

1 **DEBT COLLECTION DATA MATCH WITH WORKER**

2 **REGISTRY**

3 2011 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: David Clark**

6 Senate Sponsor: Stephen H. Urquhart

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions of the Utah Workforce Service Code and the Office of
11 State Debt Collection.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ allows the Office of State Debt Collection to enter into written agreements with
15 other government agencies to obtain information for the purpose of collecting state
16 accounts receivable;

17 ▶ provides that certain written agreements between the Office of State Debt
18 Collection and the Unemployment Insurance Division may be used in court;

19 ▶ allows the Unemployment Insurance Division to share information with the Office
20 of State Debt Collection for the purpose of collecting state accounts receivables;

21 and

22 ▶ makes technical changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **35A-4-312**, as last amended by Laws of Utah 2009, Chapter 349

30 **35A-7-107**, as last amended by Laws of Utah 2008, Chapter 382

31 **63A-8-201**, as last amended by Laws of Utah 2009, Chapter 183

32

33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **35A-4-312** is amended to read:

35 **35A-4-312. Records.**

36 (1) (a) An employing unit shall keep true and accurate work records containing any
37 information the department may prescribe by rule.

38 (b) A record shall be open to inspection and subject to being copied by the division or
39 its authorized representatives at a reasonable time and as often as may be necessary.

40 (c) An employing unit shall make a record available in the state for three years after the
41 calendar year in which the services are rendered.

42 (2) The division may require from an employing unit a sworn or unsworn report with
43 respect to a person employed by the employing unit that the division considers necessary for
44 the effective administration of this chapter.

45 (3) Except as provided in this section or in Sections 35A-4-103 and 35A-4-106,
46 information obtained under this chapter or obtained from an individual may not be published or
47 open to public inspection in any manner revealing the employing unit's or individual's identity.

48 (4) (a) The information obtained by the division under this section may not be used in
49 court or admitted into evidence in an action or proceeding, except:

50 (i) in an action or proceeding arising out of this chapter;

51 (ii) if the Labor Commission enters into a written agreement with the division under
52 Subsection (6)(b), in an action or proceeding by the Labor Commission to enforce:

53 (A) Title 34, Chapter 23, Employment of Minors;

54 (B) Title 34, Chapter 28, Payment of Wages;

55 (C) Title 34, Chapter 40, Utah Minimum Wage Act; or

56 (D) Title 34A, Utah Labor Code; [or]

57 (iii) under the terms of a court order obtained under Subsection 63G-2-202(7) and

58 Section 63G-2-207[:]; or

59 (iv) under the terms of a written agreement between the Office of State Debt Collection
60 and the division as provided in Subsection (5).

61 (b) The information obtained by the division under this section shall be disclosed to:

62 (i) a party to an unemployment insurance hearing before an administrative law judge of
63 the department or a review by the Workforce Appeals Board to the extent necessary for the
64 proper presentation of the party's case; or

65 (ii) an employer, upon request in writing for any information concerning a claim for a
66 benefit with respect to a former employee of the employer.

67 (5) The information obtained by the division under this section may be disclosed to:

68 (a) an employee of the department in the performance of the employee's duties in
69 administering this chapter or other programs of the department;

70 (b) an employee of the Labor Commission for the purpose of carrying out the programs
71 administered by the Labor Commission;

72 (c) an employee of the Department of Commerce for the purpose of carrying out the
73 programs administered by the Department of Commerce;

74 (d) an employee of the governor's office or another state governmental agency
75 administratively responsible for statewide economic development, to the extent necessary for
76 economic development policy analysis and formulation;

77 (e) an employee of another governmental agency that is specifically identified and
78 authorized by federal or state law to receive the information for the purposes stated in the law
79 authorizing the employee of the agency to receive the information;

80 (f) an employee of a governmental agency or workers' compensation insurer to the
81 extent the information will aid in:

82 (i) the detection or avoidance of duplicate, inconsistent, or fraudulent claims against:

83 (A) a workers' compensation program; or

84 (B) public assistance funds; or

85 (ii) the recovery of overpayments of workers' compensation or public assistance funds;

86 (g) an employee of a law enforcement agency to the extent the disclosure is necessary
87 to avoid a significant risk to public safety or in aid of a felony criminal investigation;

88 (h) an employee of the State Tax Commission or the Internal Revenue Service for the
89 purposes of:

90 (i) audit verification or simplification;

91 (ii) state or federal tax compliance;

92 (iii) verification of a code or classification of the:

93 (A) 1987 Standard Industrial Classification Manual of the federal Executive Office of
94 the President, Office of Management and Budget; or

95 (B) 2002 North American Industry Classification System of the federal Executive
96 Office of the President, Office of Management and Budget; and

97 (iv) statistics;

98 (i) an employee or contractor of the department or an educational institution, or other
99 governmental entity engaged in workforce investment and development activities under the
100 Workforce Investment Act of 1998 for the purpose of:

101 (i) coordinating services with the department;

102 (ii) evaluating the effectiveness of those activities; and

103 (iii) measuring performance;

104 (j) an employee of the Governor's Office of Economic Development, for the purpose of
105 periodically publishing in the Directory of Business and Industry, the name, address, telephone
106 number, number of employees by range, code or classification of an employer, and type of
107 ownership of Utah employers;

108 (k) the public for any purpose following a written waiver by all interested parties of
109 their rights to nondisclosure;

110 (l) an individual whose wage data is submitted to the department by an employer, so
111 long as no information other than the individual's wage data and the identity of the employer
112 who submitted the information is provided to the individual; ~~or~~

113 (m) an employee of the Insurance Department for the purpose of administering Title

114 31A, Chapter 40, Professional Employer Organization Licensing Act[-]; or
115 (n) an employee of the Office of State Debt Collection for the purpose of collecting
116 state accounts receivable as provided in Section 63A-8-201.

117 (6) Disclosure of private information under Subsection (4)(a)(ii) or Subsection (5),
118 with the exception of Subsections (5)(a) and (g), shall be made only if:

- 119 (a) the division determines that the disclosure will not have a negative effect on:
120 (i) the willingness of employers to report wage and employment information; or
121 (ii) the willingness of individuals to file claims for unemployment benefits; and
122 (b) the agency enters into a written agreement with the division in accordance with
123 rules made by the department.

124 (7) (a) The employees of a division of the department other than the Workforce
125 Development and Information Division and the Unemployment Insurance Division or an
126 agency receiving private information from the division under this chapter are subject to the
127 same requirements of privacy and confidentiality and to the same penalties for misuse or
128 improper disclosure of the information as employees of the division.

129 (b) Use of private information obtained from the department by a person[-] or for a
130 purpose other than one authorized in Subsection (4) or (5) violates Subsection 76-8-1301(4).

131 Section 2. Section **35A-7-107** is amended to read:

132 **35A-7-107. Use and access to the registry records.**

133 (1) (a) The records of the registry shall be maintained as private records under Section
134 63G-2-202.

135 (b) In addition to those persons granted access to private records under Sections
136 63G-2-202 and 63G-2-206, state or federal agencies may access data from the registry for the
137 following purposes:

- 138 (i) the Office of Recovery Services for use related to locating, establishing, and
139 enforcing child, medical, and spousal support obligations and other services;
140 (ii) state agencies which use financial information in determining eligibility for public
141 assistance programs; [~~and~~]

142 (iii) state agencies which use financial information in collecting state accounts
143 receivable; and

144 [~~(iii)~~] (iv) federal agencies responsible for periodic matches of new hire registry
145 information with federal data bases.

146 (2) Information that is received under this chapter shall be kept by the department for at
147 least six months.

148 Section 3. Section **63A-8-201** is amended to read:

149 **63A-8-201. Office of State Debt Collection created -- Duties.**

150 (1) The state and each state agency shall comply with the requirements of this chapter
151 and any rules established by the Office of State Debt Collection.

152 (2) There is created the Office of State Debt Collection in the Department of
153 Administrative Services.

154 (3) The office shall:

155 (a) have overall responsibility for collecting and managing state receivables;

156 (b) develop consistent policies governing the collection and management of state
157 receivables;

158 (c) oversee and monitor state receivables to ensure that state agencies are:

159 (i) implementing all appropriate collection methods;

160 (ii) following established receivables guidelines; and

161 (iii) accounting for and reporting receivables in the appropriate manner;

162 (d) develop policies, procedures, and guidelines for accounting, reporting, and
163 collecting money owed to the state;

164 (e) provide information, training, and technical assistance to [~~all~~] each state [~~agencies~~]
165 agency on various collection-related topics;

166 (f) write an inclusive receivables management and collection manual for use by [~~all~~]
167 each state [~~agencies~~] agency;

168 (g) prepare quarterly and annual reports of the state's receivables;

169 (h) create or coordinate a state accounts receivable database;

170 (i) develop reasonable criteria to gauge state agencies' efforts in maintaining an
171 effective accounts receivable program;

172 (j) identify [~~those~~] any state [~~agencies~~] agency that [~~are~~] is not making satisfactory
173 progress toward implementing collection techniques and improving accounts receivable
174 collections;

175 (k) coordinate information, systems, and procedures between each state [~~agencies~~]
176 agency to maximize the collection of past-due accounts receivable;

177 (l) establish an automated cash receipt process between each state [~~agencies~~] agency;

178 (m) establish procedures for writing off accounts receivable for accounting and
179 collection purposes;

180 (n) establish standard time limits after which an agency will delegate responsibility to
181 collect state receivables to the office or its designee;

182 (o) be a real party in interest for an account receivable referred to the office by any
183 state agency; and

184 (p) allocate money collected for judgments registered under Section 77-18-6 in
185 accordance with Sections 51-9-402, 63A-8-302, and 78A-5-110.

186 (4) The office may:

187 (a) recommend to the Legislature new laws to enhance collection of past-due accounts
188 by state agencies;

189 (b) collect accounts receivables for higher education entities, if the higher education
190 entity agrees;

191 (c) prepare a request for proposal for consulting services to:

192 (i) analyze the state's receivable management and collection efforts; and

193 (ii) identify improvements needed to further enhance the state's effectiveness in
194 collecting its receivables;

195 (d) contract with private or state agencies to collect past-due accounts;

196 (e) perform other appropriate and cost-effective coordinating work directly related to
197 collection of state receivables;

198 (f) obtain access to records of any state agency that are necessary to the duties of the
199 office by following the procedures and requirements of Section 63G-2-206;

200 (g) collect interest and fees related to the collection of receivables under this chapter,
201 and establish, by following the procedures and requirements of Section 63J-1-504:

202 (i) a fee to cover the administrative costs of collection, on accounts administered by the
203 office;

204 (ii) a late penalty fee that may not be more than 10% of the account receivable on
205 accounts administered by the office;

206 (iii) an interest charge that is:

207 (A) the postjudgment interest rate established by Section 15-1-4 in judgments
208 established by the courts; or

209 (B) not more than 2% above the prime rate as of July 1 of each fiscal year for accounts
210 receivable for which no court judgment has been entered; and

211 (iv) fees to collect accounts receivable for higher education;

212 (h) collect reasonable attorney fees and reasonable costs of collection that are related to
213 the collection of receivables under this chapter;

214 (i) make rules that allow accounts receivable to be collected over a reasonable period
215 of time and under certain conditions with credit cards;

216 (j) file a satisfaction of judgment in the district court by following the procedures and
217 requirements of the Utah Rules of Civil Procedure;

218 (k) ensure that judgments for which the office is the judgment creditor are renewed, as
219 necessary; [~~and~~]

220 (l) notwithstanding Section 63G-2-206, share records obtained under Subsection (4)(f)
221 with private sector vendors under contract with the state to assist state agencies in collecting
222 debts owed to the state agencies without changing the classification of any private, controlled,
223 or protected record into a public record[-]; and

224 (m) enter into written agreements with other governmental agencies to obtain
225 information for the purpose of collecting state accounts receivable.

226 (5) The office shall ensure that:
227 (a) a record obtained by the office or a private sector vendor as referred to in
228 Subsection (4)(l):
229 (i) is used only for the limited purpose of collecting accounts receivable; and
230 (ii) is subject to federal, state, and local agency records restrictions; and
231 (b) any person employed by, or formerly employed by, the office or a private sector
232 vendor as referred to in Subsection (4)(l) is subject to:
233 (i) the same duty of confidentiality with respect to the record imposed by law on
234 officers and employees of the state agency from which the record was obtained; and
235 (ii) any civil or criminal penalties imposed by law for violations of lawful access to a
236 private, controlled, or protected record.
237 (6) (a) The office shall collect accounts receivable ordered by the district court as a
238 result of prosecution for a criminal offense that have been transferred to the office under
239 Subsection 76-3-201.1(5)(h) or (8).
240 (b) The office may not assess the interest charge established by the office under
241 Subsection (4) on an account receivable subject to the postjudgment interest rate established by
242 Section 15-1-4.
243 (7) The office shall require a state [agencies] agency to:
244 (a) transfer collection responsibilities to the office or its designee according to time
245 limits established by the office;
246 (b) make annual progress towards implementing collection techniques and improved
247 accounts receivable collections;
248 (c) use the state's accounts receivable system or develop systems that are adequate to
249 properly account for and report their receivables;
250 (d) develop and implement internal policies and procedures that comply with the
251 collections policies and guidelines established by the office;
252 (e) provide internal accounts receivable training to staff involved in ~~their~~ the
253 management and collection of receivables as a supplement to statewide training;

254 (f) bill for and make initial collection efforts of its receivables up to the time the
255 accounts must be transferred; and

256 (g) submit quarterly receivable reports to the office that identify the age, collection
257 status, and funding source of each receivable.

258 (8) The office shall use the information provided by the agencies and any additional
259 information from the office's records to compile a one-page summary report of each agency.

260 (9) The summary shall include:

261 (a) the type of revenue that is owed to the agency;

262 (b) any attempted collection activity; and

263 (c) any costs incurred in the collection process.

264 (10) The office shall annually provide copies of each agency's summary to the governor
265 and to the Legislature.