# 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:**

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

(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:

(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 disclo-

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

LBD08428-01-9

sure 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 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 has reporting, monitoring or evaluating responsibilities[~~.~~];

(10) any other federal, state, or local governmental agency, including the state university of New York, the city university of New York, and any of their constituent units, or the agents or contractors of a governmental agency, 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 collab-

oration, improving program services, or creating operational efficiencies. Any redisclosure of information obtained by such agencies, their agents, or their contractors under this clause shall be limited to tabulation and publication of such information in an aggregated statistical form, except when an agency, its agent, its contractor or other agency must exchange such information for an authorized purpose as provided for in the written agreement required by 20 CFR Part 603. No individual identifying information obtained pursuant to paragraph d of subdivision one of this section 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 no 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. 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 a specified period of time as provided for in the written agreement required by 20 CFR Part 603. Such agreement may only provide for information to be used for a period of up to ten years but may be renewed for additional periods of time[~~.~~]**;**

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

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

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

**(12) agencies of cities having a population of one million or more and the New York city economic development corporation, where such information is necessary for: the development and evaluation of economic development strategies for specific industries and neighborhoods; the performance of land use planning, the development of economic impact strategies for specific industries and neighborhoods, and the analysis of environmental impacts of actions requiring review under state or local law; the evaluation of trends in hiring, employment, and wages in specific industries and neighborhoods and the monitoring of employee**

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

§ 2. This act shall take effect immediately.