WEST VIRGINIA CODE CHAPTER 21a ARTICLE 2A

WV Legislature

§21A-2A-1. Legislative declaration of finding and purpose.

The Legislature hereby finds and declares that, due to adverse economic conditions existing in the state, substantial unemployment of the residents of the state has resulted and continues, all to the detriment of its people, its business and industry and of the health, safety and welfare of the state as a whole.

The Legislature further finds and declares that the stimulation and encouragement of, and the providing of incentive and inducement for, employment by private business in the private sector is of greater long-term benefit to the state than is public, make-work employment; that it constitutes a wiser expenditure of public moneys, aids in the economic recovery of our private business and industry, the employment of our people, the generation of state revenues, and the advancement of the health, safety and welfare of the state as a whole; and thus constitutes a public purpose.

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§21A-2A-2. Definitions.

For the purposes of this article the following terms shall have the following meanings, unless the context in which they are used clearly indicates otherwise:

(1) "Commissioner" means the commissioner of the Bureau of Employment Programs.

(2) "Private business" means any nongovernmental business or industry in the private sector which maintains an active, bona fide place of business in this state, is duly qualified to do business in the state, and is in good standing under the laws of this state.

(3) "Eligible unemployed person" means any person who is a bona fide resident of this state who has been eligible for unemployment compensation benefits and has received all the benefits available to him or her, and who is not gainfully employed.

(4) "Head of household" means any person who: (A) Claims one or more persons, other than the filing taxpayer, as a dependent on his or her federal income tax return; (B) has living in the same household one or more dependents; and (C) receives no income from the household and does not have a spouse or dependent living in the same household who is employed in regular full-time employment: Provided, That participation in any public assistance program or receipt of public assistance benefits shall not disqualify any person from entitlement to head of household status.

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§21A-2A-3. Application for employment by eligible unemployed person; forms and notice.

Any person who is an eligible unemployed person as defined in section two of this article may apply for employment in the emergency employment supplemental matching program by making application with the commissioner on forms made available by the commissioner at each local job service office: Provided, That nothing contained in this section shall be construed to permit funds under this program to be used to interfere or hinder existing employment or employment agreements including, but not limited to, collective bargaining agreements. Funds may not be used in instances where work stoppages resulting from labor management disputes are in effect.

The form furnished by the commissioner shall provide for listing the eligible unemployed person's prior work experience, skills, educational history, and such other information as the commissioner deems necessary for the purposes of this article. Priority for employment under this program shall be given to eligible unemployed persons who are heads of households.

The commissioner, within fifteen days after the effective date of legislation appropriating funds for the implementation of this article, shall cause to be published a statewide notice of the availability of such application forms under the emergency employment supplemental matching program.

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§21A-2A-4. Notice to private business employers; applications for prospective employers.

The commissioner, within fifteen days after the effective date of legislation appropriating funds for the implementation of this article, shall publish statewide a notice to private business employers of the opportunity to employ eligible unemployed persons as provided for under this article.

Any private business, as defined in section two of this article, seeking to employ eligible unemployed persons may make application at any local job service office on forms to be supplied by the commissioner. Such forms shall provide space for a listing of the nature of the employment position available and the minimum experience, skills and educational requirements therefor. The form shall also provide space for an affidavit by the employer that the employment position to be filled is not being used in lieu of the recall of laid-off workers, to replace existing employees or to supplement the compensation paid existing employees. This affidavit shall also contain a statement by the private business employer that there is a reasonable expectation that this employment may continue beyond the end of the six-month reimbursement period provided for under this article. At each job service office of the Bureau of Employment Programs, the commissioner shall cause to be compiled a list of job openings under this program. The list shall be available for inspection by any eligible unemployed person applying for employment hereunder. The commissioner is authorized to require, prior to approval of an application by an employer, examination of such records and documents of the employer as the commissioner may consider necessary to ensure the correctness and truthfulness of the employer's affidavit.

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§21A-2A-5. Payments to private business employers; maximums.

The commissioner shall reimburse private business employers of eligible unemployed persons from funds appropriated and made available by the Legislature to the commissioner. Such reimbursement shall equal one half of the employer's prevailing starting hourly wage for each person employed under the provisions of this article, but the state's share of the total reimbursement shall not exceed the federal hourly minimum wage. The workweek shall not exceed forty hours per week, per eligible employee, nor shall any reimbursement extend for a period longer than six months. In addition to the compensation provided under the emergency employment supplemental matching program to the employee, each private business employer shall pay an additional sum to each such employee of not less than one half the employer's prevailing starting hourly wage plus applicable costs for each such employee of payments for workers' compensation and employer social security requirements. Any employment and reimbursement provided for in this section shall be agreed to in writing by the employer, the prospective employee and the commissioner prior to such employee's actual employment.

The commissioner shall provide by rule and regulation: The total number of employees who may be employed by any single private business employer under this program, the total number of employees who may be employed under the entire program and the priority preference to be given eligible unemployed persons who are heads of households.

The commissioner may promulgate such rules and regulations, not inconsistent with the provisions of this article, as may be deemed necessary by him to provide for proper administration of this article.

Any funds appropriated for this program which have not been committed for private sector employment purposes within a reasonable period of time determined by the commissioner to be necessary for implementation of this article shall be redistributed for public employment purposes: Provided, That this is consistent with the language of the legislative appropriation making the funds available.

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