

SB

274

STATE OF ALASKA
THE LEGISLATURE

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

House Judiciary:

1988 - March 15

March 17

HOUSE COMMITTEE REPORT

(7)

Date referred: 3/4/88

FURTHER REFERRALS:

DATE: March 17, 1988

The Judiciary Committee has considered CSSB 274(L&C)

"An Act relating to access to employment security records."

RECOMMENDS:

- replace with HCS CS SB 274(L & C) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING IN PASS:

[Handwritten signatures]

SIGNING OTHER RECOMMENDATIONS:

[Handwritten signature]

 Chairman's signature

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN, LEGISLATIVE COUNCIL
CHAIRMAN, OIL AND GAS COMMITTEE
515 7TH AVENUE, SUITE 130
FAIRBANKS, ALASKA 99701
OFFICE (907) 452-4882
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JUNEAU, ALASKA 99811
CAPITOL ROOM 125
OFFICE (907) 465-3834
HOME (907) 780-6027

Senate

MEMORANDUM

TO: House Labor & Commerce Committee Members

FROM: Senator Fahrenkamp

DATE: March 2, 1988

RE: CSSB 274 (L&C)

CSSB 274 (L&C) An act relating to access to employment security records by Senator Bettye Fahrenkamp

Background

I introduced this legislation because it has come to my attention that some recipients of retirement plans authorized under the federal Employee Retirement Income Security Act (ERISA) collect their pensions while continuing to work in the same line of work.

Under private pension plans established under ERISA, the administrator of the plan may discontinue benefits to the recipient if the recipient returns to employment in the same line of work for more than 39 hours per month. However, the administrators often have great difficulty in demonstrating that a recipient is no longer eligible to draw retirement benefits, i.e. that he or she is working in the same line of work.

What the bill does

This bill would allow the Alaska Department of Labor Employment Security Division to provide to administrators, on a confidential basis, the name and address of a worker's current employer and the current occupation if known. The Division should have such information because employers are required to make unemployment insurance contributions on behalf of their employees and report them quarterly.

The department is prohibited from releasing information if the U.S. Secretary of Labor rules that the release of the information would cause noncompliance with federal

requirements. The consequences would be a loss of the federal share of unemployment insurance funds. The U.S. Labor Department Employment and Training Administration addresses this "Compliance Question" annually each October.

Without this legislation, there will continue to be instances when workers, who have not yet retired, and most of them young, will be displaced by supposedly retired workers in the same line of work. In addition, retirement benefit funds would be drawn down unnecessarily, harming all retired workers.

The Alaska Department of Labor has a position paper in favor of CSSB 274 (L&C), and it has a zero fiscal note. The bill passed the Senate unanimously.

Proposed Committee Substitute

The proposed committee substitute before you incorporates SB 428 into CSSB 274 (L&C). SB 428, introduced by the Governor, would allow the Department to make public disclosures of the residency status of employees. Individual employees would not be identified. The purpose is to publicly inform employers of their resident hire record and to encourage them to consider qualified Alaskans for recruitment.

As in the case of release of information to plan administrators, the department may not release information on employer's hiring practices if the U.S. Secretary of Labor rules that the information would be grounds to find that the state is in noncompliance with federal law.

See attached letter of transmittal from Governor Cowper for further background information.

I urge your passage of the committee substitute proposed by the House Labor and Commerce Committee.

Sectional Analysis of proposed House L&C CS for CSSB 274 (L&C)

Sections 1. Purpose of AS 23.20.110(i)

Sets out the purpose, citing the state's high unemployment and the economic problems it causes for the state's residents, as justification for giving the department access to data on employee residency.

Section 2. AS 23.20.110 Information obtained by department.

Subsection (a) is amended to refer to exceptions in new subsections (h) and i).

Section 3. AS 23.20.110 Information obtained by department.

Adds a new subsection (h) to allow the department to make available upon request to an employee pension benefit plan administrator, the name, address, and if available, the person's current occupation. The information must be kept confidential by the administrator, unless it is relevant to a legal proceeding in which the plan or the administrator is a party. The department may also require reimbursement from the requesting party for the cost of furnishing the information.

Adds a new subsection (i) to allow the department to publicly disclose the residency status of employees to encourage employers to voluntarily consider the availability of qualified job seekers who are residents of the state. It would allow the department to disclose an employer's practice of hiring persons who are not residents of the state.

Adds a new subsection (j) that prohibits the department from releasing information under (h) or (i) if the U.S. Secretary of Labor rules that the release of the information would cause noncompliance with federal requirements. The consequences would be a loss of the federal share of unemployment insurance funds. The U.S. Labor Department Employment and Training Administration addresses this "Compliance Question" annually each October.

Provided by Senator Farhenkamp's office.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 16, 1988

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to disclosure of certain employment security information. The bill amends existing AS 23.20.110, regarding confidentiality and release of employment security records, to allow the Department of Labor to make public disclosures of the residency status of employees. Additionally, the bill provides a mechanism to preclude disclosure if the United States Department of Labor finds that the bill would place the employment security program in substantial noncompliance with federal program requirements in 42 U.S.C. 503(a).

Alaska is presently experiencing high unemployment, with substantial economic problems, among its residents. The Department of Labor is responsible for advancing opportunities for workers in Alaska in order to reduce that alarming unemployment rate (AS 23.05.010). One avenue open to the department is to publicly inform employers of their resident hire record and to encourage them to consider qualified Alaskans for recruitment.

At the present time, AS 23.20.110(a) precludes the department from making such public statements based on employment security records. The bill amends the statute to allow disclosure. Sections 2 and 3 of the bill.

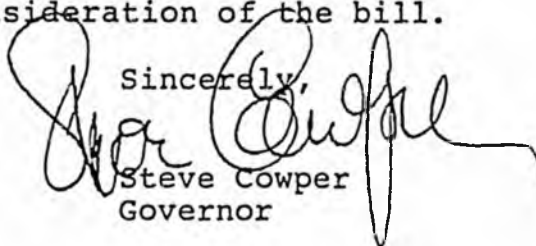
The bill adequately protects the privacy interests of the individual employees involved, for it precludes the department from releasing an employee's name, or information that would individually identify an employee. Section 3 of the bill.

Additionally, while the bill allows employers to be individually named, it expressly precludes the denial or limitation of department benefits, or other discrimination against the employer, because of the department's analysis of the employer's hiring practices. Section 3 of the bill.

Because the employment security program must comply with federal program requirements in order to receive federal money, the bill adequately protects that money by prohibiting disclosure of the information if the federal government finds that that action would cause a substantial noncompliance with the requirements of 42 U.S.C. 503(a). Section 3 of the bill.

This bill has the strong support of the Department of Labor and is consistent with this Administration's goal of enhancing job opportunities for Alaska residents. I urge your prompt and favorable consideration of the bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper", written in a cursive style. The signature is positioned to the left of the typed name and title.

Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to disclosure
of certain employment security information."
Sponsor: Rules Committee
Requestor: Governor

Agency Affected: Labor
BRU: Employment Security
Components: Unemployment Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Joe Sitton, Director Phone: 465-2725
Division: Employment Security Date: 2/9/88
Approved by Commissioner: Jim Sampson Date: 2/9/88
Agency: Labor

Distribution (by preparer):
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Legislative Sponsor
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Office of Management and Budget
Impacted Agency(ies)

opinion

2-24-88

Anchorage Daily News



Winner, 1976 Pulitzer Prize Gold Medal for Public Service

Gerald E. Grilly
Publisher

Howard Weaver
Managing Editor

Michael Carey
Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1946 by Norman C. Brown

Local hiring report card

If ever there's a motherhood issue in Alaska, it's local hiring. Everybody supports it. But when it's time to turn local hiring rhetoric into reality, some employers don't try as hard as others.

Those employers might hire fewer Outsiders if they knew somebody was handing out grades and naming names. And that's what Gov. Steve Cowper wants the state Labor Department to do.

He's asking the legislature for authority to publish the local hiring records of individual businesses. To ensure accuracy, the state will cross check residency claims with that ultimate proof of Alaska residence, the permanent fund dividend check.

It's a great idea — with one catch. Federal law may prevent the state from publishing such information on individual firms. Gov. Cowper's bill would prohibit disclosure if that's the case. The rules in this area are fuzzy, and the only way to get a definitive answer is to give disclosure a try.

The U.S. Constitution properly puts tight limits on what the state can do to force employers to hire Alaskans. But one constitutionally acceptable tool is the threat of bad publicity. Gov. Cowper is right: Employers will take local hiring more seriously if they know their records are open for for all to see.

Labor report zeroes in on Alaska jobs

By LARRY PERSILY
The Associated Press

JUNEAU — A Department of Labor report says most non-residents working in Alaska take jobs in the seasonal industries of seafood processing, tourism and construction.

"You go where the work is," said Labor Commissioner Jim Sampson. "Those types of industries surely are migratory."

The short-term jobs mean lower wages for non-residents.

The report says Alaskans averaged \$20,137 in annual wages for 1986, while non-residents earned an average \$8,339 for their work in the state.

The report was ordered by the legislature in 1986 when it passed a new local hire preference law. The law replaced the state's mandatory resident hire statute that had been declared unconstitutional by the courts.

The 60-page report given to lawmakers this session does not contain any statistics from 1987.

Although non-residents work fewer months and earn less wages than do residents, thousands of them find work in Alaska each year.

"I wish there were a lot of easy answers," Sampson said Thursday. "We still have a problem out there."

The report compares unemployment statistics with permanent fund dividend residency information.

Cowper wants local hire records open to the public

The Associated Press

JUNEAU — Employers' local hire records would become public information under legislation introduced by Gov. Steve Cowper.

The Department of Labor publishes non-resident hire information by industry and occupation. Cowper's bill (SB459) would permit the department to report non-resident hire records of individual employers.

"I think the public wants to know which businesses are doing their part to put Alaskans to work," Cowper said. "Right now we can find out who's hiring outsiders, but we can't tell anyone. That's absurd."

The Labor Department is able to match employment records with residency information from Alaska Permanent Fund dividend applications. The bill would remove the confidentiality provisions of state law to allow disclosure of the hiring information. It would not allow the release of employee names and wages.

Alaska's current local hire preference law is not as strong as the prior law that was declared unconstitutional by the courts.

"Public pressure is an important tool in convincing employers to hire residents," Cowper said.

A report from the Labor department shows that non-residents took home 8.7 percent of all wages paid in Alaska in 1986.

Alaska residents in 1986 earned more than \$5 billion in wages, compared to \$486 million paid to non-residents.

The report, released last month, also shows that non-residents comprised about 19 percent of the workers in Alaska, but earned much less than residents. The average earnings for a non-resident in 1986 were \$8,339, compared to \$20,137 for an Alaskan.

Unemployment checks going out of state, the report says, "reflect the migration of workers to residences and labor markets outside of Alas-

• A good year for commercial fishing and recovery in the timber industry was not enough to offset dramatic drops in oil and gas and con-

dents worked three months or less in 1986, accounting for the low earnings per employee when compared to resident workers.

The seafood industry is the largest single employer of non-resident workers, with retail and service jobs next in line.

"In some industries, such as seafood processing, the poor percentage of resident workers may be due to the refusal of many Alaskans to work in the plants," the report says. "Alaskans cite the seasonal nature of the work, the remoteness of the plants, and most of all, the long hours and low pay as reasons for not wanting to work in this industry."

The report notes that the Labor Department is working to improve the percentage of Alaskans hired at seafood plants. It also states, "As companies turn to processing a variety of species, employment will become less seasonal in nature."

The oil and gas industry, perhaps the most controversial employer in Alaska, paid non-residents \$80 million of its \$567 million payroll in 1986. Because of shorter employment, non-residents earned about 60 percent of the annual wages paid resident workers at oil and gas jobs.

The report says, "The state should assist industry in the permitting process, but expedited permits deserve something in return, and making a commitment to hire Alaska's

m. levine

LOOTER

APPOINTEES: How link appointed? Could as to race, sex and

Tymick, the mayor's 44 people so far. Of the 12 women, one is e Caucasian.

ve figures from the ner mayor appointed . Among the men, 106 d two were Hispanic. handicapped. Among two were black and

TACKLE: I have jaw at what's known as not happy with the ge and would like to enter Outside. — R.N.

rd than your question any clinics, probably a recognized dental society in Anchorage. does not endorse any tional clearinghouse, local society's public

n get a cure for the some dentists feel it's

r has been told before poor posture.

May 11, 1987

Senator Bettye Fahrenkamp
State Capitol
Room 125
Juneau, Alaska 99811

Re: Senate Bill No. 274

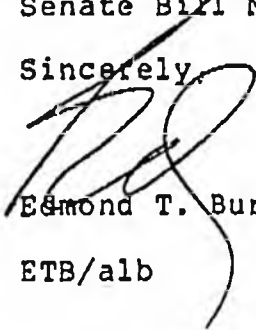
Dear Senator Fahrenkamp:

I hope serious consideration will be given to Senate Bill No. 274.

As you know, all multi-employer pension plans are designed to provide benefits upon retirement. Most have a suspension of benefits provision should participants return to active employment after retirement. Unfortunately, it is almost administratively impossible to equitably enforce this provision as there is no "efficient" mechanism to determine if a person has returned to work. Plan sponsors have only social security, word of mouth, or statements from participants. Senate Bill No. 274 would help plan sponsors to efficiently and equitably administer the return to work provisions of multi-employer pension plans.

We, therefore, hope serious consideration is given to Senate Bill No. 274 by both the Senate and House.

Sincerely,



Edmond T. Burgan

ETB/alb

Bill No. Committee Substitute for
Senate Bill 274 (L&C)
Title "An Act relating to access to
employment security records."

Date May 13, 1987

Contact: Joe Sitton
465-2712

Eileen Plate
465-2700

Committee Substitute for Senate Bill 274 (L&C) allows the Employment Security Division to provide to an Administrator of a joint administered pension plan information verifying an individual's employment and occupation. The plan administrator is required to keep such information confidential, unless it is relevant to a legal proceeding in which the administrator or plan is a party. This bill will help pension plans implement and enforce ERISA's return to work regulations, which provide that trustees can disallow pension benefits to participants in a plan should they return to work in the industry in the geographical area covered by the plan and work over 39 hours in a calendar month. This bill is supported by both management and labor trustees who serve on pension plans in Alaska.

The Department's concerns with this legislation have been addressed in the Labor and Commerce Committee Substitute for Senate Bill 274, which states that should the release of this information cause the department to be out of conformity, such information cannot be released. The importance of this is that should the U.S. Department of Labor rule that Alaska is out of conformity, all funding for our Employment Service and Unemployment Insurance programs could be withheld. Section 3 of the bill, therefore, safeguards against this.

The Department of Labor supports this bill.

APPROVED:



Jim Sampson, Commissioner
Department of Labor

Bill No. House Committee Substitute for Committee Substitute for Senate Bill 274 (L&C)

Date March 9, 1988

Title

Contact: Joe Sitton
465-2712

"An Act relating to access to employment security records."

Eileen Plate
465-2700

House Committee Substitute for Committee Substitute for Senate Bill 274 (L&C) amends AS 23.20.110, which relates to the confidentiality and release of employment security information. Specifically, this bill

- (1) allows the Employment Security Division to provide to an Administrator of a joint administered pension plan information verifying an individual's employment and occupation. The plan administrator is required to keep such information confidential, unless it is relevant to a legal proceeding in which the administrator or plan is a party. This will help pension plans implement and enforce ERISA's return to work regulations, which provide that trustees can disallow pension benefits to participants in a plan should they return to work in the industry in the geographical area covered by the plan and work over 39 hours in a calendar month. This provision is supported by both management and labor trustees who serve on pension plans in Alaska; and
- (2) allows the Department of Labor to analyze resident hire practices by employers, and to publicly disclose the results of the analysis. At the present time, the department has access to permanent fund dividend files and can match that information with employment security information reported on employees by employers, but may not publicly disclose the results of that analysis due to confidentiality provisions in employment security statutes.

The proposed disclosure provision adequately protects the privacy interests of the individual employees involved, inasmuch as it precludes the department from releasing an employee's name, or information that would individually identify an employee.

Additionally, while the provision allows employers to be individually named, it expressly precludes the denial or limitation of department benefits, or other discrimination against the employer, because of the department's analysis of the employer's hiring practices.

Alaska is presently experiencing high unemployment, with substantial economic problems among its residents. The Department of Labor is responsible for advancing opportunities for workers in Alaska in order to reduce the unemployment rate; and the proposed amendment to the employment security statute would enable the department to publicly inform employers of their resident hire record and to encourage them to hire Alaskans.

In addition, because the Employment Security Division must comply with federal program requirements in order to receive federal funding for its employment service and unemployment insurance programs, the bill adequately protects that money by prohibiting disclosure of the information as provided in the bill if the federal government finds that that action would cause a substantial noncompliance with federal law. The provisions of the bill would, in effect, become

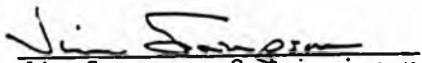

POSITION PAPER/Department of Labor

March 9, 1988

inoperative if a determination of nonconformity was made by the U.S. Secretary of Labor.

The Department strongly supports the provisions of this bill. It will not have a fiscal impact on the Department.

APPROVED:


Jim Sampson, Commissioner
Department of Labor 

Bill No. Committee Substitute for
Senate Bill 274 (L&C)
Title "An Act relating to access to
employment security records."

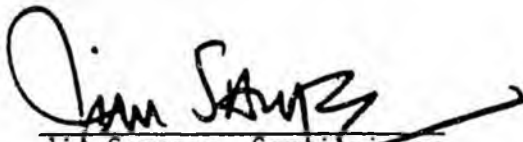
Date February 17, 1988
Contact: Joe Sitton
465-2712
Eileen Plate
465-2700

Committee Substitute for Senate Bill 274 (L&C) allows the Employment Security Division to provide to an Administrator of a joint administered pension plan information verifying an individual's employment and occupation. The plan administrator is required to keep such information confidential, unless it is relevant to a legal proceeding in which the administrator or plan is a party. This bill will help pension plans implement and enforce ERISA's return to work regulations, which provide that trustees can disallow pension benefits to participants in a plan should they return to work in the industry in the geographical area covered by the plan and work over 39 hours in a calendar month. This bill is supported by both management and labor trustees who serve on pension plans in Alaska.

The Department's concerns with this legislation have been addressed in the Senate Labor and Commerce Committee Substitute, which states that should the release of this information cause the department to be out of conformity, such information cannot be released. The importance of this is that should the U.S. Department of Labor rule that Alaska is out of conformity, all funding for our Employment Service and Unemployment Insurance programs could be withheld. Section 3 of the bill, therefore, safeguards against this.

The Department of Labor supports this bill.

APPROVED:


Jim Sampson, Commissioner
Department of Labor

POSITION PAPER/Department of Labor

Original sponsor: Fahrenkamp

BY THE LABOR AND
COMMERCE COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 274 (L&C)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to access to employment security
7 records."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 23.20.110(a) is amended to read:

10 (a) Except as provided in (h) of this section, the [THE] depart-
11 ment shall hold information obtained from an employing unit or indi-
12 vidual in the course of administering this chapter and determinations
13 as to the benefit rights of an individual confidential and may not
14 disclose them or open them to public inspection in a manner which
15 reveals the identity of the individual or employing unit. A claimant
16 or the legal representative of the claimant is entitled to information
17 from the records of the department to the extent necessary for the
18 proper presentation of the claim in a proceeding under this chapter.
19 Subject to restrictions which the department prescribes by regulation,
20 the information may be made available to an agency of this state or
21 another state or federal agency charged with the administration of an
22 unemployment compensation law or the maintenance of a system of public
23 employment offices, or, for the purposes of the Federal Unemployment
24 Tax Act, to the Internal Revenue Service of the United States, or, for
25 tax purposes, to the Department of Revenue. Information obtained in
26 connection with the administration of the employment service may be
27 made available to persons or agencies for purposes appropriate to the
28 operation of a public employment service.

29 * Sec. 2. AS 23.20.110 is amended by adding a new subsection to read:

1 (h) The department shall make information obtained from an
2 employing unit or an individual available on request to an adminis-
3 trator of a joint administered defined pension benefit plan estab-
4 lished under 29 U.S.C. 1001 - 1461 (Employee Retirement Income Securi-
5 ty Act) to assist the administrator in verifying whether a person
6 receiving a retirement benefit from the plan has been employed in the
7 last six months. To the extent the information is available to the
8 department, the department shall provide the administrator with the
9 name and address of the person's current employer and the person's
10 current occupation. The administrator shall keep information received
11 under this subsection confidential. However, the administrator may
12 reveal the information if it is relevant to a legal proceeding in
13 which the administrator or the plan is a party. The department may
14 require the plan to reimburse the department for the cost of furnish-
15 ing the information.

16 * Sec. 3. Notwithstanding AS 23.20.110(h), added by sec. 2 of this Act,
17 the department may not release information to an administrator if the
18 United States Secretary of Labor rules that release of the information
19 would be grounds to find that the state is in substantial noncompliance
20 with 42 U.S.C. 503(a).

Alaska State Legislature

SENATOR BETTYE FAHRENKAMP
CHAIRMAN, LEGISLATIVE COUNCIL
CHAIRMAN, OIL AND GAS COMMITTEE
515 7TH AVENUE, SUITE 130
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CAPITOL ROOM 125
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MEMORANDUM

Senate

TO: House Judiciary Committee Members
FROM: Senator Bettye Fahrenkamp
DATE: March 17, 1988
RE: CSSB 274 (L&C)

CSSB 274 (L&C) An act relating to access to employment security records by Senator Bettye Fahrenkamp

At the March 15 meeting of the committee, Vice Chair Representative Ulmer asked for more information on the impact the suspension of benefits provision would have on recipients of benefits from private pension plans established under the Employee Retirement Income Security Act of 1974 (ERISA).

Title 29 U.S.C. Section 1053 MINIMUM VESTING STANDARDS subsection (a)(3)(B) (attached) says:

"...the plan provides that the payment of benefits is suspended for such period as the employee is employed, subsequent to the commencement of payment of such benefits-

(i) in the case of a plan other than a multi-employer plan, by an employer who maintains the plan under which such benefits were being paid; and

(ii) in the case of a multi-employer plan, in the same industry, in the same trade or craft, and the same geographic area covered by the plan, and when such benefits commenced. (Emphasis added).

Federal regulations, 29 CFR Chapter XXV Section 2530.203-3, SUSPENSION OF PENSION BENEFITS UPON EMPLOYMENT, set forth the circumstances and conditions under which benefit payments may be suspended in greater detail and defines the relevant terms.

SB 274 would give the administrator of a plan an enforcement tool, a way to verify that a recipient is re-employed in violation of the federal statute and regulations cited above.

A suspension of benefit under this federal section is not grounds for forfeiture of benefits.

th period beginning on an employment commencement anniversary of that an is prohibited, however, any period that would official postponement of t, such as a period measuring the employment date.

with 3-year 100 percent rules regarding when a has a nonforfeitable right ed benefit, see section i) of the Act and section i) of the Code and regula- hereunder.

ments to change the vest- tion period. (1) A plan ed to change the vesting period to a different 12- month period provided ult of such change no em- ed percentage of the ac- t derived from employe- is less on any date after than such vested percent- e in the absence of such- an amendment changing- computation period shall- comply with the require- ; subparagraph if the first- computation period estab- such amendment begins- ast day of the preceding- ution period and an em- is credited with 1,000- vice in both the vesting- period under the plan- amendment and the first- ution period under the- nded is credited with 2- ice for those vesting com- ods. For example, a plan- en using a calendar year- ution period is amend- for a July 1-June 30 vest- tion period starting in- ees who complete more- ours of service in both of- 1 periods extending from- 77 to December 31, 1977- y 1, 1977 to June 30, 1978- two years on the plan's- rule. The plan is deemed- requirements of this sub-

ditional requirements per- changes in the vesting

schedule, see section 203(c)(1) of the Act and section 411(a)(10) of the Code and the regulations issued thereunder.

(d) *Service preceding a break in service.* For purposes of applying section 203(b)(3)(D) of the Act and section 411(a)(6)(D) of the Code, (relating to counting years of service before a break in service for vesting purposes), the computation periods used by the plan in computing years of service before such break must be the vesting computation periods. (For application of the break in service rules, see section 203(b)(3)(D) and section 411(a)(6)(D) of the Code and regulations issued thereunder.)

§ 2530.203-3 Suspension of pension benefits upon employment.

(a) *General.* Section 203(a)(3)(B) of the Act provides that the right to the employer-derived portion of an accrued pension benefit shall not be treated as forfeitable solely because an employee pension benefit plan provides that the payment of benefits is suspended during certain periods of re-employment which occur subsequent to the commencement of payment of such benefits. This section sets forth the circumstances and conditions under which such benefit payments may be suspended. A plan may provide for the suspension of pension benefits which commence prior to the attainment of normal retirement age, or for the suspension of that portion of pension benefits which exceeds the normal retirement benefit, or both, for any reemployment and without regard to the provisions of section 203(a)(3)(B) and this regulation to the extent (but only to the extent) that suspension of such benefits does not affect a retiree's entitlement to normal retirement benefits payable after attainment of normal retirement age, or the actuarial equivalent thereof.

(b) *Suspension rules—(1) General rule.* A plan may provide for the permanent withholding of an amount which does not exceed the suspendible amount of an employee's accrued benefit for each calendar month, or for each four or five week payroll period ending in a calendar month, during which an employee is employed in

"section 203(a)(3)(B) service" as described in § 2530.203-3(c).

(2) *Resumption of payments.* If benefit payments have been suspended pursuant to paragraph (b)(1) of this section, payments shall resume no later than the first day of the third calendar month after the calendar month in which the employee ceases to be employed in section 203(a)(3)(B) service: *Provided,* That the employee has complied with any reasonable procedure adopted by the plan for notifying the plan that he has ceased such employment. The initial payment upon resumption shall include the payment scheduled to occur in the calendar month when payments resume and any amounts withheld during the period between the cessation of employment and the resumption of payments, less any amounts which are subject to offset.

(3) *Offset rules.* A plan which provides for the permanent withholding of benefits may deduct from benefit payments to be made by the plan payments previously made by the plan during those calendar months or pay periods in which the employee was employed in section 203(a)(3)(B) service: *Provided,* That such deduction or offset does not exceed in any one month 25 percent of that month's total benefit payment which would have been due but for the offset (excluding the initial payment described in paragraph (b)(2) of this section, which may be subject to offset without limitation).

(4) *Notification.* No payment shall be withheld by a plan pursuant to this section unless the plan notifies the employee by personal delivery or first class mail during the first calendar month or payroll period in which the plan withholds payments that his benefits are suspended. Such notification shall contain a description of the specific reasons why benefit payments are being suspended, a general description of the plan provisions relating to the suspension of payments, a copy of such provisions, and a statement to the effect that applicable Department of Labor regulations may be found in § 2530.203-3 of the Code of Federal Regulations. In addition, the suspension notification shall inform the em-

ployee of the plan's procedure for affording a review of the suspension of benefits. Requests for such reviews may be considered in accordance with the claims procedure adopted by the plan pursuant to section 503 of the Act and applicable regulations. In the case of a plan which requires the filing of a benefit resumption notice as a condition precedent to the resumption of benefits, the suspension notification shall also describe the procedure for filing such notice and include the forms (if any) which must be filed. Furthermore, if a plan intends to offset any suspendible amounts actually paid during the periods of employment in section 203(a)(3)(B) service, the notification shall identify specifically the periods of employment, the suspendible amounts which are subject to offset, and the manner in which the plan intends to offset such suspendible amounts. Where the plan's summary plan description (SPD) contains information which is substantially the same as information required by this paragraph (b)(4), the suspension notification may refer the employee to relevant pages of the SPD for information as to a particular item, provided the employee is informed how to obtain a copy of the SPD, or relevant pages thereof, and provided requests for referenced information are honored within a reasonable period of time, not to exceed 30 days.

(5) *Verification.* A plan may provide that an employee must notify the plan of any employment. A plan may request from an employee access to reasonable information for the purpose of verifying such employment. Furthermore, a plan may provide that an employee must, at such time and with such frequency as may be reasonable, as a condition to receiving future benefit payments, either certify that he is unemployed or provide factual information sufficient to establish that any employment does not constitute section 203(a)(3)(B) service if specifically requested by the plan administrator. Once an employee has furnished the required certification or information, the plan must forward, at the next regularly scheduled time for payment of benefits, all payments which had been withheld pursuant to this para-

graph (b)(5) except to the extent that payments may be withheld and offset pursuant to other provisions of this regulation.

(6) *Status determination.* If a plan provides for benefits suspension, the plan shall adopt a procedure, and so inform employees, whereunder an employee may request, and the plan administrator in a reasonable amount of time will render, a determination of whether specific contemplated employment will be section 203(a)(3)(B) service for purposes of plan provisions concerning suspension of benefits. Requests for status determinations may be considered in accordance with the claims procedure adopted by the plan pursuant to section 503 of the Act and applicable regulations.

(7) *Presumptions.* (i) A plan which has adopted verification requirements described in paragraph (b)(5) of this section, and which complies with the notice requirements set forth in paragraph (b)(7)(ii) of this section may provide that whenever the plan fiduciaries become aware that a retiree is employed in section 203(a)(3)(B) service and the retiree has not complied with the plan's reporting requirements with regard to that employment, the plan fiduciaries may, unless it is unreasonable under the circumstances to do so, act on the basis of a rebuttable presumption that the retiree had worked a period exceeding the plan's minimum number of hours for that month. In addition, a plan covering persons employed in the building trades which has adopted verification requirements described in paragraph (b)(5) of this section and which complies with the notice requirements set forth in paragraph (b)(7)(ii) of this section may provide that whenever the plan fiduciaries become aware that a retiree is employed in section 203(a)(3)(B) service at a construction site and the retiree has not complied with the plan's reporting requirements with regard to that employment, then the plan fiduciaries may, unless it is unreasonable under the circumstances to do so, act on the basis of a rebuttable presumption that the retiree engaged in such employment for the same employer in work at that site for so long before the work in question as

except to the extent that they may be withheld and offset under other provisions of this

determination. If a plan provides for a suspension of benefits, the plan must adopt a procedure, and so long as the employee, whereunder an employee requests, and the plan administrator provides a reasonable amount of information, a determination of the employee's eligibility for the contemplated employment under section 203(a)(3)(B) for purposes of plan provisions regarding suspension of benefits. Retiree status determinations may be made in accordance with the procedure adopted by the plan under section 503 of the Act and the regulations.

(1) A plan which requires verification requirements under paragraph (b)(5) of this section which complies with the requirements set forth in paragraph (i) of this section may be applied whenever the plan fiduciary is aware that a retiree is covered by section 203(a)(3)(B) service if the retiree has not complied with the reporting requirements for that employment, the employee may, unless it is under the circumstances to the basis of a rebuttable presumption that the retiree had not exceeded the plan's number of hours for that employment, a plan covering the employee in the building has adopted verification requirements described in paragraph (b)(7)(ii) of this section and which compliance requirements set forth in paragraph (b)(7)(ii) of this section provide that whenever an employee becomes aware that the employee was employed in section 203(a)(3)(B) service at a construction site if the retiree has not complied with the reporting requirements for that employment, then the employee may, unless it is under the circumstances to the basis of a rebuttable presumption that the retiree was employed for the time in work at that site for the work in question as

that same employer performed that work at that construction site.

(ii) A plan which provides for a presumption described in paragraph (b)(7)(i) of this section may employ such presumption only if the following requirements are met. The plan must describe its employment verification requirements and the nature and effect of such presumption in the plan's summary plan description and in any communication to plan participants which relates to such verification requirements (for example, employment reporting reminders or forms), and retirees must be furnished such disclosure, whether through receipt of the above communications or by special distribution, at least once every 12 months.

(c) **Section 202(a)(3)(B) Service—(1) Plans other than multiemployer plans.** In the case of a plan other than a multi-employer plan, as defined in section 3(37) of the Act, the employment of an employee, subsequent to the time the payment of benefits commenced or would have commenced if the employee had not remained in or returned to employment, results in section 203(a)(3)(B) service during a calendar month, or during a four or five week payroll period ending in a calendar month, if the employee, in such month or payroll period,

(i) Completes 40 or more hours of service (as defined in 29 CFR 2530.200b-2(a) (1) and (2)) for an employer which maintains the plan, including employers described in § 2530.210 (d) and (e), as of the time that the payment of benefits commenced or would have commenced if the employee had not remained in or returned to employment; or

(ii) Receives from such employer payment for any such hours of service performed on each of 8 or more days (or separate work shifts) in such month or payroll period. *Provided,* That the plan has not for any purpose determined or used the actual number of hours of service which would be required to be credited to the employee under § 2530.200b-(2)(a).

(2) **Multiemployer plans.** In the case of a multiemployer plan, as defined in section 3(37) of the Act, the employment of an employee subsequent to

the time the payment of benefits commenced or would have commenced if the employee had not remained in or returned to employment results in section 203(a)(3)(B) service during a calendar month, or during a four or five week payroll period ending in a calendar month, if the employee, in such month or payroll period:

—Completes 40 or more hours of service (as defined in § 2530.200b-2(a) (1) and (2)) or

—Receives payment for any such hours of service performed on each of 8 or more days (or separate work shifts) in such month or payroll period. *Provided,* That the plan has not for any purpose determined or used the actual number of hours of service which would be required to be credited to the employee under § 2530.200(b)-(2)(a); in

—An industry in which employees covered by the plan were employed and accrued benefits under the plan as a result of such employment at the time that the payment of benefits commenced or would have commenced if the employee had not remained in or returned to employment, and

—A trade or craft in which the employee was employed at any time under the plan, and

—The geographic area covered by the plan at the time that the payment of benefits commenced or would have commenced if the employee had not remained in or returned to employment.

(1) **Industry.** The term "Industry" means the business activities of the types engaged in by any employers maintaining the plan.

Example. One of the employers contributing to a multiemployer plan engages in heavy construction, another in textile manufacturing, and another in communications. Employee E began his career as an employee of an employer engaged in heavy construction. Later E was employed by an employer in communications. With both employers, E accrued benefits under the plan. If E retires and then becomes reemployed in the same trade or craft and in the same geographic area, employment by E in either heavy construction, communications or textile manufacturing, whether or not with an employer who contributes to the plan or in a self-employed capacity, may be considered

by the plan to be employment in the same industry, assuming that employees covered by the plan were accruing benefits as a result of employment in these industries at the time E commenced receiving benefits. This is true even though E did not previously accrue benefits as a result of employment with an employer engaged in textile manufacturing because other employees covered by the plan were employed in that industry and were accruing benefits under the plan as a result of such employment at the time when benefit payments to E commenced or would have commenced if E had not returned to employment.

(ii) *Trade or craft.* A trade or craft is (A) a skill or skills, learned during a significant period of training or practice, which is applicable in occupations in some industry, (B) a skill or skills relating to selling, retailing, managerial, clerical or professional occupations, or (C) supervisory activities relating to a skill or skills described in (A) or (B) of this paragraph (c)(2)(ii). For purposes of this paragraph (c)(2)(ii), the determination whether a particular job classification, job description or industrial occupation constitutes or is included in a trade or craft shall be based upon the facts and circumstances of each case. Factors which may be examined include whether there is a customary and substantial period of practical, on-the-job training or a period of related supplementary instruction. Notwithstanding any other factor, the registration of an apprenticeship program with the Bureau of Apprenticeship and Training of the U.S. Department of Labor is sufficient for the conclusion that a skill or skills which is the subject of the apprenticeship program constitutes a trade or craft.

Example. Participation in a multiemployer plan is limited solely to electricians. Electrician E retired and then became reemployed as a foreman of electricians. Because a "trade or craft" includes related supervisory activities, E remains within his trade or craft for purposes of this section.

(iii) *Geographic area covered by the plan.* (A) With the exception of a plan covering employees in a maritime industry, the "geographic area covered by the plan" consists of any state or any province of Canada in which contributions were made or were required

to be made by or on behalf of an employer and the remainder of any Standard Metropolitan Statistical Area (SMSA) which falls in part within such state, determined as of the time that the payment of benefits commenced or would have commenced if the employee had not returned to employment.

Example. A multiemployer plan covers plumbers in Pennsylvania. All contributing employers have always been located within Pennsylvania. Accordingly, the "geographic area covered by the plan" consists of Pennsylvania and any SMSAs which fall in part within Pennsylvania. Thus, for example, in the case of the Philadelphia SMSA, Burlington, Camden and Gloucester Counties in New Jersey are within the "geographic area covered by the plan".

(B) [Reserved—for definition of the geographic area covered by a plan that covers employees in a maritime industry.]

For purposes of this paragraph (c)(2)(iii), contributions shall not include amounts contributed: after December 31, 1978 by or on behalf of an employer where no contributions were made by or on behalf of that employer before that date, if the primary purpose of such contribution is to allow for the suspension of plan benefits in a geographic area not otherwise covered by the plan; or with respect to isolated projects performed in states where plan participants were not otherwise employed.

(3) *Employment in a maritime industry.* For plans covering employees employed in a maritime industry, as defined in § 2530.200b-6, the standard of "five or more days of service, as defined in § 2530.200b-7(a)(1)" shall be used in lieu of the standard "40 or more hours of service", for purposes of determining whether an employee is employed in section 203(a)(3)(B) service.

(d) *Suspendable amount—(1) Life annuity.* In the case of benefits payable periodically on a monthly basis for as long as a life (or lives) continues, such as a straight life annuity or a qualified joint and survivor annuity, a plan may provide that an amount not greater than the portion of a monthly benefit payment derived from employer contributions may be withheld per-

or on behalf of an employee remainder of any metropolitan Statistical area which falls in part outside, determined as of the date of the payment of benefits would have commenced had the employee not returned to

multiemployer plan covers Pennsylvania. All contributing employers always been located within the area. Accordingly, the "geographic area of the plan" consists of Pennsylvania SMSAs which fall in part within the area. Thus, for example, in Philadelphia SMSA, Burleigh and Gloucester Counties in North Carolina within the "geographic area of the plan".

d—for definition of the area covered by a plan that exists in a maritime industry.

of this paragraph contributions shall not include contributions contributed after December 8, 1981 by or on behalf of an employee if no contributions were made on behalf of that employee before December 8, 1981. If the primary purpose of the contribution is to allow for the accrual of plan benefits in an area not otherwise covered; or with respect to contributions performed in states where participants were not otherwise covered.

ent in a maritime industry covering employees in the maritime industry, as defined in § 30.200b-6, the standard "40 days of service, as defined in § 30.200b-7(a)(1)" shall be the standard "40 or more days of service", for purposes of determining whether an employee is covered under section 203(a)(3)(B) service.

able amount—(1) Life insurance case of benefits payable on a monthly basis under a life (or lives) continuation or survivor annuity or a life insurance annuity, a portion of a monthly benefit derived from employment may be withheld per-

manently for a calendar month, or for a four or five week payroll period ending in a calendar month, in which the employee is employed in section 203(a)(3)(B) service.

(2) *Other benefit forms.* In the case of benefits payable in a form other than the form described in paragraph (d)(1) of this section, a plan may provide for the permanent withholding of an amount of the employer-derived portion of benefit payments for a calendar month, or for a four or five week payroll period ending in a calendar month, in which the employee is employed in section 203(a)(3)(B) service, not exceeding the lesser of—

(i) The amount of benefits which would have been payable to the employee if he had been receiving monthly benefits under the plan since actual retirement based on a single life annuity commencing at actual retirement age; or

(ii) The actual amount paid or scheduled to be paid to the employee for such month. Payments which are scheduled to be paid less frequently than monthly may be converted to monthly payments for purposes of this paragraph (d)(2)(ii).

(Approved by the Office of Management and Budget under control number 1210-0048)

(46 FR 8903, Jan. 27, 1981, as amended at 46 FR 59245, Dec. 4, 1981; 46 FR 60572, Dec. 11, 1981; 49 FR 18295, Apr. 30, 1984)

§ 2530.204-1 Year of participation for benefit accrual.

(a) *General.* Section 204(b)(1) of the Act and section 411(b)(1) of the Code contain certain requirements relating to benefit accrual under a defined benefit pension plan. Some of these requirements are based on the number of years of participation included in an employee's period of service. Paragraph (b) of this section relates to service which must be taken into account in determining an employee's period of service for purposes of benefit accrual. Section 2530.204-2 sets forth rules relating to the computation periods to be used in measuring years of participation for benefit accrual ("accrual computation periods").

(b) *Service which may be disregarded for purposes of benefit accrual.* (1)

In calculating an employee's period of service for purposes of benefit accrual under a defined benefit pension plan, section 204(b)(3) of the Act and section 411(b)(3) of the Code permit the following service to be disregarded: service before an employee first becomes a participant in the plan; service which is not required to be taken into account under section 202(b) of the Act and section 410(b)(5) of the Code (relating to one-year breaks in service for purposes of eligibility to participate); and service which is not required to be taken into account under section 204(b)(3)(C) of the Act and section 411(b)(3)(C) of the Code (relating to 12-consecutive-month periods during which an employee's service is less than 1,000 hours). In addition, in calculating an employee's period of service for purposes of benefit accrual, a defined benefit plan shall not be required to take into account service before the conclusion of a series of consecutive 1-year breaks in service occurs which permits a plan to disregard prior service under section 203(b)(3)(D) of the Act and section 411(a)(6)(D) of the Code.

(2) *Example.* The following example illustrates paragraph (b)(1) of this section. A plan has a calendar year vesting and accrual computation period and, under § 2530.202-2 (a) and (b)(1), uses eligibility computation periods beginning on an employee's employment commencement date and anniversaries thereof. The plan provides that an employee who has at least 10 years of service has a vested right to 100 percent of his accrued benefit derived from employer contributions. The plan provides that an employee who is credited with at least 1,000 hours of service in a calendar year accrual computation period is credited with at least partial year of participation for purposes of benefit accrual. An employee whose birthday is October 16, 1956, begins employment with an employer maintaining the plan on January 1, 1977. Under § 2530.202-2(a)(1), January 1, 1977 is the employee's employment commencement date and the calendar year 1977 is the employee's initial eligibility computation period. The employee completes at least 1,000 hours of service in each of

ative Date. Section applicable in the plan years beginning after Sept. 2, except as otherwise provided in section of this title. see section 1061(a) of this

e case of plans in existence on Jan. 1, section applicable in the case of plan beginning after Dec. 31, 1975, except as se provided in section 1061(c) and (d) title, see section 1061(b)(2) of this title.

ulgation of Regulations. Secretary ed, effective Sept. 2, 1974, to promul- gulations wherever provisions of this ter call for the promulgation of regu- see section 1031(c) of this title.

lative History. For legislative history pose of Pub.L. 93-406, see 1974 U.S. ong. and Adm.News, p. 4639. See, b.L. 98-397, 1984 U.S.Code Cong. n.News, p. 2547.

ection 1060 of this title. an for purposes of this section, see

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Labor Relations § 124. Master and Servant § 167 et seq.

of union pension fund's consistent refusing to permit employers to ontributions for employees under , in order to protect actuarial and tive soundness of the fund, the not required to accept contributions oyer whose collective bargaining with union local provided that emust attain age of 25 before employer ed to make contributions on their alarico v. United Furniture Work- on Fund A, D.C.Neb.1979, 479 172.

tatus individual members who were sole proprietors itred other union members to work were not eligible for participation

a pension fund as dual status employer em- ployee in that, under this chapter, dual status individuals are not eligible for inclusion in employee pension benefit plans. Peckham v. Board of Trustees of Intern. Broth. of Paiat- es and Allied Trades Union, C.A.Okl.1981, 653 F.2d 424.

3. Persons covered

Even though language of employer's wel- fare benefit plan, under which employee was not covered, was almost identical to language of pension plan, employee was entitled to benefits under pension plan in view of fact that, unlike welfare benefit plans, pension plan was not exempt from participation, vest- ing, and funding requirements of this chapter; rather, this chapter expressly set forth mini- mum participation standards which had no exception applicable to persons in employee's position, so that, because pension plan stated that it was to be construed to meet require- ments of this chapter, and there were obvious and significant benefits to meeting such re- quirements, plan would be construed as in- cluding employee as a participant. Crouch v.

Mo-Kan Iron Workers Welfare Fund, C.A. Kan.1984, 740 F.2d 805.

4. Inclusion of ineligible individual

Mere inclusion of individuals who are not eligible for participation in a plan within coverage of this chapter does not invalidate, as a whole, the plan which otherwise com- plies with requirements of this chapter; in such situation, all that is required is invalida- tion of the plan as it pertains to such ineligi- ble participants. Insurance & Prepaid Bene- fits Trusts v. Marshall, D.C.Cal.1981, 90 F.R.D. 703.

5. Estoppel

Union pension fund's accepting contribu- tions from employer which excluded contri- butions for employees under age of 25 did not estop fund from subsequently taking action inconsistent with that acceptance, where fund had not known that employer was excluding such contributions and had not intended to deceive employer, but at most, had been merely mistaken in accepting the contribu- tions. Talarico v. United Furniture Workers Pension Fund A, D.C.Neb.1979, 479 F.Supp. 1072.

§ 1053. Minimum vesting standards

(a) Nonforfeitability requirements

Each pension plan shall provide that an employee's right to his normal retirement benefit is nonforfeitable upon the attainment of normal retire- ment age and in addition shall satisfy the requirements of paragraphs (1) and (2) of this subsection.

(1) A plan satisfies the requirements of this paragraph if an employ- ee's rights in his accrued benefit derived from his own contributions are nonforfeitable.

(2) A plan satisfies the requirements of this paragraph if it satisfies the requirements of subparagraph (A), (B), or (C).

(A) A plan satisfies the requirements of this subparagraph if an employee who has at least 10 years of service has a nonforfeitable right to 100 percent of his accrued benefit derived from employer contributions.

(B) A plan satisfies the requirements of this subparagraph if an employee who has completed at least 5 years of service has a nonforfeitable right to a percentage of his accrued benefit derived from employer contributions which percentage is not less than the percentage determined under the following table:

Years of service:	Nonforfeitable percentage
5	25
6	30
7	35

(ii) in the case of a multiemployer plan, in the same industry, in the same trade or craft, and the same geographic area covered by the plan, as when such benefits commenced.

The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph, including regulations with respect to the meaning of the term "employed".

(C) A right to an accrued benefit derived from employer contributions shall not be treated as forfeitable solely because plan amendments may be given retroactive application as provided in section 1052(c)(8) of this title.

(D)(i) A right to an accrued benefit derived from employer contributions shall not be treated as forfeitable solely because the plan provides that, in the case of a participant who does not have a nonforfeitable right to at least 50 percent of his accrued benefit derived from employer contributions, such accrued benefit may be forfeited on account of the withdrawal by the participant of any amount attributable to the benefit derived from mandatory contributions (as defined in the last sentence of section 1054(c)(2)(C) of this title) made by such participant.

(ii) Clause (i) shall not apply to a plan unless the plan provides that any accrued benefit forfeited under a plan provision described in such clause shall be restored upon repayment by the participant of the full amount of the withdrawal described in such clause plus, in the case of a defined benefit plan, interest. Such interest shall be computed on such amount at the rate determined for purposes of section 1054(c)(2)(C) of this title (if such subsection applies) on the date of such repayment (computed annually from the date of such withdrawal). In the case of a defined contribution plan the plan provision required under this clause may provide that such repayment must be made before the participant has any 1-year break in service commencing after the withdrawal.

(iii) In the case of accrued benefits derived from employer contributions which accrued before September 2, 1974, a right to such accrued benefit derived from employer contributions shall not be treated as forfeitable solely because the plan provides that an amount of such accrued benefit may be forfeited on account of the withdrawal by the participant of an amount attributable to the benefit derived from mandatory contributions, made by such participant before September 2, 1974, if such amount forfeited is proportional to such amount withdrawn. This clause shall not apply to any plan to which any mandatory contribution is made after September 2, 1974. The Secretary of the Treasury shall prescribe such regulations as may be necessary to carry out the purposes of this clause.

(iv) For purposes of this subparagraph, in the case of any class-year plan, a withdrawal of employee contributions shall be treated as a withdrawal of such contributions on a plan year by plan year basis in succeeding order of time.

(v) Cross Reference

For nonforfeitably¹ where the employee has a nonforfeitable right to at least 50 percent of his accrued benefit, see section 1056(c) of this title.

§ 23.20.075

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§ 23.20.110 LABOR AND WORKERS' COMPENSATION § 23.20.110

Sec. 23.20.110. Information obtained by department. (a) The department shall hold information obtained from an employing unit or individual in the course of administering this chapter and determinations as to the benefit rights of an individual confidential and may not disclose them or open them to public inspection in a manner which reveals the identity of the individual or employing unit. A claimant or the legal representative of the claimant is entitled to information from the records of the department to the extent necessary for the proper presentation of the claim in a proceeding under this chapter. Subject to restrictions which the department prescribes by regulation, the information may be made available to an agency of this state or another state or federal agency charged with the administration of an unemployment compensation law or the maintenance of a system of public employment offices, or, for the purposes of the Federal Unemployment Tax Act, to the Internal Revenue Service of the United States, or, for tax purposes, to the Department of Revenue. Information obtained in connection with the administration of the employment service may be made available to persons or agencies for purposes appropriate to the operation of a public employment service.

(b) Upon request the department shall furnish to an agency of the United States charged with the administration of public works or assistance through public employment, and may furnish to a state agency similarly charged, the name, address, ordinary occupation, and employment status of each recipient of benefits and the recipient's rights to benefits under this chapter.

(c) Upon request of an agency of this or another state or of the federal government which administers or operates one or more programs of public assistance under either federal law or the law of this state, or which is charged with any duty or responsibility under any such program, and if that agency is required by law to impose safeguards for the confidentiality of information at least as effective as required under this section, the department shall provide, with respect to any named individual specified by the requesting agency, the following information:

(1) whether the individual is receiving, has received, or has made application for unemployment compensation under this chapter;

(2) the period, if any, for which unemployment compensation was payable and the weekly rate of compensation paid;

(3) the individual's most recent address; and

(4) whether the individual has refused an offer of employment, and, if so, the date of the refusal and a description of the employment refused, including duties, conditions of employment, and rate of pay.

(d) The department may require that an agency to which it provides information under this section reimburse the department for its costs of furnishing that information.

(e) The department shall provide information requested by a state or federal agency under an income and eligibility verification system that meets the requirements of 42 U.S.C. 1320b-7 (Social Security Act).

(f) [Repealed, § 2 ch 60 SLA 1985.]

(g) The requirements of this section concerning the confidentiality of information obtained in the course of administering this chapter apply to officers and employees of a state or federal agency to whom the department provides information as authorized by this section. (§ 323 ch 5 ESLA 1955; am § 1 ch 79 SLA 1969; am § 2 ch 122 SLA 1977; am § 3 ch 9 SLA 1980; am § 2 ch 115 SLA 1982; am §§ 1, 2 ch 60 SLA 1985)

Effect of amendments. — The 1985 amendment, repealed subsection (f), concerning disclosure of information contained in records of the department.

Article 3. Contributions.

Section 200. Lien	Section 250. Lien upon distribution or assignment of assets
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Sec. 23.20.200. Lien. (a) A claim for contributions, including interest and penalties, not paid when due is a lien in favor of the state against all the real and personal property of the employer.

(b) The claim becomes a lien when the department files a notice of the lien with the recording officer of the recording district in which the property is located. The claim becomes a lien on a motor vehicle when the department files a notice of the lien in the office of the commissioner of public safety. Filing of the notice of lien is constructive notice of the lien against the property described in the notice to creditors of the owner, and to subsequent purchasers and encumbrancers.

(c) [Repealed, § 80 ch 9 SLA 1980.]

(d) The department may release a notice of lien by filing a certificate of release in the manner prescribed for the filing of a notice of lien. The department may not file a certificate of release until the amount of contributions, including interest, and penalties and costs, is paid, or until it receives assurance of payment which it considers adequate. (§ 514 ch 5 ESLA 1955; am § 1 ch 37 SLA 1963; am § 1 ch 67 SLA 1967; am § 80 ch 9 SLA 1980; am § 27 ch 21 SLA 1985)

Effect of amendments. — The 1985 amendment, in subsection (b) substituted "public safety" for "revenue" at the end of the next-to-last sentence.

Stated in In. Inc., 53 Bankr. 1985.

Sec. 23.20.250 sets. (a) If t orde, includi proceeding, o a composition which become lien is prior t filed under A more than \$25 starting of th (b) The exist judicial procee tion of assets c department or (c) In the ev cially-confirme (Federal Bank) entitled to the p 5 ESLA 1955;

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Applied in In re A Inc., 53 Bankr. 551 1985).

Sec. 23.20.260.

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STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: HCS for CSSB 274 (L&C)

PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Labor
 Title: " An Act relating to access to
employment security records." BRU: Employment Security
 Sponsor: Fahrenkamp Components: Unemployment Insurance
 Requestor: House Labor & Commerce

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND&STRUCTURES						
GRANTS,CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Joe Sitton, Director Phone: 465-2712
 Division: Employment Security Division Date: 03/02/88
 Approved by Commissioner: Jim Sampson Date: 03/02/88
 Agency: Department of Labor

Distribution (by preparer) :
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

STATE OF ALASKA
1988 LEGISLATIVE SESSION

BILL VERSION: CSSB 274 (L&C)
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An act relating to access to employment security records."
Sponsor: Fahrenkamp
Requestor: Senate Labor and Commerce

Agency Affected: Labor
BRU: Employment Security
Components: Unemployment Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--


FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0


POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Joe Sitton, Director 
Division: Employment Security Division

Phone: 465-2712
Date: 1/15/88

Approved by Commissioner: Jim Sampson 
Agency: Labor

Date: 1/15/88

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

NO 317

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STATE OF ALASKA 1987 LEGISLATIVE SESSION FISCAL NOTE

Bill Version: CS SB274 LFC
Publish Date: 5-4-87

REQUEST: _____

Revision Date: _____

Title: "An Act relating to access to employment security records."

Sponsor: Fahrenkamp

Requestor: Senate Labor and Commerce

Agency Affected: Labor

BRU: Employment Security

Components: Unemployment Insurance

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: ^{NB} Joe Sitton, Director Phone: 465-2712
Division: Employment Security Division Date: 5/1/87

Approved by Commissioner: ^{NB} Jim Sampson Date: 5/1/87
Agency: Labor

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)
- Senate Secretary

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/15/88

FURTHER REFERRALS: Judiciary

DATE: 3/3/88

The Labor & Commerce Committee has considered CSSB 274(L&C)

"An Act relating to access to employment security records."

RECOMMENDS:

- replace with HCS for CSSB 274(L&C) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]
Chairman's signature