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I N   S E N A T E

March 9, 2010

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Introduced by Sen. ONORATO -- (at request of the Department of Labor) --  
read twice and ordered printed, and when printed to be committed to  
the Committee on Labor

AN ACT to amend the labor law, in relation to protection of certain  
confidential information

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Subdivisions 1, 2 and 3 of section 620 of the labor law,  
2     subdivision 1 as amended by chapter 645 of the laws of 1951, paragraph  
3     (a) of subdivision 1 as amended by chapter 589 of the laws of 1998,  
4     subdivision 2 as amended by chapter 248 of the laws of 1991 and subdivi-  
5     sion 3 as added by chapter 705 of the laws of 1944, are amended to read  
6     as follows:

7     1. Disputed claims for benefits. (a) A claimant who is dissatisfied  
8     with an initial determination of his or her claim for benefits or any  
9     other party, including any employer whose employer account percentage  
10    might be affected by such determination may, within thirty days after  
11    the mailing or personal delivery of notice of such determination,  
12    request a hearing. The referee may extend the time fixed for requesting  
13    a hearing, upon evidence that the physical condition or mental incapaci-  
14    ty of the claimant prevented the claimant from filing an appeal within  
15    thirty days of the initial determination. Any employer whose employer  
16    account percentage might be affected by such determination, irrespective  
17    of whether or not such employer was a party to a hearing brought here-  
18    under, shall have [free] access to all records of any hearing brought  
19    hereunder by any party relating to such determination, PROVIDED, HOWEV-  
20    ER, THAT THOSE RECORDS SHALL BE SUBJECT TO REDACTION OR SHALL BE WITH-  
21    HELD IN ACCORDANCE WITH APPLICABLE FEDERAL OR STATE STATUTORY AND REGU-  
22    LATORY REQUIREMENTS GOVERNING INFORMATION CONFIDENTIALITY AND PERSONAL  
23    PRIVACY, INCLUDING, BUT NOT LIMITED TO, ARTICLE SIX AND ARTICLE SIX-A OF  
24    THE PUBLIC OFFICERS LAW.

25    (b) When the initial determination of a claim for benefits, upon which  
26    a hearing has been requested, involves the question whether any person  
27    is or was an employer within the meaning of this article and is or was

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 liable for the payment of contributions under this article, or the ques-  
2 tion whether an employer has fully complied with the obligations imposed  
3 by this article, written notice of the hearing shall be given to such  
4 persons or employer, either personally or by mail, and thereupon he, SHE  
5 OR SUCH EMPLOYER shall be deemed a party to the proceeding, entitled to  
6 be heard. Upon such notice having been given, the referee may then  
7 decide such question or questions and any other issue related thereto,  
8 and his OR HER decision shall not be deemed limited in its effect to the  
9 immediate claimant making the claim for benefits but shall be deemed a  
10 general determination of such questions with respect to all those  
11 employed by such person or employer for all the purposes of this arti-  
12 cle, and such decision shall be conclusive and binding upon [him] THE  
13 CLAIMANT AND SUCH PERSON OR EMPLOYER, subject, however, to the right to  
14 appeal hereinafter provided.

15 2. Contested determinations, rules, or orders. Any employer who claims  
16 to be aggrieved by the commissioner's determination of the amount of  
17 [its] THE EMPLOYER'S contributions or by any other rule or order of the  
18 commissioner under any provision of this article may apply to the  
19 commissioner for a hearing within thirty days after mailing or personal  
20 delivery of notice of such determination, rule, or order.

21 3. Decisions. Every hearing as herein provided for shall be held by a  
22 referee who shall render his OR HER decision within five days after the  
23 hearing is concluded. Written notice of the referee's decision, contain-  
24 ing the reasons therefor, shall be promptly given to the claimant or  
25 employer, to the commissioner, and to any party affected thereby who  
26 appeared at the hearing. PUBLICATION OF A REFEREE'S DECISION OR OF ANY  
27 APPEAL BOARD DECISION SHALL BE SUBJECT TO REDACTION OR SHALL BE WITHHELD  
28 IN ACCORDANCE WITH APPLICABLE FEDERAL OR STATE STATUTORY AND REGULATORY  
29 REQUIREMENTS GOVERNING INFORMATION CONFIDENTIALITY AND PERSONAL PRIVACY,  
30 INCLUDING, BUT NOT LIMITED TO, ARTICLE SIX AND ARTICLE SIX-A OF THE  
31 PUBLIC OFFICERS LAW.

32 The decision of a referee shall be deemed the decision of the appeal  
33 board from the date of the filing thereof in the department, unless an  
34 appeal is taken from such decision to the board in accordance with the  
35 provisions of this article or unless the board on its own motion or on  
36 application duly made to it modify or rescind such decision.

37 S 2. Subdivision 2 of section 622 of the labor law, as added by chap-  
38 ter 705 of the laws of 1944, is amended to read as follows:

39 2. Evidence and procedure. At any hearing held as herein provided,  
40 evidence may be offered to support a determination, rule, or order or to  
41 prove that it is incorrect. The appeal board and the referees, in hear-  
42 ings and appeals under any provision of this article, shall not be bound  
43 by common law or statutory rules of evidence or by technical or formal  
44 rules of procedure but may conduct the hearings and appeals in such  
45 manner as to ascertain the substantial rights of the parties. HEARINGS  
46 GOVERNED BY THIS ARTICLE MAY BE CLOSED AND HEARING TRANSCRIPTS MAY BE  
47 REDACTED IN ACCORDANCE WITH APPLICABLE FEDERAL OR STATE STATUTORY AND  
48 REGULATORY REQUIREMENTS GOVERNING INFORMATION CONFIDENTIALITY AND  
49 PERSONAL PRIVACY, INCLUDING, BUT NOT LIMITED TO, ARTICLE SIX AND ARTICLE  
50 SIX-A OF THE PUBLIC OFFICERS LAW.

51 S 3. This act shall take effect immediately.