WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2004

ENROLLED

House Bill No. 4132

(By Delegates Mezzatesta, Cann, Frederick, Stalnaker, Sumner and Walters)

Passed February 26, 2004

In Effect Ninety Days from Passage
AN ACT to amend and reenact §5B-2D-2, §5B-2D-3, §5B-2D-4, §5B-2D-5, §5B-2D-6 and §5B-2D-7 of the code of West Virginia, 1931, as amended, all relating to the West Virginia guaranteed work force program; updating terms; establishing that funds may be provided by the Legislature; requiring certain reporting and increasing the maximum amount that may be spent on certain training.

Be it enacted by the Legislature of West Virginia:

That §5B-2D-2, §5B-2D-3, §5B-2D-4, §5B-2D-5, §5B-2D-6 and §5B-2D-7 of the code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 2D. WEST VIRGINIA GUARANTEED WORK FORCE PROGRAM.

§5B-2D-2. Definitions.
As used in this article, the following words and terms have the following meanings unless the context indicates another or different meaning or intent:

(1) "WVDO" means the West Virginia development office;

(2) "Employer" means an individual, partnership, corporation, or other legal entity that employs or plans to employ skilled workers;

(3) "Retraining and job upgrade" means the specialized training that is given to an identified level of employees to enable them to advance to a higher level of employment;

(4) "Program" means the West Virginia Guaranteed Work Force Program established pursuant to section three of this article;

(5) "Training" means custom-designed training given to employees or prospective employees of new or expanding businesses and industries within the state;

(6) "Training provider" means any persons, public or private educational institutions, agencies, companies or other entities that may be utilized for training or consultative services for an employer.

§5B-2D-3. Training program.

The West Virginia development office shall develop a business and industrial training program, the purpose of which is to provide assistance for new or expanding businesses for the training, retraining or upgrading of the skills of potential employees. The program shall emphasize employee training specifically designed to accommodate the needs of individual employers. The program shall encourage the expansion of existing businesses and industries within the state, promote
retention of businesses and industries within the state, promote
retention of existing jobs within the state, prevent economic and
industrial out-migration, and assist in the relocation of
out-of-state businesses and industries in the state. Under this
program, the West Virginia development office may pay up to
one hundred percent or two thousand dollars per employee,
whichever is less, of training costs of new employees in firms
creating at least ten jobs in a one-year period. Training assis-
tance may also be provided to existing businesses in cases in
which training, retraining or upgrading services will result in
the retention of existing jobs or the creation of additional jobs,
or both: Provided, That the West Virginia development office
may pay up to one hundred percent or two thousand dollars per
employee, whichever is less, for the training, retraining or
upgrading. Training costs associated with this program will be
paid directly by the training provider.

Provision of training services will depend upon the em-
ployer meeting program requirements as set forth by the West
Virginia development office and this article. The state of West
Virginia guarantees if employer satisfaction is not achieved, the
West Virginia development office will carefully review the
effectiveness of the recently completed training plan and
program with the employer and the training provider. After
such review, if the West Virginia development office deter-
mines that the training program was inadequate to meet the
employer’s specifications and satisfaction as originally agreed
to, then those employees so trained shall be eligible for retrain-
ing under the guarantee provision except when the training
program curriculum or provider were selected solely at the
discretion of the employer, then no such additional training
shall be considered or approved: Provided, That in no instance
may the cost of training and retraining an employee exceed four
thousand dollars.
§5B-2D-4. Funds.

The funds made available by this section shall supplement but not displace funds available through existing programs conducted by employers themselves and public programs such as the Workforce Investment Act (WIA), the Carl D. Perkins Vocational Education Act, the Stewart B. McKinney Homeless Assistance Act, and the JOBS Act, or apportionment fund allocated to the community colleges, regional occupational centers and programs, or other local educational agencies. In addition, it is further the intention of the Legislature that the program established pursuant to this section shall not replace, parallel, supplant, compete with, or duplicate in any way existing, approved apprenticeship programs.

The fund shall consist of all moneys provided by the Legislature and also any contributions, grants or bequests received from federal, private or other sources. Appropriations made from the funds shall be for the purpose of providing contractual services through the West Virginia development office for vocational related training or retraining provided by public or private training institutions within West Virginia and for contracted services through the West Virginia development office for vocational related training, retraining or upgrading provided by public or private training institutions located outside of West Virginia and for vocational related training or retraining provided on site, within West Virginia by any training provider as defined in this article.

§5B-2D-5. Program activities.

The primary concern in the provision of training services shall be the needs and types of services identified by the employer. A college or university, community college or area vocational education center shall be given initial consideration
to provide any training, retraining, or job upgrade training. The employer will have the opportunity to participate in the selection of a training provider and training program curriculum. Training services may begin upon execution of a written agreement between the West Virginia development office and the employer.

Program activities may include, but not be limited to, the following:

(a) The performance of a job skills analysis and the designing of a training curriculum for an employer.

(b) The recruitment and referral of trainee applicants to an employer.

(c) The provision of off site pre-employment training to prospective employees of a new or expanding business or industry or to existing employees for purposes of retraining or upgrading: *Provided, That on site pre-employment training may be provided if off site pre-employment training is not practical.*

(d) Retraining of employees in response to a technological change.

(e) The provision of job upgrade training, if the training will retain or increase the employer's total work force.

(f) Contracting with persons, public or private educational institutions, agencies or other bodies for training or consultative services for an employer.

(g) The provision of materials and supplies used in the training process, instructors with specialized skills, instructional training aids and equipment, consultative services relative to
32 highly specific or technical data and other services.

33 (h) Assisting a foreign employer locating or expanding in
34 this state by familiarizing the employer’s foreign personnel
35 with the work attitudes, work methods, expectations, customs
36 and life style of employees who work within this state.

37 (i) Taking any other action that is considered to be neces-
38 sary or desirable for the furtherance of the provisions of this
39 article.

40 Funds may not be awarded or reimbursed to any business
41 or industry for the training, retraining or upgrading of skills of
42 potential employees with the purpose of replacing or supplant-
43 ing employees engaged in an authorized work stoppage.

§5B-2D-6. Reporting.

(a) The office shall file a report with the Legislature, the
2 legislative oversight commission on workforce investment for
3 economic development and the governor at the end of each
4 fiscal year, commencing June thirtieth, one thousand nine
5 hundred ninety. This report shall include the following:

6 (1) The number of persons trained and their demographics;

7 (2) The number of persons placed in employment;

8 (3) The number of employers for which persons have been
9 trained and placed;

10 (4) The number of persons trained and placed for each
11 employer;

12 (5) The types of work for which persons have been trained;
(6) The source of training fund; and

(7) The overall effectiveness of this article in contributing to economic stabilization and business and industrial growth within this state.

(b) In addition, the West Virginia development office shall report on a quarterly basis to the West Virginia workforce investment council and the legislative oversight commission on workforce investment for economic development the following as they relate to the training program established by this article:

(1) The names of all companies approved for training during the reporting quarter;

(2) The names of all companies receiving funding for training during the reporting quarter;

(3) The amount and source of funds utilized for each training program;

(4) The type of training being delivered;

(5) The number of employees trained; and

(6) Those agencies providing the training.

§5B-2D-7. Marketing.

The West Virginia development office shall market and promote the program.
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 9th day of March, 2004.

Governor