

State labor legislation enacted in 2006

Minimum wages, workplace security, prevailing wages, equal employment opportunity, wages paid, time off, drug and alcohol testing, child labor, human trafficking, and immigrant protections were among the most active areas in which legislation was enacted or revised during the year

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States enacted a volume of labor legislation in 2006 which was significantly less than that enacted in 2005. The decrease was due in part to the fact that only 44 States and the District of Columbia met in regular session during 2006, while the remaining 6 States (Arkansas, Montana, North Dakota, Nevada, Oregon, and Texas) were not scheduled to meet in regular session. (All 50 States had met in regular session in 2005.) Several of the 6 States that did not meet in regular session did, however, convene in special sessions dedicated to various issues of special interest. At the time this article was submitted for publication, 42 of the 50 States, along with the District of Columbia, had enacted or amended labor legislation of consequence during 2006 in the categories that are tracked. Although they met in regular session, Mississippi and Nebraska did not enact significant legislation in the fields covered.¹ In addition, representatives from the Government of Guam responded by providing information regarding significant labor legislation enacted in their locality during the past year. Such information had not been received from Puerto Rico and the Virgin Islands at the time this article was submitted.

Currently, more than 30 categories of labor legislation introduced and then enacted by the States are tracked by the Wage and Hour Division of the U.S. Department of Labor: agriculture, child labor, State departments of labor, employee discharge, drug and alcohol testing, equal employment opportunity, employee leasing, employment agencies, family leave, garments, genetic testing, hours worked, human trafficking, immigrant protection, inmate labor, living wages, min-

imum wages, offsite work, overtime, plant closings, employee preference, prevailing wages, right to work, time off, unfair labor practices, wage payments and collection, whistleblowers, worker privacy, workplace security, workplace violence, and other labor-related issues that might be of general interest. Not every enacted piece of legislation that falls into one of these categories is discussed in this article; among the laws that are excluded are those which (1) amend existing State law, but are strictly technical in nature, (2) affect a limited number of individuals, (3) require or distribute a study of an issue, or (4) deal with funding related to an issue.

Volume aside, the legislation that was enacted by the States addressed a significant number of employment standards areas and included many important measures. Minimum-wage legislation was the “hot-button” issue this year, with an increasing number of States enacting laws that raised their required minimum-wage rates, thus continuing a trend of expanded State activity in this area. Issues such as workplace security, a variety of prevailing-wage issues, equal employment opportunity, wages paid, time off, drug and alcohol testing, child labor, human trafficking, and protection for immigrants were included in new or amended legislation enacted during 2006. The issue of human trafficking legislation has had increased activity in the States for the last couple of years. Some of the legislation enacted established a definition of human trafficking, other laws established minimum and maximum penalties for those convicted of human trafficking activities, and still others permitted victims of human trafficking to seek civil damages and remedies from individuals who subjected

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them to the unlawful trafficking.

This article does not cover legislation in the areas of occupational safety and health, employment and training, labor relations, employee background checks (except for those dealing with potential national security issues), economic security, and local living-wage ordinances.

As of January 1, 2007, State-required minimum-wage rates were higher than the Federal minimum-wage standard in 29 states and the District of Columbia. (By way of comparison, on January 1, 2006, 17 States and the District of Columbia had minimum-wage rates greater than the Federal standard.) Of the 45 States with minimum-wage laws, only Kansas, at \$2.65 per hour, has a rate lower than the Federal rate of \$5.15 per hour. The five remaining States that do not have a required minimum wage are Alabama, Louisiana, Mississippi, South Carolina, and Tennessee.

The next section briefly summarizes, by legislative category, a number of the bills that resulted in laws enacted or amended by the State legislatures during the past year. Following this summary is a comprehensive description of each State's legislative activities, subdivided by the labor legislation category, that were enacted or amended during the course of the year.

Agriculture. California revised the Employee Housing Act regarding group quarters for agricultural housing, while Florida amended the safety requirements for farm labor vehicles used to transport nine or more workers.

Child labor. Employers, parents, and guardians in Connecticut may now all be assessed a monetary penalty for employing, or permitting the employment of, a minor in violation of the hours-worked standards in manufacturing, mechanical, or mercantile establishments. Employers in Indiana who violate the hours-worked requirements of the State labor laws will receive a warning letter for a first violation. Additional penalties for subsequent violations may result in the revocation of the child's employment certificate and the assessment of monetary penalties against the employer. Artistic or creative service contracts executed on behalf of a minor in Louisiana shall now require that 15 percent of the gross earnings of the minor under contract be placed in a trust fund created for the benefit of the minor.

Discharge. Kentucky and Louisiana enacted legislation providing employment protection to employees, such as firefighters, rescue squad members, and emergency medical technicians, who serve as voluntary emergency responders.

Drug and alcohol testing. Delaware now requires that provisions governing mandatory drug testing be incorporated into all public-works contracts. Indiana similarly requires that public-works contracts provide for mandatory drug testing of employees. Kentucky now requires that all applicants for certification as new miners and all initial applicants for all other certifica-

tions provide proof of their drug- and alcohol-free status prior to certification. Before Wisconsin employers may commence work on a public project, they are required to have in place a written program for the prevention of substance abuse among their employees.

Equal employment opportunity. California now requires employers with 50 or more employees to provide, to all supervisory employees who have been employed since July 1, 2005, and to all new supervisory employees within 6 months of their assumption of a supervisory position, at least 2 hours of classroom or other effective interactive training and education regarding sexual harassment. Delaware no longer permits "genetic information" to be used in a discriminatory manner in State employment. Maryland has established a commercial nondiscrimination policy that prohibits the State from entering into a procurement contract with a business entity that has discriminated, through a variety of tactics, against subcontractors, suppliers, vendors, or commercial customers. New Hampshire law was amended so that it is now an unlawful discriminatory practice to fail to make a reasonable accommodation for an employee with a disability if the employee is otherwise qualified to perform the essential functions of the job and if providing the accommodation would not pose an undue hardship on the employer. The State of Washington now provides persons with the right to obtain and hold employment without discrimination in a number of protected categories, including sexual orientation and gender expression.

Family issues. Delaware and Rhode Island extended the definition of "family member" for purposes of an employee being able to take compassionate leave. The State of Washington amended its State Family Medical Leave Act regarding the amount of leave that can be taken for certain purposes.

Human trafficking. Colorado law was amended to extend the application of the crime of aggravated extortion to any person who has the intention of inducing another person, against that other person's will, to perform tasks under the threat of reporting the immigration status of the threatened person or another person to law enforcement officials. Colorado also amended its law concerning the act of coercion in regard to involuntary servitude. New Florida legislation defines the forms of labor trafficking that occur in labor exploitation and requires the establishment of standards for basic and advanced training for law enforcement officers in the subjects of investigating and preventing human trafficking crimes. Georgia, Idaho, and Michigan further defined human trafficking activities and established minimum and maximum terms of imprisonment for some of those activities, while Pennsylvania established a term of life imprisonment for a certain type of human trafficking activity and behavior. Illinois allows victims of human trafficking to seek civil damages and remedies from individuals who recruited, harmed, profited from, or maintained them in the

sex trade. North Carolina further defined human trafficking, as well as the felony classification under which trafficking activities would fall.

Immigrant protection. Colorado now prohibits businesses that knowingly pay more than a certain monetary amount to unauthorized aliens to perform labor services from claiming those wages as a deductible business expense for State income tax purposes. Also, employers in the State are now required, within 20 days after hiring a new employee, to affirm that they have (1) examined the legal work status of the new employee, (2) not altered or falsified any part of the employee's official immigration-related documents, and (3) not knowingly hired an unauthorized alien.

Inmate labor. In Alaska, the commissioner of the Department of Labor and Workforce Development may enter into a contract for the employment of prisoners, provided that, among other criteria, the contract requires payment of the minimum wage to the commissioner for each hour worked by a prisoner. Maryland amended the State code to include an additional reason that goods and services produced by State correctional services could be sold on the open market when certain conditions are met.

Minimum wages. As previously mentioned, with more than 120 pieces of legislation introduced in at least 35 States, the minimum wage was the "hot-button" issue of the year. Those pieces of legislation concerned issues ranging from establishing wage increases, to changes in tip credits for employees who receive tips, to the issue of wages received for training. In Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nevada, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Vermont, Washington, West Virginia, and Wisconsin, the minimum wage increased because either (1) legislation was enacted or amended during the year, (2) such an increase was previously scheduled under legislation (dealing, for example, with cost-of-living adjustments) enacted in earlier years, or (3) a ballot initiative increasing the wage rate occurred either in last November's election or a previous election. Each of these rates became effective either sometime during calendar year 2006 or on January 1, 2007. Thus, more than half of the 50 States showed an increase in the minimum wage between January 1, 2006, and January 1, 2007. In addition, Guam enacted legislation that will increase its minimum wage in July 2007. Florida now requires the prominent display, in a conspicuous and accessible location in the workplace, of a poster publicizing the minimum wage in both English and Spanish. Illinois passed legislation to include limited-liability companies within the scope of the term "employer." Maryland permits the adoption of a training wage that complies with the conditions and limitations authorized under the Federal Fair Labor Standards

Act of 1989. Michigan now allows a new employee under 20 years of age to be paid an hourly training wage of \$4.25 for the first 90 days of employment. Also in Michigan, the minimum hourly wage for an employee who is less than 18 years is 85 percent of the general minimum hourly wage.

Other labor laws of interest. Michigan defined a full-time job as a job performed by an individual for 35 or more hours each week whose income and Social Security taxes are withheld.

Overtime. Under newly enacted legislation, California overtime compensation requirements do not apply to teachers of students in kindergarten through grade 12 at private elementary or secondary academic institutions. Certain exclusions apply.

Prevailing wage. Illinois contractors and subcontractors are now permitted 7 business days' notice until they must make available for inspection the records of all laborers, mechanics, and other workers they employ on a given project. The New Jersey commissioner of labor has the authority to investigate and ascertain employee wages, enter and inspect a place of business or employment, review all records relating to wages, and assess penalties against those who hinder or delay such enforcement. Employers in Rhode Island who violate the prevailing-wage law shall be considered guilty of a misdemeanor and punished by a fine of not less than \$500 or more than \$1,000 per day of violation. Such employers also may be sentenced to not less than 10 days or more than 90 days of imprisonment.

Time off. Subject to certain limitations, employees in Alabama shall, upon reasonable notice to the employer, be permitted to take necessary time off from their employment to vote in any municipal, county, State, or Federal political party primary or election for which the employee is qualified and registered to vote on the day such an election is held. Indiana enacted legislation regarding employee time off for jury service, while Maine passed legislation granting up to 15 days off for family military leave. Employers in Kansas are prohibited from discharging, or in any manner discriminating or retaliating against, an employee who is a victim of domestic violence or a victim of sexual assault for taking time off from work as a result of such violence or assault. Rhode Island now requires a 20-minute mealtime break within a 6-hour work shift and a 30-minute mealtime break within an 8-hour work shift. Certain exclusions apply.

Wages paid. California law now stipulates that an employee who is engaged in the production or broadcasting of motion pictures and whose employment terminates, whether by discharge, layoff, resignation, completion of employment, or otherwise, is entitled to receive payment of all wages earned, but unpaid at the time of termination, by the next regular payday. Florida labor pools may not charge more than a reasonable amount to transport a worker to or from a designated worksite, but in no event shall the amount exceed \$1.50 each way. Ad-

ditional constraints on financial charges were placed upon labor pools that provide access for employees to cash-dispensing machines located on the premises of the labor pool. As a condition of employment, certain Iowa employees may be required to participate in the direct deposit of their wages in a financial institution of their choice. Minnesota employers who choose to provide earnings statements by electronic means must give employees access to an employer-owned computer during the employees' regular working hours in order to review and print their statements. Employees may opt out of the system in writing to the employer, as long as the written request meets certain conditions. Oklahoma employees are now permitted to be paid by electronic means. When employees in the State of Washington file a wage complaint with the State Department of Labor and Industries and the complaint is investigated, then, unless it is otherwise resolved, a citation shall be issued and notice of assessment or a determination of compliance shall be rendered to both the employee and the employer no later than 60 days after the date on which the department received the complaint and no later than 3 years after the date on which the cause of the action accrued. If a West Virginia person, firm, or corporation fails to pay an employee his or her wages as required, the person, firm, or corporation shall also be liable to the employee for 3 times the amount of back wages as liquidated damages.

Worker privacy. Florida created a public-records exemption for current and former personnel in a variety of positions with the Department of Juvenile Justice. In Kansas, no document available for public inspection or copying shall contain an individual's Social Security number, unless required by Federal law. Certain employers in Maryland are prohibited from printing or causing to be printed an employee's Social Security number on a wage payment check, on an attachment to a wage payment check, on a notice of direct deposit of an employee's wages, or on a notice of credit of an employee's wage to a debit card or a credit card account. Justices and judges in Virginia are no longer required to disclose the address or telephone number

of their principal residence or the names or occupations of any immediate family members. West Virginia employers or their designated agents who disclose certain types of job-related information that reasonably may be considered adverse about a former or current employee to a prospective employer of that employee are presumed to be acting in good faith and are immune from civil liability for the disclosure or its contents.

Workplace security. In order to obtain or renew a certificate of fitness to handle explosives, explosives handlers in Alaska must apply in writing and under oath and also must submit fingerprints and fees for a criminal background check to the State Department of Public Safety. Arizona employees in the State Department of Economic Security must have a valid fingerprint clearance card issued by the department or must provide the department with documentation of their application for a fingerprint clearance card. The Georgia State Bureau of Investigation must place a high priority on inquiries from any nuclear power facility requesting a criminal history. Tennessee blasting firms are now required to submit any letter of denial received from the Bureau of Alcohol, Tobacco, Firearms and Explosives to the State fire marshal within 5 calendar days of receipt of the letter. Utah permits certain cities to require a criminal background check as a condition of providing ground transportation services to the city's airport. In Virginia, criminal history records shall be disseminated, whether directly or through an intermediary, only to specific entities, now including shipyards engaged in the design, construction, overhaul, or repair of nuclear vessels for the U.S. Navy.

Workplace violence. The Hawaii State Senate adopted a resolution urging State employers to implement standards of conduct and policies for managers and employees to reduce workplace bullying and promote healthful and safe work environments.

The discussion that follows consists of detailed descriptions of legislation enacted or amended during the past year in individual States in the various categories tracked.

Alabama

Time off. Each employee in the State shall, upon reasonable notice to his or her employer, be permitted to take necessary time off from employment to vote in any municipal, county, State, or Federal political party primary or election for which the employee is qualified and registered to vote on the day on which the primary or election is held. The time off shall not exceed 1 hour, and if the employee's hours of work commence at least 2 hours after the opening of the polls or end at least 1 hour prior to the closing of the polls, then the time off from employment for purposes of voting shall not be available. The employer may specify the hours during which the employee is permitted to be absent from the job.

Alaska

Inmate labor. The commissioner of the Department of Labor and Workforce Development may enter into a contract with an individual, a private organization, or a public agency for the employment of prisoners, provided that the commissioner consults with local union organizations beforehand in order to ensure that the contract will not result in the displacement of employed workers, will not be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, and will not impair existing contracts for services. A contract with an individual or a private organization must require that the commissioner be paid the minimum wage for each hour worked by a pris-

oner. A prisoner who refuses to participate in productive employment inside a correctional facility is subject to disciplinary action. If the compensation of a prisoner who participates in the program is 50 percent or more of the minimum wage, the commissioner may deduct the cost of confinement of the prisoner, up to the statewide average cost of confinement, before disbursements are made.

Workplace security. An applicant for the issuance or renewal of a certificate of fitness to handle explosives shall apply in writing and under oath, and shall provide his or her name and address, age, citizenship status, fingerprints, and fees for a criminal background check, to the Department of Commerce, Community and Economic Development.

The department then submits the fingerprints to the Department of Public Safety to obtain a report containing criminal justice information and to perform a national criminal history record check. The fingerprints also may be submitted to the Federal Bureau of Investigation for a national criminal history record check. If the applicant is found competent by reason of training, experience, the criminal history and background check, and physical fitness, a certificate of fitness will be issued. The certificate, which shall set out the competency of the applicant and provide for positive identification, shall be carried on the person engaged in handling explosives.

Arizona

Immigrant protection. The State House of Representatives adopted a resolution urging that the U.S. Congress include an agricultural commuter worker permit program as part of any immigration reform legislation that allows foreign workers to commute across the border daily to work in the United States, provided that they have passed criminal and security background checks and a medical examination. The resolution also requests that immigrants possess tamper-resistant biometric authorization cards.

Minimum wage. Due to a ballot initiative passed in the November 2006 election, employers in Arizona must pay a State minimum wage of \$6.75 per hour to employees for all hours worked in a workday. The change was effective January 1, 2007.

Workplace security. Each employee of the State Department of Economic Security who is employed in an information technology position shall have a valid fingerprint clearance card issued by the department or shall provide to the department documentation demonstrating that the person has applied for a fingerprint clearance card. Similarly, before accepting an offer of employment, an applicant for an information technology position in the department shall have a valid fingerprint clearance card issued or shall provide relevant documentation demonstrating that he or she has applied for a fingerprint clearance card. The State Department of Economic Security shall not disclose information obtained for fingerprint clearance for employment purposes to anyone except members of the department's staff.

Arkansas

Minimum wage. Beginning October 1, 2006, the State Minimum Wage Act required every employer to pay each of his or her em-

ployees wages at the rate of not less than \$6.25 per hour. Employers are not permitted to employ any of their nonexempt employees for a workweek longer than 40 hours, unless the employee receives compensation for employment at a rate not less than 1½ times the regular rate of pay. No public agency shall be deemed to have violated the amended act with respect to the employment of any employee in fire protection or law enforcement activities, including security personnel in correctional institutions, provided that the agency pays overtime pay in compliance with Federal law as it existed on March 1, 2006. In lieu of overtime compensation, the State and any political subdivision thereof may award compensatory time off at a rate of not less than 1½ hours for each hour of employment for which overtime compensation is required. Employers who violate any of the preceding wage requirements shall pay any applicable civil penalties, and the employee may be awarded an additional amount as liquidated damages up to, but not greater than, the amount of back wages due. Employees engaged in occupations in which gratuities have been customarily and usually constituted and have been recognized as part of remuneration for hiring purposes shall be entitled to an allowance for gratuities as a part of the hourly wage rate, in an amount not to exceed 58 percent of the established minimum wage. The new policy shall be liberally construed in favor of its purposes and shall not limit any law or policy that requires payment of higher or supplemental wages or benefits.

California

Agriculture. The State has revised the Employee Housing Act to raise the mandatory minimum number of beds within group quarters from 12 to 36. Therefore, any employee housing consisting of no more than 36 beds in group quarters or 12 units or spaces designed for use by a single family or household shall be deemed housing for the purpose of agricultural land use. No conditional-use permit, zoning variance, or other zoning clearance shall be required of this employee housing that is not required of any other agricultural activity in the same zone. The occupancy permitted in employee housing shall include occupancy by agricultural employees who do not work on the property on which the employee housing is located. The employee housing does not have to be located in a rural area, but must be commensurate with local needs. If any owner who invokes the privileges of this legislation fails to maintain a permit to operate the housing pursuant to these conditions throughout the first 10 consecutive years following the issuance of the original certificate of occupancy, the enforce-

ment agency shall notify the appropriate local government entity, and the public agency that waived any taxes, fees, assessments, or charges for employee housing may recover the amount of those taxes, fees, assessments, or charges, less 10 percent of that amount, for each year that a valid permit was maintained.

Equal employment opportunity. Effective January 1, 2006, an employer having 50 or more employees shall provide, to all supervisory employees in the State who are employed as of July 1, 2005, and to all new supervisory employees within 6 months of their assumption of a supervisory position, at least 2 hours of classroom or other effective interactive training and education regarding sexual harassment. Any employer who already had provided this training and education to a supervisory employee after January 1, 2003, is not required to provide training by the January 1, 2006, deadline. After January 1, 2006, each employer shall provide sexual harassment training and education to each supervisory employee in the State once every 2 years. The training shall include information and practical guidance regarding Federal and State statutory provisions prohibiting sexual harassment, as well as information and guidance pertaining to the prevention and correction of sexual harassment and to remedies available to victims of sexual harassment in employment. The training also shall include examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation. The State shall use existing resources to incorporate the necessary training into the 80 hours of training provided to all new supervisory employees.

Immigrant protection. In newly enacted legislation, persons engaged in the business of providing consulting services to immigrants or acting in the capacity of an immigration consultant must now, in addition to filing a bond with, and submitting a disclosure form and a copy of photographic identification to, the State secretary of State, submit fingerprint images and other information required by the State Department of Justice to obtain the consultant's criminal history information. The new law stipulates that the Department of Justice must forward the fingerprint images and other information to the Federal Bureau of Investigation to obtain Federal criminal history information. This information is then posted on the agency's Web site, either demonstrating that the consultant is in compliance with the bond requirement or delineating the reasons for disqualifying the consultant. The consultant also must pass a background check. All the new information, except the criminal history, would be posted as well on the Department of Justice Web site,

indicating that the individual has passed the background check and, again, is in compliance with the bond requirement. The California secretary of State is required to issue a cease and desist order to any person who has failed to maintain a valid bond or who has failed the background check. Prior to offering his or her services, a consultant must provide a client with a written contract, including information directing the client to report any complaints to the State Department of Justice and the State Bar Association.

Minimum wage. Effective January 1, 2007, the minimum wage was increased to \$7.50 per hour and will be raised to \$8.00 per hour as of January 1, 2008. The State Department of Industrial Relations is required to adjust the permissible meals and lodging credits upward by the same percentage as the increases in the minimum wage.

Overtime. Legislation was enacted which stipulates that State overtime compensation requirements do not apply to teachers of students in kindergarten through grade 12 at private elementary or secondary academic institutions. This exemption does not otherwise modify the exemptions from overtime compensation established by the Industrial Welfare Commission for professional, executive, and administrative employees. Nor does the exemption apply to any tutor, teaching assistant, instructional aide, student teacher, daycare provider, vocational instructor, or other similar employee.

Plant closing. Since 1988, the Base Realignment and Closure process has closed approximately 100 major military installations nationwide, 30 of which have been within the State. As a result of the closures, some Federal firefighters living on and working for State-based Federal military bases have found their fire service jobs eliminated and their retirement security jeopardized. Some of these displaced firefighters have gone on to work for the State's municipal fire departments, and the State desires to provide municipal fire agencies with the tools necessary to recruit and retain qualified personnel. One such tool is the option to purchase certain types of prior public service for credit in the agency's retirement system. Prior public service often includes service rendered to the Nation's Armed Forces, the Peace Corps, or AmeriCorps, and employment financed by the Comprehensive Employment Training Act of 1973.

Wages paid. Existing State law generally stipulates that if an employee is discharged or laid off, statutory time limits exist within

which wages earned by the employee are due and payable. However, legislation was enacted which states that workers employed at a venue that hosts live theatrical or concert events and who are enrolled in, and routinely dispatched through, a hiring hall or other system of regular short-term employment may, together with their employers, establish, by express terms in their collective bargaining agreement, time limits for payment of wages to an employee who is discharged or laid off.

Also, current State Labor Code indicates that wages earned and unpaid at the time an employee who is engaged in the motion picture industry is discharged or laid off are due and payable immediately. The code was amended, however, and now states that an employee who is engaged in the production or broadcasting of motion pictures and whose employment terminates, whether by discharge, layoff, resignation, the completion of employment, or otherwise, is entitled to receive payment of the wages earned and unpaid at the time of termination by the next regular payday. The payment may be mailed to the employee or made available at a location specified by the employer in the county where the employee was hired or performed labor. The payment shall be deemed to have been made on the date that the employee's wages are mailed to the employee or made available at the specified location, whichever is earlier. Collective bargaining agreements may establish alternative provisions for final payment of wages, provided that they do not exceed the time limitation established by the new legislation.

Worker privacy. The State Government Code relating to trial court employees was amended. Trial court employees, upon request, are now permitted to inspect any personnel files, not just their own, that are used or that have been used to determine the employee's qualifications for employment, promotion, or additional compensation, or the employee's termination or some other disciplinary action. The amendment also allows trial court employees access to informal files containing supervisors' notes and the like.

Other. Effective January 1, 2007, existing law in effect under the State Labor Code that regulates the industry of car washing and polishing by providing specific recordkeeping requirements which employers of carwashers must implement with regard to carwasher wages, hours, and working conditions is extended and is effective until the new repeal date of January 1, 2010. The amended law also requires the State labor commissioner to report to the legislature, no later than December 31, 2008, on the status of labor law violations and enforcement in the car washing and pol-

ishing industry.

Colorado

Human trafficking. The State Revised Statutes were amended to specify that the charge of aggravated extortion be applied to any person who has the intention to induce another person, against that other person's will, to perform tasks under the threat of reporting the immigration status of the threatened person or another person to law enforcement officials. In this regard, the employer may not use money or any other item of value as an inducement for the other person's participation.

A person commits *coercion of involuntary servitude* if he or she coerces another person to perform labor or services by withholding or threatening to destroy documents relating to a person's immigration status or by threatening to notify law enforcement that a person is present in the United States illegally. A person commits coercion of involuntary servitude regardless of whether he or she compensates the person who is coerced.

Immigrant protection. The State General Assembly has encouraged the Economic Development Commission to promote and stimulate economic development and employment in the State by requesting the commission to award employers grants, loans, and performance-based incentives. A condition of receiving the award is that only U.S. citizens and others lawfully present in the State, including those applying for positions within local governments, be the beneficiaries of employment opportunities. Therefore, it is incumbent upon those receiving economic incentives to ensure that the applicants are citizens or legally present in the State and that they have the authority to work. Accordingly, each employer will provide proof to the commission that each of its employees is a U.S. citizen or is legally present and authorized to work in the State. Any employer which cannot prove that the employee meets these criteria shall be notified by the commission of its noncompliance, and the employer shall repay the total amount of money received as an economic incentive. In addition, any employer proven to be in noncompliance must wait 5 years to be eligible to reapply for funding.

Employers in the State are now required, within 20 days after hiring a new employee, to affirm that (1) they have examined the legal work status of the newly hired employee and have retained on file documented proof of the employee's status, (2) they have neither altered nor falsified the employee's documentation, and (3) they have not knowingly hired an unauthorized alien. Employers must keep

copies of all proof-of-status documents and of the affirmation of the term of employment for each employee. Employers may be required to submit copies of the documents to the director of the Division of the State Department of Labor and Employment. Employers who, with reckless disregard, fail to submit copies of the said documentation when requested to do so may be fined not more than \$5,000 for a first offense and not more than \$25,000 for second and subsequent offenses.

Any business that knowingly pays an unauthorized alien to perform labor services in the amount of \$600 or more shall be prohibited from claiming those wages as a deductible business expense for State income tax purposes. The income tax liability shall be added to the business' Federal taxable income for the purpose of determining State income tax liability. This new requirement does not apply if (1) the individual hired by the business was hired before the effective date of the legislation, (2) the business is exempt from compliance with Federal employment verification procedures that make the employment of unauthorized aliens unlawful, or (3) the wages or remuneration paid for labor services are paid to any individual who holds and presents to the business a valid license or identification card issued by the State Department of Revenue.

Minimum wage. Due to a ballot initiative passed in the November 2006 election, employers in Colorado must pay a State minimum wage of \$6.85 per hour to employees for all hours worked in a workday. The new rate became effective January 1, 2007.

Wages paid. Any person who makes, to any nonemployee, a payment for services that is not otherwise subject to State income tax withholding, but that requires an informational return to the Internal Revenue Service (IRS), or that requires a taxpayer identification number matching that filed with the IRS, must deduct and withhold State income taxes. This requirement does not apply if the individual is exempt from Federal withholding pursuant to having filed an IRS form 8233. The person who performed the services for the employer is not construed to be an employee of the person withholding the taxes for any purpose other than said withholding. The person who deducts and withholds State income taxes from a person who performs services shall be treated as an employer. The person for whom the taxes are withheld must have a valid taxpayer identification number: either a Social Security number or an IRS individual taxpayer identification number that has been confirmed by the person or employer. In lieu of either, the person receiving the wage payment must have another form of third-party verification assigned by the Social Security

Administration or the IRS and approved by the State Department of Revenue.

Whistleblower. Any employee in the State personnel system may file a written complaint with the State personnel board within 10 days after the employee knew, or should have known, of a disciplinary action alleging a violation regarding a disclosure of information. No appointing authority or supervisor shall initiate or administer any disciplinary action against an employee on account of the employee's disclosure of information. The employee must know that the information is not confidential under any other provision of law and must not be involved in a release of information coming from public records that are closed to public inspection. To ensure protection under this legislation, the employee must make a good-faith effort to provide the supervisor or appointing authority or member of the general assembly the information to be disclosed prior to its disclosure. Within 10 days after the complaint is made, the State personnel board shall send a copy of the complaint to the affected State agency, which shall then submit a written response to the complainant within 45 days after the date the complaint was filed with the board. Then the board shall set the matter for a hearing, to commence no later than 90 days after the receipt of the written response filed by the agency. If the board determines that a violation has occurred, the board shall order, within 45 days after such hearing, the appropriate relief, including, but not limited to, reinstatement, backpay, the restoration of lost service credit, and expunging of the pertinent portion of the record of the employee who disclosed information. In addition, the board shall order that the employee filing the complaint be reimbursed for any costs, including court costs and attorneys' fees. Any employee who filed a complaint after which the State personnel board determined that no violation had occurred may bring a civil suit in the district court. If the employee prevails, he or she may recover damages, together with court costs and any other such relief deemed appropriate.

Connecticut

Child labor. Legislation was enacted concerning the employment of minors in violation of hours-of-work standards in manufacturing, mechanical, or mercantile establishments. Such employment may now result in significantly increased monetary fines, penalties, and terms of imprisonment. Employers, parents, and guardians may all be assessed a \$600 penalty for employing, or permitting the employment of, a minor in violation of the hours-of-work standards in the aforementioned industries. In addition, any or all parties may

be fined between \$2,000 and \$5,000 and imprisoned for up to 5 years, or both, for each offense. Minors 14 years of age and older may now be issued "certificates of age" to work as a caddie or in a "pro shop" at municipal or private golf courses.

Discharge. Agreements entered into by public agencies with an employee or personal services contractor that provide for the termination, suspension, or separation from employment of such employee or the termination or suspension of the provision of personal services by such contractor and that contain a confidentiality provision which prohibits or restricts the public agency from disclosing the existence of the agreement or the cause or causes of such termination, suspension, or separation, including, but not limited to, alleged or substantiated sexual abuse, sexual harassment, sexual exploitation, or sexual assault by such employee or contractor, shall be subject to public disclosure under the general State statutes.

Minimum wage. Due to previously enacted legislation, the State minimum wage was increased from \$7.40 per hour to \$7.65 per hour on January 1, 2007.

Other. Current and future employees must be notified in writing that the employer by whom they are or will be employed is not subject to, and has not accepted, voluntary liability under the unemployment compensation system of the State.

Delaware

Drug and alcohol testing. The State Code was amended such that all public-works contracts, which are paid in whole or in part through public funds, will include provisions requiring the contractor, its agents, and its employees to implement a mandatory drug-testing program for all employees or agents working on the jobsite in nonclerical positions. Provisions governing mandatory drug testing shall be incorporated into all public-works contracts, and the rules governing the administration of such tests shall be promulgated by the director of the State Office of Management and Budget. Rules promulgated pursuant to the changes in the code shall not require a contractor to disclose any results of drug testing to law enforcement officials. However, the rules promulgated shall require that any contractor, agent, or employee who fails a mandatory drug test not be permitted to work on any public-works jobsites until 30 days after passing the drug test.

Equal employment opportunity. An executive order was signed that continued the Governor's Council on Equal Employment

Opportunity. The council is responsible for furnishing, on October 30 of each year, a report to the Governor on the progress being made in improving the diversity of the State's workforce. The council also is responsible for recommending any further actions it believes should be undertaken. In addition, each executive branch agency shall maintain an Affirmative Action Plan, to be filed annually with the council before September 15 of each year. The plan shall set forth goals and objectives to be met in attaining and maintaining affirmative action and shall describe the methods used to meet them. More specifically, the plan shall contain (1) a description of a mechanism to permit and encourage employees to discuss problems resulting from alleged bias, discrimination, or lack of employment opportunity; (2) a description of a complaint procedure to be followed by employees in such cases; and (3) a requirement for a response to be made within a specified reasonable period of time. Appropriate equal employment opportunity notices shall be posted in conspicuous locations or bulletin boards of all cabinet departments, major offices, divisions, and agencies.

A State executive order was amended to include "genetic information" among those types of information which are prohibited from being used in a discriminatory manner in State employment.

Family issues. Legislation was enacted that amended State Code Title 14 as it relates to compassionate leave. The amended code added grandparents as immediate family members and also added grandparents-in-law and any other friends living in the employee's household as near relatives. The expanded list of family members now comprises first cousins, aunts, uncles, nieces, nephews, brothers-in-law, sisters-in-law, grandparents-in-law, and any friends living in the employee's household.

Minimum wage. The State minimum wage was increased to require that every employer pay wages at a rate of not less than \$6.65 per hour, effective January 1, 2007. Effective January 1, 2008, the minimum pay rate will increase to \$7.15 per hour.

District of Columbia

Living wage. Within the District of Columbia, a living wage is defined as an hourly rate of \$11.75 per hour, regardless of whether health care benefits are provided. All recipients of contracts or government assistance in the amount of \$100,000 or more shall pay their affiliated employees no less than the living wage, and all subcontractors or others that receive funds of \$15,000 or more from the District government shall pay no less than

the living wage. The living wage shall be paid to all employees of the District government commencing March 1, 2006, except that any wage of any such employee established under an existing collective bargaining agreement or by Federal law or grant and different from the living wage shall continue as long as that agreement, law, or grant remains in effect. The District Department of Employment Services shall adjust the rate annually on the basis of the Consumer Price Index for all Urban Consumers in the metropolitan area. Exemptions apply to (1) contracts or agreements subject to wage-level determinations, (2) existing and future collective bargaining agreements, provided that the future agreements pay no less than the established living wage, (3) contracts for utilities delivered by a regulated utility, (4) contracts for services needed to prevent or respond to a disaster or an imminent threat to public health or safety, (5) contracts that provide additional services for trainees or that provide work for employees under 22 years during a school vacation period, (6) tenants or retail establishments that occupy property constructed with or improved by the receipt of government assistance, (7) employees of non-profit organizations that employ fewer than 50 persons and that qualify for 501(c)(3) status, and (8) Medicaid provider agreements for direct care services to Medicaid recipients.

The Council of the District of Columbia passed a resolution to amend the Living Wage Act of 2006, which is Title I of the Way to Work Amendment Act of 2006, to clarify the fact that those contracts or other agreements which are subject to higher wage-level determinations required by Federal law are exempt from the provisions of the Act. Both the Living Wage Act and the Federal Service Contract Act were intended to increase the hourly wages paid to service contract employees. The existing language in the Way to Work Amendment Act of 2006 could have been interpreted to mean that employees covered by the Federal Service Contract Act are exempt from the District's Living Wage Act in cases where the established wage levels are lower than the established living wage. There was never an intention for employees covered by Federal wage-level determinations to receive wages lower than the District's newly established living wage. The only contracts exempted are those subject to "higher" Federal wage level determinations than the requirements of the Living Wage Act.

Florida

Agriculture. The safety requirements for farm labor vehicles used to transport nine or more workers were amended. The law now requires that each owner or operator of a farm labor vehicle which operates on the State's

public highways shall ensure that the vehicle conforms to vehicle safety standards as prescribed by the U.S. Secretary of Labor. Any such vehicles having a gross weight rating of 10,000 pounds or less must be equipped with a seat belt for each passenger. Farm labor contractors may not transport workers in such vehicles unless the vehicles display the required State stickers. In addition, the owner or operator must prominently display, somewhere in the vehicle, a standardized notification instructing passengers to fasten their seat belts. Failure to display such notification in the prescribed manner may result in a \$100 fine, while failure to conform to safety standards or operating vehicles that lack the required seat belt assemblies may result in a \$200 fine.

Human trafficking. The State legislature has declared human trafficking to be a form of modern-day slavery involving children, teenagers, and adults. Trafficking occurs as labor exploitation, often of domestic workers, restaurant workers, janitorial workers, factory workers, and migrant agricultural workers. Persons found to be victims of trafficking and subsequent exploitation are to be protected and assisted by the State and its agencies. The State legislature, the State supreme court, the State bar, and relevant State agencies are to prepare and implement training programs in order that judges, attorneys, law enforcement personnel, investigators, and others be able to identify traffickers and victims and direct the victims to appropriate agencies for assistance. The State Department of Children and Family Services and other State agencies shall cooperate with all State and Federal agencies to ensure that victims of human trafficking are able to access social services and benefits to alleviate their plight. Finally, the State Criminal Justice Standards and Training Commission shall establish standards for basic and advanced training programs for law enforcement officers in the subject of investigating and preventing human trafficking crimes. After January 1, 2007, every basic skills course required for law enforcement officers to obtain initial certification must include training in the prevention and investigation of human trafficking crimes.

Minimum wage. Because of previously enacted legislation, the minimum wage rate in Florida increased to \$6.67 per hour, effective January 1, 2007.

Each employer who must pay an employee the State minimum wage shall prominently display a poster in a conspicuous and accessible place in each establishment in which such employees are employed. Each year, on or before December 1, the State Agency for Workforce Innovation shall create and make available to employers a poster in English and in

Spanish with the following information: (1) the State minimum wage rate per hour for January 1 through December 31, with a minimum hourly rate for employees who receive tips; (2) the rate of the minimum wage, based on the Consumer Price Index, and, every year on January 1, a notice informing employees that the new State minimum wage has taken effect; and (3) a statement asserting that an employer may not retaliate against an employee for exercising his or her right to receive the minimum wage. The State constitution stipulates further that an employee may file a complaint about an employer's noncompliance with lawful minimum-wage requirements. An employee who has not received the lawful minimum wage after notifying his or her employer and giving the employer 15 days to resolve any claims for unpaid wages may bring a civil action against the employer to recover back wages plus damages and attorneys' fees. An employer found liable for intentionally violating minimum-wage requirements is subject to a fine of \$1,000 per violation, payable to the State.

Wages paid. Labor pools may not charge more than a reasonable amount to transport a worker to or from a designated worksite, but in no event shall the amount exceed \$1.50 each way. For a fee that must not exceed \$1.99 for each transaction, labor pools provisionally may furnish a day laborer with a method of obtaining cash from a cash-dispensing machine that is located on the premises of the labor pool and that is operated by the labor pool or an affiliate. The provisions are as follows: (1) for work performed, the labor pool offers payment in the form of cash, or commonly accepted negotiable instruments that are payable in cash, on demand at a financial institution and without any discount; (2) the day laborer voluntarily elects to accept payment in cash after disclosure of the fee; and (3) if the day laborer uses a cash-dispensing machine to receive payment, the day laborer must indicate by a touch response to the machine that he or she accepts the fee charged in order to obtain access to the funds due.

Worker privacy. Biometric identification information—fingerprints, palm prints, and footprints—held by an agency is now exempt from public-records requirements. Biometric identification is used to verify the identity of persons and, by its very nature, involves matters uniquely related to individuals. Given today's technological capabilities for duplicating, enhancing, modifying, and transferring records, the availability of biometric identification information creates the opportunity for the improper, illegal, or otherwise harmful use of such information. Thus, the State legislature has found it a public necessity to protect

biometric identification information held by an agency.

Legislation was enacted that removed the repeal date of the State Open Government Sunset Review Act and that narrowed the public-records exemption by removing the exemption for photographs of spouses or children of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include the hiring and firing of employees, labor contract negotiation, administration, or other personnel-related duties. The legislation also removed the public-records exemption for Social Security numbers of those same individuals.

In addition, legislation was enacted that created a public-records exemption for information about current or former personnel in a variety of positions with the State Department of Juvenile Justice. The exempted information includes home addresses, telephone numbers, Social Security numbers, photographs, and information about places of employment of the spouses and children of such personnel and the names and locations of schools and daycare facilities attended by the employees' children. An agency that is the custodian of the personal information shall maintain the exempt status of that information, until and upon receipt of a written authorization from the designated employee to remove the exemption.

Georgia

Human trafficking. Section 3 of the State Security and Immigration Compliance Act was amended by the addition of a new code section relating to human trafficking. The major areas of concern were (a) coercion—causing or threatening to cause bodily harm, or physically restraining or confining a person; (b) exposing or threatening to expose any fact or piece of information that, if revealed, would tend to subject a person to criminal or immigration proceedings, hatred, contempt, or ridicule; (c) destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document; (d) providing a controlled substance to a person; (e) promising a person benefits or the performance of services arising from a pledge by that person of personal services as security for a debt; and (f) labor servitude, meaning work or services (including sexual services) induced or obtained by coercion or deception. Any person who commits the offense of trafficking a person for labor or sexual services shall be charged with a felony and, upon conviction, shall be punished by imprisonment for not less than 1 or more than

20 years. If the person providing the services is under 18 years, then, upon conviction, the offender shall be punished by imprisonment for not less than 10 or more than 20 years. Every person engaged in immigration assistance service who is not an attorney and who advertises in a language other than English, whether by radio, television, signs, pamphlets, newspapers, or other written communication, shall include in the announcement, in a conspicuous size and in the language other than English in which the announcement is made, "I am not an attorney licensed to practice law and may not give legal advice or accept fees for legal advice." Every violation of this section may result in a fine of up to \$1,000. A fine charged against this ordinance shall not preempt or preclude additional appropriate civil or criminal penalties.

Workplace security. The State Official Code was amended in order to enhance the protection of nuclear power facilities in the State licensed by the U.S. Nuclear Regulatory Commission. The code now requires that the State Bureau of Investigation place a high priority on inquiries from any nuclear power facility requesting a criminal history. The State Bureau of Investigation shall respond to such requests as expeditiously as possible, but in no event shall take more than 2 business days to respond following the receipt of the request.

Hawaii

Minimum wage. Due to previously enacted legislation, the State minimum wage increased from \$6.75 per hour to \$7.25 per hour, effective January 1, 2007.

Workplace violence. The State senate adopted a resolution urging State employers to implement standards of conduct and policies for managers and employees to reduce workplace bullying and promote healthful and safe work environments. The legislation also provided the addresses of several Web sites that managers and employees may use regarding workplace violence: the Workplace Bullying Institute, www.bullyinginstitute.org; Bully Busters, www.bullybusters.org; and the Crime Prevention and Justice Assistance Division of the Department of the Attorney General, www.hawaii.gov/ag/cpja/quicklinks/workplace_violence.

Idaho

Human trafficking. Legislation was enacted that defined human trafficking in the State as (1) sex trafficking, in which a commercial sex act is induced by force, fraud, or coercion or in which the person induced to perform such act has not reached the age of 18, or (2) the

recruitment, harboring, transportation, provision, or obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery. The legislation increased the penalty of imprisonment to not more than 25 years for certain crimes if the crime of human trafficking is involved. The new law also provided for restitution equal to the gross income or value of the victim's labor or services, as well as the payment of mental and physical rehabilitation costs to the victims. Finally, the legislation requires reports regarding resources for victims of human trafficking in the State and the relationship of these resources to federally funded programs.

Worker privacy. The portions of the State Code concerned with personnel records that are exempt from disclosure were to stipulate that the names of applicants for classified or merit system positions shall not be disclosed to the public without the applicant's written consent. The disclosure of names as part of a background check, however, is permitted. The names of the five final applicants for all other (that is, nonclassified, nonmerit) positions shall be available to the public. If fewer than five finalists make up such a group, then the entire list of applicants shall be available to the public.

Illinois

Human trafficking. The State enacted the Predator Accountability Act, which allows persons who have been or are being subjected to the sex trade to seek civil damages and remedies from individuals who recruited, harmed, or profited from them, or who maintained them in the trade. A prevailing victim of the sex trade is entitled to all relief that would make him or her whole.

Minimum wage. The State Minimum Wage Law had several amendments incorporated into it: (1) limited-liability companies are now considered within the scope of the term "employer"; (2) the director of the State Department of Labor may now issue a subpoena that requires the attendance and testimony of witnesses, and the production of all books, records, and other evidence, relative to a matter under investigation or hearing; (3) if a person fails to comply with any subpoena issued under the law, or a witness refuses to produce evidence or testify to any matter about which he or she may be lawfully interrogated, the court may, upon application of the director or an authorized representative thereof, compel obedience by processing for contempt; (4) when an employee has not collected damages for an unpaid wage violation, the employer shall be

required to pay the costs incurred in collecting such back wages; and (5) when the employer's conduct is proven by a preponderance of the evidence to be willful, repeated, or undertaken with reckless disregard of the law or any rule adopted under the law, the employer shall be liable to the State Department of Labor for up to 20 percent of the total underpayment.

Prevailing wage. The State Prevailing Wage Act was amended and now permits contractors and subcontractors 7 business days' notice until they must make available for inspection the records of all laborers, mechanics, and others employed by them on a project. The records must be made available to the public body in charge of the project, to its officers and agents, and to the State director of labor and his or her deputies and agents.

In the event of a sale, purchase, or any other transfer of ownership of a water system operated by a privately held public water utility, the utility's contract or agreements with the acquiring entity shall require that the wage rates and substantially equivalent fringe benefits and terms and conditions of employment continue for at least 30 months after the transfer of ownership, unless the parties mutually agree to different terms and conditions of employment within the said 30-month period.

Indiana

Child labor. As proof of prospective employment, the issuing officers of an employment certificate shall require a written statement, signed by the person for whom the child is to work, setting forth the nature of the work that the child is to perform and specifying the maximum number of hours per week that the child will work for the employer. An employment certificate may be used at not more than two locations within the same enterprise if the enterprise complies with the restrictions on hours worked. A certificate may be denied if the child's school attendance is not in good standing or the child's academic performance does not meet the school's standards. The issuing officer shall keep a record of the maximum number of hours that each student who has been issued more than one employment certificate may work each week for all employers. The civil penalties for a violation of the restrictions on hours worked are a warning letter for the first violation, plus the possible revocation, for 30 calendar days, of the employment certificate(s) held by the child; and the assessment of appropriate civil money penalties against the employer for future violations. If the employment certificate is revoked, the issuing officer and the employer shall be notified in writing. The employer shall return the certificate to the issuing officer im-

mediately after receiving notice of revocation. Any child whose employment certificates have been revoked may not be employed or allowed to work until he or she legally has obtained a new employment certificate. The Bureau of Child Labor shall have immediate charge of the supervision of children who are gainfully employed, and the agency may file a complaint if the employer requires the child not to comply with the law.

Drug and alcohol testing. The State Code was amended to require employees of public-works contractors to be tested for drugs. Solicitations for public-works contracts must require that each contractor include with its bid a written plan for testing its employees for drugs. Bids that lack such a plan may not be awarded the contract. A contractor's employee drug-testing program must satisfy the following criteria: (1) each employee is subject to a drug test at least once a year, (2) at least 2 percent of the contractor's employees are randomly selected each month for testing, (3) the program tests for a five-drug panel consisting of amphetamines, cocaine, opiates, phencyclidine (PCP), and tetrahydrocannabinol (THC), (4) the program imposes progressive discipline on any employee who fails a drug test, (5) the program may require the dismissal of any employee who tests positive on a drug test, and (6) the employer advises the employee of any program of treatment or rehabilitation covered by insurance provided by the employer. Collective bargaining agreements that include an employee drug-testing program meet the requirements of the Code if the following criteria are included: (1) the program calls for random testing of the employees, (2) the program tests for the aforementioned five-drug panel, (3) disciplinary measures are imposed if the employee fails the drug test, (4) the employee is subject to suspension or immediate termination upon failing a drug test, (5) the employee, if suspended, is not eligible for reinstatement until he or she tests negative for the five drugs on the panel, (6) the employee is subject to unscheduled sporadic testing for at least 1 year after reinstatement, and (7) any employee who fails more than one drug test must complete a rehabilitation program recommended by a substance abuse professional.

Other. Emergency mobile support units shall be called to duty for training, an exercise, or a response upon orders of the Governor or the executive director of the State Department of Homeland Security and shall perform their functions in any part of the State or in other States. Any such units may have their duty orders renewed by the executive director for successive periods of not more than 60 days. An individual selected to serve as a member of a mobile support unit may be unemployed,

retired, self-employed, or employed. Further, the individual has powers, duties, rights, privileges, and immunities comparable to those of the State, regardless of whether he or she is or is not an employee of the State. If a mobile support unit is deployed outside the State under the emergency management assistance compact, any individual in the unit who is not an employee of the State is considered an employee of the State for purposes of the compact. Nonemployee members of mobile support units may be compensated at a rate of pay approved by the State and may be reimbursed for actual travel, subsistence, and maintenance expenses, including losses of, or damage to, supplies and equipment.

Time off. A person scheduled to appear for jury service has the right to defer the date of the initial appearance one time upon a showing of hardship, extreme inconvenience, or necessity. The court shall grant a prospective juror's request for deferral if (1) the person requests a deferral by contacting the jury commissioner, (2) the person has not previously been granted a deferral, and (3) the person selects another date on which he or she will appear for jury duty that is not more than 1 year after the date upon which the person originally was scheduled and is a date that the court will be in session. If a person is summoned to serve as a juror and notifies his or her employer within a reasonable time, the person's employer may not subject the employee to any adverse employment action or require or request the employee to use annual, vacation, or sick leave for time spent responding to the jury summons, participating in the jury selection process, or serving on the jury. This legislation does not require an employer to provide annual vacation or sick leave to an employee who is not otherwise entitled to these benefits. The court shall determine whether a prospective juror is qualified to serve or, if disabled, but otherwise qualified, whether he or she might serve with reasonable accommodation.

Iowa

Department of labor. On or after April 6, 2006, the State labor commissioner may, at his or her discretion, represent laborers or employees seeking payment for labor or wage claims from the receiver, trustee, or assignee, or the court, or the person charged with the property. This legislation is applicable to all labor or wage claims in receivership or seizure actions.

Wages paid. When the property of any company, corporation, firm, or person shall be seized by any process of any court, or placed in the hands of a receiver, trustee, or assignee, or seized by the action of creditors, for the

purpose of paying or securing payment of the debts of such company, corporation, firm, or person, the debts or wages owed to all laborers or employees (other than officers of such companies) for labor or work performed or services rendered within 6 months preceding the seizure or transfer shall be considered and treated as a preferred debt and paid in full. If the funds realized from such property to pay the laborers or employees in full are insufficient, then, after the payment of costs, the funds owed to the laborers or employees will be paid proportionally out of the funds remaining. Employees' claims for labor or wages, if not contested, or if allowed after contest, shall have priority over all claims against, or liens upon, such property.

Employees hired on or after July 1, 2005, may be required, as a condition of employment, to participate in the direct deposit of their wages in a financial institution of their choice. If the employer fails to send an employee's wages for direct deposit on or by the regular payday, the employer is liable for the amount of any overdraft charge if an overdraft is created on the employee's account. An employer shall provide a statement showing the employee's hours worked, wages earned, and deductions from pay. However, the employer need not provide information on hours worked for employees who are exempt from overtime pay under the Federal Fair Labor Standards Act, unless the employer has established a policy or practice of paying, to or on behalf of exempt employees, overtime pay, a bonus, or a payment based on hours worked.

Kansas

Time off. Legislation was enacted that prohibits an employer from discharging or in any manner discriminating or retaliating against an employee who is a victim of domestic violence or a victim of sexual assault for taking time off from work as a result of such violence or assault. The employee may take time off in order to (1) obtain or attempt to obtain any relief, including, but not limited to, a temporary restraining order, a permanent restraining order, or any other injunctive relief, to help ensure the health, safety, or welfare of the victim or the victim's child or children; (2) seek medical attention for injuries caused by domestic violence or sexual assault; (3) obtain services from a domestic violence shelter, domestic violence program, or rape crisis center as a result of domestic violence or sexual assault; or (4) make court appearances in the aftermath of domestic violence or sexual assault.

Unfair labor practice. State law was amended to include a new ruling prohibiting the use of official action or the threat of official action by a State employee to coerce or attempt to

coerce a subordinate State employee to contribute to a United Way organization or community health charity. Nor can the employee determine maximum or minimum amounts that subordinate employees can have deducted from their salary or wages for the purpose of making contributions to United Way organizations or community health charities.

Worker privacy. Unless required by Federal law, no document available for public inspection or copying shall contain an individual's Social Security number. If such document contains an individual's personal information, that information is limited to the person's name, address, phone number, or e-mail address. In addition, no individual, firm, corporation, association, partnership, joint venture, or other business entity, or any employee or agent thereof, shall solicit, require, or use an individual's Social Security number for commercial purposes, unless such number is necessary for the individual's normal course of business and there is a specific use for the number for which no other identifying number may be used. The Social Security number may be used if it is sent as part of an application or enrollment process; or to establish, amend, or terminate an account, contract, or policy; or to confirm the accuracy of the number itself. An individual who is aggrieved by a violation of this section may recover a civil penalty of not more than \$1,000 for each violation. Unless otherwise required by Federal law, a person or business shall take reasonable steps to destroy, or arrange for the destruction of, a customer's records within its custody or control that contain personal information which is no longer to be retained by the person or business, by shredding, erasing, or otherwise modifying the personal information in the records to make it unreadable or undecipherable through any means.

Every school district and community college shall adopt a written policy of personnel evaluation that shall (1) be prescribed in writing at the time of its original adoption, (2) include evaluation procedures applicable to all employees, (3) provide that all evaluations are to be made in writing and that evaluation documents and responses thereto are to be maintained in a personnel file for each employee for a period of not less than 3 years from the date the evaluation is made; and (4) provide that every employee in the first 2 consecutive school years of employment be evaluated at least one time per semester, no later than the 60th schoolday of the semester. Any employee who is not employed for the entire semester shall not be required to be evaluated. During the 3rd and 4th years of employment, every employee shall be evaluated at least once each school year, no later than February 15. After the 4th year of employment, every employee shall be evaluated at least once every 3 years,

no later than February 15 of the school year in which the employee is evaluated. Persons to be evaluated shall participate in their evaluation and shall be afforded the opportunity for self-evaluation. Whenever any employee is evaluated, the written document shall be presented to the employee, who then shall provide written acknowledgment of the presentation. The employee may respond in writing no later than 2 weeks after the presentation of the evaluation. Except by order of a court of competent jurisdiction, evaluation documents and responses shall be available only to the evaluated employee, the board, the appropriate administrative staff members of the board, and the community college in question.

Kentucky

Discharge. No employer shall terminate an employee who is a volunteer firefighter, a member of a rescue squad, an emergency medical technician, a peace officer, or a member of an emergency management agency and who is absent from his or her regular employment for a period of no more than 12 months because of injuries incurred in the line of duty. The employee shall provide the employer with (1) a written statement from the supervisor, acting supervisor, or director under whose command the employee was on active duty and on assignment with that agency when the injury occurred and (2) a written statement from at least one licensed and practicing physician stating that the volunteer is injured and projecting a date for the employee's return to work. Any employee who is terminated in violation of this legislation may bring a civil action against the employer. The employee may seek reinstatement to his or her former position, payment of back wages, reinstatement of fringe benefits, and reinstatement of seniority rights where they are granted. In order to recover, the employee shall file this action within 1 year of the date of the violation.

Drug and alcohol testing. All applicants for certification as new miners and all initial applicants for all other certifications shall provide proof that they are drug and alcohol free prior to certification. Such proof shall be evidenced by (1) the individual's having participated in a drug and alcohol testing program offered by the State Office of Mine Safety and Licensing and paid for by the applicant or (2) the submission of drug and alcohol test results from other sources. If a newly certified miner gains employment in the coal industry, the initial employer shall reimburse the certified miner for the cost of one drug and alcohol test. If, however, the applicant is currently certified by the State Office of Mine Safety and Licensing in any category other than that for which he or she is applying, and the applicant

is currently employed in the coal industry, the applicant's employer shall reimburse the applicant for the cost of one drug and alcohol test.

An applicant to an agency that is part of the State Law Enforcement Council and that is hiring a Unified Criminal Justice Information System telecommunicator whose primary responsibility is to dispatch law enforcement units by means of radio communications must be a U.S. citizen who has reached the age of majority, must be a high school graduate (or the recipient of a general equivalency diploma), must not have been convicted of a felony or any other crime involving moral turpitude, and must have taken a psychological suitability screening administered or approved by the State Law Enforcement Council. The applicant also must have taken a polygraph examination and have passed a drug-screening test administered or approved by the council. A person shall be deemed to have passed a drug-screening test if the results are negative for the use of an illegal controlled substance or the abuse of a prescription drug. Any agency that administers its own screening shall certify passing results to the council. The applicant's home address, telephone number, date of birth, and Social Security number, as well as the results of any background investigation, psychological suitability screening, or polygraph examination, shall not be subject to disclosure.

Louisiana

Child labor. Every contract executed by, or on behalf of, a minor rendering artistic or creative services for compensation shall require that 15 percent of the gross earnings of the minor under the contract be placed in a trust fund created for the benefit of the minor and that the trust fund be created in a State or federally chartered financial institution, including trust companies operating in the State through one or more branches. All monies deposited in trust shall be administered by the financial institution as a fiduciary and/or trustee for the benefit of the minor, and reasonable fees may be charged by the financial institution to serve in this capacity. Any State or federally chartered financial institution operating in the State through one or more branches may serve as a trustee.

Department of labor. By action of the State House, the State Department of Labor and the statutory entities made a part of the department are re-created effective June 30, 2006, and shall cease as of July 1, 2011.

Inmate labor. Whenever a prisoner sentenced to any parish prison and awaiting transfer to a State correctional facility is willing of his or

her own free will to perform manual labor by assisting the governing authority in maintaining the municipality; to perform manual labor upon any cemetery or graveyard or by working in a solid-waste recycling program; to perform manual labor upon any of the public roads, levees, streets, public buildings, works, or improvements inside or outside of the prison; or to work for any organization that has qualified for tax-exempt status, the sheriff may set the prisoner to work. Any prisoner participating voluntarily in these work projects shall have no cause of action for injury or loss, unless the injury or loss was caused by an intentional or grossly negligent act or omission of the sheriff, the parish, or the municipal authority. Necessary medical treatment to any injured prisoner, as statutorily required, is expected.

The secretary of the State Department of Public Safety and Corrections is authorized to establish community resource centers to provide housing for inmates to remedy the damage done following a natural disaster or an emergency. In implementing disaster remediation activities by inmates, the secretary shall maximize the use of inmate labor to augment governmental personnel and community volunteers immediately after such disasters and shall ensure that no inmate replaces any existing employee, performs work on a project or job involved in a labor dispute, or supplants postdisaster remediation activities that might otherwise be performed under contract by private-sector firms employed by an affected individual or governmental entity. Every eligible inmate in the custody of the State Department of Public Safety and Corrections whom the secretary has approved to participate in the center and who has been convicted of a felony may be assigned to perform labor related to cleanup and rebuilding following a natural disaster. Participating inmates shall be eligible to earn 30 days of good time for every 30 days of service in the center. Inmates convicted of a sex offense are ineligible to participate.

Every inmate who has been convicted of a felony, except an inmate convicted of a crime of violence a second time, and who has been sentenced to imprisonment for a stated number of years or months may earn, in lieu of incentive wages, a diminution of his or her sentence by good behavior and the performance of work or self-improvement activities. Those inmates serving life sentences will be credited with good time earned, which will be applied toward a diminution of their sentences at such time as the life sentences might be commuted to a specific number of years. The diminution shall be at the rate of 35 days for every 30 days in actual custody. An inmate convicted a first time for a crime of violence shall earn a diminution of his or her sentence at a rate of 3 days for every 17 days in actual custody. Persons convicted of, or who plead guilty to, a

crime involving incest; felony carnal knowledge, or indecent behavior with a juvenile; molestation or pornography with juveniles; or crimes against nature and who are sentenced to imprisonment for a stated number of years or months shall not be eligible for any diminution of their sentences for good behavior. These provisions shall apply only to persons convicted of offenses on or after August 15, 2006.

Worker privacy. Legislation was enacted relating to the access provided or available to the public regarding information on public positions of authority or public positions with policymaking duties. The name of each applicant for a public position of authority or a public position with policymaking duties, the qualifications of such an applicant for the position, and any relevant employment history or experience shall be available for public inspection, examination, copying, or reproduction. No public body or agent acting on behalf of such a public body shall utilize only oral contacts and interviews of applicants when filling vacancies in public positions or use any other means to circumvent the provisions of the enacted legislation. Oral contacts may be made prior to a person's becoming an applicant. However, oral contacts may not be the exclusive method by which a person is recommended for a vacancy with policymaking authority.

If, at any time, a city, parish, or other local public school board takes any personnel action against a school employee on the basis of any document that was placed in the employee's personnel file, the employee shall be given the opportunity to rebut and respond to such document. An employee requesting to see his or her personnel file shall be given access to the entire file.

A resolution was adopted urging and requesting the Governor to provide a list of all executive branch employees who were disciplined, demoted, or terminated for failing to perform their required duties in an adequate manner before, during, and after Hurricanes Katrina and Rita ravaged parts of the State. The resolution had its origins in the aftermaths of the storms, which left a general perception throughout the State that certain executive branch employees might not have fulfilled the requirements of their positions. As resettlement is undertaken, citizens need to have confidence in those executive branch personnel who will be involved in major resettlement decisions and activities. Citizens also need to be aware both of executive branch staff who may have failed in their responsibilities and who may still be working in their same positions without having been censured in any way and of any actions that have been taken against executive branch employees who did not perform their duties

in an honorable and effective manner. If the names of these employees are confidential, then a list of the positions held by such employees may be requested in place of the names of the employees.

Maine

Equal employment opportunity. Legislation was enacted to provide equal opportunity in all aspects of State government to qualified individuals with disabilities. Each State department, agency, and instrumentality periodically will review the adequacy of hiring, placement, and advancement practices for such individuals. An annual plan outlining procedures for increasing the opportunities for individuals with disabilities to be employed by each department will be provided by January 1, 2007. The plan must include a description of the ways that special needs are being met. Any outsourcing of contracts should include provisions that encourage the employment of individuals with disabilities. In addition, any outreach efforts should use both traditional and nontraditional methods of making qualified individuals aware of employment opportunities within the State, as well as of the objective of accommodating individuals with disabilities.

Human trafficking. A State task force has been established to study human trafficking and make recommendations to combat the trafficking of human beings across State borders and into the State for sexual and labor exploitation. The task force shall (1) review human trafficking laws in other jurisdictions; (2) recommend statutory language that criminalizes the trafficking of women, men, and children into the State from other countries; (3) identify available Federal, State, and local programs that provide services to victims of trafficking; (4) collect research and information on victims of trafficking and evaluate State and local government approaches to increasing public awareness of the issue; (5) review trafficking legislation considered and enacted in other States, such as Hawaii, Washington, and Texas, including legislation designed to regulate "bride trafficking" and "international matchmaking organizations"; (6) work with prosecutors and law enforcement officials to develop methodologies for data collection and strategies for reducing barriers faced by victims; and (7) make recommendations on methods of providing a coordinated system of support to victims.

Minimum wage. The State minimum wage was increased to \$6.75 per hour on October 1, 2006. On October 1, 2007, the State minimum wage will again be increased, to an hourly rate of \$7.00. When the highest Federal minimum

wage is increased in excess of the State's minimum wage, the State's minimum wage will be increased to the same amount, effective on the same date as the increase in the Federal level.

Other. Teachers who retire, but whose previous service was terminated due to the elimination of their teaching position as a result of a school closing, and who have at least 25 years of creditable service, may make a one-time election at retirement to rejoin the teacher group plan.

Time off. An employer that employs 50 or more employees shall provide each eligible employee up to 15 days of family military leave per deployment. Family military leave may be taken only during the 15 days immediately prior to deployment or the 15 days immediately following the period of deployment, or both. Family military leave granted by the employer may consist of unpaid leave. The employee must give at least 14 days' notice of the intended date upon which the family military leave will begin if it will consist of 5 or more consecutive days, or practicable notice if fewer than 5 consecutive workdays will be taken. Leave should be scheduled so as not to unduly disrupt the operations of the employer. An employer may require certification from the proper military authority to verify the employee's eligibility for the requested leave. An employee who uses family military leave is to be restored to the position he or she held when the leave began, with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment, upon expiration of the leave. The employer shall make it possible for an employee to continue receiving benefits, at the employee's expense, during any family military leave taken. Alternatively, the parties may negotiate for the employer to maintain the benefits at the employer's expense. Taking family military leave does not result in the loss of any employee benefit accrued before the date on which the leave began. If the employee is under a collective bargaining agreement that provides greater benefits than are specified in this legislation, then the employer is obligated to comply with the bargaining agreement. An employee may bring a civil action to enforce the law should the employer attempt to discharge, fine, suspend, expel, discipline, or in any other manner discriminate against an employee for using family military leave.

Maryland

Equal employment opportunity. New legislation established a commercial nondiscrimination policy that prohibits the State from entering into a procurement contract with a business entity that has discriminated against

subcontractors, suppliers, vendors, or commercial customers on the basis of race, color, religion, ancestry, national origin, sex, age, marital status, sexual orientation, or disability. A procedure also was established to process the adjudication of complaints filed within 4 years of the alleged occurrence. Under the procedure, penalties will be assessed against any business that is found to have violated the commercial nondiscrimination policy.

Inmate labor. The State Code was amended to include an additional reason whereby goods and services produced by State correctional services could be sold on the open market, namely, when the goods or services pertain to the preparation or distribution of food or services related to agriculture or seafood processing and, in addition, meet the following conditions: (1) the State labor pools are diminished; (2) it has been determined that inmate labor is the only available source of labor; (3) wages paid to inmates under the State Code may not be less than wages paid for similar work in the private sector of the same locality, as determined by the State secretary of labor, licensing, and regulation; (4) in this instance, inmate labor applies only to inmates at the minimum, prerelease, and work release security levels; and (5) the State secretary of labor, licensing, and regulation shall adopt regulations that specify how to determine the need for inmate labor.

Minimum wage. Each employer shall pay each employee who is subject to both the Federal Minimum Wage Act and the State Minimum Wage Act at least the greater of the two wages. Effective January 1, 2007, the wage for employees in the State will be \$6.15 per hour. The tip credit that employers may apply against wages paid to an employee who receives tips may not exceed 50 percent of the State or Federal minimum wage, whichever is higher. The State may adopt a training wage that complies with the conditions and limitations authorized under the Federal Fair Labor Standards Amendments of 1989.

Additional legislation requires the new minimum wage to apply to each employee who is engaged in an occupation in which the employee customarily and regularly receives more than \$30 each month in tips and keeps it all. Although an employer may pool the tips of the employee and set an amount that represents those tips as part of calculating the employee's wage, the tip credit amount that the employer may include may not exceed 50 percent of the minimum wage established under this new legislation.

Worker privacy. Upon written request of an exclusive representative representing each employee in a bargaining unit, the State Labor Relations Board shall provide the repre-

sentative with the employees' names, position classifications, units, home and worksite addresses where the employees receive inter-office or U.S. mail, and home and worksite telephone numbers. Before providing an employee's name, address, telephone numbers, and work information to an exclusive representative, the employer shall notify the employee at least 30 days prior to such action. If the employee does not want the information given to the representative, the employee must reply to that effect within 15 days of the employer's notice, after which the employer may not provide the information to the representative. Information received shall be considered confidential and may not be released to any person.

The State statute concerning wage payments was amended to prohibit certain employers, including governmental units (that is, the State, a county, a municipal corporation, or some other political subdivision of the State; or a unit of State government or of a political subdivision thereof), from printing or causing to be printed an employee's Social Security number on a wage payment check, on an attachment to an employee's wage payment check, on a notice of direct deposit of an employee's wage, or on a notice of credit of an employee's wage to a debit card or card account.

Massachusetts

Minimum wage. The State minimum wage rate was increased to \$7.50 per hour, effective January 1, 2007. An additional increase, to \$8.00 per hour, is scheduled to go into effect on January 1, 2008.

Michigan

Human trafficking. State law was amended to require that a person shall not knowingly subject or attempt to subject another person to forced labor or services through physical harm or the threat of physical harm. Such activity shall be considered a felony punishable by imprisonment for not more than 10 years. If the one person causes the other injury, the first person is guilty of a felony punishable by imprisonment for not more than 15 years. If the one person causes the death of the other, the first person shall be imprisoned for life or any term of years. In addition, a person cannot force someone into service by physically restraining him or her, by threatening to abuse the law or a legal process, or by knowingly destroying, concealing, removing, confiscating, or possessing an actual passport or other immigration or identification document. Nor can a person use blackmail or threaten to cause financial harm. Children cannot be recruited, enticed, harbored, or transported by

anyone knowing that the minor will be sexually abused. Further, a person who attempts to kill another person or kidnap or recruit another person for forced labor or services is in violation of the law.

Minimum wage. The minimum wage in the State was raised to \$6.95 per hour, effective October 1, 2006. Effective July 1, 2007, the minimum wage in the State shall be increased to \$7.15 per hour, and effective July 1, 2008, the minimum wage shall again be increased, this time to \$7.40 per hour.

Legislation was enacted to fix minimum wages for employees within the State, to prohibit wage discrimination, to provide for the administration and enforcement of the legislation, and to prescribe penalties for violations of the Act. An employer operating in the State is subject to the Federal minimum-wage provisions of the Fair Labor Standards Act, unless those provisions would result in a lower minimum hourly wage than that provided by the State. The State rate, however, does not apply to an employee who is exempt from the Federal minimum-wage requirements. Notwithstanding the Federal minimum-wage exemption, an employee shall be paid at the State minimum-wage and overtime compensation rates if the employee is employed in domestic service to provide companionship services for individuals who, because of age or infirmity, are unable to care for themselves and if the employee is not a live-in domestic service employee. This legislation does not apply if the employee is employed to provide childcare, is not a live-in domestic service employee under 18 years of age, and provides services on a casual basis not exceeding 20 hours per week. Agricultural fruit growers, pickle growers, tomato growers, or other agricultural employees working for harvesting on a piecework basis are exempt from the new legislation until a scale equivalent to the prevailing minimum wage for that type of employment is established.

An employer may pay a new employee who is under 20 years of age a training wage of \$4.25 per hour for the first 90 days of that worker's employment. The minimum hourly wage for an employee who is less than 18 years of age is 85 percent of the general minimum hourly wage. An employer shall not terminate any employee or reduce the hours, wages, or employment benefits of any employee in order to hire an individual at the reduced hourly rate. Any employer who violates this ruling is subject to a civil fine of not more than \$1,000.

Other. As part of an omnibus effort to promote economic growth and job creation in the State, legislation was enacted to create the Michigan Economic Growth Authority,

prescribing the powers and duties thereof, as well as those of State and local officials. The legislation also defined a full-time job as a job performed by an individual for 35 or more hours each week whose income and Social Security taxes are withheld from the gross amount of wages paid. Finally, the legislation identified a list of occupations and agencies eligible to provide income and withhold Social Security taxes.

Minnesota

Equal employment opportunity. It was resolved that all State departments and agencies examine their current policies, rules, and procedures, as well as governing statutes, in order to identify any impediments and barriers to veterans seeking employment or education in the State. Agencies are instructed to forward any proposed statutory changes necessary to achieve these goals to the Governor's office for coordination. State departments and agencies must identify, describe, and provide recommendations regarding any impediments and barriers to veterans' employment, education, and access to agency services and benefits that lie beyond the control of the State government. The University of Minnesota and private colleges and universities are strongly encouraged to review their policies (including policies relating to providing credit for prior military training and experience), procedures, and rules in order to identify and remove barriers to veterans' employment and education.

Wages paid. At the end of each pay period, an employer shall provide each employee an earnings statement, either in writing or by electronic means, covering that pay period. An employer who chooses to provide the statement by electronic means must give employees access to an employer-owned computer during the employees' regular working hours in order for the employees to review and print their earnings statements. An employer must provide earnings statements in writing, rather than by electronic means, to any employee from whom the employer has received at least 24 hours' notice that the employee would like to receive earnings statements in written form. Once an employer has received such notice, the employer must comply with the employee's request on an ongoing basis.

Missouri

Family issues. The State has adopted a "Guard at Home" program whose purpose is to assist the spouse of an active-duty National Guardsman or -woman or of a member of a reserve component of the U.S. Armed Forces in addressing immediate needs and employ-

ment in an attempt to keep the family from falling into poverty while the primary income earner is on active duty. Further, the program will assist returning National Guard troops with finding work in situations where an individual needs to rebuild business clientele or where an individual's job has been eliminated while he or she was deployed. In situations where (1) the primary income earner was called to active duty in defense of the United States for a period of more than 4 months, (2) the family's primary income is no longer available, (3) the family is experiencing significant hardship due to financial burdens, and (4) there is no outside resource available to assist with such hardships, the program's services will be aimed at ameliorating the immediate crisis and providing a path toward economic stability.

Minimum wage. Due to a ballot initiative passed in the November 2006 election, effective January 1, 2007, employers in Missouri must pay a State minimum wage of \$6.50 per hour to employees for all hours worked in a workday.

Montana

Minimum wage. Due to a ballot initiative passed in the November 2006 election, effective January 1, 2007, employers in Montana must pay a State minimum wage of \$6.15 per hour to employees for all hours worked in a workday.

Nevada

Minimum wage. With the passage of a State constitutional amendment due to a vote in the November 2006 election, the State minimum wage was increased to \$6.15 per hour, effective November 28, 2006. Employers who make a qualified health insurance plan available to their employees can pay a minimum wage of \$5.15 per hour.

Overtime. Due to the passage of the aforementioned State constitutional amendment, employees who are paid less than 1½ times the minimum wage must be paid at overtime rates when they work more than 8 hours in a workday. Employees who are offered qualifying health insurance plans will be entitled to daily overtime pay if they earn \$7.725 or less per hour. Employees who are not offered a qualifying health plan will receive daily overtime pay if their hourly rate is less than \$9.925 per hour.

New Hampshire

Equal employment opportunity. The State policy on sexual harassment was updated

through an executive order that promulgated a Policy on Sexual Harassment for the State. The policy governs the conduct of all employees working for the executive branch of the State.

Employees of charitable organizations are now protected against discrimination. This statutory protection, however, does not apply to (1) employers with fewer than six employees, (2) an exclusively social or fraternal organization not operating for profit, or (3) religious organizations, including religious educational entities.

The State law was amended so that it is now an unlawful discriminatory practice to fail to make a reasonable accommodation for an employee with a disability if the employee is otherwise qualified to perform the essential functions of the job and if providing the accommodation would not pose an undue hardship on the employer. "Reasonable accommodation" includes (1) making existing facilities readily accessible to, and usable by, individuals with disabilities and (2) restructuring jobs; assigning part-time or modified work schedules; reassigning personnel to vacant positions; acquiring or modifying equipment or devices; adjusting or modifying examinations, training materials, or policies; providing qualified readers or interpreters; and other accommodations. An "undue hardship" is an action requiring a significant duty or expense. Factors to be considered in whether the employer must make a reasonable accommodation in a particular case are (1) the nature and cost of the accommodation, (2) the financial resources of the facility, (3) the financial resources of the employer, (4) the size of the business, and (5) the number, type, and location of facilities. Among the resources to be considered is the type of operation or operations of the employer, including the composition, structure, and function of the employer's workforce, the geographic separation between the employer and the facility, and the administrative or fiscal relationship of the facility to the employer.

New Jersey

Department of labor. The commissioner of the State Department of Labor is now authorized to investigate any claim of wages due an employee and, during the course of such investigation, may summon the defendant, subpoena witnesses, administer oaths, take testimony, and make a decision or award when the sum in controversy, exclusive of costs, does not exceed \$30,000.

Minimum wage. On the basis of previously enacted legislation, the minimum wage in the State increased to \$7.15 per hour, effective October 1, 2006.

Plant closing. At least 60 days prior to the proposed date of the closing or relocation of a nursing home or an assisted-living residence, the facility administrator shall notify, in writing, a resident of the facility, the resident's legal representative, if applicable, and the Department of Health and Senior Services of the closing or relocation. The commissioner of the State Department of Labor may waive the 60-day's-notice requirement if it is determined that an emergency warrants a more immediate closing of the facility.

Prevailing wage. It is the public policy of the State to establish prevailing-wage levels for the employees of contractors or subcontractors furnishing building services for any property or premises owned or leased by the State. The State commissioner of labor has the authority to investigate and ascertain the wages of any employees and to enter the place of business or employment to examine and inspect any or all books, registers, payrolls, and other records that in any way relate to the question of wages. The commissioner also may require from contractors full and correct statements, in writing, regarding wages, hours, names, addresses, and other information about workers and may require any contractor to file records pertaining to employment within 10 days of receipt of a request to do so. Failing to file may result in the State treasurer immediately withholding up to 25 percent (and not to exceed \$100,000) of the funds to be paid to the employer. The amount withheld shall be immediately released upon receipt by the State treasurer of a notice from the commissioner indicating that the request for records has been satisfied. Any contractor who willfully hinders or delays the enforcement of this provision shall be guilty of a disorderly persons offense and shall, upon conviction, be fined not less than \$100.00 or more than \$1,000 and/or be imprisoned for not less than 10 days or more than 90 days. Each week that a worker is paid less than the applicable rate shall constitute a separate offense. As an alternative, or in addition, to any other sanctions, the commissioner is authorized to assess and collect administrative penalties up to a maximum of \$250 for a first violation and up to a maximum of \$500 for each subsequent violation. The contractor also may be requested to pay the applicable wages to the commissioner, who will subsequently disperse the funds to the employee. Workers may bargain collectively through representatives in order to establish wages in excess of any applicable minimum.

Unfair labor practice. In newly enacted legislation, no employer or employer's agent, representative, or designee may require its employees to attend an employer-sponsored

meeting or participate in any activity or event intended to communicate the employer's opinion about religious or political matters. The Act does not prohibit the employer from permitting its employees to attend such meetings voluntarily if the employer has notified the employees that they may refuse to attend such meetings without penalty. The employer may communicate religious or political matters only to the extent required by law. An employee shall not be discharged, disciplined, or otherwise penalized or threatened for making a good-faith report, verbally or in writing, of a violation or suspected violation of this Act. Any aggrieved employee may enforce the provisions of the Act by means of a civil action. If the employee was wrongfully terminated, he or she may be reinstated, with payment of any lost wages, benefits, or other remuneration. In addition, the court may award punitive damages not greater than treble the damages of an assessment of a civil fine of not more than \$1,000 for a first violation and not more than \$5,000 for each subsequent violation.

New Mexico

Discharge. Legislation was enacted to provide employment protection to volunteer emergency responders. If an employee is serving as a volunteer emergency responder (a member in good standing of a volunteer fire department, an emergency medical service, a search-and-rescue team, or a law enforcement agency; or a person who is enrolled by the State or a political subdivision thereof for the purpose of responding to an emergency or a disaster) and is absent from his or her place of employment in order to respond to an emergency or a disaster, the employee shall not be terminated, demoted, or in any other manner discriminated against in terms and conditions of employment. This legislation does not apply if the employee, while acting as a volunteer emergency responder, is absent from his or her place of employment for a period of more than 10 regular business days in a calendar year. It is incumbent upon the employee serving in this capacity to make reasonable efforts to notify the employer over the course of the absence. The employer may request an employee to provide written verification from the State's office of emergency management, or from a State or local official, of the dates and time of the employee's service as a volunteer emergency responder. The employer may charge an absence of this nature against an employee's regular pay time. Finally, an employee who has been terminated, demoted, or in any other manner discriminated against may bring a cause of action seeking reinstatement to his or her former position, payment of back wages, reinstatement of fringe benefits, or reinstatement of seniority rights if the

action is initiated within 1 year from the date of the violation.

New York

Minimum wage. Due to previously enacted legislation, the State minimum wage was increased from \$6.75 per hour to \$7.15 per hour on January 1, 2007.

Time off. The spouse of a member of the U.S. Armed Forces, National Guard, or Reserves who has been deployed to a combat theater or combat zone of operations during a period of military conflict shall be allowed up to 10 days of unpaid leave by his or her employer. Such leave shall be used only when the member of the armed services is deployed to a combat theater or combat zone of operations during a period of military conflict and is on leave. An employer shall not retaliate against an employee for requesting or obtaining a leave of absence. This provision is in addition to any other leave allowed by the employer.

Worker privacy. No employer may cause an audio or video recording to be made of an employee in a rest room, locker room, or room designated by an employer for employees to change their clothes, unless authorized by court order. No recording made in violation of this law may be used by an employer for any purpose. In any civil action alleging a violation, the court may award damages and reasonable attorneys' fees and costs to a prevailing plaintiff and may afford the plaintiff injunctive relief against any employer that commits or proposes to commit a violation of this law.

Wage-reporting information obtained from the State Department of Taxation and Finance shall be considered confidential and shall not be disclosed to persons or agencies other than those considered entitled to such information under the Social Security Act or some other Federal law. However, such information may be disclosed to the U.S. Census Bureau, upon request to the State commissioner of labor, for statistical analyses related to population and employment measurements and trends. The information provided must be considered necessary for the evaluation of the effect of earnings on participation in training programs related to the department's reporting, monitoring, or evaluating responsibilities. When the information is used for such purposes, access to it, obtained from the department, shall be limited to that which concerns individuals who applied to, or participated in, the aforementioned programs. Any reports concerning employment security and training programs submitted to a State or Federal

agency shall also be submitted to the Governor and/or other State officials.

North Carolina

Human trafficking. The State legislature met to effect changes to an omnibus bill titled “Protect North Carolina’s Children/Sex Offender Law Changes.” Among the changes was the addition or creation of the criminal offenses of human trafficking and sexual servitude. According to the new bill, a person commits the offense of human trafficking when that person knowingly recruits, entices, harbors, or transports another person, or obtains another person by any means, with the intent that the other person be held in involuntary or sexual servitude. A person commits the offense of involuntary servitude when that person knowingly and willfully holds another in involuntary servitude. A person commits the offense of sexual servitude when that person knowingly subjects another person to, or maintains another person in, sexual servitude. If the victim of any of these offenses is an adult, the perpetrator is guilty of a Class F felony; if the victim is a minor, the perpetrator is guilty of a Class C felony. Each violation constitutes a separate offense and shall not merge with any other offense.

Minimum wage. Effective January 1, 2007, employers in the State must pay each employee who performs any work in any workweek wages of at least \$6.15 per hour or the wage rate listed in the Fair Labor Standards Act, whichever is greater.

Ohio

Minimum wage. The State amended its minimum-wage laws to require that every employer pay each of its employees at a wage rate not less than the \$5.15-per-hour rate specified in the Federal Fair Labor Standards Act. The amendment became effective on March 28, 2006. However, as the result of a ballot initiative that was passed in the November 2006 election, the minimum wage was increased again, this time to \$6.85 per hour, effective January 1, 2007.

Oklahoma

Time off. Employers may now provide reasonable unpaid break time each day to an employee who needs to breast-feed, or express breast milk for, her child in order to maintain a milk supply and comfort. The break time, if possible, shall run concurrently with any break time, paid or unpaid, already provided to the employee. An employer is not required to provide break time if doing so would create an undue hardship on the its operations.

The employer shall provide a private, secure, and sanitary room or other location in close proximity to the work area, other than a toilet stall, where the employee can express her milk or breast-feed her child.

Wages paid. The State statute concerning payment of wages to employees was amended. Employees must still be paid at least once per month, but employers may now pay them by electronic means. Employers that adopt electronic payment must furnish employees a brief itemized statement of all deductions made.

Workplace violence. The State adopted a resolution urging employers to support victims of domestic violence, dating violence, and sexual assault. According to the resolution, the State has an interest both in minimizing victims’ physical and emotional injuries from such experiences and in reducing the devastating economic consequences to employers and employees. State employers are urged to offer employees adequate unpaid leave, without penalty, for appointments with their counselors, doctors, attorneys, or ministers. Victims are encouraged to seek medical attention for, or recovery from, physical or psychological injuries and to plan for and seek legal assistance or remedies to ensure their health and safety. The State House of Representatives encourages employers to show compassion, contribute to their employees’ well-being, and help those employees who are victims of violence and abuse by allowing them leave without fear of reprisal.

Oregon

Minimum wage. As a result of legislation that was passed in 2002, the minimum wage rate in the State increased from \$7.50 per hour to \$7.80 per hour, effective January 1, 2007.

Pennsylvania

Minimum wage. The State-required minimum wage has been increased and is scheduled for a further increase. Effective January 1, 2007, the State minimum wage was set at \$6.25 per hour. Effective July 1, 2007, the State minimum wage will be set at \$7.15 per hour. If the minimum wage set forth in the Fair Labor Standards Act is increased above the minimum wage set by the State, the minimum wage set by the State shall be increased by the same amount and shall become effective as of the date of the increase under the Federal Act.

Human trafficking. The sections of the State Consolidated Statutes titled “Crimes and Offenses and Judiciary and Judicial Procedures”

were amended. The law now calls for a term of life imprisonment for individuals convicted of trafficking in persons and of coercing the victims of trafficking into involuntary deviate sexual intercourse.

Rhode Island

Family issues. The State Parental and Family Medical Leave Act was amended to include an expansion of the definition of “family member.” A family member is now a parent, spouse, child, or mother- or father-in-law, the employee himself or herself, or the domestic partner of an employee of the State.

Minimum wage. Effective March 1, 2006, the State minimum wage was increased to \$7.10 per hour. Commencing January 1, 2007, the State minimum wage was increased again, this time to \$7.40 per hour.

Prevailing wage. The section of the State General Law titled “Labor and Payment of Debts by Contractors” was amended to include the requirement that any employer who violates or fails to comply with the provisions contained therein shall be guilty of a misdemeanor and shall be punished by a fine of not less than \$500 and not more than \$1,000 for each separate offense, or by imprisonment for not less than 10 or more than 90 days, or by both fine and imprisonment. Each day of failure to pay wages due to an employee at the specified time shall constitute a separate and distinct violation. In addition, any person, firm, or corporation found in violation of the law shall be ineligible to bid on or be awarded work by an awarding authority, or to perform any such work, for a period of not less than 18 months and no more than 36 months. Any succeeding violation not arising from the same incident within a period of 18 months shall result in the entity being ineligible to bid on or be awarded work for a period of 60 months from the date of the second violation.

Time off. The State General Laws regarding breaks for meals during hours of employment were amended. All employees now are entitled to a 20-minute mealtime break within a 6-hour work shift and a 30-minute mealtime break within an 8-hour work shift. No employer shall be required to compensate an employee for this mealtime. These provisions do not apply to an employer of a health care facility licensed in accordance with the State General Laws or an employer who has fewer than three people on any shift at the worksite.

Wages paid. Effective January 1, 2007, all childcare providers shall have the option to be paid every 2 weeks, to receive their wages by automatic direct deposit, and to have any

reimbursement payments owed them transferred to their accounts electronically.

South Carolina

Human trafficking. The State Code was amended to create the offense of trafficking in persons for “forced labor or services,” defined as any type of labor or services performed or provided by a person and rendered through another person’s exertion of physical, financial, or other means of control over the person providing the labor or services. As amended, the code now states that a person who knowingly subjects another person to forced labor or services, or who recruits, entices, harbors, transports, provides, or obtains another person by any means, knowing that the latter person will be subjected to forced labor or services, or who aids, abets, attempts, or conspires to do any of the aforesaid acts is guilty of a felony known as trafficking in persons for forced labor or services and, upon conviction, must be imprisoned for not more than 15 years.

South Dakota

Inmate labor. Under new legislation, the earnings of inmates participating in a work release program shall be assigned and paid to the Department of Corrections. For each inmate scheduled to be released, the department shall place all earnings in the inmate’s account and make disbursements for the following purposes, in order: (1) room-and-board charges; (2) necessary travel expenses and other incidental expenses related to the inmate’s release program; (3) support of the inmate’s legal dependents; (4) payments on fines and restitution; and (5) payments of personal debts and obligations, upon proper proof and at the discretion of the inmate. Any balance is to be retained in the inmate’s account and paid to the inmate upon parole or discharge.

Tennessee

Child labor. The State commissioner of environment and conservation is encouraged to employ persons younger than 19 years of age to work in State parks and recreation areas. These individuals should be employed only in nonhazardous duties that enhance the viability and purpose of the State’s pristine parks. An annual report on the number of persons under 19 years of age who are employed to work in State parks and recreation areas, and in which State parks and recreation areas such persons are employed, shall be prepared by the commissioner and provided to the Senate Environment, Conservation, and Tourism Committee and to the House Environment Committee.

Equal employment opportunity. The State code was amended by the addition of a section which states that it is unlawful for a board of education or a director of schools to fail or refuse to hire, or to discharge, a teacher, or to otherwise discriminate on the basis of compensation, terms, conditions, or privileges of employment, because of that individual’s age. This prohibition is limited to those who are at least 40 years of age.

Workplace security. Blasting firms in the State are now required to submit any letter of denial of issuance of a permit or license required by the Bureau of Alcohol, Tobacco, Firearms and Explosives and that is received from the Bureau to the State fire marshal within 5 calendar days of receipt. Failure to comply with this requirement may lead to the assessment of a civil money penalty of \$2,500 against an individual or \$5,000 against a firm.

Utah

Worker privacy. The Government Records Access and Management Act was amended to provide for access to certain information for government employees or officers. The public has a right to be able to contact governmental agencies for the purpose of conducting necessary and relevant business. The amended Act defines a dedicated business address, business e-mail address, and business telephone number as legitimate avenues by means of which the public may contact an employer or officer of the governmental entity, and therefore as part of the public record, separate and apart from the individual telephone numbers, e-mail addresses, or business addresses of specific governmental employees. In addition, the name, gender, gross compensation, job description, job title, number of hours worked per pay period, dates of employment, relevant education, previous employment, and similar job qualifications of current or former employees can be considered part of the public record.

Workplace security. The State Public Safety and Transportation Codes were amended to permit certain cities to require a criminal background check as a condition of providing ground transportation service to the city’s airport. Ground transportation service is defined as the service of a driver who picks up or drops off passengers at an airport under a city’s authority. Each ground transportation service provider who is required to submit a background check shall submit a fingerprint card in a form acceptable to the State Criminal Investigation and Technical Services Division and shall consent to a fingerprint background check by the State Bureau of Criminal Identification and the Federal Bureau of Investigation. For each background check requested

by the city, the division shall in turn request the Department of Public Safety to complete a Federal Bureau of Investigation criminal background check through a national criminal history system. If a criminal background check reveals that a ground transportation service provider failed to disclose a criminal history, the city may deny or, if already conditionally given, immediately terminate the provider’s right to provide ground transportation service at an airport. If the ground transportation service provider has disclosed a criminal history, and the background check reveals that the provider has been convicted of a crime which indicates a risk for the safety or well-being of the patrons or employees of the airport, the city may deny or, if already conditionally given, immediately terminate the person’s right to provide ground transportation service. If a city denies or terminates the right of an individual to provide ground transportation service because of information obtained through a criminal background check, the city shall notify the individual, in writing, of the reasons for the denial or termination and shall give the person an opportunity to respond to the reasons and seek review through the administrative procedures established by the city.

Vermont

Department of labor. The State Department of Labor and Industry was renamed the State Department of Labor. With the advice and consent of the senate, the Governor shall biannually appoint a State commissioner of labor.

Minimum wage. Because of previously enacted legislation, the State minimum wage was increased to \$7.53 per hour, effective January 1, 2007.

Virginia

Equal employment opportunity. An order was issued which stipulates that the State has a firm and unwavering policy to ensure equal opportunity in all facets of State government. The policy specifically prohibits discrimination against otherwise qualified persons on the basis of race, sex, color, national origin, religion, sexual orientation, age, political affiliation, or disability. Allegations of violations of this policy shall be brought to the attention of the Office of Equal Employment Services of the Department of Human Resource Management. No State appointing authority, other management principal, or supervisor shall take retaliatory actions against persons making such allegations. State employees found in violation of the policy shall be subject to ap-

appropriate disciplinary action.

Human trafficking. The State Code was amended to include the stipulation that any person who threatens injury to the character, person, or property of another person, accuses that person of any offense, or threatens to report the person as being illegally present in the United States and thereby extort money, property, or pecuniary benefit, or any note, bond, or other evidence of debt from that or any other person, shall be guilty of a Class 5 felony. It is further amended that any violation of this legislation may result in a net increase in periods of imprisonment or confinement.

Other. An individual's retirement system assets are exempted from any State, county, or municipal tax and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, except a process for repaying a debt to the employer. Assets deemed marital property may be divided or transferred by the court to the spouse or former spouse. An employee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the employee in a direct rollover. In the event of a mandatory cash-out, if the employee does not elect to have such distribution paid directly to an eligible retirement plan specified by the employee, then the Board of Trustees of the Virginia Retirement System shall designate an individual retirement plan and pay the distribution in a direct rollover to that plan.

Offsite work. The State Governor has established the Office of Telework Promotion and Broadband Assistance within the State Office of the Secretary of Technology, effective September 12, 2006. The office will promote and encourage the use of telework alternatives for public and private employees in order to enhance or facilitate the deployment of, and access to, competitively priced advanced electronic communications and Internet access services. This initiative is viewed as family- and business-friendly public policy that will promote workplace efficiency and reduce strain on the State's transportation infrastructure.

The head of each State agency shall report annually to the State secretary of administration regarding specifics on the statewide telecommuting and alternative work schedule program. The specifics shall include connectivity, additional telephone lines, and on-line collaborative tools or other equipment or services needed to increase opportunities for telecommuting and working at alternative work locations.

Plant closing. The State Code was amended to require that any person displaced from a

place of business or farm operation as a result of the State's eminent domain authority and who is eligible under criteria established by the State agency may elect to accept the payment authorized by the State Code. Such payment shall be a fixed amount established by the State agency and shall be not less than \$1,000 or more than \$75,000. Any person who is being displaced, but was only renting the property, shall not qualify for the payment.

Prevailing wage. The State Code concerning prevailing wages for contracts let under the State Governor's Development Opportunity Fund was amended. If a project is to be located in a county or city whose annual average unemployment rate for the most recent calendar year is greater than the final statewide average unemployment rate for the most recent calendar year, a grant or loan may be awarded from the fund if the average wage of the new jobs, excluding fringe benefits, will be no less than 85 percent of the prevailing average wage. If there is a finding that the economic circumstances in an area are sufficiently distressed (high unemployment or underemployment and negative economic forecasts), a grant or loan paying less than 85 percent of the prevailing average wage may be awarded.

Worker privacy. Legislation was enacted to amend the State Code relating to employee personnel records. Personnel files of all school board employees may be produced and maintained in digital or paper format. Information determined to be unfounded after a reasonable administrative review shall not be maintained in any employee personnel file, but may be retained in a separate, sealed file by the administration if the information alleges civil or criminal offenses. Any dispute over such unfounded information exclusive of the State Privacy Protection Act shall be settled through the employee grievance procedure.

Justices and judges are now required to complete a detailed financial statement, including information about close financial associations, businesses, and trusts in which they have significant interests, employment, and compensation for services, so as to disprove any conflicts of interest. They are no longer required to disclose the address or telephone number of their principal residence or the names or occupations of any immediate family members.

Workplace security. The State Code also was amended to permit the dissemination of criminal histories to shipyards, to the extent permitted by Federal law or regulation, engaged in the design, construction, overhaul, or repair of nuclear vessels for the U.S. Navy, including their subsidiary companies, for the conduct of investigations of applications for employment

or for access to facilities by contractors, leased laborers, and other visitors.

Washington

Equal employment opportunity. The Revised Code of the State was amended to provide persons with the right to obtain and hold employment without discrimination in a number of areas, now also including sexual orientation and gender expression.

Family issues. The State legislature, after determining that the demands of the workplace and of families need to be balanced to promote family stability and economic security, enacted legislation that stated, "Our culture is one that is rising in its number of dual-career couples, working single parents, and an aging population. Given that ours is a mobile society, sufficient community or family support networks do not exist and employees need more flexibility in the workplace. It is in the public interest to provide reasonable leave for medical reasons, for the birth or placement of a child, and for the care of a family member who has a serious health condition." Under the State Family Medical Leave Act, as amended, an employee is now entitled to a total of 12 workweeks of leave during any 12-month period for one or more of the following reasons: (1) because of the birth of a child of the employee and in order to care for the child, (2) because of the placement of a child with the employee for adoption or foster care, (3) to care for a seriously ill family member of the employee, or (4) because of a serious health condition that makes the employee unable to perform the functions of his or her position. When leave is taken after the birth of a child or the placement of a child for adoption or foster care, an employee may take leave intermittently or on a reduced-leave schedule, provided that the employer has agreed. The employer's agreement is not required, however, for leave taken during which the employee has a serious health condition in connection with the birth of a child or if the newborn child has a serious health condition. Among additional changes to the Act were some that affected the issues of unpaid leave, foreseeable leave, medical certification of illness by a health care provider, spouses employed by the same employer, and employment protection.

Minimum wage. Because of previously enacted legislation, the minimum wage in the State was increased to \$7.93 per hour, effective January 1, 2007.

Wages paid. When an employee files a wage complaint with the State Department of Labor and Industries and the complaint is inves-

tigated, unless it is otherwise resolved, a citation shall be issued and notice of assessment or a determination of compliance shall be rendered to both the employee and employer no later than 60 days after the date on which the department received the wage complaint and no later than 3 years after the date on which the cause of action accrued. If the department determines that an employer has violated a wage payment requirement, the department may order the employer to pay the employee all wages owed, including interest of 1 percent per month. A civil penalty for a willful violation of wage payment requirements shall not be less than \$500 or an amount equal to 10 percent of the total amount of unpaid wages, whichever is greater. The maximum civil penalty for a willful violation shall be \$20,000. The department shall waive any civil penalty assessed against an employer if the director determines that the employer has provided payment to the employee of all wages owed, including interest, within 10 business days of the employer's receipt of the citation and notice of assessment. A citation and notice of assessment or a determination of compliance that is not appealed within 30 days is final and binding and not subject to further appeal. An employer who fails to allow adequate inspection of records in an investigation may not use such records in any appeal to challenge the correctness of any determination by the department of wages owed. If the employee elects to terminate the department's administrative action, then (1) the department shall immediately discontinue its action against the employer; (2) the department shall vacate a citation and notice of assessment already issued to the employer; and (3) the citation and notice of assessment, any related findings of fact or conclusions of law, and any payment or offer of payment by the employer of the wages, including interest, assessed by the department shall not be admissible in any court action or other judicial or administrative proceeding.

Workplace security. The Equipment and Standards Review Unit of the State Patrol shall require a record check of all applicants and drivers applying for an authorized emergency vehicle permit before issuing such a permit. The record check shall be carried out by the State Patrol Criminal Identification Section and the Federal Bureau of Investigation. The record check shall include a fingerprint check using a complete State criminal identification fingerprint card. When necessary, applicants may be employed on a conditional basis, pending completion of the investigation. The applicant, driver, or employer shall pay all costs associated with the record check.

West Virginia

Minimum wage. The State Code was

amended, increasing the State minimum and training wages and linking them to the Federal minimum and training wages. An employer who employs, during any calendar week, six or more employees in any one separate, distinct, and permanent location and who is not subject to the Federal minimum wage is subject to the State minimum-wage law, as are all individuals employed by the State, its agencies, and its departments. Effective July 1, 2006, every employer began paying each of its employees wages at a rate not less than \$5.85 per hour. After July 1, 2007, each employee shall be paid at a rate not less than \$6.55 per hour. After July 1, 2008, each employee shall be paid at a rate not less than \$7.25 per hour. Anytime the Federal minimum hourly wage is equal to or greater than the rate paid by the State, every employer shall pay its employees wages at a rate not less than the Federal rate. When certain specific conditions are met, an employer may pay an employee who is younger than 20 years of age a training wage of not less than \$5.15 per hour for a cumulative period of not more than 90 days.

Prevailing wage. Legislation was enacted that amended the State Code applying to expenditures for construction projects by any public authority for public improvement. For such projects, the public authority (the employer) shall file copies of the waiver certificates and certified payrolls, or other comparable documents, with the State Division of Labor. The documents filed include information on the number of employees, the county and State wherein the employees reside, and the employees' occupations. The State Division of Labor shall compile the information required and submit it annually to the Joint Committee on Government and Finance by October 15 of each year. The joint committee may forward these reports to the legislative auditor for review and commentary regarding the usefulness of the information collected and for suggested changes to the division's method of reporting in order to ensure that the information collected will prove useful in evaluating the effectiveness of the legislation. Every public-improvement contract or sub-contract let by a public authority shall contain provisions conforming to the requirements of this legislation.

Wages paid. The State Code relating to the calculation of the State adjusted gross income for personal income tax purposes was amended. For the 2006 taxable year only, as a result of a reduction in force, severance wages (monetary compensation, in excess of regular annual wages or salary, paid by the employer in the taxable year as a result of the employee's permanent termination from employment) received by a taxpayer from an employer can-

not exceed \$30,000. A reduction in force is a net reduction in the number of workers employed by the employer and in which the worker is deemed unemployed through no fault of his or her own.

The State Code was amended so that if a person, firm, or corporation fails to pay an employee wages as required by the Code, such person, firm, or corporation shall, in addition to the amount already due, be liable to the employee for 3 times that amount as liquidated damages.

Worker privacy. Any employer or designated agent thereof who discloses job-related information (information concerning a person's education, training, experience, qualifications, conduct, and job performance offered for the purpose of providing criteria for evaluating the person's suitability for employment) that may be reasonably considered adverse about a former or current employee to a prospective employer of that employee is presumed to be acting in good faith and is immune from civil liability for the disclosure or its consequences. Any disclosure of such information shall be in writing, and a copy of the disclosure shall be provided to the former or current employee at the time of its issuance. The presumption of good faith is rebutted upon a showing, by a preponderance of the evidence, that the information disclosed was knowingly false, disclosed with reckless disregard for the truth, deliberately misleading, rendered with malicious purpose toward the former or current employee, or disclosed in violation of a nondisclosure agreement or applicable law. If negative, false, or misleading information was given, and if the current or former employee so requests, then the employer shall give corrected information to every person or entity that is in the employer's records as having received the original information, including the former or current employee.

Wisconsin

Drug and alcohol testing. No employee may use, possess, attempt to possess, distribute, deliver, or be under the influence of a drug, or use or be under the influence of alcohol, while performing work on approved public projects. Before an employer may commence work on a project, it shall have in place a written program for the prevention of substance abuse among its employees. The program shall require that employees performing work on a project submit to random, reasonable-suspicion, and postaccident drug and alcohol testing and that employees slated to work on a project submit to drug and alcohol testing before commencing work on the project, except that testing of an employee falling into the latter category is not required if the employee

has been participating in a random-testing program during the 90 days preceding the date on which he or she begins work on the new project. There also must be a procedure for notifying an employee who tests positive for the presence of a drug or who refuses to submit to drug or alcohol testing that that employee may not perform work on a project until he or she meets the criterion for compliance. Each employer shall be responsible for the cost of developing, implementing, and enforcing its substance abuse prevention program. The contracting agency is not responsible for those costs or for the cost of any medical review of a test result or any rehabilitation provided to an employee. No employer may permit an employee who tests positive for the presence of a drug or who refuses to submit to drug or alcohol testing to perform work on a project until the employee tests negative

and presents all relevant documentation. An employee may be removed from a project for testing positive, for refusing to submit to a test, or if another employee of the contracting agency has a reasonable suspicion that the first employee is in violation of the drug and alcohol behavior requirements.

Prevailing wage. On January 1, 2006, the prevailing-wage threshold amount for coverage under the State prevailing-wage laws for State and municipal contracts was changed administratively from \$200,000 to \$209,000 for contracts in which more than one trade is involved and from \$41,000 to \$43,000 for contracts in which a single trade is involved. On January 1, 2007, these amounts were changed administratively to \$216,000 for contracts in which more than one trade is involved and \$44,000 for contracts in which

a single trade is involved.

Guam

Minimum wage. Effective July 1, 2007, the minimum wage in Guam is increased to \$5.75 per hour.

Note

¹Several tables displaying information on State labor laws, including tables on current and historical State minimum-wage rates and a table on State prevailing-wage laws, along with tables concerning child labor issues, are available on the Internet at the Employment Standards Administration website, www.dol.gov/esa/programs/whd/state/state.htm.