

1 **SENATE FLOOR VERSION**

2 February 21, 2012

3 SENATE BILL NO. 1504

By: Johnson (Rob) of the Senate

4 and

5 McCullough of the House

6
7
8 An Act relating to confidential employment
9 information; amending 40 O.S. 2011, Section 4-508,
10 which relates to disclosure; requiring certain
11 notice; requiring order releasing certain information
12 under specified circumstances; and providing an
13 effective date.

14 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

15 SECTION 1. AMENDATORY 40 O.S. 2011, Section 4-508, is
16 amended to read as follows:

17 Section 4-508. INFORMATION TO BE KEPT CONFIDENTIAL -
18 DISCLOSURE.

19 A. Except as otherwise provided by law, information obtained
20 from any employing unit or individual pursuant to the administration
21 of the Employment Security Act of 1980, the Workforce Investment Act
22 of 1998, and determinations as to the benefit rights of any
23 individual shall be kept confidential and shall not be disclosed or
24 be open to public inspection in any manner revealing the
individual's or employing unit's identity. Any claimant or employer

1 or agent of such person as authorized in writing shall be supplied
2 with information from the records of the Oklahoma Employment
3 Security Commission, to the extent necessary for the proper
4 presentation of the claim or complaint in any proceeding under the
5 Employment Security Act of 1980, with respect thereto.

6 B. Upon receipt of written request by any employer who
7 maintains a Supplemental Unemployment Benefit (SUB) Plan, the
8 Commission or its designated representative may release to such
9 employer information regarding weekly benefit amounts paid its
10 workers during a specified temporary layoff period, provided such
11 Supplemental Unemployment Benefit (SUB) Plan requires benefit
12 payment information before Supplemental Unemployment Benefits can be
13 paid to such workers. Any information disclosed under this
14 provision shall be utilized solely for the purpose outlined herein
15 and shall be held strictly confidential by the employer.

16 C. The provisions of this section shall not prevent the
17 Commission from disclosing the following information and no
18 liability whatsoever, civil or criminal, shall attach to any member
19 of the Commission or any employee thereof for any error or omission
20 in the disclosure of such information:

21 1. The delivery to taxpayer or claimant a copy of any report or
22 other paper filed by the taxpayer or claimant pursuant to the
23 Employment Security Act of 1980;

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1 2. The disclosure of information to any person for a purpose as
2 authorized by the taxpayer or claimant pursuant to a waiver of
3 confidentiality. The waiver shall be in writing and shall be
4 notarized;

5 3. The Oklahoma Department of Commerce may have access to data
6 obtained pursuant to the Employment Security Act of 1980 pursuant to
7 rules promulgated by the Commission. The information obtained shall
8 be held confidential by the Department and any of its agents and
9 shall not be disclosed or be open to public inspection. The
10 Oklahoma Department of Commerce, however, may release aggregated
11 data, either by industry or county, provided that such aggregation
12 meets disclosure requirements of the Commission;

13 4. The publication of statistics so classified as to prevent
14 the identification of a particular report and the items thereof;

15 5. The disclosing of information or evidence to the Attorney
16 General or any district attorney when the information or evidence is
17 to be used by the officials or other parties to the proceedings to
18 prosecute or defend allegations of violations of the Employment
19 Security Act of 1980. The information disclosed to the Attorney
20 General or any district attorney shall be kept confidential by them
21 and not be disclosed except when presented to a court in a
22 prosecution of a violation of Section 1-101 et seq. of this title,
23 and a violation by the Attorney General or district attorney by
24 otherwise releasing the information shall be a felony;

1 6. The furnishing, at the discretion of the Commission, of any
2 information disclosed by the records or files to any official person
3 or body of this state, any other state or of the United States who
4 is concerned with the administration of assessment of any similar
5 tax in this state, any other state or the United States;

6 7. The furnishing of information to other state agencies for
7 the limited purpose of aiding in the collection of debts owed by
8 individuals to the requesting agencies or the Oklahoma Employment
9 Security Commission;

10 8. The release to employees of the Department of Transportation
11 of information required for use in federally mandated regional
12 transportation planning, which is performed as a part of its
13 official duties;

14 9. The release to employees of the State Treasurer's office of
15 information required to verify or evaluate the effectiveness of the
16 Oklahoma Small Business Linked Deposit Program on job creation;

17 10. The release to employees of the Attorney General, the State
18 Insurance Fund, the Department of Labor, the Workers' Compensation
19 Court, and the Insurance Department for use in investigation of
20 workers' compensation fraud;

21 11. The release to employees of the Oklahoma State Bureau of
22 Investigation or release to employees of the Oklahoma State Bureau
23 of Narcotics and Dangerous Drugs Control for use in criminal
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1 investigations and the location of missing persons or fugitives from
2 justice;

3 12. The release to employees of the Center of International
4 Trade, Oklahoma State University, of information required for the
5 development of International Trade for employers doing business in
6 the State of Oklahoma;

7 13. The release to employees of the Oklahoma State Regents for
8 Higher Education of information required for use in the default
9 prevention efforts and/or collection of defaulted student loans
10 guaranteed by the Oklahoma Guaranteed Student Loan Program. Any
11 information disclosed under this provision shall be utilized solely
12 for the purpose outlined herein and shall be held strictly
13 confidential by the Oklahoma State Regents for Higher Education;

14 14. The release to employees of the Center for Economic and
15 Management Research of the University of Oklahoma, the Center for
16 Economic and Business Development at Southwestern Oklahoma State
17 University, or a center of economic and business research or
18 development at a comprehensive or regional higher education
19 institution within the Oklahoma State System of Higher Education of
20 information required to identify economic trends. The information
21 obtained shall be kept confidential by the higher education
22 institution and shall not be disclosed or be open to public
23 inspection. The higher education institution may release aggregated
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1 data, provided that such aggregation meets disclosure requirements
2 of the Commission;

3 15. The release to employees of the Office of State Finance of
4 information required to identify economic trends. The information
5 obtained shall be kept confidential by the Office of State Finance
6 and shall not be disclosed or be open to public inspection. The
7 Office of State Finance may release aggregate data, provided that
8 such aggregation meets disclosure requirements of the Commission;

9 16. The release to employees of the Department of Mental Health
10 and Substance Abuse Services of information required to evaluate the
11 effectiveness of mental health and substance abuse treatment and
12 state or local programs utilized to divert persons from inpatient
13 treatment. The information obtained shall be kept confidential by
14 the Department and shall not be disclosed or be open to public
15 inspection. The Department of Mental Health and Substance Abuse
16 Services, however, may release aggregated data, either by treatment
17 facility, program or larger aggregate units, provided that such
18 aggregation meets disclosure requirements of the Oklahoma Employment
19 Security Commission;

20 17. The release to employees of the Attorney General, the
21 Oklahoma State Bureau of Investigation, and the Insurance Department
22 for use in the investigation of insurance fraud and health care
23 fraud;

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1 18. The release to employees of public housing agencies for
2 purposes of determining eligibility pursuant to 42 U.S.C., Section
3 503(i);

4 19. The release of wage and benefit claim information, at the
5 discretion of the Commission, to an agency of this state or its
6 political subdivisions, or any nonprofit corporation that operates a
7 program or activity designated as a partner in the Workforce
8 Investment Act One-Stop delivery system pursuant to 29 U.S.C.A.,
9 Section 2481 (b), based on a showing of need made to the Commission
10 and after an agreement concerning the release of information is
11 entered into with the entity receiving the information;

12 20. The release of information to the wage record interchange
13 system, at the discretion of the Commission;

14 21. The release of information to the Bureau of the Census of
15 the U.S. Department of Commerce for the purpose of economic and
16 statistical research;

17 22. The release of employer tax information and benefit claim
18 information to the Oklahoma Health Care Authority for use in
19 determining eligibility for a program that will provide subsidies
20 for health insurance premiums for qualified employers, employees,
21 self-employed persons, and unemployed persons;

22 23. The release of employer tax information and benefit claim
23 information to the State Department of Rehabilitation Services for
24 use in assessing results and outcomes of clients served;

1 24. The release of information to any state or federal law
2 enforcement authority when necessary in the investigation of any
3 crime in which the Commission is a victim. Information that is
4 confidential under this section shall be held confidential by the
5 law enforcement authority unless and until it is required for use in
6 court in the prosecution of a defendant in a criminal prosecution;
7 or

8 25. The release of information to vendors that contract with
9 the Oklahoma Employment Security Commission to provide for the
10 issuance of debit cards, to conduct electronic fund transfers, to
11 perform computer programming operations, or to perform computer
12 maintenance or replacement operations; provided the vendor agrees to
13 protect and safeguard the information it receives and to destroy the
14 information when no longer needed for the purposes set out in the
15 contract.

16 D. Subpoenas to compel disclosure of information made
17 confidential by this statute shall not be valid, except for
18 administrative subpoenas issued by federal, state, or local
19 governmental agencies that have been granted subpoena power by
20 statute or ordinance. Confidential information maintained by the
21 Commission can be obtained by order of a court of record that
22 authorizes the release of the records in writing. Upon request by a
23 claimant, the court shall issue an order authorizing the release of
24 confidential employment information maintained by the Commission to

1 the extent necessary for collection of the judgment by the claimant.

2 All administrative subpoenas or court orders for production of
3 documents must provide a minimum of twenty (20) days from the date
4 it is served for the Commission to produce the documents. If the
5 date on which production of the documents is required is less than
6 twenty (20) days from the date of service, the subpoena or order
7 shall be considered void on its face as an undue burden or hardship
8 on the Commission.

9 E. Should any of the disclosures provided for in this section
10 require more than casual or incidental staff time, the Commission
11 shall charge the cost of such staff time to the party requesting the
12 information.

13 F. It is further provided that the provisions of this section
14 shall be strictly interpreted and shall not be construed as
15 permitting the disclosure of any other information contained in the
16 records and files of the Commission.

17 SECTION 2. This act shall become effective November 1, 2012.

18 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-14-12 - DO
19 PASS, As Coauthored.

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