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#### **HOUSE BILL NO. 1986**

Offered January 14, 2015 Prefiled January 13, 2015

A BILL to amend and reenact §§ 2.2-435.7, 2.2-435.8, 2.2-2238.1, 2.2-2470, 2.2-2471, 2.2-2472, and 60.2-113 of the Code of Virginia, relating to Virginia Board of Workforce Development.

Patrons—Byron, Marshall, D.W., Filler-Corn, Garrett and Murphy

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-435.7, 2.2-435.8, 2.2-2470, 2.2-2471, 2.2-2472, and 60.2-113 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-435.7. Responsibilities of the Chief Workforce Development Advisor.

- A. The Governor's responsibilities of as carried out by the Chief Workforce Development Advisor shall include:
- 1. Developing a strategic plan for the statewide delivery of workforce development and training programs and activities. The strategic plan shall be developed in coordination with the development of the comprehensive economic development policy required by § 2.2-205. The strategic plan shall include performance measures that link the objectives of such programs and activities to the record of state agencies, local workforce investment development boards, and other relevant entities in attaining such objectives;
- 2. To the extent permissible under applicable federal law, determining the appropriate allocation of funds and other resources that have been appropriated or are otherwise available for disbursement by the Commonwealth for workforce development programs and activities;
- 3. Ensuring that the Commonwealth's workforce development efforts are implemented in a coordinated and efficient manner by, among other activities, taking appropriate executive action to this end and recommending to the General Assembly necessary legislative actions to streamline and eliminate duplication in such efforts;
- 4. Facilitating efficient implementation of workforce development and training programs by cabinet secretaries and agencies responsible for such programs;
- 5. Developing, in coordination with the Virginia Board of Workforce Development, (i) certification standards for programs and providers and (ii) uniform policies and procedures, including standardized forms and applications, for one-stop centers;
- 6. Monitoring, in coordination with the Virginia Board of Workforce Development, the effectiveness of each one-stop center and recommending actions needed to improve their effectiveness;
- 7. Establishing measures to evaluate the effectiveness of the local workforce investment development boards and conducting annual evaluations of the effectiveness of each local workforce investment development board. As part of the evaluation process, the Governor shall recommend to such boards specific best management practices;
- 8. Conducting annual evaluations of the performance of workforce development and training programs and activities and their administrators and providers, using the performance measures developed through the strategic planning process described in subdivision 1. The evaluations shall include, to the extent feasible, (i) a comparison of the per-person costs for each program or activity, (ii) a comparative rating of each program or activity based on its success in meeting program objectives, and (iii) an explanation of the extent to which each agency's appropriation requests incorporate the data reflected in the cost comparison described in clause (i) and the comparative rating described in clause (ii). These evaluations, including the comparative rankings, shall be considered in allocating resources for workforce development and training programs. These evaluations shall be submitted to the chairs of the House and Senate Commerce and Labor Committees and included in the biennial reports pursuant to subdivision 10;
- 9. Monitoring federal legislation and policy, in order to maximize the Commonwealth's effective use of and access to federal funding available for workforce development programs; and
- 10. Submitting biennial reports, which shall be included in the Governor's executive budget submissions to the General Assembly, on improvements in the coordination of workforce development efforts statewide. The reports shall identify (i) program success rates in relation to performance measures established by the Virginia Board of Workforce Development, (ii) obstacles to program and resource coordination, and (iii) strategies for facilitating statewide program and resource coordination.
  - B. The Chief Workforce Development Advisor shall report to the Governor.

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# § 2.2-435.8. Workforce program evaluations; sharing of certain data.

A. Notwithstanding any provision of law to the contrary, the agencies specified in subsection D may share data from within their respective databases solely to (i) provide the workforce program evaluation and policy analysis required by subdivision A 8 of § 2.2-435.7 and clause (i) of subdivision A 10 of § 2.2-435.7 and (ii) conduct education program evaluations that require employment outcomes data to meet state and federal reporting requirements.

- B. Data shared pursuant to subsection A shall not include any personal identifying information, shall be encrypted, and shall be transmitted to the Governor or his designee. Upon receipt of such data, the Governor or his designee shall re-encrypt the data to prevent any participating agency from connecting shared data sets with existing agency files. For the purposes of this section:
  - 1. "Identifying information" means the same as that term is defined in § 18.2-186.3; and 2. "Encrypted" means the same as that term is defined in § 18.2-186.6.

- C. The Governor or his designee and all agencies authorized under this section shall destroy or erase all shared data upon completion of all required evaluations and analyses. The Governor or his designee may retain a third-party entity to assist with the evaluation and analysis.
- D. The databases from the following agencies relating to the specific programs identified in this subsection may be shared solely to achieve the purposes specified in subsection A:
- 1. Virginia Employment Commission: Unemployment Insurance, Job Service, Trade Act, and Veterans Employment Training Programs;
- 2. Virginia Community College System: Postsecondary Career and Technical Education, Workforce Investment Act Workforce Innovation and Opportunity Act Adult, Youth and Dislocated Worker
- 3. Department for Aging and Rehabilitative Services: Vocational Rehabilitation and Senior Community Services Employment Program;
  - 4. Department for the Blind and Vision Impaired: Vocational Rehabilitation;
- 5. Department of Education: Adult Education and Family Literacy, Special Education, and Career and Technical Education;
  - 6. Department of Labor and Industry: Apprenticeship;
- 7. Department of Social Services: Supplemental Nutrition Assistance Program and Virginia Initiative for Employment Not Welfare;
  - 8. Virginia Economic Development Partnership: Virginia Jobs Investment Program;
- 9. Department of Juvenile Justice: Youth Industries and Institutional Work Programs and Career and Technical Education Programs;
  - 10. Department of Corrections: Career and Technical Education Programs; and
  - 11. The State Council of Higher Education for Virginia.

#### § 2.2-2238.1. Special economic development services in rural communities; strategic plan.

A. In order to assist the rural communities of the Commonwealth, the Authority shall develop a program for reviewing existing economic development programs of rural communities, upon request. The program shall include (i) a review and evaluation of existing industrial sites and infrastructure, including existing streets, water and sewer systems, electricity, natural gas and communications facilities that will provide high-speed or broadband Internet access to rural and underserved areas of the Commonwealth; (ii) an assessment of the existing workforce and the provision of information on state and federal programs such as tax incentives that may be available to local or prospective employers to assist in hiring and training in areas of high unemployment; (iii) assistance in identifying community resources and the type of industries that may benefit from locating in a community with such resources; and (iv) marketing assistance to help rural communities improve their visibility to expanding industries looking for new facilities.

B. The Authority, the Center for Rural Virginia, the Virginia Department of Housing and Community Development, the Virginia Resources Authority, the Department of Small Business and Supplier Diversity, the Virginia Tobacco Indemnification and Community Revitalization Commission, the Virginia Employment Commission, the Virginia Tourism Corporation, the Virginia Community College System, institutions of higher education within rural regions of the Commonwealth, and the Department of Agriculture and Consumer Services shall jointly develop and implement a rural economic development strategic plan that at a minimum addresses: (i) education, including pre-kindergarten, primary, secondary and post-graduate resources, and comprehensive workforce development programs, as they may pertain to the Workforce Investment Act Workforce Innovation and Opportunity Act; (ii) infrastructure, including capital for water and sewer upgrading, waste management, law enforcement, housing, primary and secondary roads, and telecommunications; (iii) traditional industrial development and industry retention programs, including assistance in financing and in workforce training; (iv) recreational and cultural enhancement and related quality of life measures, including parks, civic centers, and theaters; (v) agribusiness incentives to promote the use of new technologies, and the exploration of new market opportunities; and (vi) a revolving loan fund or loan guarantee program to help start or expand 121 entrepreneurial activities, especially small business activities in rural communities.

# § 2.2-2470. Definitions.

As used in this article:

"Local workforce investment development board" means a local workforce investment development board established under § 117 of the WIA 107 of the WIOA.

"One stop" means a conceptual approach to service delivery intended to provide a single point of access for receiving a wide range of workforce development and employment services, either on-site or electronically, through a single system.

"One-stop center" means a physical site where eore employment and career services are provided, either on-site or electronically, and access to intensive career services, training services, and other partner program services are available for employers, employees, and job seekers.

"One-stop operator" means a single entity or consortium of entities that operate a one-stop center or centers. Operators may be public or private entities competitively selected or designated through an agreement with a local workforce board.

"Virginia Workforce Network" includes the programs and activities enumerated in subsection G of § 2.2-2472.

"WIA" means the federal Workforce Investment Act of 1998 (P.L. 105-220), as amended.

"WIOA" means the federal Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128).

# § 2.2-2471. Virginia Board of Workforce Development; purpose; membership; terms; compensation and expenses; staff.

- A. The Virginia Board of Workforce Development (the Board) is established as a policy board, within the meaning of § 2.2-2100, in the executive branch of state government. The purpose of the Board shall be to assist and advise the Governor, the General Assembly, and the Chief Workforce Development Advisor in meeting workforce training development needs in the Commonwealth through recommendation of policies and strategies to increase coordination and thus efficiencies of operation between all education and workforce programs with responsibilities and resources for employment, occupational training, and support services connected to workforce credential and job attainment.
  - B. The Board shall consist of a maximum of 26 29 members as follows:
- 1. The Board shall include two members one member of the House of Delegates to be appointed by the Speaker of the House of Delegates and two members one member of the Senate to be appointed by the Senate Committee on Rules. Legislative members shall serve terms coincident with their terms of office and may be reappointed for successive terms.
- 2. The Governor or his designee who shall be selected from among the cabinet-level officials appointed to the Board; the Secretaries of Commerce and Trade, Education, Health and Human Resources, and Veterans Affairs and Homeland Security, or their designees Governor's Chief Workforce Advisor; and the Chancellor of the Virginia Community College System or his designee, the Superintendent of Public Instruction, the Chief Executive Officer of the Virginia Economic Development Partnership Authority, the Commissioners of the Virginia Employment Commission, the Department of Social Services, and the Department of Veterans Services, or their designees; a commissioner of a state agency administering the state vocational rehabilitation program, to be appointed by the Governor; and a representative of a public or private four-year institution of higher education or a regional higher education center, to be appointed by the Governor, shall all serve as ex officio members.
- 3. The Governor shall appoint *additional* members as follows: one local elected official; two representatives nominated by state labor federations; and 44 15 nonlegislative citizen members representing the business community, to include the presidents of the Virginia Chamber of Commerce and the Virginia Manufacturers Association, one representative of proprietary employment training schools, one representative of health care employers, and the remaining members who are business owners, chief executive officers, chief operating officers, chief financial officers, senior managers, or other business executives or employers with optimum policy-making or hiring authority and who represent life sciences and health care, information technology and cyber security, or other industry sectors aligning with the Governor's Economic Development Plan. Business members shall represent diverse regions of the state, to include urban, suburban, and rural areas, and at least two of whom members shall also be members of local workforce investment development boards. Nonlegislative citizen members may be nonresidents of the Commonwealth.

Members appointed in accordance with this subdivision shall serve four-year terms, subject to the pleasure of the Governor, and may be reappointed.

- C. If one person appointed to fill one of the enumerated positions in subsection B also qualifies to fill any other of the enumerated positions, such person may, at the discretion of the Governor, be deemed to fill any or all of the enumerated positions for which such person qualifies.
- D. The Governor shall select a chairman and vice-chairman, who shall serve two-year terms, from among the 14 15 nonlegislative citizen members representing the business community appointed in

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accordance with subdivision B 3. No member shall be eligible to serve more than one two-year term as chairman. The Board shall meet at least every three months or upon the call of the chair or the Governor as stipulated by the Board's bylaws. The chairman and the vice-chairman shall select at least five members of the Board to serve as an executive committee of the Board, which shall have the limited purpose of establishing meeting agendas, reviewing bylaws and other documents pertaining to Board governance and operations, approving reports to the Governor, and responding to urgent federal, state, and local issues between scheduled Board meetings.

- E. D. Compensation and reimbursement of expenses of the members shall be as follows:
- 1. Legislative members appointed in accordance with subdivision B 1 shall receive such compensation and reimbursement of expenses incurred in the performance of their duties as provided in §§ 2.2-2813, 2.2-2825, and 30-19.12.
- 2. Members of the Board appointed in accordance with subdivision B 2 shall not receive compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.
- 3. Members of the Board appointed in accordance with subdivision B 3 shall not receive compensation but shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825.

Funding for the costs of compensation and expenses of the members shall be provided from federal funds received under the WIA WIOA.

F. The E. Board staffing will be led by a full-time director to be supervised by the Chief Workforce Development Advisor shall serve as lead staff to the Board. The Office of the Chancellor of the Virginia Community College System (i) shall provide staff support to accomplish the federally mandated requirements of the WIA and (ii) shall enter into a memorandum of agreement with the Offices of the Secretaries of Commerce and Trade and Education for the purpose of having personnel from the Office provide staff support to accomplish the other duties and functions of the Board. The memorandum of agreement shall address the scope of duties of the Offices' personnel in providing such staff assistance to the Board. All other agencies in the executive branch of the Commonwealth shall provide assistance to the Board upon request or his designee. Additional staff support, including staffing of standing committees, may include the state's Career Pathways Work Group or other directors or coordinators of relevant education and workforce programs as requested by the Chief Workforce Development Advisor and as in-kind support from agencies for the Board.

The Governor's Chief Workforce Development Advisor shall enter into a written agreement with agencies administering workforce programs regarding supplemental staff support to Board committees and other logistical support for the Board. Funding for a full-time director position dedicated to the support of the Board's operations and outcomes and the Board's operational budget as agreed upon and referenced in a written agreement between the Chief Workforce Development Advisor and the Virginia Community College System shall be provided by the WIOA.

# § 2.2-2472. Powers and duties of the Board; Virginia Workforce System.

- A. The Board shall *implement a Virginia Workforce System that shall* undertake the following actions to implement and foster workforce *development and* training and better align education and workforce programs to meet current and projected skills requirements of an increasingly technological, global workforce:
- 1. Provide policy advice to the Governor on workforce and workforce development issues to create a business-driven system that yields increasing rates of attainment of workforce credentials in demand by business and increasing rates of jobs creation and attainment;
  - 2. Provide policy direction to local workforce investment development boards;
- 3. Provide recommendations on the policy, plans, and procedures for secondary and postsecondary career and technical education activities authorized under the federal Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. § 2301 et seq.) to ensure alignment with the state's plan for coordinating programs authorized under Title I of the WIA and under Assist the Governor in the development, implementation, and modification of the combined state plan for federal workforce funds, including the WIOA, the federal Wagner-Peyser Act (29 U.S.C. § 49 et seq.), adult education, vocational rehabilitation, secondary and postsecondary programs under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. § 2301 et seq.), the Supplemental Nutrition Assistance Program (SNAP), the Temporary Assistance to Needy Families (TANF) program, the Trade Act Adjustment, job services for veterans, and unemployment insurance;
- 4. Provide recommendations on the policy, plans, and procedures for other education and workforce development programs that provide resources and funding for training and employment services as identified by the Governor or Board;
  - 5. Identify current and emerging statewide workforce needs of the business community:
  - 6. Forecast and identify training requirements for the new workforce;
  - 7. Recommend strategies that will match trained workers with available jobs to include strategies for

increasing business engagement in education and workforce development;

- 8. Develop WIA incentive grant applications and approve criteria for awarding incentive grants;
- 9. Develop and approve criteria for the reallocation of unexpended WIA funds from local workforce investment boards;
- 10. 5. Conduct a review of budgets, which shall be submitted annually to the Board by each agency conducting federal and state funded career and technical and adult education and workforce development programs, that identify the agency's sources and expenditures of administrative, workforce *education and* training, and *leadership funds support services* for workforce development programs;
- 11. Administer the Virginia Career Readiness Certificate Program in accordance with § 2.2-2477 and review 6. Review and recommend industry credentials that align with high demand occupations;
- 12. 7. Define the Board's role in certifying WIA WIOA training providers, including those not subject to the authority expressed in Chapter 21.1 (§ 23-276.1 et seq.) of Title 23;
- 13. 8. Provide an annual report to the Governor concerning its actions and determinations under subdivisions 1 through 13 7;
- 14. 9. Create procedures, quality standards, guidelines, and directives applicable to local workforce investment development boards and the operation of one-stops, as necessary and appropriate to carry out the purposes of this article; and
  - 45. 10. Perform any act or function in accordance with the purposes of this article.
  - B. The Board may establish such committees as it deems necessary including the following:
  - 1. A committee to accomplish the federally mandated requirements of the WIA WIOA;
- 2. An advanced technology committee to focus on high-technology workforce training needs and skills attainment solutions through sector strategies, career readiness, and career pathways;
- 3. A performance and accountability committee to coordinate with the Virginia Employment Commission, *the* State Council of Higher Education for Virginia, *the Virginia Community College System*, and the Council on Virginia's Future to develop the metrics and measurements for publishing comprehensive workforce score cards and other longitudinal data that will enable the Virginia Workforce Network System to measure comprehensive accountability and performance; and
- 4. A military transition assistance committee to focus on military transition assistance, including reforms to (i) improve the integration of the federal Local Veterans Employment Representative Program and the Disabled Veterans Outreach Program into all Virginia Workforce Centers and (ii) workforce development and employment of veterans and reduce process and qualification barriers to training and employment services.
- C. The Board and the Governor's cabinet secretaries shall assist the Governor in complying with the provisions of the WIA WIOA and ensuring the coordination and effectiveness of all federal and state funded career and technical and adult education and workforce development programs and providers comprising elements of Virginia's Career Pathways System and Workforce Network within Virginia's Workforce System.
- D. The Board shall assist the Governor in the following areas with respect to workforce development: development of the WIA Wagner-Peyser State Plan combined WIOA state plan; development and continuous improvement of a statewide workforce development and eareer pathways system that ensures career readiness and coordinates and aligns career and technical education, adult education, and federal and state workforce programs; development of linkages to ensure coordination and nonduplication among programs and activities; review of local plans; designation of local areas; development of local discretionary allocation formulas; development and continuous improvement of comprehensive state performance measures including, without limitation, performance measures reflecting the degree to which one-stop centers provide comprehensive services with all mandatory partners and the degree to which local workforce investment development boards have obtained funding from sources other than the WIA WIOA; preparation of the annual report to the U.S. Secretary of Labor; development of a statewide employment statistics system; and development of a statewide system of one-stop centers that provide comprehensive workforce services to employers, employees, and job seekers.

The Board shall share information regarding its meetings and activities with the public.

E. Each local workforce investment development board shall develop and submit to the Governor and the Virginia Board of Workforce Development an annual workforce demand plan for its workforce investment development board area based on a survey of local and regional businesses that reflects the local employers' needs and requirements and the availability of trained workers to meet those needs and requirements; Local boards shall also designate or certify one-stop operators; identify eligible providers of youth activities; identify eligible providers of intensive services if unavailable at one-stop; develop a budget; conduct local oversight of one-stop operators and training providers in partnership with its local chief elected official; negotiate local performance measures, including incentives for good performance and penalties for inadequate performance; assist in developing statewide employment statistics;

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 coordinate workforce investment development activities with economic development strategies and the annual demand plan, and develop linkages among them; develop and enter into memoranda of understanding with one-stop partners and implement the terms of such memoranda; promote participation by the private sector; actively seek sources of financing in addition to WIA WIOA funds; report performance statistics to the Virginia Board of Workforce Development; and certify local training providers in accordance with criteria provided by the Virginia Board of Workforce Development. Further, a local training provider certified by any workforce investment development board has reciprocal certification for all workforce investment development boards.

Each local workforce investment development board shall share information regarding its meetings and activities with the public.

- F. Each chief local elected official shall consult with the Governor regarding designation of local workforce investment development areas; appoint members to the local board in accordance with state criteria; serve as the local grant recipient unless another entity is designated in the local plan; negotiate local performance measures with the Governor; ensure that all mandated partners are active participants in the local workforce investment development board and one-stop center; and collaborate with the local workforce investment development board on local plans and program oversight.
- G. Each local workforce investment development board shall develop and enter into a memorandum of understanding concerning the operation of the one-stop delivery system in the local area with each entity that carries out any of the following programs or activities:
  - 1. Programs authorized under Title I of the WIA WIOA;
  - 2. Programs authorized under the Wagner-Peyser Act (29 U.S.C. § 49 et seq.);
  - 3. Adult education and literacy activities authorized under Title II of the WIA WIOA;
  - 4. Programs authorized under Title I of the Rehabilitation Act of 1973 (29 U.S.C. § 720 et seq.);
- 5. Postsecondary career and technical education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. § 2301 et seq.);
- 6. Activities authorized under Chapter 2 of Title II of the Trade Act of 1974 (19 U.S.C. § 2271 et seq.):
- 7. Activities pertaining to employment and training programs for veterans authorized under 38 U.S.C. § 4100 et seq.:
  - 8. Programs authorized under Title 60.2, in accordance with applicable federal law;
- 9. Workforce development activities or work requirements of the Temporary Assistance to Needy Families (TANF) program known in Virginia as the Virginia Initiative for Employment, Not Welfare (VIEW) program established pursuant to § 63.2-608;
- 10. Workforce development activities or work programs authorized under the Food Stamp Act of 1977 (7 U.S.C. § 2011 et seq.); and
  - 11. Other programs or activities as required by the WIA WIOA.
- H. The Chief Workforce Development Advisor shall be responsible for the coordination of the Virginia Workforce Network and the implementation of the WIA WIOA.

# § 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. Provide Virginia State Job Service services, as described in this title, according to the provisions of the Wagner-Peyser Act (29 U.S.C. 49f), as amended by the Workforce Investment Innovation and Opportunity Act;
- 3. Maintain a solvent trust fund financed through equitable employer taxes that provide temporary partial income replacement to involuntarily unemployed covered workers;
- 4. 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;
- 5. 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 Board of Workforce Development 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 Department of Education and public libraries; and other users in the public and private sectors;
- 6. 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;
- 7. Encourage and assist in the adoption of practical methods of vocational guidance, training and retraining; and

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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. All agencies of the Commonwealth shall be required to cooperate with the Committee upon request.