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
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
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.

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

§5B-2B-2. Definitions.

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

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

(2) “Council” means the West Virginia workforce investment council.

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

(a) The West Virginia workforce investment council is hereby created and shall serve as the state’s workforce investment board, as required by the federal Workforce Investment Act, 29 U.S.C. § 2801 et seq. The council shall make general
recommendations regarding workforce investment in the state to the governor and the Legislature.

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

(c) The governor shall appoint, with the advice and consent of the Senate, members to the council according to the following criteria:

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

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

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

(4) Two members who are chief elected officials representing cities and counties;

(5) Two members who represent individuals and organizations having experience and expertise in the delivery of workforce investment programs, including one chief executive officer of a community and technical college and one chief executive officer of a community-based organization operating in the state;

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

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

(d) The following shall serve on the council as ex officio members:
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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.
(f) The president of the Senate shall appoint two members of the Senate to serve on the council.

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

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

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

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

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

(l) No member of the council may:

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

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

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

(2) Engage in any other activity determined by the governor to constitute a conflict of interest as specified in the strategic five-year state workforce investment plan.
§5B-2B-4. Duties of the workforce investment council.

(a) The council shall assist the governor in the:

(1) Development and revision of a strategic five-year state workforce investment plan;

(2) Development and continuous improvement of a statewide system of workforce investment activities including:

(A) Development of linkages in order to assure coordination and nonduplication of services and activities of workforce investment programs conducted by various entities in the state; and

(B) The review of strategic plans created and submitted by local workforce investment boards;

(3) Commenting at least annually on the measures taken by the state pursuant to the Carl D. Perkins Vocational and Applied Technology Education Act, 20 U.S.C. § 2323;

(4) Designation and revision of local workforce investment areas;

(5) Development and revision of allocation formulas for the distribution of funds for adult employment and training activities and youth activities to local areas;

(6) Development and continuous improvement of comprehensive state performance measures, including state adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the state;

(7) Preparation of the annual report to the secretary of labor as required by the Workforce Investment Act, 29 U.S.C. § 2871;
(8) Development and continued improvement of a statewide employment statistics system; and

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

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

§5B-2B-5. State agencies.

On or before the first day of August, any state agency that receives federal or state funding that may be used for workforce investment activities shall provide to the council 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 council. All reports submitted pursuant to this section are to be in a form approved by the council.

§5B-2B-6. Administration of council.

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

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

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

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

(b) The commission is to be composed of four members of the Senate appointed by the president of the Senate from the members of the joint commission on economic development and four members of the House of Delegates appointed by the speaker of the House of Delegates from the members of the joint commission on economic development. No more than three of the four members appointed by the president of the
Senate and the speaker of the House of Delegates, respectively, may be members of the same political party. The president of the Senate and the speaker of the House of Delegates shall each appoint a chairperson from their respective houses. The members shall serve until their successors have been appointed.

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

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


(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.

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

(a) Beginning the first day of January, two thousand three, 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 the West Virginia development office and any local workforce investment 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.
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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.

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 4th day of March, 2002.

Governor