WEST VIRGINIA CODE CHAPTER 5b ARTICLE 2B

WV Legislature

§5B-2B-1. Short title.

This article shall be known and may be cited as the West Virginia Workforce Innovation and Opportunity Act.

WV Legislature

§5B-2B-2. Definitions.

As used in this article, the following terms have the following meanings, unless the context clearly indicates otherwise:

"Board" means the West Virginia Workforce Development Board.

"Commission" or "Legislative Oversight Commission" means the Legislative Oversight Commission on Workforce Investment for Economic Development.

"Local area" means a local workforce investment area.

"Local board" means a local workforce development board.

"Team" means the workforce investment interagency collaborative team.

"WIOA" means the Workforce Innovation and Opportunity Act, 29 U. S. C. §3101, *et seq*.

WV Legislature

§5B-2B-3. West Virginia Workforce Development Board; membership of board; meetings; quorum requirements.

(a) The West Virginia Workforce Development Board is hereby created and shall serve as the state's Workforce Development Board, as required by the WIOA. The board shall make general recommendations regarding workforce investment in the state to the Governor and the Legislature.

(b) The membership of the board shall meet the requirements of WIOA §101(b) and represent diverse geographic areas of the state, including urban, rural and suburban areas. The board membership includes:

(1) The Governor, or his or her designated representative; and

(2) The President of the Senate, or his or her designee, and the Speaker of the House of Delegates, or his or her designee, both of whom shall be nonvoting members of the board; and

(3) Members appointed by the Governor, with the advice and consent of the Senate, which shall include:

(A) Representatives of businesses or organizations, who shall comprise a majority of the board membership, who:

(i) Are the owner or chief executive officer for the business or organization, or is an executive with the business or organization with optimum policy-making or hiring authority, and may also be members of a local board as described in WIOA §107(b)(2)(A)(i);

(ii) Represent businesses, or organizations that represent businesses described in paragraph (A), subdivision (3), subsection (b) of this section, that, at a minimum, provide employment and training opportunities that include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the state;

(iii) Are appointed from a list of potential members proposed by state business organization and business trade associations; and

(iv) At a minimum, one member representing small businesses as defined by the U. S. Small Business Administration.

(B) Not less than twenty percent of the board shall be representatives of the workforce within the state, which:

(i) Shall include two or more representatives of labor organizations appointed from a list proposed by state labor federations;

(ii) Shall include one representative who shall be a member of a labor organization or

wvlegislature

training director from a joint labor-management apprenticeship program, or, if no such joint program exists in the state, a member of a labor organization or training director who is a representative of an apprenticeship program;

(iii) May include one or more representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment, training or education needs of individuals with barriers to employment, including organizations that serve veterans or provide or support competitive, integrated employment for individuals with disabilities; and

(iv) May include one or more representative of organizations that have demonstrated experience and expertise in addressing the employment, training or education needs of eligible youth, including representative of organizations that serve out-of-school youth.

(C) The balance of the members:

(i) Shall include representatives of government including:

(I) The lead state officials with primary responsibility for each of the core programs. Where the lead official represents more than one core program, that official shall ensure adequate representation of the needs of all core programs under his or her jurisdiction; and

(II) Two or more chief elected officials, collectively representing both cities and counties, where appropriate.

(ii) May include other appropriate representatives and officials designated by the Governor, such as, but not limited to, state agency officials responsible for one-stop partner programs, economic development or juvenile justice programs in the state, individuals who represent an Indian tribe or tribal organization as defined in WIOA §166(b), and state agency officials responsible for education programs in the state, including chief executive officers of community colleges and other institutions of higher education.

(c) The Governor shall select a chairperson for the board from the business representatives on the board described in paragraph (A), subdivision (3), subsection (b) of this section.

(d) Initial terms for appointed members of the board are for up to three years as determined by the Governor. All subsequent terms shall be for three years.

(e) Members who represent organizations, agencies or other entities described in paragraphs (B) and (C), subdivision (3), subsection (b) of this section shall be individuals who have optimum policy-making authority in the organizations they represent.

(f)(1) A board member may not represent more than one of the categories described in:

(A) Paragraph (A), subdivision (3), subsection (b) of this section;

WV Legislature

(B) Paragraph (B), subdivision (3), subsection (b) of this section; or

(C) Paragraph (C), subdivision (3), subsection (b) of this section.

(2) A board member may not serve as a representative of more than one subcategory under paragraph (B), subdivision (3), subsection (b) of this section.

(3) A board member may not serve as a representative of more than one subcategory under paragraph (C), subdivision (3), subsection (b) of this section: Provided, That where a single government agency is responsible for multiple required programs, the head of the agency may represent each of the required programs.

(g) All required board members, other than the ex officio members of the Legislature, shall have voting privileges. The Governor may also convey voting privileges to nonrequired members.

WV Legislature

§5B-2B-4. Duties of the Workforce Development Board.

(a) The board shall provide information and guidance to local boards and staff, to enable them to better educate both women and men about higher paying jobs and careers including jobs traditionally dominated by men or women. Such guidance shall promote services provided by the local boards for job seekers that include:

(1) Current information about compensation for jobs and careers that offer high earning potential including jobs that are traditionally dominated by men or women;

(2) Counseling, skills development, and training opportunities that encourage both women and men to seek employment in such jobs;

(3) Referral information to employers offering such jobs; or

(4) Information regarding the long-term consequences, including lower Social Security benefits or pensions, of choosing jobs that offer lower earnings potential and are traditionally dominated by women or men.

(b) Under WIOA §101(d), the board shall assist the Governor in the:

(1) Development, implementation, and modification of the four-year state plan;

(2) Review of statewide policies, programs, and recommendations on actions that should be taken by the state to align workforce development programs to support a comprehensive and streamlined workforce development system. Such review of policies, programs, and recommendations shall include a review and provision of comments on the state plans, if any, for programs and activities of one-stop partners that are not core programs;

(3) Development and continuous improvement of the workforce development system, including:

(A) Identification of barriers and means for removing barriers to better coordinate, align, and avoid duplication among programs and activities;

(B) Development of strategies to support career pathways for the purpose of providing individuals, including low-skilled adults, youth, and individuals with barriers to employment, including individuals with disabilities, with workforce investment activities, education, and supportive services to enter or retain employment;

(C) Development of strategies to provide effective outreach to, and improved access for, individuals and employers who could benefit from workforce development system;

(D) Development and expansion of strategies to meet the needs of employers, workers, and jobseekers, particularly through industry or sector partnerships related to in-demand industry sectors and occupations;

WV Legislature

(E) Identification of regions, including planning regions for the purpose of WIOA §106(a), and the designation of local areas under WIOA §106 after consultation with local boards and chief elected officials;

(F) Development and continuous improvement of the one-stop delivery system in local areas, including providing assistance to local boards, one-stop operators, one-stop partners, and providers. Such assistance includes assistance with planning and delivering services, including training and supportive services, to support effective delivery of services to workers, jobseekers, and employers; and

(G) Development of strategies to support staff training and awareness across the workforce development system and its programs;

(4) Development and updating of comprehensive state performance and accountability measures to access core program effectiveness under WIOA §116(b);

(5) Identification and dissemination of information on best practices, including best practices for:

(A) The effective operation of one-stop centers, relating to the use of business outreach, partnerships and service delivery strategies, including strategies for serving individuals with barriers to employment;

(B) The development of effective local boards, which may include information on factors that contribute to enabling local boards to exceed negotiated local levels of performance, sustain fiscal integrity, and achieve other measures of effectiveness; and

(C) Effective training programs that response to real-time labor market analysis, that effectively use direct assessment and prior learning assessment to measure an individual's prior knowledge, skills, competencies and experiences for adaptability, to support efficient placement into employment or career pathways;

(6) Development and review of statewide policies affecting the coordinated provision of services through the state's one-stop delivery system described in WIOA §121(e), including the development of:

(A) Objective criteria and procedures for use by local boards in assessing the effectiveness, physical and programmatic accessibility and continuous improvement of one-stop centers. Where a local board serves as the one-stop operator, the board shall use such criteria to assess and certify the one-stop center;

(B) Guidance for the allocation of one-stop center infrastructure funds under WIOA §121(h); and

(C) Policies relating to the appropriate roles and contributions of entities carrying out one-stop partner programs within the one-stop delivery system, including approaches to

WV Legislature

facilitating equitable and efficient cost allocation in the system;

(7) Development of strategies for technological improvements to facilitate access to, and improve the quality of services and activities provided through, the one-stop delivery system, including such improvements to:

(A) Enhance digital literacy skills (as defined in §202 of the Museum and Library Service Act, 20 U. S. C. §9101);

(B) Accelerate acquisition of skills and recognized post-secondary credentials by participants;

(C) Strengthen professional development of providers and workforce professionals; and

(D) Ensure technology is accessible to individuals with disabilities and individuals residing in remote areas;

(8) Development of strategies for aligning technology and data systems across one-stop partner programs to enhance service delivery and improve efficiencies in reporting on performance accountability measures, including design implementation of common intake, data collection, case management information, and performance accountability measurement and reporting processes and the incorporation of local input into such design and implementation to improve coordination of services across one-stop partner programs;

(9) Development of allocation formulas for the distribution of funds for employment and training activities for adults and youth workforce investment activities, to local areas as permitted under WIOA §128(b)(3) and §133(b)(3);

(10) Preparation of the annual reports described in paragraphs (1) and (2) of WIOA §116(d);

(11) Development of the statewide workforce and labor market information system described in §15(e) of the Wagner-Peyser Act, 29 U. S. C. §49, *et seq.*;

(12) Development of other policies as may promote statewide objectives for and enhance the performance of the workforce development system in the state; and

(13) Determination of the eligibility of short-term workforce training programs for Workforce Pell Grants pursuant to §5B-12-1 *et seq*. of this code.

WV Legislature

§5B-2B-4a. Report to Legislature.

[Repealed.]

WV Legislature

§5B-2B-4b. Open meetings; public information.

(a) The board shall conduct business in an open manner as required by WIOA §101(g).

(b) The board shall make available to the public, on a regular basis through electronic means and open meetings, information about the activities and functions of the board including:

(1) The state plan, or modification to the state plan, prior to submission of the plan or modification of the plan;

(2) Information regarding membership; and

(3) Minutes of formal meetings of the board upon request.

WV Legislature

§5B-2B-5. State agencies.

On or before November 1, any state agency that receives federal or state funding that has been used for workforce investment activities for the past fiscal year shall provide to the board a report, detailing the source and amount of federal, state or other funds received; the purposes for which the funds were provided; the services provided in each regional workforce investment area; the measures used to evaluate program performance, including current and baseline performance data; and any other information requested by the board. All reports submitted pursuant to this section are to be in a form approved by the board.

WV Legislature

§5B-2B-6. Administration of board.

(a) Workforce West Virginia shall provide administrative and other services to the board as the board requires.

(b) Workforce West Virginia shall facilitate the coordination of board activities and local workforce investment activities, including holding meetings with the executive directors of each local board at least monthly. Any executive director of a local board who participates in a meeting held pursuant to this subsection shall report to his or her local board and the county commission of each county represented by the local board regarding the meeting.

WV Legislature

§5B-2B-7. Legislative oversight commission on workforce investment for economic development.

[Repealed.]

WV Legislature

§5B-2B-8. Powers and duties of the commission.

(a) The commission shall make a continued investigation, study and review of the practices, policies and procedures of the workforce investment strategies and programs implemented in the state.

(b) The commission has the authority to conduct or cause to be conducted performance audits upon local workforce investment boards.

(c) For purposes of carrying out its duties, the commission is hereby empowered and authorized to examine witnesses and to subpoena persons, books, records, documents, papers or any other tangible things it believes should be examined to make a complete investigation. All witnesses appearing before the commission shall testify under oath or affirmation, and any member of the commission may administer oaths or affirmations to witnesses. To compel the attendance of witnesses at hearings or the production of any books, records, documents, papers or any other tangible things, the commission is hereby empowered and authorized to issue subpoenas, signed by one of the chairpersons, in accordance with section five, article one, chapter four of this code. Subpoenas are to be served by any person authorized by law to serve and execute legal process and service is to be made without charge. Witnesses subpoenaed to attend hearings are to be allowed the same mileage and per diem as are allowed witnesses before any petit jury in this state. If any person subpoenaed to appear at any hearing refuses to appear or to answer inquiries there propounded, or fails or refuses to produce books, records, documents, papers or other tangible things within his or her control when they are demanded, the commission shall report the facts to the circuit court of Kanawha County or any other court of competent jurisdiction and the court may compel obedience to the subpoena as though the subpoena had been issued by the court in the first instance.

WV Legislature

§5B-2B-9. Coordination between agencies providing workforce investment programs, local workforce investment boards and the Executive Director of Workforce West Virginia.

(a) To provide ongoing attention to addressing issues that will build and continually improve the overall workforce investment system, the Workforce Investment Interagency Collaborative Team is hereby created. The team shall be the single state interagency source for addressing issues or concerns related to building and maintaining the most effective and efficient implementation of WIOA and the overall workforce development system in West Virginia. The team shall focus on how best to collaborate between and among the state agencies directly involved in workforce investment activities and shall develop a strategic plan to that end. The team shall serve as a forum for the board to seek information or recommendations in furtherance of its responsibilities under this article. Workforce West Virginia is the entity which shall convene the team at least monthly and shall provide administrative and other services to the team as the team requires.

(b) The team shall consist of members from each agency subject to the reporting provisions of section five of this article. Each agency shall appoint two representatives to the team consisting of the chief official of the department or division and the official within that department or division who is directly responsible for overseeing the workforce investment program or activities at the state level. A designee may be selected to represent a member appointed to the team: Provided, That the designee has policy-making decision authority regarding workforce investment activities including program and fiscal issues. The team members have authority to make decisions on behalf of the agency at the level required for the team to address issues and advance system improvements.

(c) The team shall coordinate the development of a self-sufficiency standard study for the State of West Virginia. The self-sufficiency standard is to measure how much income is needed for a household of a given composition in a given place to adequately meet its basic needs without public or private assistance. Beginning on November 1, 2004, and every two years thereafter, this study is to be reported to the Speaker of the House of Delegates, the President of the Senate, the board and the Legislative Oversight Commission on Workforce Investment for Economic Development.

(d) Beginning January 1, 2003, in order to lawfully continue any workforce investment activities, any agency subject to the reporting provisions of section five of this article shall enter into a memorandum of understanding with the Executive Director of Workforce West Virginia and any local board representing an area of this state in which the agency is engaged in workforce investment activities. To the extent permitted by federal law, the agreements are to maximize coordination of workforce investment activities and eliminate duplication of services on both state and local levels.

(e) No memorandum of understanding may be effective for more than one year without annual reaffirmation by the parties.

WV Legislature

(f) Any state agency entering a memorandum of understanding shall deliver a copy thereof to both the board and the Legislative Oversight Commission.

WV Legislature