

5460--A

Cal. No. 904

2011-2012 Regular Sessions

I N S E N A T E

May 24, 2011

Introduced by Sen. GRIFFO -- (at request of the State Comptroller) -- read twice and ordered printed, and when printed to be committed to the Committee on Investigations and Government Operations -- committee discharged and said bill committed to the Committee on Banks -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report, and to be reprinted as amended, retaining its place in the order of second report

AN ACT to amend the tax law, in relation to access to the wage reporting system

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

1 Section 1. Section 171-a of the tax law, as added by chapter 545 of
2 the laws of 1978, is amended by adding a new subdivision 6-b to read as
3 follows:
4 (6-B) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE
5 COMMISSIONER SHALL ENTER INTO A COOPERATIVE AGREEMENT WITH THE STATE
6 COMPTROLLER, WHICH AGREEMENT SHALL PROVIDE FOR THE UTILIZATION OF INFOR-
7 MATION OBTAINED PURSUANT TO SUBDIVISION ONE OF THIS SECTION, FOR
8 PURPOSES OF DETERMINING THE AMOUNT A RETIRED MEMBER OF A RETIREMENT
9 SYSTEM OR PENSION PLAN ADMINISTERED BY THE STATE OR ANY OF ITS POLITICAL
10 SUBDIVISIONS WHO RETURNS TO PUBLIC EMPLOYMENT HAS EARNED FOR THE
11 PURPOSES OF SECTIONS ONE HUNDRED TWO, TWO HUNDRED ELEVEN, TWO HUNDRED
12 TWELVE AND FOUR HUNDRED TWO OF THE RETIREMENT AND SOCIAL SECURITY LAW.
13 S 2. Paragraph 3 of subsection (e) of section 697 of the tax law, as
14 amended by chapter 182 of the laws of 2010, is amended to read as
15 follows:
16 (3) Nothing herein shall be construed to prohibit the department, its
17 officers or employees from furnishing information to the office of
18 temporary and disability assistance relating to the payment of the cred-
19 it for certain household and dependent care services necessary for gain-

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

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ful employment under subsection (c) of section six hundred six of this article and the earned income credit under subsection (d) of section six hundred six of this article and the enhanced earned income credit under subsection (d-1) of section six hundred six of this article, or pursuant to a local law enacted by a city having a population of one million or more pursuant to subsection (f) of section thirteen hundred ten of this chapter, only to the extent necessary to calculate qualified state expenditures under paragraph seven of subdivision (a) of section four hundred nine of the federal social security act or to document the proper expenditure of federal temporary assistance for needy families funds under section four hundred three of such act. The office of temporary and disability assistance may redisclose such information to the United States department of health and human services only to the extent necessary to calculate such qualified state expenditures or to document the proper expenditure of such federal temporary assistance for needy families funds. Nothing herein shall be construed to prohibit the delivery by the commissioner to a commissioner of jurors, appointed pursuant to section five hundred four of the judiciary law, or, in counties within cities having a population of one million or more, to the county clerk of such county, of a mailing list of individuals to whom income tax forms are mailed by the commissioner for the sole purpose of compiling a list of prospective jurors as provided in article sixteen of the judiciary law. Provided, however, such delivery shall only be made pursuant to an order of the chief administrator of the courts, appointed pursuant to section two hundred ten of the judiciary law. No such order may be issued unless such chief administrator is satisfied that such mailing list is needed to compile a proper list of prospective jurors for the county for which such order is sought and that, in view of the responsibilities imposed by the various laws of the state on the department, it is reasonable to require the commissioner to furnish such list. Such order shall provide that such list shall be used for the sole purpose of compiling a list of prospective jurors and that such commissioner of jurors, or such county clerk, shall take all necessary steps to insure that the list is kept confidential and that there is no unauthorized use or disclosure of such list. Furthermore, nothing herein shall be construed to prohibit the delivery to a taxpayer or his or her duly authorized representative of a certified copy of any return or report filed in connection with his or her tax or to prohibit the publication of statistics so classified as to prevent the identification of particular reports or returns and the items thereof, or the inspection by the attorney general or other legal representatives of the state of the report or return of any taxpayer or of any employer filed under section one hundred seventy-one-h of this chapter, where such taxpayer or employer shall bring action to set aside or review the tax based thereon, or against whom an action or proceeding under this chapter or under this chapter and article eighteen of the labor law has been recommended by the commissioner, the commissioner of labor with respect to unemployment insurance matters, or the attorney general or has been instituted, or the inspection of the reports or returns required under this article by the comptroller or duly designated officer or employee of the state department of audit and control, for purposes of the audit of a refund of any tax paid by a taxpayer under this article, or the furnishing to the state department of labor of unemployment insurance information obtained or derived from quarterly combined withholding, wage reporting and unemployment insurance returns required to be filed by employers pursuant to paragraph four of subsection (a) of section six hundred

1 seventy-four of this article, for purposes of administration of such
2 department's unemployment insurance program, employment services
3 program, federal and state employment and training programs, employment
4 statistics and labor market information programs, worker protection
5 programs, federal programs for which the department has administrative
6 responsibility or for other purposes deemed appropriate by the commis-
7 sioner of labor consistent with the provisions of the labor law, and
8 redisclosure of such information in accordance with the provisions of
9 sections five hundred thirty-six and five hundred thirty-seven of the
10 labor law or any other applicable law, or the furnishing to the state
11 office of temporary and disability assistance of information obtained or
12 derived from New York state personal income tax returns as described in
13 paragraph (b) of subdivision two of section one hundred seventy-one-g of
14 this chapter for the purpose of reviewing support orders enforced pursu-
15 ant to title six-A of article three of the social services law to aid in
16 the determination of whether such orders should be adjusted, or the
17 furnishing of information obtained from the reports required to be
18 submitted by employers regarding newly hired or re-hired employees
19 pursuant to section one hundred seventy-one-h of this chapter to the
20 state office of temporary and disability assistance, the state depart-
21 ment of health, the state department of labor and the workers' compen-
22 sation board for purposes of administration of the child support
23 enforcement program, verification of individuals' eligibility for one or
24 more of the programs specified in subsection (b) of section eleven
25 hundred thirty-seven of the federal social security act and for other
26 public assistance programs authorized by state law, and administration
27 of the state's employment security and workers' compensation programs,
28 and to the national directory of new hires established pursuant to
29 section four hundred fifty-three-A of the federal social security act
30 for the purposes specified in such section, or the furnishing to the
31 state office of temporary and disability assistance of the amount of an
32 overpayment of income tax and interest thereon certified to the comp-
33 troller to be credited against past-due support pursuant to section one
34 hundred seventy-one-c of this chapter and of the name and social securi-
35 ty number of the taxpayer who made such overpayment, or the disclosing
36 to the commissioner of finance of the city of New York, pursuant to
37 section one hundred seventy-one-l of this chapter, of the amount of an
38 overpayment and interest thereon certified to the comptroller to be
39 credited against a city of New York tax warrant judgment debt and of the
40 name and social security number of the taxpayer who made such overpay-
41 ment, or the furnishing to the New York state higher education services
42 corporation of the amount of an overpayment of income tax and interest
43 thereon certified to the comptroller to be credited against the amount
44 of a default in repayment of any education loan debt, including judg-
45 ments, owed to the federal or New York state government that is being
46 collected by the New York state higher education services corporation,
47 and of the name and social security number of the taxpayer who made such
48 overpayment, or the furnishing to the state department of health of the
49 information required by paragraph (f) of subdivision two and subdivision
50 two-a of section two thousand five hundred eleven of the public health
51 law and by subdivision eight of section three hundred sixty-six-a and
52 paragraphs (b) and (d) of subdivision two of section three hundred
53 sixty-nine-ee of the social services law, or the furnishing to the state
54 university of New York or the city university of New York respectively
55 or the attorney general on behalf of such state or city university the
56 amount of an overpayment of income tax and interest thereon certified to

1 the comptroller to be credited against the amount of a default in repay-
2 ment of a state university loan pursuant to section one hundred seven-
3 ty-one-e of this chapter and of the name and social security number of
4 the taxpayer who made such overpayment, or the disclosing to a state
5 agency, pursuant to section one hundred seventy-one-f of this chapter,
6 of the amount of an overpayment and interest thereon certified to the
7 comptroller to be credited against a past-due legally enforceable debt
8 owed to such agency and of the name and social security number of the
9 taxpayer who made such overpayment, or the furnishing of employee and
10 employer information obtained through the wage reporting system, pursu-
11 ant to section one hundred seventy-one-a of this chapter, as added by
12 chapter five hundred forty-five of the laws of nineteen hundred seven-
13 ty-eight, to the state office of temporary and disability assistance,
14 the department of health or to the state office of the medicaid inspec-
15 tor general for the purpose of verifying eligibility for and entitlement
16 to amounts of benefits under the social services law or similar law of
17 another jurisdiction, locating absent parents or other persons legally
18 responsible for the support of applicants for or recipients of public
19 assistance and care under the social services law and persons legally
20 responsible for the support of a recipient of services under section one
21 hundred eleven-g of the social services law and, in appropriate cases,
22 establishing support obligations pursuant to the social services law and
23 the family court act or similar provision of law of another jurisdiction
24 for the purpose of evaluating the effect on earnings of participation in
25 employment, training or other programs designed to promote self-suffici-
26 ency authorized pursuant to the social services law by current recipi-
27 ents of public assistance and care and by former applicants and recipi-
28 ents of public assistance and care, (except that with regard to former
29 recipients, information which relates to a particular former recipient
30 shall be provided with client identifying data deleted), to the state
31 office of temporary and disability assistance for the purpose of deter-
32 mining the eligibility of any child in the custody, care and custody or
33 custody and guardianship of a local social services district or of the
34 office of children and family services for federal payments for foster
35 care and adoption assistance pursuant to the provisions of title IV-E of
36 the federal social security act by providing information with respect to
37 the parents, the stepparents, the child and the siblings of the child
38 who were living in the same household as such child during the month
39 that the court proceedings leading to the child's removal from the
40 household were initiated, or the written instrument transferring care
41 and custody of the child pursuant to the provisions of section three
42 hundred fifty-eight-a or three hundred eighty-four-a of the social
43 services law was signed, provided however that the office of temporary
44 and disability assistance shall only use the information obtained pursu-
45 ant to this subdivision for the purpose of determining the eligibility
46 of such child for federal payments for foster care and adoption assist-
47 ance pursuant to the provisions of title IV-E of the federal social
48 security act, and to the state department of labor, or other individuals
49 designated by the commissioner of labor, for the purpose of the adminis-
50 tration of such department's unemployment insurance program, employment
51 services program, federal and state employment and training programs,
52 employment statistics and labor market information programs, worker
53 protection programs, federal programs for which the department has
54 administrative responsibility or for other purposes deemed appropriate
55 by the commissioner of labor consistent with the provisions of the labor
56 law, and redisclosure of such information in accordance with the

1 provisions of sections five hundred thirty-six and five hundred thirty-
2 seven of the labor law, or the furnishing of information, which is
3 obtained from the wage reporting system operated pursuant to section one
4 hundred seventy-one-a of this chapter, as added by chapter five hundred
5 forty-five of the laws of nineteen hundred seventy-eight, to the state
6 office of temporary and disability assistance so that it may furnish
7 such information to public agencies of other jurisdictions with which
8 the state office of temporary and disability assistance has an agreement
9 pursuant to paragraph (h) or (i) of subdivision three of section twenty
10 of the social services law, and to the state office of temporary and
11 disability assistance for the purpose of fulfilling obligations and
12 responsibilities otherwise incumbent upon the state department of labor,
13 under section one hundred twenty-four of the federal family support act
14 of nineteen hundred eighty-eight, by giving the federal parent locator
15 service, maintained by the federal department of health and human
16 services, prompt access to such information as required by such act, or
17 to the state department of health to verify eligibility under the child
18 health insurance plan pursuant to subdivisions two and two-a of section
19 two thousand five hundred eleven of the public health law, to verify
20 eligibility under the medical assistance and family health plus programs
21 pursuant to subdivision eight of section three hundred sixty-six-a and
22 paragraphs (b) and (d) of subdivision two of section three hundred
23 sixty-nine-ee of the social services law, and to verify eligibility for
24 the program for elderly pharmaceutical insurance coverage under title
25 three of article two of the elder law, or to the office of vocational
26 and educational services for individuals with disabilities of the educa-
27 tion department, the commission for the blind and visually handicapped
28 and any other state vocational rehabilitation agency, for purposes of
29 obtaining reimbursement from the federal social security administration
30 for expenditures made by such office, commission or agency on behalf of
31 disabled individuals who have achieved economic self-sufficiency or to
32 the higher education services corporation for the purpose of assisting
33 the corporation in default prevention and default collection of educa-
34 tion loan debt, including judgments, owed to the federal or New York
35 state government; provided, however, that such information shall be
36 limited to the names, social security numbers, home and/or business
37 addresses, and employer names of defaulted or delinquent student loan
38 borrowers, OR TO THE OFFICE OF THE STATE COMPTROLLER FOR PURPOSES OF
39 VERIFYING THE INCOME OF A RETIRED MEMBER OF A RETIREMENT SYSTEM OR
40 PENSION PLAN ADMINISTERED BY THE STATE OR ANY OF ITS POLITICAL SUBDIVI-
41 SIONS WHO RETURNS TO PUBLIC EMPLOYMENT.

42 Provided, however, that with respect to employee information the
43 office of temporary and disability assistance shall only be furnished
44 with the names, social security account numbers and gross wages of those
45 employees who are (A) applicants for or recipients of benefits under the
46 social services law, or similar provision of law of another jurisdiction
47 (pursuant to an agreement under subdivision three of section twenty of
48 the social services law) or, (B) absent parents or other persons legally
49 responsible for the support of applicants for or recipients of public
50 assistance and care under the social services law or similar provision
51 of law of another jurisdiction (pursuant to an agreement under subdivi-
52 sion three of section twenty of the social services law), or (C) persons
53 legally responsible for the support of a recipient of services under
54 section one hundred eleven-g of the social services law or similar
55 provision of law of another jurisdiction (pursuant to an agreement under
56 subdivision three of section twenty of the social services law), or (D)

1 employees about whom wage reporting system information is being
2 furnished to public agencies of other jurisdictions, with which the
3 state office of temporary and disability assistance has an agreement
4 pursuant to paragraph (h) or (i) of subdivision three of section twenty
5 of the social services law, or (E) employees about whom wage reporting
6 system information is being furnished to the federal parent locator
7 service, maintained by the federal department of health and human
8 services, for the purpose of enabling the state office of temporary and
9 disability assistance to fulfill obligations and responsibilities other-
10 wise incumbent upon the state department of labor, under section one
11 hundred twenty-four of the federal family support act of nineteen
12 hundred eighty-eight, and, only if, the office of temporary and disabili-
13 ty assistance certifies to the commissioner that such persons are such
14 applicants, recipients, absent parents or persons legally responsible
15 for support or persons about whom information has been requested by a
16 public agency of another jurisdiction or by the federal parent locator
17 service and further certifies that in the case of information requested
18 under agreements with other jurisdictions entered into pursuant to
19 subdivision three of section twenty of the social services law, that
20 such request is in compliance with any applicable federal law. Provided,
21 further, that where the office of temporary and disability assistance
22 requests employee information for the purpose of evaluating the effects
23 on earnings of participation in employment, training or other programs
24 designed to promote self-sufficiency authorized pursuant to the social
25 services law, the office of temporary and disability assistance shall
26 only be furnished with the quarterly gross wages (excluding any refer-
27 ence to the name, social security number or any other information which
28 could be used to identify any employee or the name or identification
29 number of any employer) paid to employees who are former applicants for
30 or recipients of public assistance and care and who are so certified to
31 the commissioner by the commissioner of the office of temporary and
32 disability assistance. Provided, further, that with respect to employee
33 information, the department of health shall only be furnished with the
34 information required pursuant to the provisions of paragraph (f) of
35 subdivision two and subdivision two-a of section two thousand five
36 hundred eleven of the public health law and subdivision eight of section
37 three hundred sixty-six-a and paragraphs (b) and (d) of subdivision two
38 of section three hundred sixty-nine-ee of the social services law, with
39 respect to those individuals whose eligibility under the child health
40 insurance plan, medical assistance program, and family health plus
41 program is to be determined pursuant to such provisions and with respect
42 to those members of any such individual's household whose income affects
43 such individual's eligibility and who are so certified to the commis-
44 sioner or by the department of health. Provided, further, that wage
45 reporting information shall be furnished to the office of vocational and
46 educational services for individuals with disabilities of the education
47 department, the commission for the blind and visually handicapped and
48 any other state vocational rehabilitation agency only if such office,
49 commission or agency, as applicable, certifies to the commissioner that
50 such information is necessary to obtain reimbursement from the federal
51 social security administration for expenditures made on behalf of dis-
52 abled individuals who have achieved self-sufficiency. Reports and returns
53 shall be preserved for three years and thereafter until the commissioner
54 orders them to be destroyed.

55 S 3. This act shall take effect on the one hundred eightieth day after
56 it shall have become a law.

FISCAL NOTE.--Pursuant to Legislative Law, Section 50:

This bill would give the state Comptroller access to the wage reporting system administered by the department of tax and finance. This would enable the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System to verify that retirees who return to work for any public employer are earning less than the limits under Sections 102, 211, 212 and 402 of the Retirement and Social Security Law.

If this bill is enacted, there would be no additional costs. However, utilization of this information could result in the partial recovery of the pensions of any retirees who earn in excess of these limits.

This estimate, dated May 31, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note Number 2011-197 prepared by the Actuary for the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System.