

# WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2002



# ENROLLED

COMMITTEE SUBSTITUTE  
FOR  
**House Bill No. 4083**

(By Delegates Mezzatesta, Cann,  
Stalnaker, Givens and Frederick)



Passed February 22, 2002

In Effect Ninety Days from Passage

FILED

2002 MAR -4 P 7:33

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

# ENROLLED

COMMITTEE SUBSTITUTE

FOR

## H. B. 4083

(BY DELEGATES MEZZATESTA, CANN,  
STALNAKER, GIVENS AND FREDERICK)

(Originating in the Committee on Finance)

[Passed February 22, 2002; in effect ninety days from passage.]

AN ACT to amend chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article two-b, relating to workforce investment; providing definitions; creating the West Virginia workforce investment council; establishing the membership of the council; setting meeting and quorum requirements; defining duties of the council; requiring certain state agencies to provide certain information to the council; providing for the administration of the council; creating the legislative oversight commission on workforce investment for economic development; establishing the powers and duties of the commission; allowing the commission to require disclosure of information through the use of

subpoenas; and requiring memoranda of understanding between state agencies, the development office and local workforce investment boards.

*Be it enacted by the Legislature of West Virginia:*

That chapter five-b of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article two-b, to read as follows:

**ARTICLE 2B. WEST VIRGINIA WORKFORCE INVESTMENT ACT.**

**§5B-2B-1. Short title.**

- 1 This article shall be known and may be cited as the “West
- 2 Virginia Workforce Investment Act.”

**§5B-2B-2. Definitions.**

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

- 4 (1) “Commission” or “legislative oversight commission”
- 5 means the legislative oversight commission on workforce
- 6 investment for economic development created pursuant to
- 7 section seven of this article.

- 8 (2) “Council” means the West Virginia workforce invest-
- 9 ment council.

**§5B-2B-3. West Virginia workforce investment council; membership of board; meetings; quorum requirements.**

- 1 (a) The West Virginia workforce investment council is
- 2 hereby created and shall serve as the state’s workforce invest-
- 3 ment board, as required by the federal Workforce Investment
- 4 Act, 29 U.S.C. § 2801 et seq. The council shall make general

5 recommendations regarding workforce investment in the state  
6 to the governor and the Legislature.

7 (b) The council may consist of no more than thirty-nine  
8 members, including ex officio members.

9 (c) The governor shall appoint, with the advice and consent  
10 of the Senate, members to the council according to the follow-  
11 ing criteria:

12 (1) Representatives of business in the state, including at  
13 least one representing the tourism industry;

14 (2) No more than two members who are members of the  
15 council for community and technical college education;

16 (3) Two members who are members of the West Virginia  
17 council for community and economic development;

18 (4) Two members who are chief elected officials represent-  
19 ing cities and counties;

20 (5) Two members who represent individuals and organiza-  
21 tions having experience and expertise in the delivery of  
22 workforce investment programs, including one chief executive  
23 officer of a community and technical college and one chief  
24 executive officer of a community-based organization operating  
25 in the state;

26 (6) Two members who represent individuals and organiza-  
27 tions having experience in youth activities, including at least  
28 one youth from a post-secondary education institution; and

29 (7) Two members who represent labor organizations in the  
30 state who have been nominated by state labor federations.

31 (d) The following shall serve on the council as ex officio  
32 members:

- 33       (1) The governor, or his or her designee;
- 34       (2) The superintendent of the department of education, or  
35 his or her designee;
- 36       (3) The director of the division of rehabilitation services, or  
37 his or her designee: *Provided*, That the designee has policy-  
38 making authority over a workforce investment program within  
39 the division of rehabilitation services;
- 40       (4) The commissioner of the bureau of senior services, or  
41 his or her designee: *Provided*, That the designee has policy-  
42 making authority over a workforce investment program within  
43 the bureau of senior services;
- 44       (5) The commissioner of the bureau of employment  
45 programs, or his or her designee: *Provided*, That the designee  
46 has policy-making authority over a workforce investment  
47 program within the bureau of employment programs;
- 48       (6) The director of the division of veterans' affairs, or his  
49 or her designee: *Provided*, That the designee has policy-making  
50 authority over a workforce investment program within the  
51 division of veterans' affairs;
- 52       (7) The executive director of the West Virginia develop-  
53 ment office; and
- 54       (8) The secretary of the department of health and human  
55 resources, or his or her designee: *Provided*, That the designee  
56 has policy-making authority over a workforce investment  
57 program within the department of health and human resources.
- 58       (e) The speaker of the House of Delegates shall appoint two  
59 members of the House of Delegates to serve on the council.

60 (f) The president of the Senate shall appoint two members  
61 of the Senate to serve on the council.

62 (g) The governor shall appoint a chair and vice-chair for the  
63 council from among the members appointed pursuant to  
64 subdivision (1), subsection (c) of this section.

65 (h) Initial terms for appointed members of the council are  
66 for up to three years as determined by the governor. All  
67 subsequent terms are for three years.

68 (i) The council shall meet at least quarterly and appointed  
69 members of the council may be reimbursed for reasonable  
70 expenses incurred within the scope of their service on the  
71 council.

72 (j) A majority of the members of the council constitute a  
73 quorum: *Provided*, That a majority of the members making the  
74 quorum are members appointed pursuant to subdivision (1),  
75 subsection (c) of this section.

76 (k) The council may create subcommittees to carry out any  
77 of its duties. Quorum requirements required by subsection (j) of  
78 this section also apply to subcommittees.

79 (l) No member of the council may:

80 (1) Vote on a matter under consideration by the council:

81 (A) Regarding the provision of services by the member or  
82 by an entity that the member represents; or

83 (B) That would provide direct financial benefit to the  
84 member or the immediate family of the member; or

85 (2) Engage in any other activity determined by the governor  
86 to constitute a conflict of interest as specified in the strategic  
87 five-year state workforce investment plan.

**§5B-2B-4. Duties of the workforce investment council.**

- 1           (a) The council shall assist the governor in the:
  - 2           (1) Development and revision of a strategic five-year state  
3 workforce investment plan;
  - 4           (2) Development and continuous improvement of a  
5 statewide system of workforce investment activities including:
    - 6           (A) Development of linkages in order to assure coordina-  
7 tion and nonduplication of services and activities of workforce  
8 investment programs conducted by various entities in the state;  
9 and
    - 10           (B) The review of strategic plans created and submitted by  
11 local workforce investment boards;
  - 12           (3) Commenting at least annually on the measures taken by  
13 the state pursuant to the Carl D. Perkins Vocational and Applied  
14 Technology Education Act, 20 U.S.C. § 2323;
  - 15           (4) Designation and revision of local workforce investment  
16 areas;
  - 17           (5) Development and revision of allocation formulas for the  
18 distribution of funds for adult employment and training  
19 activities and youth activities to local areas;
  - 20           (6) Development and continuous improvement of compre-  
21 hensive state performance measures, including state adjusted  
22 levels of performance, to assess the effectiveness of the  
23 workforce investment activities in the state;
  - 24           (7) Preparation of the annual report to the secretary of labor  
25 as required by the Workforce Investment Act, 29 U.S.C. §  
26 2871;

27 (8) Development and continued improvement of a statewide  
28 employment statistics system; and

29 (9) Development and revision of an application for  
30 workforce investment incentive grants.

31 (b) The council shall make a report to the legislative  
32 oversight commission on or before the first day of September  
33 of each year detailing: (1) All the publicly funded workforce  
34 investment programs operating in the state, including the  
35 amount of federal and state funds expended by each program,  
36 how the funds are spent and the resulting improvement to the  
37 workforce; (2) its recommendations concerning future use of  
38 funds for workforce investment programs; (3) its analysis of  
39 operations of local workforce investment programs; and (4) any  
40 other information the commission may require.

**§5B-2B-5. State agencies.**

1 On or before the first day of August, any state agency that  
2 receives federal or state funding that may be used for workforce  
3 investment activities shall provide to the council a report,  
4 detailing the source and amount of federal, state or other funds  
5 received; the purposes for which the funds were provided; the  
6 services provided in each regional workforce investment area;  
7 the measures used to evaluate program performance, including  
8 current and baseline performance data; and any other informa-  
9 tion requested by the council. All reports submitted pursuant to  
10 this section are to be in a form approved by the council.

**§5B-2B-6. Administration of council.**

1 (a) The West Virginia development office shall provide  
2 administrative and other services to the council as the council  
3 requires.

4 (b) The West Virginia development office shall facilitate  
5 the coordination of council activities and local workforce  
6 investment activities, including holding meetings with the  
7 executive directors of each local workforce investment board at  
8 least monthly. Any executive director of a local workforce  
9 investment board who participates in a meeting held pursuant  
10 to this subsection shall report to his or her board and the county  
11 commission of each county represented by the board regarding  
12 the meeting.

13 (c) The development office shall make an annual report on  
14 or before the first day of October to the legislative oversight  
15 commission detailing the status of one-stop system operations  
16 in the state. The development office shall include with the  
17 report all memoranda of understanding entered into by the one-  
18 stop partners and local workforce investment boards. Each local  
19 workforce investment board shall report annually to the  
20 development office on or before the first day of September on  
21 the status of one-stop centers within the region they represent,  
22 attaching all memoranda of understanding entered into with  
23 one-stop partners.

**§5B-2B-7. Legislative oversight commission on workforce invest-  
ment for economic development.**

1 (a) There is hereby created a joint commission of the  
2 Legislature known as the legislative oversight commission on  
3 workforce investment for economic development.

4 (b) The commission is to be composed of four members of  
5 the Senate appointed by the president of the Senate from the  
6 members of the joint commission on economic development  
7 and four members of the House of Delegates appointed by the  
8 speaker of the House of Delegates from the members of the  
9 joint commission on economic development. No more than  
10 three of the four members appointed by the president of the

11 Senate and the speaker of the House of Delegates, respectively,  
12 may be members of the same political party. The president of  
13 the Senate and the speaker of the House of Delegates shall each  
14 appoint a chairperson from their respective houses. The  
15 members shall serve until their successors have been appointed.

16 (c) Members of the commission may receive compensation  
17 and expenses as provided in article two-a, chapter four of this  
18 code. Expenses, including those incurred in the employment of  
19 legal, technical, investigative, clerical, stenographic, advisory  
20 and other personnel, are to be approved by the joint committee  
21 on government and finance and paid from legislative appropria-  
22 tions.

23 (d) The commission may meet at any time both during  
24 sessions of the Legislature and in the interim or as often as may  
25 be necessary.

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

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

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

8 (c) For purposes of carrying out its duties, the commission  
9 is hereby empowered and authorized to examine witnesses and  
10 to subpoena persons, books, records, documents, papers or any  
11 other tangible things it believes should be examined to make a  
12 complete investigation. All witnesses appearing before the  
13 commission shall testify under oath or affirmation, and any  
14 member of the commission may administer oaths or affirma-  
15 tions to witnesses. To compel the attendance of witnesses at

16 hearings or the production of any books, records, documents,  
17 papers or any other tangible things, the commission is hereby  
18 empowered and authorized to issue subpoenas, signed by one  
19 of the chairpersons, in accordance with section five, article one,  
20 chapter four of this code. Subpoenas are to be served by any  
21 person authorized by law to serve and execute legal process and  
22 service is to be made without charge. Witnesses subpoenaed to  
23 attend hearings are to be allowed the same mileage and per  
24 diem as are allowed witnesses before any petit jury in this state.  
25 If any person subpoenaed to appear at any hearing refuses to  
26 appear or to answer inquiries there propounded, or fails or  
27 refuses to produce books, records, documents, papers or other  
28 tangible things within his or her control when they are de-  
29 manded, the commission shall report the facts to the circuit  
30 court of Kanawha County or any other court of competent  
31 jurisdiction and the court may compel obedience to the sub-  
32 poena as though the subpoena had been issued by the court in  
33 the first instance.

**§5B-2B-9. Coordination between agencies providing workforce  
investment programs, local workforce investment  
boards and the executive director of the West  
Virginia development office.**

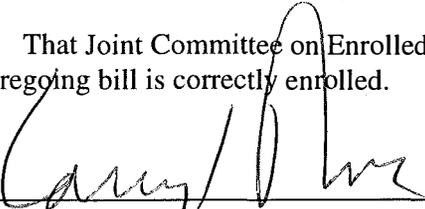
1 (a) Beginning the first day of January, two thousand three,  
2 in order to lawfully continue any workforce investment  
3 activities, any agency subject to the reporting provisions of  
4 section five of this article shall enter into a memorandum of  
5 understanding with the executive director of the West Virginia  
6 development office and any local workforce investment board  
7 representing an area of this state in which the agency is engaged  
8 in workforce investment activities. To the extent permitted by  
9 federal law, the agreements are to maximize coordination of  
10 workforce investment activities and eliminate duplication of  
11 services on both state and local levels.

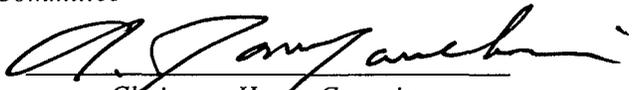
12 (b) No memorandum of understanding may be effective for  
13 more than one year without annual reaffirmation by the parties.

14 (c) Any state agency entering a memorandum of under-  
15 standing shall deliver a copy thereof to both the West Virginia  
16 workforce investment council and the legislative oversight  
17 commission.

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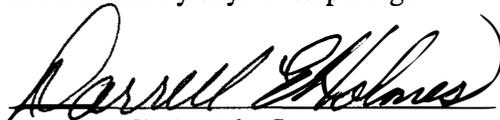
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

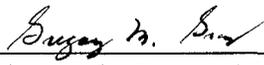
  
\_\_\_\_\_  
Chairman Senate Committee

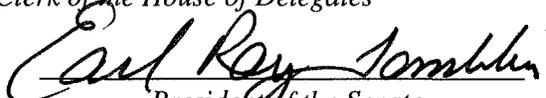
  
\_\_\_\_\_  
Chairman House Committee

Originating in the House.

In effect ninety days from passage.

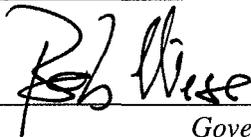
  
\_\_\_\_\_  
Clerk of the Senate

  
\_\_\_\_\_  
Clerk of the House of Delegates

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Speaker of the House of Delegates

The within is approved this the 4<sup>th</sup>  
day of March, 2002.

  
\_\_\_\_\_  
Governor

FILED

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DEPT. OF WEST VIRGINIA  
SECRETARY OF STATE

PRESENTED TO THE  
GOVERNOR

Date: 2/26/02

Time: 4:30 pm