



# Senate

General Assembly

**File No. 236**

February Session, 2012

Substitute Senate Bill No. 237

*Senate, April 3, 2012*

The Committee on Labor and Public Employees reported through SEN. PRAGUE of the 19th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING THE SHARING OF INFORMATION BETWEEN THE LABOR DEPARTMENT AND INSTITUTIONS OF HIGHER EDUCATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (g) of section 31-254 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective July*  
3 *1, 2012*):

4 (g) (1) Notwithstanding any of the information disclosure  
5 provisions of this section, the administrator shall disclose information  
6 obtained pursuant to subsection (a) of this section to: (A) A regional  
7 workforce development board, established pursuant to section 31-3k,  
8 to the extent necessary for the effective administration of the federal  
9 Trade Adjustment Assistance Program of the Trade Act of 1974, as  
10 amended from time to time, the federal Workforce Investment Act, as  
11 amended from time to time, and the state employment services  
12 program established pursuant to section 17b-688c for recipients of

13 temporary family assistance, provided a regional workforce  
14 development board, enters into a written agreement with the  
15 administrator, pursuant to subdivision (2) of this subsection,  
16 concerning protection of the confidentiality of such information prior  
17 to the receipt of any such information; [or] (B) a nonpublic entity that  
18 is under contract with the United States Department of Labor to  
19 administer grants which are beneficial to the interests of the  
20 administrator, provided such nonpublic entity enters into a written  
21 agreement with the administrator, pursuant to subdivision (2) of this  
22 subsection, concerning protection of the confidentiality of such  
23 information prior to the receipt of any such information; or (C) an  
24 institution of higher education or such institution's governing board to  
25 the extent necessary for evaluating such institution's programs of  
26 higher learning, as defined in section 10a-34.

27 (2) Any written agreement shall contain safeguards as are necessary  
28 to protect the confidentiality of the information being disclosed,  
29 including, but not limited to a:

30 (A) Statement from the regional workforce development board, [or]  
31 nonpublic entity, institution of higher education or such institution's  
32 governing board, as appropriate, of the purposes for the requested  
33 information and the specific use intended for the information;

34 (B) Statement from the regional workforce development board, [or]  
35 nonpublic entity, institution of higher education or such institution's  
36 governing board, as appropriate, that the disclosed information shall  
37 only be used for such purposes as are permitted by this subsection and  
38 consistent with the written agreement;

39 (C) Requirement that the regional workforce development board,  
40 [or] nonpublic entity, institution of higher education or such  
41 institution's governing board, as appropriate, store the disclosed  
42 information in a location that is physically secure from access by  
43 unauthorized persons;

44 (D) Requirement that the regional workforce development board,

45 [or] nonpublic entity, institution of higher education or such  
46 institution's governing board, as appropriate, store and process the  
47 disclosed information maintained in an electronic format in such a way  
48 that ensures that unauthorized persons cannot obtain the information  
49 by any means;

50 (E) Requirement that the regional workforce development board,  
51 [or] nonpublic entity, institution of higher education or such  
52 institution's governing board, as appropriate, establish safeguards to  
53 ensure that only authorized persons, including any authorized agent of  
54 the board, nonpublic entity, institution of higher education or such  
55 institution's governing board, are permitted access to disclosed  
56 information stored in computer systems;

57 (F) Requirement that the regional workforce development board,  
58 [or] nonpublic entity, institution of higher education or such  
59 institution's governing board, as appropriate, enter into a written  
60 agreement, that has been approved by the administrator, with any  
61 authorized agent of the board, [or] nonpublic entity, institution of  
62 higher education or such institution's governing board, which  
63 agreement shall contain the requisite safeguards contained in the  
64 written agreement between the board, [or] nonpublic entity, institution  
65 of higher education or such institution's governing board and the  
66 administrator;

67 (G) Requirement that the regional workforce development board,  
68 [or] nonpublic entity, institution of higher education or such  
69 institution's governing board, as appropriate, instruct all persons  
70 having access to the disclosed information about the sanctions  
71 specified in this section, and further require each employee of such  
72 board, [or] nonpublic entity, institution of higher education or such  
73 institution's governing board, and any agent of such board, [or]  
74 nonpublic entity, institution of higher education or such institution's  
75 governing board, authorized to review such information, to sign an  
76 acknowledgment that [he or she] such employee or such agent has  
77 been advised of such sanctions;

78 (H) Statement that redisclosure of confidential information is  
79 prohibited, except with the written approval of the administrator;

80 (I) Requirement that the regional workforce development board,  
81 [or] nonpublic entity, institution of higher education or such  
82 institution's governing board, as appropriate, dispose of information  
83 disclosed or obtained under this subsection, including any copies of  
84 such information made by the board, [or] nonpublic entity, institution  
85 of higher education or such institution's governing board, after the  
86 purpose for which the information is disclosed has been served, either  
87 by returning the information to the administrator, or by verifying to  
88 the administrator that the information has been destroyed;

89 (J) Statement that the regional workforce development board, [or]  
90 nonpublic entity, institution of higher education or such institution's  
91 governing board, as appropriate, shall permit representatives of the  
92 administrator to conduct periodic audits, including on-site inspections,  
93 for the purpose of reviewing such board's, [or] nonpublic entity's,  
94 institution of higher education's or such institution's governing board's  
95 adherence to the confidentiality and security provisions of the written  
96 agreement; and

97 (K) Statement that the regional workforce development board, [or]  
98 nonpublic entity, institution of higher education or such institution's  
99 governing board, as appropriate, shall reimburse the administrator for  
100 all costs incurred by the administrator in making the requested  
101 information available and in conducting periodic audits of the board's,  
102 [or] nonpublic entity's, institution of higher education's or such  
103 institution's governing board's procedures in safeguarding the  
104 information.

105 (3) Any employee or agent of a regional workforce development  
106 board, [or] nonpublic entity, institution of higher education or such  
107 institution's governing board, as appropriate, who discloses any  
108 confidential information in violation of this section and the written  
109 agreement, entered into pursuant to subdivision (2) of this subsection,  
110 shall be fined not more than two hundred dollars or imprisoned not



The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 13 \$	FY 14 \$
Labor Dept.	See Below	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

There is no fiscal impact associated with the Department of Labor (DOL) providing employment information to higher education institutions.

However, it should be noted that it is unclear if this bill is in compliance with federal law regarding the disclosure of confidential information. Noncompliance with such laws can result in loss of federal funding.

**The Out Years**

The ongoing fiscal impact depends upon the resolution of the noncompliance matter discussed above.

**OLR Bill Analysis****sSB 237*****AN ACT CONCERNING THE SHARING OF INFORMATION BETWEEN THE LABOR DEPARTMENT AND INSTITUTIONS OF HIGHER EDUCATION.*****SUMMARY:**

This bill allows the labor department (DOL) to share with higher education institutions or their governing boards, to the extent necessary to evaluate their programs of higher learning, employment records that DOL has obtained from employers. It is possible that this provision violates federal unemployment compensation (UC) regulations (see COMMENT).

By law, employers must keep accurate employment records. These records, which contain information that the UC administrator (i.e., the labor commissioner) prescribes, must be open for his inspection. By law, regional workforce development boards administering certain state and federal programs and nonpublic entities under contract with DOL to administer grants related to unemployment can access this information under written agreement with DOL. The bill allows but does not require institutions and governing boards to enter into such an agreement (see BACKGROUND).

However, if the institution or governing board enters into an agreement, the bill requires them to agree to the same terms as the others. They must agree to:

1. state the purpose for and intended use of the information and affirm that the information will be used only for permitted purposes;
2. store the information in a physically secure location;

3. store and process any electronic information in a format that prevents unauthorized access;
4. establish safeguards to ensure that only authorized individuals can access information stored in computers;
5. enter into a written agreement, approved by the labor commissioner, with any authorized agent that contains the safeguards included in the agreement with DOL;
6. instruct all people with access to the information about the legal sanctions and require each employee and agent authorized to review the disclosed information to sign an acknowledgement that they have been advised of the sanctions;
7. prohibit redisclosing the information, except as permitted in writing by the labor commissioner;
8. dispose of the information and any copies after it has served its purpose either by returning it to the administrator or verifying to him that the information has been destroyed;
9. permit audits and on-site inspections by DOL; and
10. reimburse DOL for the costs of providing the information and conducting the audits.

By law, employees or agents violating these provisions may be fined up to \$200, imprisoned for up to six months, or both. They are also banned from any further access to confidential information

EFFECTIVE DATE: July 1, 2012

## **BACKGROUND**

### ***Safeguard Requirements***

Federal regulations allow disclosure of confidential UC or wage data only to certain entities. State UC agencies (i.e., DOL) must require authorized recipients to safeguard the data (20 CFR § 603.9). These

safeguard requirements are generally similar to the safeguards described above.

## COMMENT

### ***Possible Conflict With Federal Law***

Federal regulations generally prohibit disclosing confidential UC or wage information (20 CFR § 603.4). The regulations establish several exceptions to this prohibition, including disclosure to a public official (or his or her agent) for use in performing official duties (i.e., administering or enforcing the law or executing official responsibilities) (20 CFR § 603.5(e)).

However, in a March 19, 2012 letter to the Connecticut DOL, the U.S. Department of Labor stated that disclosing confidential UC or wage information to higher education institutions or their governing boards is not permitted under the public officials exception (or, presumably, any other exception).

## COMMITTEE ACTION

Higher Education and Employment Advancement Committee

Joint Favorable Substitute Change of Reference  
Yea 19 Nay 0 (03/06/2012)

Labor and Public Employees Committee

Joint Favorable  
Yea 11 Nay 0 (03/20/2012)