knowing employment of illegal aliens was amended to prohibit any such employment whether knowing or not.

The following is a summary, by jurisdiction, of labor legislation enacted during 1986.

## Alabama

*Agriculture.* A farm crisis and transition program and commission were established to provide counseling, retraining, and adjustment programs for dislocated and economically distressed farmers.

## Alaska

*Background clearance.* Beginning September 1, 1987, drivers of school and other buses transporting children must undergo a background check including fingerprinting. Such drivers will not be issued a license if they have been convicted within the prior 20 years of specified sex or drug-related criminal offenses or offenses involving contributing to the delinquency of a minor. The minimum age for these drivers continues to be 19.

*Other laws.* The labor commissioner was appointed by the governor to serve as a nonvoting member of a new State Fire Commission, whose duties include developing a master fire prevention plan and coordinating State fire-related programs.

The State resident employment preference law was amended to establish eligibility criteria for individuals receiving an employment preference on State public works projects. The preference will be limited to unemployed, underemployed, or marginally employed residents. Underemployment and economically distressed zones may be established and employment preference given to qualified residents of those zones. Special preference provisions were also enacted for economically disadvantaged minority and female residents.

A prior State law requiring that nearly all workers on State financed public works construction projects be Alaska residents was ruled unconstitutional by the State Supreme Court.

## Arizona

*Wages.* State and local government employees subject to overtime compensation under Federal law must now receive time-and-one-half the regular rate of pay or  $1\frac{1}{2}$  hours of compensatory time off for each overtime hour worked. Previously, overtime was compensated at time-and-one-half pay or straight compensatory time off.

*Hours.* State employees are to be pro-

vided the option of working a 4-day, 40-hour week if the director of the employing agency decides that existing services can be maintained.

*Child labor.* Among several amendments to the youth employment law were provisions for granting individual variances from the law upon written request and approval by the labor department, and the addition of a list of detailed definitions of prohibited occupations similar to those under Federal law. The prohibitions against work in these occupations for persons under ages 18 or 16 were further conformed and clarified. Persons under age 16 may now work until 11:00 p.m. rather than 9:30 on nights preceding nonschool days (9:30 remains the latest that such persons may work before a school day), except that the prohibition remains on work after 7 p.m. in door-to-door solicitation sales or deliveries on any day.

*Background clearance.* In response to a request by another bank, savings and loan, or credit union, such an institution may provide a reference advising of a job applicant's involvement in any reported theft, embezzlement, or similar activity, with a copy sent to the job applicant. The institution will not be civilly liable for the reference unless the information provided is false and is given knowingly.

*Private employment agencies.* Vocational guidance and employment counseling services are now specifically covered by the employment agency regulatory law.

*Occupational safety and health.* The occupational safety and health law was amended to increase the maximum civil penalty from \$1,000 to \$5,000 for employers who have received a citation for a serious violation which caused an employee's death.

*Employment and training.* A Department of Economic Security prelayoff assistance services fund is to provide services, pursuant to the Federal Job Training Partnership Act, to persons who have been or are about to be laid off. Monies in the fund will consist of gifts, grants, donations, and amounts collected from employers who voluntarily participate in such programs on

behalf of their employees.

*Other laws.* The Industrial Commission, the Occupational Safety and Health Advisory Committee, the Occupational Safety and Health Review Board, the Arizona Employment Advisory Council, and the Boiler Advisory Board, all scheduled for termination on July 1, 1986, under sunset legislation, were continued until July 1, 1996.

Written rules must be posted designating smoking and nonsmoking areas in each building owned, operated, or funded in whole or in part by the State. Discrimination is prohibited against an employee who formally complains about smoking or the rules.

## California

*Wages.* Employees on commercial and sport fishing boats are now exempt from the minimum wage orders of the Industrial Welfare Commission.

Attorney's fees shall be awarded to the prevailing party in court actions brought for nonpayment of wages, fringe benefits, or health and welfare or pension fund contributions, or to compel compliance with the decision or award of an arbitrator or a grievance panel. Actions brought by the Labor Commissioner for nonpayment of wages or benefits are exempted.

*Hours.* An amended Industrial Welfare Commission order allows employees in licensed hospitals to work a workweek of either three 12-hour days or four 9-hour shifts and a fractional day within 5 days. Overtime must be paid after 40 hours and for hours or days worked in excess of those scheduled. An affirmative vote by two-thirds of the affected employees and a written agreement signed by at least two-thirds of them are required before the performance of any work under the new schedule.

Employers who intend to implement flexible scheduling which requires a vote, must disclose, in writing, the benefits to employees as well as the effects of such a change on their wages, hours, and benefits. Failure to comply makes any election by the employees to accept such a proposal null and void.

Any hospital employer who is authorized to institute a regularly scheduled workweek of three 12-hour work shifts must make a reasonable effort to find an alternative work

assignment for any employees unable to work the new schedule.

*Child labor.* The section of the labor code imposing a fine or imprisonment on any minor engaged in vending or selling goods between 10 p.m. and 5 a.m. was repealed.

*Agriculture.* Among a number of actions to improve housing conditions for farmworkers, the Department of Housing and Community Development was directed to establish procedures and devote resources to locate and prosecute the most serious violators of the housing standards requirements. The department is also to conduct at least four public hearings during 1987 to determine the existing need for migrant farmworker housing and to report to the legislature on or before February 15, 1988, and to adopt and make available to the public model or prototype plans for several types of housing.

If a labor camp is determined to be overcrowded, the affected residents are to be provided with notice of the condition and be given reasonable opportunity to correct the violation prior to action being taken. If it is necessary to institute proceedings, a hearing may be held at which the residents may appear. If on appeal it is determined that vacating the accommodations is the only means of abatement, consideration must be given to the availability of alternative housing.

*Equal employment opportunity.* The legislature requested that the Department of Fair Employment and Housing continue to operate the employment discrimination clinic at the University of California School of Law in Berkeley, and suggested that similar programs be established at each of the University of California's law schools and encouraged at private law schools.

*Worker privacy.* An ordinance passed in late 1985 prohibits public and private employers within the city and county of San Francisco from requesting or requiring employees to undergo tests to determine chemical substances in the body, such as drugs, unless there are reasonable grounds to believe the employee's faculties are impaired, there is a clear and present danger to the employee, other workers, or the public, and the employee has the opportunity to have the sample tested by an independent facility and is provided opportunity to rebut or explain the results. Certain police, fire, and emergency employees are not covered by the ordinance.

Employers in San Francisco are also prohibited from interfering in an employee's

personal relationships, organizations, or activities unless there is a direct and actual impact on the employee's ability to perform the job.

*Private employment agencies.* The law regulating talent agencies was amended to provide additional protections for artists, performers, and other persons using such agencies, including a requirement that any funds received by the agency on behalf of a client be immediately deposited in a trust fund account and disbursed within 15 days. Agency surety bonds were increased from \$1,000 to \$10,000, and discrimination on the basis of race, color, creed, sex, national origin, religion, or handicap was prohibited.

Employment agencies charging fees exclusively to employers, except for those providing babysitting or domestic employment, will be exempt from the private employment agency licensing and regulatory requirements between July 1, 1987, and January 1, 1991.

*Occupational safety and health.* Contractors engaging in the removal or remedial action concerning hazardous substances must be certified. The Occupational Safety and Health Standards Board was directed to adopt a standard concerning hazardous substance removal so as to protect employees.

Permits are now required for the underground use of diesel engines in mines and tunnels. The legislative analyst is to evaluate and report on the occupational safety and health of employees and the reductions of hazards at worksites where permits are required.

*Employment and training.* The Department of the Youth Authority was directed to implement a model system of employment preparation and placement services for youthful offenders.

The Habilitation Services Program for adults with developmental disabilities is now to specifically provide supported employment in the community, including such services as direct supervision or training of clients while they are working, direct action to advocate on behalf of a client to resolve problems affecting work adjustment or job retention, and intervention with employers to review job performance, resolve job problems, or facilitate a client's hiring.

*Other laws.* The law protecting State employees who report improper governmental activities was amended to specifically cover applicants for State employment. A fine of up to \$10,000 and imprisonment for up to 1 year will be imposed on persons

who intentionally engage in acts of reprisal, retaliation, threats, coercion, or similar acts against a State employee or applicant who disclosed improper governmental activity. Punitive damages may also be awarded by the court if the violations are proven to be malicious. Similar protections against reprisal were enacted to protect local government employees who disclose evidence of gross mismanagement, waste of funds, abuse of authority, or substantial and specific danger to public health or safety.

## Colorado

*Wages.* Each pay period, employers are to furnish employees an itemized statement including gross wages earned and all deductions made. Wage deductions are not to be made for cash or inventory shortages (except those caused by theft), breakage, alleged negligent acts, dishonored credit cards or checks, workers' compensation, or penalties for infractions except for previously established written policies. The prohibition against retaliation against a person filing a complaint or participating in a proceeding under the law was extended to protect all employees, rather than only migratory laborers.

*Hours.* The public work 8-hour day law was repealed.

*Equal employment opportunity.* Age discrimination in employment is now prohibited under the State civil rights law. The provisions are applicable to persons between the ages of 40 and 70. The previous law was limited to a prohibition against discharging employees between the ages of 18 and 60 because of age.

*Background clearance.* As part of an investigation for a license or renewal to operate a family care home, residential child care facility, child placement agency, or child care center, the Department of Social Services or other issuing authority may require each applicant, licensee, or director of an applying agency to submit a set of fingerprints to be used to assist in ascertaining if the person being investigated has been convicted of child abuse or an unlawful sexual offense.

*Occupational safety and health.* The director of the Division of Labor was authorized to establish standards, rules, or regulations for the construction, repair, and maintenance of carnivals and amusement parks.

*Employment and training.* A job alternative program was established to allow

counties to coordinate and consolidate existing and future employment, training, and supportive services for applicants for or recipients of aid to families with dependent children. The counties, in cooperation with private industry councils and local elected officials, are to coordinate all employment and training programs in accordance with the Governor's coordination criteria in the Federal Job Training Partnership Act.

In addition, the Department of Social Services was authorized to develop a statewide employment search program for designated recipients of aid and applicants for aid to families with dependent children. Participation in the program may be required of certain individuals for a specified time as a condition of eligibility for public assistance, but any recipient or applicant for aid may volunteer for participation.

**Other laws.** The Industrial Commission was abolished, and its powers, duties, and functions were transferred to the Department of Labor and Employment. The Commission's responsibilities included hearing appeals, promulgating rules and regulations under various statutes, and establishing safety standards.

### Connecticut

**Child labor.** As the result of a law enacted in 1985, superintendents of schools will no longer be required to furnish employers with proof-of-age certificates for persons over age 18 before employing them in hazardous occupations. Certificate requirements remain the same for employment of minors under age 18.

**Equal employment opportunity.** The prohibition against discrimination on the basis of age was amended. The minimum annual retirement benefit required to permit the termination of executives or high policy-making employees at age 65 is now \$44,000, instead of \$27,000.

**Occupational safety and health.** The Commissioner of Health Services, in consultation with the Labor Commissioner, is to adopt regulations concerning standards for the proper performance of asbestos abatement, procedures for enforcement action, procedures for inspection by employees of the department, and minimum standards for the completion of asbestos abatement projects. Asbestos contractors are to notify the Commissioner at least 10 days prior to undertaking asbestos abatement projects and provide required information regarding the project.

**Employment and training.** A Connecticut Job Training Coordinating Council was

created within the Office of Policy and Management in accordance with the Federal Job Training Partnership Act. The Council is to ensure that the training programs prepare clients for meaningful long-term jobs, that State goals for employment and training are attained, that a plan is developed for coordinating all State job-training programs to avoid duplication, and that plans and programs of agencies operating federally funded programs are reviewed continuously.

In connection with the construction of a State legislative office building, the joint committee on legislative management is to conduct a preapprenticeship training program to assist women in obtaining job training and employment in jobs related to such construction.

The State Department of Education is to establish a 3-year pilot program to assist disabled public school students in preparing for and obtaining competitive employment and to strengthen the linkage between vocational rehabilitation services and public schools. By January 15, 1989, it will report to the legislature on the cost effectiveness of the program and the appropriateness of the program model for statewide implementation.

The position of opportunities coordinator was created within the Department of Income Maintenance to be responsible for examining, planning, and coordinating services to meet the work, education, and training needs of recipients of aid to families with dependent children, and for overseeing the work incentive program (WIN) for these recipients. A WIN advisory committee, including representation from the departments of labor, human resources, and income maintenance, was established to advise the opportunities coordinator on the operation of the WIN program and to make suggestions for improvement.

### Delaware

**Wages.** The Department of Labor may now bring legal action on its own to collect unpaid minimum wages and prevailing wages for all underpaid employees (instead of only for those who have filed wage claims). Previously, Department action could be taken only upon receipt of a written complaint from an aggrieved employee, and suit could only be for that individual's wages rather than for all underpaid employees of the employer. Any wages collected but not claimed by the employee within 1 year are to be remitted to the State treasurer, rather than returned to the employer.

Employers are prohibited from taking any part of an employee's tips except for those deductions required by law, thereby precluding employers from taking one em-

ployee's tips to distribute to other workers. The amendment distinguishes between a tip and a service charge and requires employers who collect service charges to provide a clear and conspicuous notice to customers that all or part of the charge is the property of management. A service charge assessed without such notice is the property of the employee providing the service. Tipped employees will now be considered to be those engaged in occupations in which workers regularly receive more than \$30 per month in tips, rather than \$20. As before, employers are permitted to take a tip offset of up to one-third of the State minimum wage.

**Equal employment opportunity.** State employees may now continue to work beyond the mandatory retirement age of 70, on a year-to-year basis, upon written approval of their employing agencies.

In the course of their employment, State employees are now prohibited from using the granting of sexual favors as a condition for favorable treatment of an individual by that employee or the employee's agency.

**Labor relations.** A comprehensive new Police Officers and Firefighters Employment Relations Act grants collective bargaining rights to police officers and firefighters. The law includes procedures for grievance resolution including mediation and factfinding, as well as requirements for certification, unit determination, and permissible subjects of bargaining. Unfair labor practices for both employers and employee organizations were established and strikes are prohibited. Organization membership or an obligation to pay dues or fees will not be required as a condition of employment. The law will be administered by the State Public Employment Relations Board.

### District of Columbia

**Wages.** The minimum wage in beauty culture occupations was increased from \$3.75 an hour to \$4.50, effective August 4, 1986, by adoption of a revised wage order. The order is applicable to employees in beauty and barber shops, and miscellaneous personal services including health clubs and spas, and permits a maximum tip credit of 50 cents an hour. Another revised wage order will increase the hourly minimum wage for building service occupations from \$3.70 to \$4.75 on January 5, 1987.

Public employees covered by the Federal Fair Labor Standards Act and eligible to earn compensatory time may receive compensatory time off at a rate of not less than 1½ hours for each hour worked for which overtime pay is required. Employees en-

gaged in public safety, emergency response, or seasonal activities may accrue up to 480 hours of compensatory time; other employees are limited to 240. Paid overtime is required after an employee has accrued the maximum.

### Florida

*Child labor.* For the first time, limits were imposed during the school year on work hours of 16- and 17-year-old students; the maximum is now 30 hours a week, 10 hours a day, and 6 days a week. Also, permissible weekly hours for minors under 16 were reduced from 40 to 30 a week during the school year, and made inapplicable during holiday and summer vacations. The nightwork hours for minors age 17 and under will no longer be restricted during holiday and summer vacations, but a reduction from 1 a.m. to midnight was made in the latest hour 16- and 17-year-olds may work before schooldays.

*Background clearance.* Except as authorized by law, counties and municipalities are prohibited from enacting or enforcing any ordinance, resolution, rule, or other action requiring the registration or background screening of individuals for specific types or categories of employment. They are also prohibited from requiring individuals to carry identification cards issued as a result of such registration or screening. Ordinances requiring background screening, which may include proof of certain skills, knowledge, or moral character, may be permitted if such regulation is not prohibited by law and does not unfairly discriminate against any class of individuals.

*Private employment agencies.* A new talent agency regulatory law was enacted, to be administered by the Department of Professional Regulation. Talent agencies must obtain a license, post a \$5,000 surety bond, maintain specified records, provide each applicant a copy of the contract, and must not engage in specific prohibited practices.

*Occupational safety and health.* An Asbestos Committee was created within the Executive Office of the Governor. The Committee will develop an asbestos identification and remediation plan including methods for notifying employees and residents of the presence of friable asbestos, methods for minimizing employee exposure until friable asbestos is remediated, and requirements for training of asbestos abatement workers. The Secretary of Labor and Employment Security will serve on the 12-member committee.

*Employment and training.* As part of a

reorganization, responsibility for vocational rehabilitation was transferred from the Department of Health and Rehabilitative Services to a new Division of Vocational Rehabilitation within the Department of Labor and Employment Security.

*Other laws.* A Whistleblower's Act of 1986 was enacted to protect from employer retaliation any public sector employee or employee of an independent contractor under contract with a public agency who reports, to an appropriate agency, mismanagement, waste of funds, or the possible violation of certain laws or who participates in an enforcement proceeding. Protection does not apply to knowingly disclosing false information.

### Georgia

*Agriculture.* Noting that American farmworkers suffer infectious diseases at rates comparable to those of third-world peasants and that only 13 States have field sanitation standards, the House adopted a resolution creating a Joint Farm Labor Sanitation Study Committee, including in its membership the Commissioner of Labor, among others. The Committee is to study farm labor sanitation problems and report its findings and recommendations before the start of the 1987 General Assembly.

*Background clearance.* Public and private sector paid employees or volunteers in positions having supervisory or disciplinary power over a child or children may be required to submit to a records check to determine if they have ever been convicted of a crime or have a criminal record.

The Department of Human Resources was authorized to receive conviction data from any law enforcement agency about any final selectee for employment by the department, its contractors, or a district or county health agency, who would be in a position involving direct care, treatment, or custodial responsibilities for its clients or otherwise involving their security and safety.

*Occupational safety and health.* A Carnival Ride Safety Act was enacted under which the Department of Labor, after consultation with the newly created Advisory Board on Carnival Safety, is to adopt standards and regulations for the safe assembly, disassembly, repair, maintenance, use, operation, and inspection of all carnival rides. Among other provisions, any accident resulting in death or serious injury is to be reported to the Department, and carnival ride operators must be at least 16 years of age, must be in attendance when a ride is in operation, and may operate no more than

one ride at a time. This Act is in addition to the previously enacted Amusement Ride Safety Act and covers those devices which are not permanently fixed to a site.

*Employment and training.* Pilot community work experience programs, under which unemployed persons receiving aid to families with dependent children were required to participate as a condition of continued benefits, were repealed. They were replaced with a Positive Employment and Community Help Program, also to be administered by the Department of Human Resources. This program will include educational and vocational skills, work experience, on-the-job training, and job search and job development programs to promote the goals of employability and employment of those receiving aid to families with dependent children. Participation will be mandatory except for those physically or mentally unable to participate, those unable to obtain transportation or child care services, or those who would suffer undue hardship.

A resolution was adopted urging the U.S. Congress to extend the targeted jobs tax credit, arguing that the credit is an effective incentive for employer participation in the job training partnership program and has benefited both the State and economically disadvantaged individuals.

### Hawaii

*Wages.* As part of an effort to achieve an equitable relationship between the value of work performed by State and county civil service employees and their salary or wage schedules, the Office of Legislative Auditor was authorized to hire a consultant to study white-collar and professional and scientific positions, including registered professional nurse positions. The study is to determine (1) if inequity exists among specific public employee job classes that are dominated by one sex, (2) what factors or conditions contribute to such inequity, and (3) what changes in law or practice could best achieve fairness in job evaluation.

The U.S. District Court for the District of Hawaii held, in a case involving the payment of overtime for interstate express delivery service employees, that the Federal Motor Carrier Act does not preempt the overtime compensation requirements of State law. (The Motor Carrier Act authorizes the Interstate Commerce Commission to establish requirements with respect to maximum hours of service for employees of interstate motor carriers.)

*Equal employment opportunity.* A resolution requested the Department of Labor

and Industrial Relations to incorporate into administrative rules (prior to the convening of the 1987 legislature) its interpretation of State antidiscrimination statutes as prohibiting employment discrimination because of an individual's foreign accent or inability to communicate well in English unless fluency in English is a requirement of the job.

*Employment and training.* The Hawaii State Plan (which is to serve as a guide for the future long-range development of the State) was amended to, among other things, establish the following goals: increase communication between the educational community and the private sector to develop curricula and training programs to meet future employment needs in general, and requirements of new, potential growth industries in particular; foster a business climate conducive to the expansion of existing enterprises and the creation and attraction of new business and industry; develop programs and activities to assist the entry of displaced agricultural workers into alternative employment; promote film and television production in the State; expand vocational training; and encourage firms to hire State residents.

As the result of recommendations of the Commission on Employment Resources and the 1985 Hawaii Employment Plan Conference and workshops, the Department of Labor and Industrial Relations was requested to initiate development of a comprehensive statewide employment plan to be submitted to the legislature prior to the 1988 regular session.

*Other laws.* An Employee Stock Ownership Programs law was enacted under which programs will be established to support and encourage expanded opportunities for employee ownership and participation in Hawaiian businesses by providing education and technical assistance, to provide promotion and research activities, and to provide information regarding access to sources of financing. Each State agency involved in economic development and regulatory activities is to review existing rules, policies, and practices for any which could impede the implementation of employee ownership. The law will be repealed June 30, 1988.

A voluntary 2-year job-sharing pilot project was established in the Department of Health in an effort to increase available employment options. Under the project, up to 100 full-time permanent nursing positions may each be shared between two employees. The majority of these positions will be allocated to neighbor island hospitals.

A job-sharing program in the public li-

brary system, first established as a pilot project in 1982, was made permanent.

The Director of Labor and Industrial Relations, in cooperation with the Director of Commerce and Consumer Affairs, was requested by legislative resolution to review the employer practice of charging a processing fee to job applicants and to determine whether additional legislation is necessary to protect prospective employees.

A resolution requests the Federal General Services Administration to study alleged unequal treatment and unfair practices of mainland contractors in obtaining Federal public works contracts at military bases in the State.

## **Idaho**

*Wages.* The State personnel law was amended to provide that compensation for overtime for State employees will be subject to the restrictions of the Federal Fair Labor Standards Act, as applicable.

*Labor relations.* The "right-to-work" measure enacted in 1985 was placed on the ballot in the November 1986 general election as a referendum item and approved by the voters.

## **Illinois**

*Labor relations.* The Labor Relations Act adopted in 1983, granting collective bargaining rights for most public sector employees, was amended to include coverage of firefighters and peace officers except for peace officers with the rank of sergeant or above in cities of more than 1 million population. The Act, which is administered by a Labor Relations Board, establishes unit determination procedures, unfair labor practices, and permissible subjects for bargaining and arbitration. It prohibits strikes by firefighters and peace officers and lockouts by their employers.

*Occupational safety and health.* In-service training programs on the safe use of hazardous or toxic materials is to be provided for school employees who regularly work with such materials.

Because of a Federal appeals court decision that the Federal Occupational Safety and Health Administration's chemical hazard communication regulations concerning workers' right to know about toxic substances in the workplace preempt State standards in the manufacturing sector, a resolution was adopted urging the U.S. Congress to either strengthen the Federal regulations or to permit individual States to impose stricter laws.

*Employment and training.* Under the Prairie State 2000 Authority Act, designed

to promote employment-related educational and vocational programs, grants or loans may now be made to eligible employers to train employees in fields of work for which there are critical demands for certain skills.

An Illinois Youth and Young Adult Employment Act was passed establishing both the Illinois Conservation Corps which will provide temporary summer employment for youth ages 16 to 18, and year-round employment for young adults ages 18 to 25, and the Illinois Youth Recreation Corps which will provide temporary summer employment for 16- to 19-year-olds.

## **Indiana**

*Wages.* The provision in the minimum wage law permitting a credit against the minimum wage for tips, board, or lodging received by employees was repealed. The allowance for such credit had in effect been repealed in 1985 when the Wage Adjustment Board, which set the tip credit allowance and determined the reasonable value of board, lodging, apparel, or other items and services furnished to employees, was abolished.

*Equal employment opportunity.* The mandatory retirement age for police, fire, and other public safety personnel was increased to 70 years (from 60 to 65), and the 36-year maximum age for appointment to police or fire departments was deleted. The requirement that persons pass mental and psychological tests for appointment or reappointment as a member of a fire department was repealed.

*Background clearance.* Persons operating day care centers, children's homes, boarding homes, or child care institutions are to require prospective employees to submit, as part of the employment application, a notarized statement certifying that the applicant has never been arrested for or convicted of specified sexual crimes. Such a statement also must be submitted by applicants for a license to operate or register one of these facilities. The State Department of Public Welfare will maintain a current list containing the name, address, and telephone number, by county, of each day care center and day care home licensed by the State, and will make these lists available to public libraries and each county Department of Public Welfare.

*Employment and training.* The State Board of Vocational and Technical Education is to develop a 3-year plan to assist in eliminating artificial and other employment barriers against homemakers and single parents. The plan will emphasize assisting individuals with the greatest financial need,

will give special consideration to homemakers who because of divorce, separation, or the death or disability of a spouse must prepare for paid employment, and is to provide assurances that the State will furnish relevant training and vocational education activities to homemakers and single parents. The plan will be evaluated annually by the Board and findings reported to the Governor and the General Assembly. The act will expire on August 31, 1990.

## Iowa

*Child labor.* The Committee on Child Labor was abolished and the labor commissioner given authority to adopt rules on employment of minors including prohibited occupations.

*Equal employment opportunity.* The preparation of affirmative action plans by State agencies, previously required by executive order and rule of the Civil Rights Commission, is now required by statute and will be administered by the Department of Personnel. The Office of Management is to establish a contract compliance policy to assure, among other things, nondiscrimination in employment under State contracts and services and programs receiving State financial assistance.

*Private employment agencies.* The Employment Agency Licensing Commission was abolished and sole authority to issue or revoke licenses was given to the labor commissioner.

*Occupational safety and health.* The Hazardous Chemicals Risk Right to Know Act was amended to exclude from coverage certain pesticides as well as consumer-use hazardous chemicals regulated by the Federal Consumer Product Safety Act and in the possession of a person who is not regulated by the Federal Hazard Communication regulation of 1983.

*Other laws.* As part of a reorganization of State government, an integrated Department of Employment Services was created, consisting of three formerly independent divisions, with functions essentially the same as before. The Department consists of the Division of Labor Services (employment standards and safety), the Division of Industrial Services (workers' compensation), and the Division of Job Service (unemployment compensation and public employment offices).

An employer may not discharge, threaten to discharge, or otherwise coerce an employee because of required jury duty. In the event of violation, an employee may bring a civil action for the recovery of up to

6 weeks lost wages, reinstatement, and reasonable attorney's fees.

## Kansas

*Wages.* Coverage of the wage payment and collection law was extended to public employees. Also, the Secretary of Human Resources, who was previously required to take assignments of all valid employee wage claims, now will have the option of accepting or refusing assignments of \$10,000 or more. A fee not to exceed \$25 will be assessed for each wage assignment taken by the Secretary.

*Hours.* The law establishing daily and weekly hours and premium pay or compensatory time off for overtime after 40 hours a week for classified service employees of the Department of Corrections was repealed.

*Other laws.* Employment agreements which, as a condition of employment, require an employee to assign his rights in an invention to the employer shall not apply to an invention for which no equipment, supplies, facilities, or trade secret information of the employer was used or which was developed entirely on the employee's own time. Exceptions to this new law include inventions relating to the business of the employer, or the research or development and inventions resulting from work performed by the employee for the employer. Employers must notify employees in writing of those inventions to which any employment agreement does not apply, and employees must disclose all inventions they are currently developing at the time of employment.

## Kentucky

*Wages.* The State minimum wage rate was increased from \$2.60 to \$3.35 an hour effective July 15, 1986.

Except for employers who have been doing business in the State for 5 consecutive years, all employers engaged in construction work or the severance, preparation, or transportation of minerals must furnish the Commissioner of Labor a bond equal to 4 weeks' gross payroll to assure the payment of all wages due employees as well as liquidated damages and attorney's fees.

*Equal employment opportunity.* The legislature confirmed a previously adopted executive order requiring the Commissioner of Personnel to implement and monitor an affirmative action plan of equal employment opportunity for all agencies of the State government.

*Background clearance.* No State or local board of education or child care center shall employ in a position which involves supervisory or disciplinary power over a minor, any person convicted of a sex crime, and each shall request the criminal record of sex offenses of any applicant from the justice cabinet prior to employment. Church sponsored schools and day care centers and private schools are excepted from these provisions. Criminal information is also to be provided on any applicant who is to provide foster care home services to a minor.

*Labor relations.* The Secretary of Labor is to maintain a roster of qualified arbitrators from which parties involved in a labor dispute will select. The Secretary may not compel parties to arbitrate or agree to arbitration, enforce an agreement to arbitrate, or compel parties to agree to a particular arbitrator, nor may the Commissioner influence, alter, or set aside the decision of an arbitrator.

Information relating to a labor dispute received by a mediator, in the course of mediating that dispute, is not to be revealed in any administrative, civil, or arbitration proceeding.

*Occupational safety and health.* After determining that an employer has retaliated against an employee for filing a complaint or participating in a proceeding concerning a violation of an occupational safety and health standard, the Commissioner of Workplace Standards may now issue a citation to the employer instead of instituting court action. The Occupational Safety and Health Review Commission, instead of the courts, may order appropriate relief, including rehiring and reinstatement to an employee's former position with back pay.

A legislative resolution requests the State Occupational Safety and Standards Board to review its present regulations regarding employee access to information on hazardous substances present in the workplace and to promulgate standards that will be applicable to all workers in the State who are required to work with hazardous materials. Currently, the Board has adopted the Federal Hazard Communication Standard which provides protection for only a portion of the total work force.

*Plant closings.* A resolution was adopted urging the Governor to form a study commission to consider and evaluate legislation being used by Massachusetts and other States to solve economic problems including business failure, plant closure, and reemployment and retraining of dislocated workers, and to prepare legislation covering these topics tailored to the needs of the

State for presentation to the 1988 General Assembly. The commission is to be composed of the secretaries of commerce, labor, human resources, and finance and administration and participants from appropriate areas of the private sector.

*Other laws.* Any public sector employee who in good faith reports to the attorney general, the legislature, or any other appropriate body or authority, any facts or information relative to an actual or suspected violation of any Federal, State, or local law, executive order, or regulation, or actual or suspected waste, mismanagement, fraud, or public endangerment is not to be subjected to reprisal or discrimination unless the information is known to be false or is held by law to be confidential.

A resolution was adopted requesting the Legislative Research Commission, through the Task Force on Small Business, to study the impact of other States' domestic preference bidding laws on Kentucky businesses, and to determine the desirability of enacting a retaliatory statute.

## Louisiana

*Undocumented workers.* The recruitment or employment of aliens not entitled to lawfully reside or work in the United States is now prohibited. Previously, such activities were illegal only if knowingly committed. The exemption for agriculture was retained.

*Equal employment opportunity.* The law regulating maintenance work by employees of the Department of Transportation and Development, and any contracting out of such work, was amended to add a section requiring the secretary of the department to attempt to employ handicapped individuals if it would be more economically feasible than the use of regular public employees and if their use would not reduce the work force of any highway maintenance gang or cause the layoff of any classified employee. Provisions dealing with the use of prison labor for such work were repealed.

The purchases of goods manufactured by or services performed by severely handicapped individuals in State-operated and State-supported sheltered workshops were exempted from competitive sealed bid procedures.

*Background clearance.* Employers or others responsible for persons who have applied or been hired for positions of supervisory or disciplinary authority over children may request, in writing, that the State Bureau of Criminal Identification and Information provide information as to

whether they have been convicted of or pleaded nolo contendere to any of a number of serious crimes, including murder, rape, or cruelty to juveniles. No person convicted of or who plead nolo contendere to such a crime is to be hired by a juvenile detention or similar facility or a public or private elementary school, and no child is to be placed in a foster home, except in emergencies, unless adults living in the home have received clearance.

*Private employment agencies.* All employment services which solicit or advertise in the State must obtain licenses from the Assistant Secretary of the Office of Labor. Previously, the licensing requirement was limited to those services operating in the State.

Employment agencies may now charge job seekers a fee of up to \$10 for the preparation of job resumes.

*Employment and training.* A Youth Incentive Employment Program was created to provide part-time employment during the school year and full- or part-time employment combined with training during the summer months, pursuant to the Federal Job Training Partnership Act, to eligible economically disadvantaged youths aged 16 to 19 who enter into a written commitment to pursue further education and training.

A resolution requested the Department of Health and Human Resources to request all vendors in the State who receive Federal or State funds through the Department to give first consideration to the hiring of persons who have completed or graduated from approved Federal or State job training programs for the economically disadvantaged, unemployed, and underemployed.

A resolution requests that the Joint Committee on Health and Welfare, with the assistance of a special task force, study and evaluate innovative approaches to reform of the current welfare system. Emphasis is to be placed on the Massachusetts Employment and Training CHOICES program that includes assessment and career counseling, education and training, including on-the-job training, and direct job placement. Findings and recommendations are to be reported to the legislature prior to the 1987 regular session.

*Other laws.* A resolution was adopted requesting the Division of Administration to study the feasibility of State employees forming private corporations in areas of governmental service considering privatization and giving these corporations the right of first refusal at the low bid price.

## Maine

*Wages.* By prior law, the minimum wage rate rose from \$3.45 to \$3.55 an hour, effective January 1, 1986. A further increase to \$3.65 is scheduled on January 1, 1987.

The maximum allowable credit towards the minimum wage for tips received by employees, was reduced from 50 percent of the minimum to \$1.54 in 1986, and \$1.64 beginning on January 1, 1987, when the State minimum wage also increases by 10 cents per hour. This results in equalizing the minimum wage not subject to tip credit at \$2.01 per hour for all employees, the same amount as under Federal law.

*Background clearance.* Persons to be employed by a day care facility or nursery school transporting minors by motor vehicle must submit, beforehand, a certified copy of their driving record, indicating any adjudication or conviction for driving while under the influence of liquor or drugs for the preceding 3 years. If such a violation has occurred, the person may not be so employed for 3 years after the last conviction. Current employees must also submit a certified copy of their driving record but need not be terminated.

*Worker privacy.* A resolution was adopted to establish a legislative commission to examine the issues involved in testing employees for the use of alcohol and controlled substances. The issues to be examined include the privacy rights of individuals, the safety of the employee and coworkers, the accuracy of various methods of testing, and the standards appropriate for determining the existence of impairment. A report with any accompanying legislation is to be submitted to the legislature by December 31, 1986.

The Director of Human Resources is to permit current or former State employees the opportunity to review their personnel files during normal office hours, upon written request.

*Private employment agencies.* The licensing and bonding of employment agencies by municipalities is no longer mandatory, but may be exercised under home-rule authority. Enforcement of the law is vested with the municipal officers, although civil action in the event of violation may also be brought by the Attorney General, the Department of Labor, or the injured party.

*Other laws.* Employees who are temporarily laid off or who lose employment because of certain work-related injuries or occupational diseases are to be permitted to continue group health insurance at their

own expense for up to 6 months in the event of layoff or partial incapacitation, and up to 1 year if totally incapacitated.

## Maryland

**Wages.** The Commissioner of Labor and Industry may no longer authorize the payment of subminimum wage rates to blind workers employed in the sheltered workshops of the Blind Industries and Services of Maryland.

The basis for computing overtime for State employees was modified by adopting the requirements of the Federal Fair Labor Standards Act, and agencies were authorized to adopt alternate work schedules for determining overtime compensation for law enforcement personnel and firefighters, as permitted by the Act.

The Commissioner of Labor and Industry is now authorized, upon receipt of a written complaint, under the minimum wage law to require by subpoena the testimony of witnesses or the production of documentary evidence relating to the complaint, after first attempting to obtain the testimony or documents through negotiation with the employer.

**Child labor.** Any person who hires or otherwise uses a minor, in any manner, for the purpose of distributing or delivering any controlled dangerous substance for an unlawful purpose will be guilty of a felony and subject to imprisonment for up to 10 years, a fine of up to \$10,000, or both.

**Agriculture.** All farm labor contractor registration certificates will now expire annually on March 1, instead of 1 year from the date of issuance.

**Background clearance.** A new enactment requires criminal background investigations of employees and employers at facilities that care for or supervise children, including day care centers, juvenile detention centers, foster care facilities, public schools, and certain private schools. Employers may also require such investigations for volunteers at these facilities and for employees or volunteers at facilities not specified in the law.

**Worker privacy.** Employees (as well as job applicants, as before) may now make written complaints to the Commissioner of Labor and Industry regarding alleged violations of the law prohibiting the use of a lie detector test as a condition of employment or continued employment. Also, the Commissioner may now institute court action on behalf of employees (in addition to applicants) after determining that a violation exists.

**Labor relations.** Police officers, ranked as sergeant or below, who are employed by the Maryland National Capital Park and Planning Commission were granted collective bargaining rights. Mediation and fact-finding are provided for in the event of impasse. Strikes are prohibited.

**Occupational safety and health.** The date by which employers are required to comply with the law concerning employee access to information on hazardous and toxic chemicals was extended from May 25, 1986, to March 1, 1987, except that specified manufacturing employers must comply with Federal Hazard Communication Standard requirements by the earlier date.

**Other laws.** Employers were prohibited from discharging an employee because of time lost from work as a result of his or her response to a subpoena requiring appearance as a witness in any civil or criminal proceeding.

## Massachusetts

**Wages.** The minimum wage rate was increased from \$3.35 to \$3.55 an hour, effective July 1, 1986. Further increases to \$3.65 on July 1, 1987, and to \$3.75 on July 1, 1988, are scheduled. The rate for the farm sector was retained at \$1.60 an hour.

**Equal employment opportunity.** The statute of limitations for commencing actions arising from unlawful discriminatory employment practices or other civil rights actions was extended from 2 to 3 years.

**Worker privacy.** The law prohibiting employer use of lie detector tests was amended to give an aggrieved person the right to sue for injunctive relief and for up to treble damages for wage loss. Employment applications must contain a notice that a lie detector test is unlawful as a condition of employment. Penalties for violation were increased, a non-retaliation provision was added, and the fact that the test was to be or was administered out-of-State is not a valid defense to an action brought under the law.

Effective February 2, 1987, any employer receiving a written request from a current or former employee is to provide the employee with an opportunity to review his or her personnel record. If there is disagreement with any information contained in the record, removal or correction may be mutually agreed upon by the employer and the employee. If an agreement is not reached, the employee may submit a written statement explaining his or her position for inclusion in the record.

Employers are prohibited from requiring tests for the AIDS antibody or antigen as a condition for employment, and a generally applicable safeguard was added to protect confidentiality of test results of any person.

**Labor relations.** The law regulating public employee collective bargaining was amended to include class size and workload within the permissible scope of bargaining for teachers employed by school committees.

Negotiation impasse procedures for public sector employees were amended to prohibit employers from implementing unilateral changes until the collective bargaining process, including mediation, factfinding, or arbitration, if applicable, has been completed.

**Private employment agencies.** The maximum applicant-paid placement fees established by law will not apply to the placement of job applicants in positions that pay more than \$40,000 per year, rather than \$8,000 as before.

**Other laws.** The law providing criminal penalties for those who commit assault and battery upon police officers, firefighters, teachers and certain other public employees, while in the performance of their duties, was amended to include employees of the Department of Social Services.

## Michigan

**Occupational safety and health.** The Federal Hazard Communication Standard was incorporated by reference into the State law with the same force and effect as a rule promulgated under the act, and is applicable to all employers subject to the law. Other provisions enacted dealt with release of trade secret information in emergencies and the labeling of pipes or piping systems that contain hazardous chemicals.

Asbestos abatement contractors engaged in the demolition, renovation, or encapsulation of friable asbestos must be licensed by the Department of Public Health and meet certain project notification and other requirements. Employers are to train employees on the health and safety aspects of working with asbestos, to provide specified safety equipment, and to provide a post-abatement monitoring check on the project site. Criteria were specified for those conducting asbestos safety courses.

**Plant closings.** A new Employee-Owned Corporation Act was adopted under which the Department of Labor, in cooperation with the Department of Commerce, is to establish a program to assist in developing employee-owned corporations. The program may operate when an establishment

employing at least 25 persons is closing or transferring operations resulting in a loss of jobs and the affected individuals request assistance, or when workers of an existing or new establishment wish to develop an employee-owned corporation and request assistance. The Labor Department may develop and disseminate information, evaluate the feasibility and economic viability of proposed corporations, provide technical assistance and counseling services, assist in obtaining financing, promote and coordinate local, State, Federal, and private agency efforts to assist in the formation or operation of employee-owned corporations, and recommend appropriate legislative or executive action to enhance opportunities for such corporations. Business establishments considering closing or relocating are to be encouraged to give notice of that decision as early as possible to the Labor Department, the employees affected, any employee organization representing the employees, and the community in which the establishment is located.

The law which provides for the creation of public economic development corporations to assist industrial and commercial enterprises to locate and expand in the State through loans, grants, and other means was amended to make employee-owned corporations eligible for this aid.

## **Minnesota**

*Wages.* Among provisions enacted in a 1985 special legislative session: deductions from employees wages for uniforms or equipment may not exceed \$50, and no deductions for such items, or for consumable supplies or travel expenses, may be made if the deductions would reduce wages below the minimum wage; employers must furnish employees with an earnings statement each pay period including such information as hours, rate of pay, gross pay, a list of deductions, and net pay; employers must pay employees their wages at least every 30 days on a designated pay day; new penalties were added for employer failure to pay wages due; and the labor commissioner was given specific authority to investigate wage claims or complaints if the failure to pay a wage may violate State law or an order or rule of the labor department.

Overtime pay requirements will not apply to any individual employed on a seasonal basis in a ski facility.

*Child labor.* The latest that minors under age 16 may work was reduced from 9:30 to 9 p.m.

Fines for the employment of minors in hazardous occupations will now also apply to their employment in occupations determined to be detrimental to their well-being.

*Equal employment opportunity.* State agencies are to submit affirmative action plans annually, and these plans must provide for reasonable accommodation in the hiring and promotion of qualified handicapped workers. Also, restrictions were established on access to information contained in files relating to investigations under the Act Against Discrimination.

*Labor relations.* An area labor-management committee grant program was established to improve labor-management relations and to enhance economic development through labor-management cooperation.

*Occupational safety and health.* The Commissioner of Health was authorized to enter the premises of any employer to investigate the actual, suspected, or potential release of a hazardous substance if there is evidence or risk of exposure to the community. If requested, the employer will allow the Commissioner access to information required under the employee right-to-know act to determine if there are existing or potential health hazards from the release of any hazardous substance originating in the workplace. This information may be disclosed to individuals or to the community if illness or injury is likely to be suffered or if there is evidence of a community health risk and the Commissioner seeks to have the employer cease the hazardous activity. Procedures are included for the release of confidential information in specified circumstances.

*Employment and training.* The Division of Vocational Rehabilitation may provide matching grants to sheltered workshops to finance and purchase equipment necessary to increase worker productivity and to train severely disabled people in computer and other high technology applications.

## **Missouri**

*Equal employment opportunity.* Separate laws dealing with discrimination in employment, housing, and places of public accommodation, were repealed and replaced with a law consolidating these activities. Age discrimination between the ages of 40 and 70 was added to the list of prohibited unlawful employment practices. Provisions were repealed which formerly made it permissible to differentiate in conditions of employment on the basis of sex under certain conditions, and which permitted sex-based differences in the age of retirement and in annuity, death, and survivors' benefits.

*Occupational safety and health.* Individ-

uals or businesses removing or encapsulating asbestos are to register with the Department of Natural Resources before engaging in such projects. In addition, they must provide information and training which meets or exceeds Federal standards to each employee or agent who may come into contact with asbestos. The Department is to be given 20 days advance notice of any project to be undertaken, and employers are to attest that the employees doing the work have received the required training. Violation may result in the imposition of either civil or criminal penalties or both.

*Plant closings.* A Missouri Distressed Industry Task Force was established to work in conjunction with the Division of Manpower Planning to help alleviate the unemployment and economic distress associated with plant closings and to facilitate the creation of replacement jobs. Specific responsibilities include identifying early warning signals that industries are beginning to decline or are in danger of closing and disseminating this information; assisting local efforts to secure alternative employment and retraining opportunities for displaced workers; assisting in the coordination of programs provided under Title III of the Job Training Partnership Act with programs and services provided by State and local agencies; and obtaining the participation of government, business and industry, and unions for providing assistance to displaced workers in the community in which a closure occurs.

*Employment and training.* The Department of Economic Development is to establish a training program to assist new or expanding industries by training, retraining, or upgrading of the skills of potential employees and to assist in locating skilled employees and sources of job training funds. A basic industry retraining program is also to be established to provide assistance for industries for the retraining and upgrading of employees' skills which are required to support new capital investment.

## **Montana**

*Wages.* By prior law, the minimum wage rate rose from \$3.05 to \$3.35 an hour, effective October 1, 1986.

*Occupational safety and health.* The Employee and Community Hazardous Chemical Information Act was amended to make voluntary rather than mandatory the employer recording of material safety data sheets with the clerk and recorder of the county in which the workplace is located. Lists of workplace chemicals and emer-

gency contact persons must still be recorded.

**Employment and training.** The law granting the Department of Social and Rehabilitation Services power to require general relief recipients to perform work or have their benefits reduced was amended to also apply to required participation in job search, training, and work programs. The Department, in cooperation with the Department of Labor and Industry, will develop programs to preserve and improve the work habits and job-finding skills of recipients. Labor organizations whose members could be affected by the programs are to be consulted, and a currently employed worker may not be replaced by a recipient, nor may a recipient be employed where regular employees are on layoff.

### New Hampshire

**Wages.** A higher, specific minimum wage rate was established at \$3.45 an hour, effective January 1, 1987, with further increases to \$3.55 and \$3.65 scheduled on January 1, 1988, and 1989. Previously, the Federal minimum wage rate had been adopted by reference.

An overtime pay standard was added to the minimum wage law requiring payment at time-and-one-half the regular rate after 40 hours per week. The provision is not applicable to employment covered by the Federal Fair Labor Standards Act or to seasonal amusement, recreational, or other seasonal establishments.

**Equal employment opportunity.** A Handicapped Person's Employment Fund was established to purchase adaptive equipment, such as telephone adapters, adjustable desks, and the like, which provides reasonable accommodations to the needs of the handicapped to enable them to become gainfully employed by the State and its subdivisions.

**Occupational safety and health.** Employers engaged in removing, enclosing, or encapsulating asbestos must obtain a license from the Director of the Division of Public Health Services. Employees performing this work must complete training in asbestos control and removal, pass an approved examination, and be certified by the Division. The issuance of standards and rules, inspection, and enforcement are the joint responsibility of the Director, and the Air Resources Commission. An Asbestos Abatement Advisory Committee, which includes the Commissioner of Labor, was created to coordinate the activities of State agencies responsible for health and safety and protection of the public and environ-

ment which may be affected by asbestos.

**Other laws.** A Division of Personnel was established within the Department of Administrative Services to provide a centralized personnel operation for State employees. Among its functions will be responsibility for administering collective bargaining agreements and employee benefit programs and representing the State in grievance actions. No person is to be discriminated against with respect to employment in the classified service because of political opinions, religious beliefs or affiliations, age, sex, or race.

**Background clearance.** The Department of Health and Welfare is to conduct a background clearance check of each applicant for a license to operate a child care agency, child care institution, or child placing agency. If the applicant, an employee, or resident of the agency has been convicted of a crime against a child, or of a crime which suggests that the person might be reasonably expected to pose a threat to a child, a license will not be issued. The Department is to investigate complaints of violations of licensing or operating standards. Retaliation through discharge, harassment, or other discrimination by a child care provider against an employee who in good faith reports a suspected violation of the law, will be grounds for license revocation.

The law providing for access to public records and meetings was amended to exclude from the open meetings requirement sessions involving strategy or negotiations with respect to collective bargaining.

By July 1, 1987, employers must adopt and implement written rules governing smoking and nonsmoking in enclosed workplaces. The rules may designate smoking and nonsmoking areas. The Commissioner of the Department of Health and Human Services is to provide consultation services to employers if requested.

### New Jersey

**Wages.** A new provision was enacted providing for the deduction of student loan payments more than 60 days overdue from the wages of county and municipal employees. Such deductions do not prevent simultaneous deductions to satisfy other debts.

**Equal employment opportunity.** Under a new Technical Training for Minorities and Women Act, the Commissioners of Labor and Education were directed to investigate the low rates of minority and female participation in apprenticeship and other technical training programs, take action to en-

courage a higher rate of participation, and recommend appropriate legislative action. The Commissioners are to report annually to the legislature.

**Background clearance.** No facility, center, school, and board of education which cares for or is involved in the education of children under age 18, other than on a voluntary basis, is to employ any person in a position which involves regular contact with pupils unless it has been determined that no criminal record exists which would disqualify the person from such employment. An individual will be disqualified if he or she has been convicted of a crime involving a sexual offense, child molestation, or otherwise endangering the welfare of children unless rehabilitation can be proven using specified factors.

**Employment and training.** The law requiring employable persons receiving public assistance to perform public work as a condition of receiving the aid was amended to specify the criteria for demonstrating willingness to work. This will include maintaining a current registration with the Division of Employment Services in the Department of Labor, reporting for employment interviews scheduled by the Division, and accepting training or employment as offered.

**Other laws.** A Conscientious Employee Protection Act was enacted prohibiting employers from retaliating against an employee who discloses or threatens to disclose, to a supervisor or public body, an activity, policy, or practice that the employee reasonably believes to be illegal, or who participates in an investigation by a public body. Also protected is the employee's right to object to or refuse to participate in any practice which the employee believes to be illegal, fraudulent, or criminal or could endanger the public health, safety, or welfare.

### New Mexico

**Equal employment opportunity.** The Services for the Blind section of the Vocational Rehabilitation Division of the State Department of Public Education was eliminated and its powers and functions transferred to a new Commission for the Blind appointed by the Governor. Among its functions, the Commission is to maintain bureaus of information and industrial assistance to help blind persons find employment, train them in work which may be pursued in their own homes, and assist them in merchandising and marketing their goods.

*Occupational safety and health.* The State mine inspector was authorized to charge fees to mining companies for mine safety training given to their personnel in an amount not to exceed \$50 per day per person.

## **New York**

*Wages.* Recommendations for changes in the regulations for administering the State's Minimum Wage Act were submitted by the tripartite General Industry Minimum Wage Board to the Labor Commissioner on March 20, 1986. Among those recommendations accepted and effective October 1, 1986, were a change in the overtime standard from time-and-one-half the State minimum wage rate to time-and-one-half the employee's regular rate; elimination of all regulatory provisions for sub-minimum rates for youth or students and for handicapped workers; and consolidation of certain Wage Orders to achieve greater uniformity in certain provisions. A request, by the Board, that the Governor and legislature consider raising the statutory minimum wage above the current \$3.35 an hour rate was remanded to the Board to recommend a specific amount of increase.

A Federal appeals court in New York City ruled that the Federal Motor Carrier Act, which authorizes the Interstate Commerce Commission to establish requirements with respect to maximum hours of service for employees of interstate carriers, does not preempt State regulation of overtime wages for these workers.

*Garment industry.* Effective April 1, 1987, apparel industry manufacturers and contractors will be required to register annually with the Commissioner of Labor and to provide specified information including proof of workers' compensation insurance for production employees. Also, a special task force is to be established to inspect apparel manufacturers and contractors with respect to compliance with the registration requirements and with other provisions of labor law including minimum wage, overtime compensation, child labor, industrial homework, and unemployment insurance, and State and local building, fire, and health codes. Provision is made for the imposition of civil and criminal penalties for various violations. The task force is to issue a report to the legislature after 2 years, and to report regularly to the Department of Labor's apparel industry advisory committee.

*Child labor.* District superintendents of schools were specifically authorized to issue employment certificates or permits for students attending classes operated by a board of cooperative educational services,

and principals of registered nonpublic secondary schools were authorized to issue them for students attending those schools.

Minors under age 18 may now be employed by a person holding a grocery store beer license as either cashiers or in other positions involving the handling of empty alcoholic beverage containers presented for redemption under the beverage container control law.

*Equal employment opportunity.* The law prohibiting the denial of equal employment opportunities for the blind and deaf solely because of their condition or if accompanied by a guide dog was extended to apply to all persons with disabilities and who are accompanied by hearing dogs and service dogs in addition to guide dogs.

Employment discrimination on the basis of an individual's disability, by contractors and subcontractors, is now prohibited in the performance of building service contracts with public agencies.

*Private employment agencies.* Coverage of vocational guidance or counseling services under the law regulating employment agencies is now specifically applicable to the providing of information or services of any kind purporting to promote, lead to, or result in employment for the applicant with any employer other than the service itself.

*Employment and training.* A pilot project to improve and expand employment opportunities for senior citizens through job development and placement efforts, due to terminate January 1, 1987, was continued for 2 years.

## **North Carolina**

*Occupational Safety and Health.* Comprehensive Elevator and Amusement Device Safety Acts were enacted, to be administered by the Elevator and Amusement Device Division within the Department of Labor. The labor commissioner is to adopt rules and regulations governing, among other items, the design, construction, testing, maintenance, and inspection of such devices, and is to issue certificates of operation, perform inspections, and investigate accidents. Among a number of new provisions, it was specified that operators of amusement devices must be at least 18 years old, must be in attendance at all times the device is in operation, and may operate no more than one device at a time. Both criminal and civil penalties are provided for in the event of violation of the Elevator Safety Act and civil penalties for violation of the Amusement Device Safety Act.

*Other laws.* The North Carolina Employ-

ment and Training Council, the Community Employment and Training Council, the State Community Work Experience Committee, the Governor's Oversight Committee for Official Labor Market Information, and the Council on Management and Development were among several executive branch boards to be abolished, and provisions dealing with the Administrative Rules Review Commission were revised. The Governor's Management Council will perform the functions of the Council on Management and Development.

## **Ohio**

*Equal employment opportunity.* A Bill of Rights for mentally retarded and developmentally disabled persons was established, including the right to pursue vocational opportunities that will promote and enhance economic independence.

## **Oklahoma**

*Wages.* Any person who uses a false or bogus check or other order directing the payment of money in an attempt to fraudulently obtain labor or personal services or the postponement of any payment due will now be liable, in addition to the recovery of the amount owing, for double damages of at least \$200 plus attorney fees and court costs in addition to any criminal penalties which may be imposed.

*Agriculture.* An Agricultural Employment Retraining Act of 1986 was enacted providing that, if funds are available, State farmers and ranchers meeting specified criteria of eligibility and need, including having lost or being in danger of losing their farms, shall be entitled to accept tuition waivers for up to 36 months and to attend any State-supported area vocational and technical school for the purpose of learning new job skills. The program is to be administered by the State Board of Vocational and Technical Education assisted by a newly created Advisory Committee on Agricultural Employment Retraining.

*Child labor.* A constitutional amendment, placed on the ballot in the November 1986 general election, to remove a prohibition on work by women in underground mines and to establish an 18-year minimum age for such work was approved by the voters. The issue was placed on the ballot as the result of a resolution adopted in 1985.

## **Pennsylvania**

*Employment and training.* A Customized Job Training Act will be administered by the Department of Education. Private com-

panies will request training grant funds through local educational agencies. The agencies must submit a training plan with each application, including the number of net new jobs that will result. Companies will receive full funding of entry level training costs if at least 20 percent of the entry level trainees are public assistance recipients, dislocated workers, unemployed individuals, or displaced homemakers, and lesser funding in other situations. Programs are to meet a company's specifications for a particular occupation or trade with successful completion resulting in the trainee being placed in a full-time job by that company. Companies are to comply with applicable State and Federal employment standards laws and any collective bargaining agreement. Priority will be given to programs which serve a community where the average unemployment rate is above the statewide rate or which serve a State-designated enterprise zone.

The Pennsylvania Conservation Corps established in 1984 to provide training and work experience for economically disadvantaged persons, due to expire June 30, 1986, was continued to June 30, 1988, and eligibility for the program was expanded to those between the ages of 18 and 25 instead of between 18 and 21.

*Other laws.* A new Sunshine Act was passed revising a prior law requiring that State agency meetings be open to the public. Provisions now permit closed executive sessions for purposes including information, strategy, and negotiation sessions related to the negotiation or arbitration of a collective bargaining agreement, and discussions involving the employment, terms of employment, dismissal, or disciplining of any prospective, current, or former public officer or employee. The individual affected may request, in writing, that the matter or matters be discussed at an open meeting.

### **Puerto Rico**

*Wages.* Mandatory decree revisions, issued by the Commonwealth Minimum Wage Board, increased minimum rates in the chemical, petroleum, rubber, and related products industry from a range of \$1.50 to \$2.30 an hour to a range of \$2.75 to \$3.35 effective June 7, 1986, and in the commercial services industry from a range of \$2.50 to \$3.35 an hour to \$3.35 for all employees except catering services employees who will receive \$3.25 an hour, and motor vehicle storage, custody, or parking services employees who will receive \$3.20. The increases in the commercial services industry rates were effective September 11, 1986.

In addition, a revised mandatory decree for the retail trade industry increased the minimum hourly wage rate, effective January 29, 1986, for those enterprises with an annual gross income of less than \$362,500 from a range of \$2.00 to \$2.50 per hour to a range of \$2.70 to \$3.00 per hour, depending on the type of establishment. The minimum for enterprises with an annual gross income exceeding \$362,500 remains at \$3.35.

The minimum payment bond required of contractors in charge of construction projects costing more than \$15,000, was increased from 10 to 20 percent of the estimated cost of the project. Employees of the contractor or subcontractors may take action against the bond for unpaid wages. Violation of the bonding requirement will now be a felony, rather than a misdemeanor.

Because of a large number of employee complaints filed with the Department of Labor and Human Resources for violations of various labor laws by security and private detective agencies, such agencies are now required to post a payment bond to guarantee the payment of wages earned and any other right or benefit to which employees are legally entitled. Operation in violation of labor law will be a cause for revocation or refusal to renew an agency license.

*Labor relations.* The Secretary of Labor and Human Resources was authorized to publish labor-management arbitration awards issued by the arbitrators of the Bureau of Conciliation and Arbitration. Such awards had previously been considered confidential.

*Other laws.* The law that requires employers to compensate employees who are discharged without just cause was amended to prohibit the discharge of an employee for providing information to any administrative, judicial, or legislative forum in the Commonwealth with regard to the employer's business. The Secretary of Labor and Human Resources was authorized to adopt regulations necessary to administer provisions on discharge and compensation.

Employers are prohibited from deducting from salary, vacation, or sick leave the time an employee spends as a criminal case witness duly summoned by the prosecutor or a court. Advance notice of the absence is to be given to the employer.

### **Rhode Island**

*Wages.* The basic minimum hourly wage rate was increased from \$3.35 to \$3.55 effective July 1, 1986, with a further increase to \$3.65 per hour scheduled for July 1,

1987. Also, the rate for 14- and 15-year-old minors working fewer than 24 hours a week was changed from \$2.50 an hour to 75 percent of the basic rate, and the rate for full-time students under age 19, working for specified nonprofit associations or corporations, will now be 90 percent of the basic rate rather than \$3.10 per hour as before.

Public employees may elect, by agreement with their employers, to receive compensatory time off for hours worked in excess of 40 a week at a rate of at least  $1\frac{1}{2}$  hours of compensatory time off for each overtime hour worked.

*Equal employment opportunity.* The Fair Employment Practices Act was amended to add to the list of unlawful employment practices the failure by an employer to reasonably accommodate an employee's or prospective employee's handicap, unless the employer can demonstrate that the accommodation would pose a program, enterprise, or business hardship. It will also be an unlawful employment practice for a labor organization to fail to reasonably accommodate a member's or prospective member's handicap.

Sex discrimination is now prohibited in all public colleges, universities, and public institutions of higher education. The prohibition is applicable to employment, recruitment and hiring practices, employment benefits, and all other school functions and activities. Each individual institution must designate an equal opportunity or affirmative action officer who will oversee compliance.

The provision which limited veterans' preference in public employment to the employment of men, was repealed.

Upon written request, employees will be allowed to inspect personnel files used to determine their qualifications for employment, promotion, additional compensation, termination, or disciplinary action. Not included are records relating to the investigation of a possible criminal offense, information prepared for use in any civil, criminal, or grievance proceeding, or letters of reference, recommendations, medical records, managerial records, or confidential reports from previous employers.

*Labor relations.* The provisions of the Firefighters Arbitration Act, including the right to bargain collectively and the prohibition on striking or engaging in any work stoppage or slowdown, were extended to rescue and emergency medical services personnel.

*Background clearance.* A Joint Resolution was adopted creating a legislative commission to study the feasibility of insti-

tuting uniform criminal background checks of health care personnel prior to employment. Findings and recommendations are to be reported to the General Assembly by February 11, 1987.

*Worker privacy.* The law banning the use of lie detector tests as a required condition of employment was amended to provide for punitive damages, in addition to any award of actual damages and the award of reasonable attorney's fees and costs. Also, the law now prohibits requesting employees to submit to such a test, and the maximum fine for employer violation was increased from \$200 to \$1,000.

*Other laws.* A workplace smoking pollution control act was adopted requiring employers to implement, maintain, and post a written smoking policy permitting any non-smoking employee to object to the employer about the smoke hazard or discomfort in his or her workplace, and requiring the employer to attempt to reach a reasonable accommodation, using available means of ventilation or partition, between the preferences of nonsmoking and smoking employees. Employers are prohibited from terminating or otherwise discriminating against employees for exercising their rights under the law.

### **South Carolina**

*Wages.* A new comprehensive wage payment and collection law is applicable to public and private sector employers. Under the law, every employer, except employers of domestic labor in private homes and those employing fewer than five employees, are to notify each employee in writing at the time of hiring of hours and wages agreed upon, the time and place of payment, and deductions to be made from wages. In addition, employers must keep payroll records and furnish employees with itemized statements showing pay and deductions. All employers, including those exempted from the notification requirements, are to pay all wages due at the designated time and place and may not withhold or divert any wages unless required to do so by State or Federal law, or written notice has been given to the employee. Wages may be deposited directly at a financial institution provided the employee can make at least one withdrawal for each deposit, free of any service charge. All wages due a terminated employee are to be paid within 48 hours of the time of separation or the next regular payday which may not exceed 30 days after written notice is given. Provisions were also enacted governing treatment of disputed wages, providing for investigation of complaints by the Com-

missioner of Labor including the right to inspect employer records, providing civil penalties for violation, and authorizing the Commissioner of Labor to promulgate regulations. Previous provisions relating to payment of wages were repealed.

The law covering compensatory time off for State employees who work overtime was amended to provide that if such time off is granted, it must be given in accordance with requirements of the Federal Fair Labor Standards Act.

*Equal employment opportunity.* All sworn law enforcement officers of the State highway patrol must be retired by the end of the fiscal year during which they reach age 62. If they request, these officers will be given the highest consideration for vacancies in positions other than sworn law enforcement jobs for which they qualify in the Department of Highways and Public Transportation.

*Occupational safety and health.* The Amusement Rides Safety Code was amended to provide for inspection of amusement devices by special inspectors licensed by the labor commissioner but not employed by the Department of Labor, as an alternative to inspection by the commissioner or a designee, and to specify the qualifications required of the special inspectors, including education and training requirements.

*Employment and training.* As part of the State Employment Revitalization Act of 1986, funds appropriated to the Technical Educational System for short-term and innovative training are to be used to provide training, including retraining displaced workers and farmers, for upgrading employees to handle changes in their jobs, and for training the unemployed. This training will utilize the technical and vocational education systems. A Private Job Training Review Committee was created to provide advice on plans for the utilization of short-term funds for adult training.

Employers who require prospective employees to complete a job training program prior to consideration for employment must tell them before they start the program if its completion does not guarantee regular permanent employment.

Beginning January 1, 1988, local jurisdictions may establish regulations for, and administer a program under which persons confined in local correctional facilities may work at paid employment in the community, be assigned to public works employment, or continue their education. Employers of prisoners working in paid employment are required to pay the pris-

oner's wages directly to the Department of Corrections, which will withhold 5 percent of the wages for the State's victim assistance program and an appropriate amount for costs incident to the prisoner's confinement.

A new law was enacted requiring employable recipients of State public assistance to register and accept appropriate employment as a condition of receiving continued aid. By fiscal year 1988-89, the Department of Social Services is to develop and operate a statewide work support service delivery system to assist public assistance recipients in achieving economic independence through employment. Services will include education, job-training, counseling, and placement.

*Other laws.* Any employer who dismisses or demotes an employee because he or she complies with a valid subpoena to testify in a court or administrative proceeding or to serve on a jury is subject to a civil action in the circuit court for damages in specified amounts caused by the dismissal or demotion. This provision was made retroactive to January 1, 1984.

### **South Dakota**

*Equal employment opportunity.* Discrimination in employment on the basis of physical or mental disability unrelated to an individual's ability to perform the job is now prohibited by private and public sector employers under the Human Relations Act. Employers are to make good faith efforts to reasonably accommodate disabled persons unless the accommodation would impose undue hardship.

*Other laws.* The responsibility for maintaining a current list of States with resident bidder preference laws for public works, improvements, or purchases and the amount or percent of preference taken by each State was transferred from the Department of Legislative Audit to the Bureau of Administration.

### **Tennessee**

*Wages.* The prevailing wage commission, scheduled to cease activities on June 30, 1986, under sunset legislation, was extended for 7 years to June 30, 1993.

*Child labor.* The Department of Labor now has the duty to keep records on all places employing minors. Employers must provide the Department with records on the employment of minors.

*Undocumented workers.* The Department of Labor is now authorized to promul-

gate rules and regulations under the law prohibiting the knowing employment of illegal aliens and to grant exemptions from the law. The Commissioner of Agriculture must approve all such regulations relative to agriculture before they are adopted.

*Worker privacy.* Amendments to the Polygraph Examiners Act include requiring that persons to be examined sign and receive a notification including their rights to refuse to take the examination, the right to refuse to answer any question, and to terminate the exam at any time. Upon request, the person to be examined must be provided a written copy of the examiner's opinions or conclusions as a result of the exam, and if requested in advance, an audio recording of the examination. Persons submitting to such an employment examination must be shown a list of the questions to be asked, in advance, and a list of the areas not covered by the exam. It is a misdemeanor for an examiner to inquire into religious, racial, political, union, or sexual matters or actions or activities more than 5 years before the exam, except for felony convictions and drug violations.

Psychological stress evaluators are now subject to the polygraph examiners law.

*Occupational safety and health.* Affected employees must now be given the opportunity to participate in negotiations on alleged violations of occupational safety and health standards.

Action was taken to continue several boards and commissions scheduled to cease activities on June 30, 1986, under sunset legislation. Five-year extensions were enacted for the elevator safety board and the board of boiler rules, and 7-year extensions for the occupational safety and health review commission and the board of examiners for mines.

A House resolution requested that a special committee of House members be created to study the need for minimum occupational health and safety standards for the operation of video display terminals at places of employment and to make recommendations, including any proposed legislation, to the General Assembly by February 3, 1987. House and Senate bills to enact a Video Display Terminal Operator Protection Act failed to pass.

*Employment and training.* A joint resolution was adopted asking that a legislative committee be appointed to study the State's various job and economic training programs, job growth, technological developments, economic resources, and overall State policy for the purpose of obtaining a better grasp on the scope and effectiveness of the various job programs in the State. A

report of findings and recommendations, including any proposed legislation, is to be made to the legislature by July 1, 1987.

*Other laws.* The Department of Labor, scheduled to be abolished by sunset legislation, was extended to June 30, 1993.

A provision prohibiting the dismissal of an employee because of required jury service was repealed and replaced with a provision prohibiting both discharge and any form of discrimination if advance notice of the required jury duty is given to the employer. Any employee subjected to an adverse action because of time off taken for such service will now be entitled to reinstatement and reimbursement for lost wages and work benefits.

### Utah

*Background clearance.* Local school district superintendents may require current or prospective employees and volunteers to submit to a criminal background check at school district expense. Only those convictions which are job-related are to be considered.

*Employment and training.* The State Board for Vocational Education in cooperation with State and local government agencies, community-based organizations, and private employers, is to establish a 2-year program for the education, training, transitional counseling, and referral of displaced homemakers. Funding for the program will be achieved by a surcharge to the cost of marriage licenses.

*Other laws.* A resolution directed the Legislative Management Committee to assign appropriate interim committees to study numerous labor- and nonlabor-related subjects, including equal employment opportunity for handicapped persons, enactment of a State civil rights act, dislocated worker programs, regulation of carnivals and amusement rides, and rehabilitation programs for injured workers.

Amendments were made to the Indoor Clean Air Act to regulate smoking in public places, including places of employment. Employers are to designate smoking and nonsmoking areas and conspicuously post appropriate signs; arrange employee work stations, where possible, to prevent smoke pollution detrimental to the health or comfort of nonsmokers; and permit employees in defined individual work areas to designate them as nonsmoking areas. Precedence is to be given to the rights of nonsmoking employees when attempting to reach agreements, and employers may not discriminate against employees who express concern about smoke pollution in the

workplace. The law will be enforced by the Department of Health or local health departments.

### Vermont

*Wages.* By prior law, the minimum hourly wage rate was increased from \$3.35 to \$3.45, effective July 1, 1986, with further increases to \$3.55 and \$3.65 scheduled on July 1, 1987, and July 1, 1988.

*Child labor.* A joint resolution conveyed to the Liquor Control Board the intent of the General Assembly that persons 16 years or older continue to be permitted to sell alcoholic liquor in carry-out establishments. The resolution was in response to a Board proposal to raise the permissible age to 18.

*Equal employment opportunity.* A proposal to amend the State constitution to provide that equality of rights under the law not be denied by the State or any of its political subdivisions on the basis of sex was defeated in the November 1986 general election.

*Occupational safety and health.* If the Commissioner of Labor and Industry finds that a workplace violates any portion of the State Occupational Safety and Health Act, and the violation creates a dangerous condition that can reasonably be expected to cause imminent death or serious harm to workers, the Commissioner may order the workplace or any part of it to be immediately closed or order that steps be taken to avoid, correct, or remove the dangerous conditions. Orders may be appealed in superior court. Employers who violate an order of the Commissioner will be fined up to \$5,000 per day, and other penalties were increased. Previously, in cases of imminent danger, the Commissioner was required to seek injunctive relief in a county court.

A law provides for certification by the Commissioner of Health of asbestos contractors, permitting them to perform asbestos abatement work. Such contractors must notify the Commissioner 10 working days before starting.

### Virginia

*Equal employment opportunity.* If they have been unable to obtain the data, local human rights commissions may now request the county attorney to apply for a subpoena to obtain information necessary to determine if unlawful discrimination has occurred. Commissions must now obtain approval of the county attorney instead of the board of supervisors to seek to prevent or eliminate violations through appropriate enforcement authorities.

*Background clearance.* A resolution was adopted establishing a legislative subcommittee to study and develop recommendations for ensuring that all adults who seek to work with children in the absence of the children's parents or guardians are appropriately screened, with consideration given to protection of children and cost effectiveness. The subcommittee is to report its recommendations to the 1987 General Assembly.

*Worker privacy.* A joint resolution requested the Department of Commerce to study its regulations dealing with licensing, eligibility standards, and standards of practice of polygraph examiners. The Department was asked to consider strengthening current regulations, or to establish new ones, regarding prohibited areas of questioning for employees and job applicants, written notification to the subjects of their rights, and peer review of the polygraph examiners.

## Washington

*Background clearance.* The Secretary of the Department of Social and Health Services is to investigate the conviction records or pending charges of persons being considered for State employment in positions directly responsible for the supervision, care, or treatment of children or developmentally disabled persons.

*Occupational safety and health.* Significant increases were made in the penalties assessable for violation of the State Industrial Safety and Health Act. Among these, the maximum civil penalty for willful or repeated violations was increased from \$10,000 to \$50,000 for each violation; an employer who has received a citation for a serious violation of any safety or health standard may now be assessed a civil penalty of up to \$5,000 rather than \$1,000 as before; and conviction for a willful or knowing violation resulting in death to an employee may, in addition to a possible prison sentence, be punished by a fine of up to \$100,000 rather than \$10,000 as before, or up to \$200,000 rather than \$20,000 if the conviction is for a repeated violation.

Provisions regulating amusement ride safety were amended to specify that rides inspected in any State, territory, or possession of the United States determined by the Department of Labor and Industries to have a comparable level of regulation will be deemed to meet the Washington inspection requirements, and that ride operators, authorized to inspect rides in any such jurisdiction, will be deemed qualified to inspect rides in the State.

*Employment and training.* The Employment Security Department is to encourage employers looking to locate or expand in the State to hire public assistance recipients and the unemployed from a pool of qualified individuals. Financial incentives may be provided to employers including payment of up to 50 percent of a trainee's wages during the first 10 weeks of employment and on-the-job training.

## West Virginia

*Wages.* The minimum wage rate was increased from \$3.05 to \$3.35 an hour, effective January 1, 1987.

*Background clearance.* For new employees, county boards of education are to request from the State criminal identification bureau the record of criminal convictions relating to child abuse, sex-related offenses, or possession of controlled substances with intent to deliver.

*Occupational safety and health.* An Occupational Safety and Health Act was enacted for employees of the State or any State agency. The law will be administered by a new Division of Occupational Safety and Health within the labor department, assisted by an Occupational Safety and Health Advisory Board. Provision is also made for optional coverage by political subdivisions through ordinance, resolution, or other procedure. By July 1, 1987, the labor commissioner is to provide for the adoption of all standards of the Federal Occupational Safety and Health Act of 1970. Where no Federal standards are applicable, or where more stringent standards are deemed advisable, the commissioner will provide for the development of such State standards administratively. Temporary standards may be adopted to take effect immediately in emergency situations. The law also provides for employer application for variances, authorization for inspections, education programs, and citations for violation. Employees, upon request, are to be given a list of those substances they use or come in contact with in the workplace and notification of which of these have been identified as toxic and hazardous; and employees are not to be discriminated against for filing a complaint, testifying, or exercising any right afforded by the law.

Among several amendments related to coal mining, a coal mine safety and technical review committee was established to assist the board of coal mine health and safety in the development of technical data relating to mine safety issues, including related mining technology, to provide suggestions and technical data to the board and

propose rules and regulations with general mining industry application, and to accept and consider petitions submitted by individual operators or miners seeking site-specific rulemaking. Other amendments were adopted relating to safety standards for mine ventilation, fire protection, haulage equipment, belt conveyors, surface installations, and the operation of railroad cars.

*Employment and training.* The Division of Vocational Rehabilitation is to administer a program to provide attendant care services to severely disabled adults to enable them to enter or continue in the work force.

*Other laws.* The law prohibiting dismissal or other discrimination against employees summoned for jury duty was amended to make employers in violation guilty of civil contempt and subject to a fine of from \$100 to \$500 in addition to the affirmative relief previously provided for which includes reinstatement and reasonable attorneys' fees.

## Wisconsin

*Wages.* A 2-year time limit was placed on filing wage claims with the labor department. After receiving a claim, the department may investigate any wages due not only to the claimant but also to any other employees for 2 prior years.

Under a new provision to be administered by the labor department, contractors who have failed to pay required prevailing wage or overtime rates on public works projects will be barred for 3 years from receiving public works contracts let by the State and municipalities. Debarment will not apply to minor violations as determined on a case-by-case basis through administrative hearings.

*Agriculture.* Recruiters of migrant workers must now provide such workers, at the time they are recruited, with a written recruiting disclosure statement including information on the place of employment, kind of work, wage rates, pay periods, approximate hours of employment, overtime applicable, dates of employment, kind of housing and any charges, cost of meals if furnished, transportation arrangements, and any charges or deductions from wages beyond those required by law. As before, such information must also be furnished in a written agreement provided at the time of hiring.

*Worker privacy.* In a late 1985 law, employers were prohibited from requesting or requiring, as a condition of employment, a

test for the presence of the AIDS antibody, or from affecting the terms, conditions, or privileges of employment, or from terminating the employment of anyone who takes such a test.

*Labor relations.* The State Employment Labor Relations Act was amended to cover nonsupervisory teaching, project, and program assistants employed by the University of Wisconsin system.

*Employment and training.* The Department of Health and Social Services is to administer a Work Experience and Job Training Pilot Program in coordination with programs under the Federal Job Training Partnership Act and other job training

programs for recipients of aid to families with dependent children. The project will include job search, subsidized employment including on-the-job training, vocational skills training, and community work experience. Participation may be required as a condition of continued benefit payments. The Department is also to administer a separate Employment Search Program for these recipients to assist them in obtaining regular, unsubsidized employment through such support services as providing child care and transportation costs.

Wages, salary, or other compensation for trainees are now eligible training costs under the labor training program established by the Department of Development to provide specialized job training to State

residents. Funds appropriated for labor training grants may not be used to pay non-residents of the State.

A joint resolution was adopted proposing that the U.S. Congress increase funding for the Job Training and Partnership Act Title III program to a level which meets the needs of dislocated workers for such programs.

*Other laws.* The U.S. Supreme Court held that the 1981 Wisconsin law barring repeat violators of the Federal Taft-Hartley Act from doing business with the State cannot be enforced, ruling that the State, by imposing this sanction, was assuming a role reserved by the Congress for the National Labor Relations Board. □

—FOOTNOTES—

<sup>1</sup> The legislatures did not meet in Nevada, North Dakota, or Oregon. Sessions were held in Arkansas, Mississippi, Nebraska, Texas, and Wyoming, but no significant legislation was enacted in the fields covered by this article. Information on Guam and the Virgin Islands had not been received in time to include in this article, which is based on information

received by November 7, 1986.

<sup>2</sup> Unemployment insurance and workers' compensation are not within the scope of this article. An analysis of workers' compensation laws appears elsewhere in this issue; an analysis of unemployment insurance laws is forthcoming.

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### Research fellowships

The American Statistical Association and the Bureau of Labor Statistics, under a grant from the National Science Foundation, are sponsoring a Senior Research Fellow and Associate Program next fall. Fellows and Associates will work on specific research activities related to BLS programs. Appointments are normally for 1 year and research will be conducted at the BLS in Washington, DC.

The program will be coordinated by the BLS Office of Research and Evaluation. Current research being conducted by this office includes: index number theory and measurement, price measurement, cost-of-living and demand studies, survey response error, workers' compensation, compensating wage differentials, productivity analysis, relationship of union membership to employment variability, model-based seasonal adjustment, prediction properties of index estimators, measure of central location based on censored data, upper and lower probability inferences for outliers, and variance estimation.

Applicants for fellowships should have a recognized research record and considerable expertise in their area of proposed research. Senior Research Fellows will be selected by a review board consisting of representatives of ASA, BLS, the American Economic Association, the Committee on National Statistics, and the Social Science Research Council. Associates will assist the Fellows on their projects. Applicants for Associates are expected to have completed a Ph.D. in an appropriate field or to have made significant progress toward the degree (at least 2 years of graduate study). Substantial computer experience will, in most cases, be required of Associates. Associates will be selected by the Senior Research Fellows with the approval of the review board.

Further information is available from Dr. Cathryn Dippo or Dr. Marilyn Manser, Office of Research and Evaluation, Room 2021, Bureau of Labor Statistics, 441 G St. NW, Washington, DC 20212; telephone (202) 523-1874 or 523-1347.