

1 STATE OF OKLAHOMA

2 2nd Session of the 53rd Legislature (2012)

3 SENATE BILL 1504

By: Johnson (Rob)

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5
6 AS INTRODUCED

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

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

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

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

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

1 with information from the records of the Oklahoma Employment
2 Security Commission, to the extent necessary for the proper
3 presentation of the claim or complaint in any proceeding under the
4 Employment Security Act of 1980, with respect thereto.

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

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

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

23 2. The disclosure of information to any person for a purpose as
24 authorized by the taxpayer or claimant pursuant to a waiver of

1 confidentiality. The waiver shall be in writing and shall be
2 notarized;

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

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

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

23 6. The furnishing, at the discretion of the Commission, of any
24 information disclosed by the records or files to any official person

1 or body of this state, any other state or of the United States who
2 is concerned with the administration of assessment of any similar
3 tax in this state, any other state or the United States;

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

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

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

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

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

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

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

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

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

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

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

22 18. The release to employees of public housing agencies for
23 purposes of determining eligibility pursuant to 42 U.S.C., Section
24 503(i);

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

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

11 21. The release of information to the Bureau of the Census of
12 the U.S. Department of Commerce for the purpose of economic and
13 statistical research;

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

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

22 24. The release of information to any state or federal law
23 enforcement authority when necessary in the investigation of any
24 crime in which the Commission is a victim. Information that is

1 confidential under this section shall be held confidential by the
2 law enforcement authority unless and until it is required for use in
3 court in the prosecution of a defendant in a criminal prosecution;
4 or

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

13 D. Subpoenas to compel disclosure of information made
14 confidential by this statute shall not be valid, except for
15 administrative subpoenas issued by federal, state, or local
16 governmental agencies that have been granted subpoena power by
17 statute or ordinance. Confidential information maintained by the
18 Commission can be obtained by order of a court of record that
19 authorizes the release of the records in writing. Upon request by a
20 claimant, the court shall issue an order authorizing the release of
21 confidential employment information maintained by the Commission to
22 the extent necessary for collection of the judgment by the claimant.
23 All administrative subpoenas or court orders for production of
24 documents must provide a minimum of twenty (20) days from the date

1 it is served for the Commission to produce the documents. If the
2 date on which production of the documents is required is less than
3 twenty (20) days from the date of service, the subpoena or order
4 shall be considered void on its face as an undue burden or hardship
5 on the Commission.

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

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

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

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