

HOUSE BILL ANALYSIS

ESB 6236

Brief Description: Promoting efficiency with respect to employment and related services.

Sponsors: Senator Fairley and the Employment Security Department

Hearing: February 21, 2000

Brief Summary of Bill

- Clarifies the ability of the Employment Security Department (ESD) to share confidential employment data with the Department of Social and Health Services (DSHS) and other agencies involved in the WorkFirst program.
- Allows ESD to share confidential employment data with partners implementing One-Stop career centers.
- Allows ESD to share confidential employment data with state agencies to facilitate operations and evaluation of programs.
- Exempts confidential data provided by ESD to other agencies and individuals from inspection and copying under the Public Disclosure Act.
- Provides for a civil fine if anyone receiving confidential information from ESD misuses or improperly releases this information.

BACKGROUND:

With certain exceptions, the ESD is obligated to keep records regarding individuals and employers confidential. As state and federal initiatives continue to change the way employment and training services are provided, the need increases for agencies to share information on clients and customers who use a combination of services. Information and employment records collected by ESD regarding individuals and employers are an integral component of these new initiatives.

The federal Workforce Investment Act promotes the continued development of the One-Stop career development system. This system seeks to provide access to a variety of services at a single physical or electronic location. One-Stop includes participation by partner agencies such as the Employment Security Department (ESD), the Department of Social and Health Services (DSHS), community and technical colleges, and local private industry councils. New federal and state legislation also encourages evaluation of employment and training programs for which employment data collected by ESD is necessary.

Access by government agencies to confidential information held by ESD.

A government agency may request information by submitting an application to the department stating the reason for the request. The need is verified by ESD. The requesting agency must notify the individual or employer that information is being sought. Consideration must be given to an individual's objection to the release of information before the information is released. This process works best when there are a limited number of individuals whose information is requested.

A limited number of exceptions to the policy of confidentiality have been enacted. The requirement to notify the individual or employer is eliminated where it would frustrate a criminal investigation, would prove too cumbersome for agencies trying to prepare a small business impact statement, and would frustrate attempts to cross-match information for comparison purposes to detect fraud or check tax payments. A recent exception allows ESD to share employment data with DSHS and OFM for evaluation of the WorkFirst program.

Access by private organizations to confidential information held by ESD.

ESD may also share confidential information with private organizations assisting in the operation or management of the department and to fulfill contractual obligations where information is collected under a contract with a private organization. Sanctions apply against a person who misuses or releases information without authorization.

Application of the Public Disclosure Act and sanctions for misuse of confidential information.

Information that is shared with other governmental agencies may be subject to disclosure under the Public Disclosure Act. In some cases, sanctions apply against a person who misuses or releases information without authorization. Sanctions include a civil fine of \$5,000.

SUMMARY OF BILL:

Sharing confidential information under the WorkFirst program.

The scope of authority under which ESD shares client information with DSHS, OFM and other oversight agencies for the WorkFirst program is clarified. Any confidential information supplied to other agencies under this program is not subject to public inspection and copying.

Sharing confidential information with One-Stop partners and for state program evaluations.

Two additional exceptions are created allowing confidential information to be shared by ESD with other agencies and private organizations.

The Commissioner of ESD may enter into data-sharing contracts with partners in the One-Stop career development system. Partners may include both public agencies and private organizations. Government agency partners need not comply with the request and individual notification process required generally for government agencies. However, person's whose information will be shared with other agencies in order to receive services from those agencies must be given a consent form that allows sharing of his or her information. The consent form must also inform the individual that his or her refusal to give consent will not affect their receipt of services. The form must be provided in English as well as the dominant non-English language for the area.

The Commissioner may also enter into data-sharing contracts with other state agencies to facilitate the efficient operation and evaluation of state programs. Agencies receiving information need not comply with the request and individual notification process required generally of government agencies.

Exemptions under the Public Disclosure Act.

Two exemptions are added to the list of information exempt from inspection and copying under the Public Disclosure Act. One exemption is confidential information maintained by ESD and provided to other individuals and organizations for purposes of operation, research or evaluation of programs. The other exception is for individually identifiable information received by the Workforce Training and Education Coordinating Board for research or evaluation purposes.

Sanctions.

The misuse or unauthorized release of information by any person or organization to whom access is permitted may be subject to a civil fine of \$5,000 and other applicable penalties.

The Attorney General may bring suit to enforce the misuse or unauthorized release of this information and may recover attorneys' fees. Any penalties collected must be placed in ESD's administrative contingency fund.

RULES AUTHORITY: The bill does not contain provisions addressing the rule making powers of an agency.

FISCAL NOTE: Requested by the Senate Labor & Workforce Development Committee.

EFFECTIVE DATE: Ninety days after adjournment of a session in which bill is passed.