S T A T E O F N E W Y O R K

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:

Section 1. Paragraph g of subdivision 3 of section 537 of the labor law, as added by chapter 6 of the laws of 2007, clauses 1, 4 and 5 of subparagraph (ii) as amended and clauses 6, 7, 8 and 9 of subparagraph (ii) as added by chapter 551 of the laws of 2008 and clause 5 as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

g. Federal, state and local agencies, THEIR AGENTS AND CONTRACTORS. (i) Upon request to the commissioner, such information may be disclosed to [certain] federal, state and local agencies, AND THEIR AGENTS AND CONTRACTORS, IN ACCORDANCE WITH THIS PARAGRAPH. The commissioner may require written agreements with requesting agencies, AND BETWEEN THEIR AGENTS AND CONTRACTORS, in a form determined by the commissioner and consistent with 20 CFR PART 603 and other federal regulations. The information that may be disclosed pursuant to this paragraph shall be disclosed only after the requesting agency has demonstrated, to the commissioner's satisfaction, that the information shall be kept confidential, except for those purposes for which it was provided to the requesting agency, and that the requesting agency, AND, WHERE APPLICABLE, ITS AGENT OR CONTRACTOR, has security safeguards in place to prevent the unauthorized disclosure of such information.

(ii) The information disclosed pursuant to this paragraph may be disclosed to the following agencies to be used exclusively for the 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) any federal, state or local agency in the investigation of fraud relating to public programs, or misuse of public funds;

(2) any state or United States territorial workforce agency, local workforce investment board and its agents, and one-stop operating partner receiving funds under the workforce investment act of 1998 for program performance purposes and other legitimate programmatic purposes authorized by the commissioner;

(3) the United States department of labor or its agents, as required by law, or in connection with the requirements imposed as a result of receiving federal administrative funding;

(4) state and local economic development agencies, or their agents, where such information is necessary to carry out the statutory functions of such agencies, shall receive a quarterly census of employment and wage information compiled by the department, provided that such disclosure shall not violate federal law. Any redisclosure of information obtained by such agencies under this clause shall be limited to tabulation and publication of such information in an aggregated statistical form. No individual identifying information obtained pursuant to this clause shall be redisclosed in the course of the tabulation or publication. As used in this clause, the term "aggregated statistical form" shall mean, in the case of information regarding individuals, a data set that includes information about not fewer than ten individuals, and, in the case of employer information, a data set that includes information about no fewer than three employers, of which no one employer comprises more than eighty percent of the aggregated data set; and

(5) the workers' compensation board, the state insurance fund and the state department of financial services, for purposes of determining compliance with the coverage of workers' compensation and disability insurance and to the workers' compensation board for purposes of determining eligibility for workers' compensation benefits.

(6) any federal, state, or local law enforcement agency in accordance with a proper judicial order or grand jury subpoena served upon the department.

(7) the office of temporary and disability assistance, or local social services districts, for purposes of establishing or verifying the income and eligibility of applicants for, or recipients of, benefits under state public assistance programs for such benefits. Information obtained by the office of temporary and disability assistance under this clause shall not be disclosed, except to local social services districts for purposes of establishing or verifying the income and eligibility of applicants for, or recipients of, benefits under state public assistance programs.

(8) the office of vocational and educational services for individuals with disabilities of the education department for the evaluation of the effect on earnings of participants, or former participants, in employment and training programs for which the office of vocational and educational services for individuals with disabilities of the education department has reporting, monitoring or evaluating responsibilities.

(9) the commission for the blind and visually handicapped for the evaluation of the effect on earnings of participants, or former participants, in employment and training programs for which the commission for the blind and visually handicapped has reporting, monitoring or evaluating responsibilities.

(10) ANY OTHER FEDERAL, STATE, OR LOCAL GOVERNMENTAL AGENCY THAT HAS MADE A REQUEST FOR SUCH INFORMATION IN ACCORDANCE WITH PROCEDURES ESTABLISHED PURSUANT TO SUBPARAGRAPH (III) OF THIS PARAGRAPH, WHERE SUCH

INFORMATION IS TO BE USED FOR (A) EVALUATION OF PROGRAM PERFORMANCE, INCLUDING, BUT NOT LIMITED TO, LONGITUDINAL OUTCOME ANALYSIS OF PROGRAMS (INCLUDING PROGRAMS FUNDED BY PUBLIC OR PRIVATE MONEYS OR A COMBINATION THEREOF) TO THE EXTENT PERMITTED BY FEDERAL LAW; (B) FINANCIAL OR OTHER ANALYSIS REQUIRED BY FEDERAL, STATE, OR LOCAL LAW OR REGULATION; (C) PREPARATION OF REPORTS REQUIRED BY FEDERAL, STATE, OR LOCAL LAW OR REGULATION; (D) OPERATION OF PUBLIC PROGRAMS BY SUCH AGENCIES, THEIR AGENTS, CONTRACTORS AND SUBCONTRACTORS, WHENEVER THE COMMISSIONER DETERMINES THAT SUCH INFORMATION SHARING IS FOR THE PURPOSE OF IMPROVING THE QUALITY OR DELIVERY OF PROGRAM SERVICES OR TO CREATE OPERATIONAL EFFICIENCIES; OR (E) ESTABLISHMENT OF COMMON CASE MANAGEMENT SYSTEMS BETWEEN FEDERAL, STATE, OR LOCAL AGENCIES DELIVERING OR SUPPORTING WORKFORCE SERVICES FOR A SHARED CUSTOMER BASE, WHEREVER SUCH COMMON CASE MANAGEMENT SYSTEM IS FOR THE PURPOSE OF FOSTERING WORKFORCE PARTNERSHIPS, PROGRAM COORDINATION, INTER-AGENCY COLLABORATION, IMPROVING PROGRAM SERVICES, OR CREATING OPERATIONAL EFFICIENCIES. WHEN THE COMMISSIONER APPROVES A REQUESTED DISCLOSURE OF INFORMATION FOR THE PURPOSES OF A LONGITUDINAL STUDY, THE COMMISSIONER SHALL ALLOW SUCH INFORMATION TO BE USED FOR FIFTY YEARS; PROVIDED THAT THE COMMISSIONER MAY ALLOW SUCH USE FOR A SHORTER PERIOD OF TIME SUBJECT TO RENEWAL. WHEN THE COMMISSIONER ALLOWS USE OF INFORMATION FOR SUCH A STUDY FOR SUCH A LESSER PERIOD OF TIME, THE COMMISSIONER SHALL PROVIDE A WRITTEN EXPLANATION FOR THE REASONS THEREFOR.

(III) THE COMMISSIONER SHALL PROMULGATE REGULATIONS PROVIDING FOR THE DETERMINATION OF REQUESTS FOR UNEMPLOYMENT INSURANCE INFORMATION DISCLOSURE MADE PURSUANT TO THIS PARAGRAPH. THE REGULATIONS SHALL PROVIDE FOR A STANDARD APPLICATION FORM THAT AGENCIES SHALL SUBMIT TO REQUEST DISCLOSURE OF UNEMPLOYMENT INSURANCE INFORMATION IN INDIVIDUALLY IDENTIFIABLE FORM, IN DE-IDENTIFIED UNIT LEVEL FORM, OR AGGREGATED IN DE-IDENTIFIED FORM. THE FORM SHALL REQUEST ALL INFORMATION THE COMMISSIONER DEEMS NECESSARY FOR DETERMINING WHETHER THE REQUESTING AGENCY MEETS THE STANDARDS FOR SAFEGUARDING THE INFORMATION AND MAINTAINING ITS CONFIDENTIALITY AS REQUIRED BY FEDERAL AND STATE LAWS AND RULES. THE FORM SHALL PROVIDE FOR THE REQUESTING AGENCY TO INDICATE THE PURPOSE OF THE DISCLOSURE AND THE AMOUNT OF TIME OVER WHICH THE AGENCY INTENDS TO USE THE DISCLOSED INFORMATION. THE REGULATION SHALL REQUIRE WRITTEN AGREEMENTS WITH REQUESTING AGENCIES WITH RESPECT TO DISCLOSURES GRANTED PURSUANT TO CLAUSE TEN OF SUBPARAGRAPH (II) OF THIS PARAGRAPH, AND BETWEEN SUCH AGENCIES AND THEIR AGENTS OR CONTRACTORS, IN A FORM DETERMINED BY THE COMMISSIONER AND CONSISTENT WITH 20 CFR PART 603 AND ANY OTHER APPLICABLE FEDERAL OR STATE LAWS AND RULES. THE TERMS OF SUCH AGREEMENTS SHALL INCLUDE, BUT NOT BE LIMITED TO, PROVISIONS REQUIRING THAT UNEMPLOYMENT INSURANCE INFORMATION SHALL BE DISCLOSED ONLY AFTER THE REQUESTING AGENCY OR ENTITY HAS DEMONSTRATED THAT: (A) THE DISCLOSED INFORMATION WILL BE USED ONLY FOR THOSE PURPOSES FOR WHICH IT WAS PROVIDED TO THE REQUESTING AGENCY; (B) THE DISCLOSED INFORMATION WILL BE KEPT CONFIDENTIAL EXCEPT FOR SUCH PURPOSES; (C) THE REQUESTING AGENCY HAS MONITORING PROTOCOLS AND SECURITY SAFEGUARDS IN PLACE TO PREVENT THE UNAUTHORIZED USE AND DISCLOSURE OF SUCH INFORMATION; AND (D) THE AGENCY WILL MONITOR COMPLIANCE WITH SUCH SAFEGUARDS.

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

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

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