

STATE OF NEW YORK

4009

2019-2020 Regular Sessions

IN ASSEMBLY

January 31, 2019

Introduced by M. of A. WEPRIN -- Multi-Sponsored by -- M. of A. MONTESANO -- read once and referred to the Committee on Labor

AN ACT to amend the labor law, in relation to the sharing of information with state and municipal agencies and certain local development corporations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph (ii) of paragraph g of subdivision 3 of
2 section 537 of the labor law, as added by chapter 6 of the laws of 2007,
3 clauses 1, 4 and 5 as amended and clauses 6, 7 and 8 as added by chapter
4 551 of the laws of 2008, clause 5 as further amended by section 104 of
5 part A of chapter 62 of the laws of 2011, clause 9 as amended by chapter
6 265 of the laws of 2013 and clauses 10 and 11 as added by chapter 456 of
7 the laws of 2013, is amended to read as follows:

8 (ii) The information disclosed pursuant to this paragraph may be
9 disclosed to the following agencies to be used exclusively for the
10 following legitimate governmental purposes:

11 (1) any federal, state or local agency in the investigation of fraud
12 relating to public programs, or misuse of public funds;

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

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

21 (4) state and local economic development agencies, or their agents,
22 where such information is necessary to carry out the statutory functions
23 of such agencies, shall receive a quarterly census of employment and
24 wage information compiled by the department, provided that such disclo-

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

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1 sure shall not violate federal law. Any redisclosure of information
2 obtained by such agencies under this clause shall be limited to tabu-
3 lation and publication of such information in an aggregated statistical
4 form. No individual identifying information obtained pursuant to this
5 clause shall be redisclosed in the course of the tabulation or publica-
6 tion. As used in this clause, the term "aggregated statistical form"
7 shall mean, in the case of information regarding individuals, a data set
8 that includes information about not fewer than ten individuals, and, in
9 the case of employer information, a data set that includes information
10 about no fewer than three employers, of which no one employer comprises
11 more than eighty percent of the aggregated data set; ~~and~~

12 (5) the workers' compensation board, the state insurance fund and the
13 state department of financial services, for purposes of determining
14 compliance with the coverage of workers' compensation and disability
15 insurance and to the workers' compensation board for purposes of deter-
16 mining eligibility for workers' compensation benefits~~(-)~~;

17 (6) any federal, state, or local law enforcement agency in accordance
18 with a proper judicial order or grand jury subpoena served upon the
19 department~~(-)~~;

20 (7) the office of temporary and disability assistance, or local social
21 services districts, for purposes of establishing or verifying the income
22 and eligibility of applicants for, or recipients of, benefits under
23 state public assistance programs for such benefits. Information obtained
24 by the office of temporary and disability assistance under this clause
25 shall not be disclosed, except to local social services districts for
26 purposes of establishing or verifying the income and eligibility of
27 applicants for, or recipients of, benefits under state public assistance
28 programs~~(-)~~;

29 (8) the office of vocational and educational services for individuals
30 with disabilities of the education department for the evaluation of the
31 effect on earnings of participants, or former participants, in employ-
32 ment and training programs for which the office of vocational and educa-
33 tional services for individuals with disabilities of the education
34 department has reporting, monitoring or evaluating responsibilities~~(-)~~;

35 (9) the commission for the blind for the evaluation of the effect on
36 earnings of participants, or former participants, in employment and
37 training programs for which the commission for the blind has reporting,
38 monitoring or evaluating responsibilities~~(-)~~;

39 (10) any other federal, state, or local governmental agency, including
40 the state university of New York, the city university of New York, and
41 any of their constituent units, or the agents or contractors of a
42 governmental agency, where such information is to be used for (A) evalu-
43 ation of program performance, including, but not limited to, longitudi-
44 nal outcome analysis of programs (including programs funded by public or
45 private moneys or a combination thereof) to the extent permitted by
46 federal law; (B) financial or other analysis required by federal, state,
47 or local law or regulation; (C) preparation of reports required by
48 federal, state, or local law or regulation; (D) operation of public
49 programs by such agencies, their agents, contractors and subcontractors,
50 whenever the commissioner determines that such information sharing is
51 for the purpose of improving the quality or delivery of program services
52 or to create operational efficiencies; or (E) establishment of common
53 case management systems between federal, state, or local agencies deliv-
54 ering or supporting workforce services for a shared customer base, wher-
55 ever such common case management system is for the purpose of fostering
56 workforce partnerships, program coordination, inter-agency collab-

1 oration, improving program services, or creating operational efficien-
2 cies. Any redisclosure of information obtained by such agencies, their
3 agents, or their contractors under this clause shall be limited to tabu-
4 lation and publication of such information in an aggregated statistical
5 form, except when an agency, its agent, its contractor or other agency
6 must exchange such information for an authorized purpose as provided for
7 in the written agreement required by 20 CFR Part 603. No individual
8 identifying information obtained pursuant to paragraph d of subdivision
9 one of this section shall be redisclosed in the course of the tabulation
10 or publication. As used in this clause, the term "aggregated statistical
11 form" shall mean, in the case of information regarding individuals, a
12 data set that includes information about no fewer than ten individuals,
13 and, in the case of employer information, a data set that includes
14 information about no fewer than three employers, of which no one employ-
15 er comprises more than eighty percent of the aggregated data set. When
16 the commissioner approves a requested disclosure of information for the
17 purposes of a longitudinal study, the commissioner shall allow such
18 information to be used for a specified period of time as provided for in
19 the written agreement required by 20 CFR Part 603. Such agreement may
20 only provide for information to be used for a period of up to ten years
21 but may be renewed for additional periods of time[+];

22 (11) (A) Pursuant to clause ten of this subparagraph, the commissioner
23 shall electronically post in a place accessible by the general public
24 (i) the minimum conditions for granting a request from governmental
25 agencies for disclosure of information, (ii) a standard application for
26 submitting requests for disclosure of unemployment insurance information
27 in individually identifiable form in accordance with paragraph d of
28 subdivision one of this section, in de-identified unit level form, or
29 aggregated statistical form, (iii) the timeframe for information request
30 determinations by the commissioner, such that within twenty business
31 days of receiving a request, the commissioner shall either approve or
32 deny the request or ask for additional information; within twenty busi-
33 ness days of receiving a request for additional information, the
34 requesting agency shall respond to the commissioner, and; within thirty
35 calendar days of receiving the additional information, the commissioner
36 shall provide a final approval or denial of the request, and (iv)
37 contact information for assistance with requests for disclosure of
38 information.

39 (B) Any approval or denial pursuant to clause ten of this subparagraph
40 shall be in writing. Denials shall identify the reason or category of
41 reason for the denial.

42 (C) The commissioner shall issue guidelines regarding the development
43 of agreements with respect to disclosures approved pursuant to clause
44 ten of this subparagraph, and such guidelines shall include, but not be
45 limited to, the process and timeframe for developing such agreements and
46 the terms therein consistent with 20 CFR Part 603 and other federal
47 regulations[+]; and

48 (12) agencies of cities having a population of one million or more and
49 the New York city economic development corporation, where such informa-
50 tion is necessary for: the development and evaluation of economic devel-
51 opment strategies for specific industries and neighborhoods; the
52 performance of land use planning, the development of economic impact
53 strategies for specific industries and neighborhoods, and the analysis
54 of environmental impacts of actions requiring review under state or
55 local law; the evaluation of trends in hiring, employment, and wages in
56 specific industries and neighborhoods and the monitoring of employee

1 placement and training programs; or the forecasting and monitoring of
2 tax revenue and the tracking of employment patterns and worker flows
3 across specific industries and neighborhoods. Information disclosed
4 pursuant to this clause shall be limited to the following for each
5 employer: name, address, location, industry, total wages, number of
6 employees, employer and reporting unit account numbers, initial tax
7 liability date, and codes indicating private or government ownership and
8 multiple establishment employers.

9 § 2. This act shall take effect immediately.