

# VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

## CHAPTER 592

*An Act to amend and reenact §§ 2.2-2407, 40.1-6 and 60.2-113 of the Code of Virginia, relating to the Migrant and Seasonal Farmworkers Board and the Interagency Migrant Worker Policy Committee.*

[S 363]

Approved April 12, 2004

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2407, 40.1-6 and 60.2-113 of the Code of Virginia are amended and reenacted as follows:**

§ 2.2-2407. Migrant and Seasonal Farmworkers Board; purpose; membership; terms; quorum; compensation; staff; annual report.

A. The Migrant and Seasonal Farmworkers Board (the Board) is established as an advisory board, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Board shall be to:

1. Provide for the coordination and evaluation of state and federal services and, to the degree feasible, other governmental, public and private agency services to migrant and seasonal farmworkers within the Commonwealth;

2. Identify and evaluate the needs of migrant and seasonal farmworkers and needs of employers of such workers;

3. Study problems of the target population, provide background information, and recommend options for solutions along with impact projections of such recommendations to the General Assembly, governmental, public and private agencies; and

4. Encourage and foster the development of area migrant and seasonal farmworkers councils for the purpose of seeking problem resolution and communication at the local level.

B. The Board shall consist of fifteen members who shall be appointed by the Governor to serve at his pleasure. The Board shall include representatives of grower communities, migrant and seasonal farmworkers and crew leaders, if practical, and government, public and private agencies and interest groups or citizens concerned with migrant and seasonal farmworkers.

C. A majority of the members of the Board shall constitute a quorum.

D. Members of the Board shall receive no compensation for their services but shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

E. The ~~Department of Labor and Industry~~ *Virginia Employment Commission* shall provide staff support to the Board and serve as fiscal agent for any funds received.

F. The ~~Department of Labor and Industry~~ *Virginia Employment Commission* shall submit a biennial report to the Governor and General Assembly on or before October 1 of each even-numbered year on the activities of the Board. The biennial report shall be distributed in accordance with § 2.2-1127.

§ 40.1-6. Powers and duties of Commissioner.

The Commissioner shall:

(1) Have general supervision and control of the Department.

(2) Enforce the provisions of this title and shall cause to be prosecuted all violations of law relating to employers or business establishments before any court of competent jurisdiction.

(3) Make such rules and regulations as may be necessary for the enforcement of this title and procedural rules as are required to comply with the Federal Occupational Safety and Health Act of 1970 (P.L. 91-596). All such rules and regulations shall be subject to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2.

(4) In the discharge of his duties, have power to take and preserve testimony, examine witnesses and administer oaths and to file a written or printed list of relevant interrogatories and require full and complete answers to the same to be returned under oath within thirty days of the receipt of such list of questions.

(5) Have power to appoint such representatives as may be necessary to aid him in his work; their duties shall be prescribed by the Commissioner.

(6) [Repealed.]

(7) Have power to require that accident, injury and occupational illness records and reports be kept at any place of employment and that such records and reports be made available to the Commissioner or his duly authorized representatives upon request. Further, he may require employers to develop, maintain and make available such other records and information as are deemed necessary for the proper enforcement of this title.

(8) Have power, upon presenting appropriate credentials to the owner, operator, or agent in charge:

(a) To enter without delay and at reasonable times any business establishment, construction site, or other area, workplace or environment where work is performed by an employee of any employer in this Commonwealth; and

(b) To inspect and investigate during regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, without prior notice, unless such notice is authorized by the Commissioner or his representative, any such business establishment or place of employment and all pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any such employer, officer, owner, operator, agent, or employee. If such entry or inspection is refused, prohibited or otherwise interfered with, the Commissioner shall have power to seek from a court having equity jurisdiction an order compelling such entry or inspection.

(9) Make rules and regulations governing the granting of temporary or permanent variances from all standards promulgated by the Board under this title. Any interested or affected party may appeal to the Board, the Commissioner's determination to grant or deny such a variance. The Board may, as it sees fit, adopt, modify or reject the determination of the Commissioner.

(10) All information reported to or otherwise obtained by the Commissioner, the Board or the agents or employees of either which contains or might reveal a trade secret shall be confidential and shall be limited to those persons who need such information for purposes of enforcement of this title. The Commissioner shall have authority to issue orders to protect the confidentiality of such information. Violations of such orders shall be punishable as civil contempt upon application to the Circuit Court of the City of Richmond. It shall be the duty of each employer to notify the Commissioner, or his representatives, of the existence of trade secrets where he desires the protection provided herein.

(11) Serve as executive officer of the Virginia Safety and Health Codes Board and of the Apprenticeship Council and see that the rules, regulations and policies that they promulgate are carried out.

~~(12) Establish the Interagency Migrant Worker Policy Committee, comprised of representatives from state agencies, including the Virginia Workers' Compensation Commission, whose services and jurisdictions involve migrant and seasonal farmworkers and their employees. The committee shall coordinate its activities with the Migrant and Seasonal Farmworkers Board established in § 2.2-2407.~~

§ 60.2-113. Employment stabilization.

The Commission shall take all necessary steps through its appropriate divisions and with the advice of such advisory boards and committees as it may have to:

1. Establish a viable labor exchange system to promote maximum employment for the Commonwealth of Virginia with priority given to those workers drawing unemployment benefits;

2. Maintain a solvent trust fund financed through equitable employer taxes which provide temporary partial income replacement to involuntarily unemployed covered workers;

3. Coordinate and conduct labor market information research studies, programs and operations, including the development, storage, retrieval and dissemination of information on the social and economic aspects of the Commonwealth and publish data needed by employers, economic development, education and training entities, government and other users in the public and private sectors;

4. Determine and publish a list of jobs, trades, and professions for which a high demand of qualified workers exists or is projected by the Commission. The Commission shall consult with the Virginia Workforce Council in making such determination. Such information shall be published biennially and disseminated to employers; education and training entities, including public two-year and four-year institutions of higher education; government agencies, including the Governor's Employment and Training Department, the Department of Education, and public libraries; and other users in the public and private sectors;

5. Prepare official short and long range population projections for the Commonwealth for use by the General Assembly and state agencies with programs which involve or necessitate population projections;

6. Encourage and assist in the adoption of practical methods of vocational guidance, training and retraining; ~~and~~

7. Develop a plan for implementation during times of economic recession, natural disaster or military mobilization whereby necessary workers can be provided; *and*

*8. Establish the Interagency Migrant Worker Policy Committee, comprised of representatives from appropriate state agencies, including the Virginia Workers' Compensation Commission, whose services and jurisdictions involve migrant and seasonal farmworkers and their employees. The Committee shall coordinate its activities with the Migrant and Seasonal Farmworkers Board established in § 2.2-2407. All agencies of the Commonwealth shall be required to cooperate with the Committee upon request.*