

7911

2013-2014 Regular Sessions

I N A S S E M B L Y

June 7, 2013

Introduced by M. of A. ROZIC -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to the sharing of unemployment insurance information with public entities for certain authorized purposes

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

1 Section 1. Paragraph g of subdivision 3 of section 537 of the labor
2 law, as added by chapter 6 of the laws of 2007, clauses 1, 4 and 5 of
3 subparagraph (ii) as amended and clauses 6, 7, 8 and 9 of subparagraph
4 (ii) as added by chapter 551 of the laws of 2008 and clause 5 as further
5 amended by section 104 of part A of chapter 62 of the laws of 2011, is
6 amended to read as follows:
7 g. Federal, state and local agencies, THEIR AGENTS AND CONTRACTORS.
8 (i) Upon request to the commissioner, such information may be disclosed
9 to [certain] federal, state and local agencies, AND THEIR AGENTS AND
10 CONTRACTORS, IN ACCORDANCE WITH THIS PARAGRAPH. The commissioner may
11 require written agreements with requesting agencies, AND BETWEEN THEIR
12 AGENTS AND CONTRACTORS, in a form determined by the commissioner and
13 consistent with 20 CFR PART 603 and other federal regulations. The
14 information that may be disclosed pursuant to this paragraph shall be
15 disclosed only after the requesting agency has demonstrated, to the
16 commissioner's satisfaction, that the information shall be kept confi-
17 dential, except for those purposes for which it was provided to the
18 requesting agency, and that the requesting agency, AND, WHERE APPLICA-
19 BLE, ITS AGENT OR CONTRACTOR, has security safeguards in place to
20 prevent the unauthorized disclosure of such information.
21 (ii) The information disclosed pursuant to this paragraph may be
22 disclosed to the following agencies to be used exclusively for the
23 following legitimate governmental purposes:

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

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- 1 (1) any federal, state or local agency in the investigation of fraud
2 relating to public programs, or misuse of public funds;
- 3 (2) any state or United States territorial workforce agency, local
4 workforce investment board and its agents, and one-stop operating part-
5 ner receiving funds under the workforce investment act of 1998 for
6 program performance purposes and other legitimate programmatic purposes
7 authorized by the commissioner;
- 8 (3) the United States department of labor or its agents, as required
9 by law, or in connection with the requirements imposed as a result of
10 receiving federal administrative funding;
- 11 (4) state and local economic development agencies, or their agents,
12 where such information is necessary to carry out the statutory functions
13 of such agencies, shall receive a quarterly census of employment and
14 wage information compiled by the department, provided that such disclo-
15 sure shall not violate federal law. Any redisclosure of information
16 obtained by such agencies under this clause shall be limited to tabu-
17 lation and publication of such information in an aggregated statistical
18 form. No individual identifying information obtained pursuant to this
19 clause shall be redisclosed in the course of the tabulation or publica-
20 tion. As used in this clause, the term "aggregated statistical form"
21 shall mean, in the case of information regarding individuals, a data set
22 that includes information about not fewer than ten individuals, and, in
23 the case of employer information, a data set that includes information
24 about no fewer than three employers, of which no one employer comprises
25 more than eighty percent of the aggregated data set; and
- 26 (5) the workers' compensation board, the state insurance fund and the
27 state department of financial services, for purposes of determining
28 compliance with the coverage of workers' compensation and disability
29 insurance and to the workers' compensation board for purposes of deter-
30 mining eligibility for workers' compensation benefits.
- 31 (6) any federal, state, or local law enforcement agency in accordance
32 with a proper judicial order or grand jury subpoena served upon the
33 department.
- 34 (7) the office of temporary and disability assistance, or local social
35 services districts, for purposes of establishing or verifying the income
36 and eligibility of applicants for, or recipients of, benefits under
37 state public assistance programs for such benefits. Information obtained
38 by the office of temporary and disability assistance under this clause
39 shall not be disclosed, except to local social services districts for
40 purposes of establishing or verifying the income and eligibility of
41 applicants for, or recipients of, benefits under state public assistance
42 programs.
- 43 (8) the office of vocational and educational services for individuals
44 with disabilities of the education department for the evaluation of the
45 effect on earnings of participants, or former participants, in employ-
46 ment and training programs for which the office of vocational and educa-
47 tional services for individuals with disabilities of the education
48 department has reporting, monitoring or evaluating responsibilities.
- 49 (9) the commission for the blind and visually handicapped for the
50 evaluation of the effect on earnings of participants, or former partic-
51 ipants, in employment and training programs for which the commission for
52 the blind and visually handicapped has reporting, monitoring or evaluat-
53 ing responsibilities.
- 54 (10) ANY OTHER FEDERAL, STATE, OR LOCAL GOVERNMENTAL AGENCY THAT HAS
55 MADE A REQUEST FOR SUCH INFORMATION IN ACCORDANCE WITH PROCEDURES ESTAB-
56 LISHED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, WHERE SUCH

1 INFORMATION IS TO BE USED FOR (A) EVALUATION OF PROGRAM PERFORMANCE,
2 INCLUDING, BUT NOT LIMITED TO, LONGITUDINAL OUTCOME ANALYSIS OF PROGRAMS
3 (INCLUDING PROGRAMS FUNDED BY PUBLIC OR PRIVATE MONEYS OR A COMBINATION
4 THEREOF) TO THE EXTENT PERMITTED BY FEDERAL LAW; (B) FINANCIAL OR OTHER
5 ANALYSIS REQUIRED BY FEDERAL, STATE, OR LOCAL LAW OR REGULATION; (C)
6 PREPARATION OF REPORTS REQUIRED BY FEDERAL, STATE, OR LOCAL LAW OR REGU-
7 LATION; (D) OPERATION OF PUBLIC PROGRAMS BY SUCH AGENCIES, THEIR AGENTS,
8 CONTRACTORS AND SUBCONTRACTORS, WHENEVER THE COMMISSIONER DETERMINES
9 THAT SUCH INFORMATION SHARING IS FOR THE PURPOSE OF IMPROVING THE QUALI-
10 TY OR DELIVERY OF PROGRAM SERVICES OR TO CREATE OPERATIONAL EFFICIEN-
11 CIES; OR (E) ESTABLISHMENT OF COMMON CASE MANAGEMENT SYSTEMS BETWEEN
12 FEDERAL, STATE, OR LOCAL AGENCIES DELIVERING OR SUPPORTING WORKFORCE
13 SERVICES FOR A SHARED CUSTOMER BASE, WHEREVER SUCH COMMON CASE MANAGE-
14 MENT SYSTEM IS FOR THE PURPOSE OF FOSTERING WORKFORCE PARTNERSHIPS,
15 PROGRAM COORDINATION, INTER-AGENCY COLLABORATION, IMPROVING PROGRAM
16 SERVICES, OR CREATING OPERATIONAL EFFICIENCIES. WHEN THE COMMISSIONER
17 APPROVES A REQUESTED DISCLOSURE OF INFORMATION FOR THE PURPOSES OF A
18 LONGITUDINAL STUDY, THE COMMISSIONER SHALL ALLOW SUCH INFORMATION TO BE
19 USED FOR FIFTY YEARS; PROVIDED THAT THE COMMISSIONER MAY ALLOW SUCH USE
20 FOR A SHORTER PERIOD OF TIME SUBJECT TO RENEWAL. WHEN THE COMMISSIONER
21 ALLOWS USE OF INFORMATION FOR SUCH A STUDY FOR SUCH A LESSER PERIOD OF
22 TIME, THE COMMISSIONER SHALL PROVIDE A WRITTEN EXPLANATION FOR THE
23 REASONS THEREFOR.

24 (III) THE COMMISSIONER SHALL PROMULGATE REGULATIONS PROVIDING FOR THE
25 DETERMINATION OF REQUESTS FOR UNEMPLOYMENT INSURANCE INFORMATION DISCLO-
26 SURE MADE PURSUANT TO THIS PARAGRAPH. THE REGULATIONS SHALL PROVIDE FOR
27 A STANDARD APPLICATION FORM THAT AGENCIES SHALL SUBMIT TO REQUEST
28 DISCLOSURE OF UNEMPLOYMENT INSURANCE INFORMATION IN INDIVIDUALLY IDEN-
29 TIFIABLE FORM, IN DE-IDENTIFIED UNIT LEVEL FORM, OR AGGREGATED IN DE-I-
30 DENTIFIED FORM. THE FORM SHALL REQUEST ALL INFORMATION THE COMMISSIONER
31 DEEMS NECESSARY FOR DETERMINING WHETHER THE REQUESTING AGENCY MEETS THE
32 STANDARDS FOR SAFEGUARDING THE INFORMATION AND MAINTAINING ITS CONFIDEN-
33 TIALITY AS REQUIRED BY FEDERAL AND STATE LAWS AND RULES. THE FORM SHALL
34 PROVIDE FOR THE REQUESTING AGENCY TO INDICATE THE PURPOSE OF THE DISCLO-
35 SURE AND THE AMOUNT OF TIME OVER WHICH THE AGENCY INTENDS TO USE THE
36 DISCLOSED INFORMATION. THE REGULATION SHALL REQUIRE WRITTEN AGREEMENTS
37 WITH REQUESTING AGENCIES WITH RESPECT TO DISCLOSURES GRANTED PURSUANT TO
38 CLAUSE TEN OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, AND BETWEEN SUCH
39 AGENCIES AND THEIR AGENTS OR CONTRACTORS, IN A FORM DETERMINED BY THE
40 COMMISSIONER AND CONSISTENT WITH 20 CFR PART 603 AND ANY OTHER APPLICA-
41 BLE FEDERAL OR STATE LAWS AND RULES. THE TERMS OF SUCH AGREEMENTS SHALL
42 INCLUDE, BUT NOT BE LIMITED TO, PROVISIONS REQUIRING THAT UNEMPLOYMENT
43 INSURANCE INFORMATION SHALL BE DISCLOSED ONLY AFTER THE REQUESTING AGEN-
44 CY OR ENTITY HAS DEMONSTRATED THAT: (A) THE DISCLOSED INFORMATION WILL
45 BE USED ONLY FOR THOSE PURPOSES FOR WHICH IT WAS PROVIDED TO THE
46 REQUESTING AGENCY; (B) THE DISCLOSED INFORMATION WILL BE KEPT CONFIDEN-
47 TIAL EXCEPT FOR SUCH PURPOSES; (C) THE REQUESTING AGENCY HAS MONITORING
48 PROTOCOLS AND SECURITY SAFEGUARDS IN PLACE TO PREVENT THE UNAUTHORIZED
49 USE AND DISCLOSURE OF SUCH INFORMATION; AND (D) THE AGENCY WILL MONITOR
50 COMPLIANCE WITH SUCH SAFEGUARDS.

51 (IV) WHEN THE COMMISSIONER DENIES A REQUEST FOR DISCLOSURE MADE PURSU-
52 ANT TO THIS PARAGRAPH, IN WHOLE OR IN PART, THE COMMISSIONER SHALL
53 PROVIDE A WRITTEN EXPLANATION TO THE REQUESTING AGENCY FOR SUCH DENIAL.

54 S 2. This act shall take effect immediately. Notwithstanding the
55 requirements of subparagraphs (ii), (iii) and (iv) of paragraph g of
56 subdivision 3 of section 537 of the labor law, as amended by section one

1 of this act, the commissioner of labor shall be authorized to allow
2 disclosure of unemployment insurance information pursuant to clause (10)
3 of subparagraph (ii) of paragraph g of subdivision 3 of section 537 of
4 the labor law prior to the promulgation of regulations required by
5 subparagraph (iii) of paragraph g of subdivision 3 of section 537 of the
6 labor law, upon such conditions as the commissioner determines to be
7 consistent with the requirements of this act.