

SENATE BILL NO. 372

BY SENATOR MARTINY

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AN ACT

To amend and reenact R.S. 23:1660(C), (D), (E), (F), and (G) and to enact R.S. 23:1660(H), relative to unemployment insurance; to provide for audits; to provide for administrative penalties for noncompliance with audits; to provide for reimbursement of administrative penalties; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 23:1660(C), (D), (E), (F), and (G) are hereby amended and reenacted and R.S. 23:1660(H) is hereby enacted to read as follows:

§1660. Employment records and reports; inspection by administrator; confidentiality of records; prohibition against subpoena

* * *

C.(1) If, in response to the administrator's request, an employer refuses to allow an audit of its records; fails to make all necessary records available for audit or inspection; or in response to a fraud investigation, fails to provide a claimant's weekly wage information; the employer may be assessed an administrative penalty of five thousand dollars.

(2) Any notice requesting records as provided for in Paragraph (1) of this Subsection must clearly state that a penalty of up to five thousand dollars may be assessed for the failure to provide the records which are requested by the administrator.

(3) Any penalties assessed and collected against the employer shall be credited to the penalty and interest account.

(4) Upon the conclusion of an audit pursuant to this Subsection, the administrator may refund the administrative penalty to the employer, minus all administrative costs associated with the audit request.

1 D.(1) Information, statements, transcriptions of proceedings, transcriptions
2 of recordings, electronic recordings, letters, memoranda, and other documents and
3 reports thus obtained, or obtained from any individual, claimant, employing unit, or
4 employer pursuant to the administration of this Chapter, except to the extent
5 necessary for the proper administration and enforcement of this Chapter, shall be
6 held confidential and shall not be subject to subpoena in any civil action or
7 proceeding, nor be published or open to public inspection, other than to public
8 employees in the performance of their public duties, including the office of workers'
9 compensation in any manner revealing the individual's or employing unit's identity.
10 However, if requested, an employing unit or employer shall receive with any "notice
11 to appear for a hearing" a copy of the statement which the claimant made regarding
12 his separation from that employing unit or employer and in the same manner, and on
13 the same subject, the claimant shall receive a copy of the employer's statement.
14 Additionally, any claimant or his duly authorized representative, at a hearing before
15 an appeal referee or the board of review, shall be supplied with information from
16 such records to the extent necessary for the proper presentation of his claim.

17 (2) Any person who violates any provision of this Section shall be fined not
18 less than twenty dollars nor more than five hundred dollars, or imprisoned for not
19 less than ten days nor more than ninety days, or both.

20 ~~D.E.~~ On orders of the administrator, any records or documents received or
21 maintained by him under the provisions of this Chapter, or the rules and regulations
22 promulgated thereunder, may be destroyed under such safeguards as will protect
23 their confidential nature two years after the date on which such records or documents
24 last serve any useful, legal, or administrative purpose in the administration of this
25 Chapter or in the protection of the rights of anyone.

26 E.F. Any such information, as provided in Subsection ~~E~~ D of this Section,
27 that is released to any public employee in the performance of public duties, may be
28 released on a reimbursable basis and shall be used exclusively for execution of
29 intended public duties and shall not, under any circumstance, be accessed and used
30 for any other purpose, subject to sanction of any such public employee under

1 Paragraph ~~(2) of Subsection C~~ (D)(2) of this Section. The administrator and the
 2 office of employment security shall not be liable for any violation by any such public
 3 employee to whom such information has been disclosed or delegated.

4 FG. A state or local child support enforcement agency may provide access
 5 to disclosed information to any agent that is under written contract with such agency
 6 for purposes of establishing and collecting child support obligations from and
 7 locating individuals owing such obligations. Any such designated agent of a state or
 8 local child support agency that receives such information shall fully comply with the
 9 safeguards established under Subsection ~~E~~ F of this Section, subject to sanction
 10 under Paragraph ~~(2) of Subsection C~~ (D)(2) of this Section.

11 GH.(1) The ~~Governor's Office of~~ Louisiana Workforce Commission, the
 12 division of administration, or any contractor working on behalf of either of them,
 13 may be provided employment data obtained pursuant to the administration of this
 14 Chapter for any one of the expressly stated following purposes:

15 (a) Compiling statistics which would support performance management and
 16 evaluation by program managers of state and federal programs, especially as it
 17 ~~relates~~ they relate to employment outcomes.

18 (b) Compiling statistics which would assist in the preparation of common
 19 performance reports across agencies.

20 (c) Compiling statistics for education and training research purposes,
 21 including longitudinal studies to assist in program improvement and design.

22 (2) Any employment data, provided pursuant to this Subsection, will be
 23 confidential. No public employee or contractor acting on behalf of a state agency or
 24 employee of such contractor may do either of the following:

25 (a) Use any data, provided pursuant to this Subsection, for any purpose other
 26 than the statistical purposes for which the data is furnished.

27 (b) Make public any of the data, provided pursuant to this Subsection, which
 28 would allow the identity of any individual or employing unit to be inferred by either
 29 direct or indirect means.

30 (3)(a) Any such data, as provided in this Subsection, that is released to any

1 state agency or any contractor acting on behalf of a state agency pursuant to this
 2 Subsection, may be released on a reimbursable basis and shall be used exclusively
 3 for execution of intended public duties. Such data shall not, under any circumstance,
 4 be accessed and used for any other purpose, subject to sanction as provided for in
 5 Subparagraph (c) of this Paragraph of any such employee of such state agency or any
 6 contractor acting on behalf of such state agency. The administrator and the office of
 7 employment security shall not be liable for any violation by any employee of the
 8 ~~Governor's Office of~~ Louisiana Workforce Commission, the division of
 9 administration, or any contractor working on behalf of either of them, to whom such
 10 information has been disclosed or delegated in accordance with the provisions of this
 11 Subsection.

12 (b) Any such data, as provided in this Subsection, that is received by any state
 13 agency or any contractor acting on behalf of a state agency pursuant to this
 14 Subsection, must be destroyed within thirty days of completion of its intended
 15 purpose as described in this Subsection.

16 (c) Any person who violates any provision of this Subsection shall be fined
 17 not less than one thousand dollars nor more than twenty thousand dollars or
 18 imprisoned for not less than thirty days nor more than six months, or both.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____