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HOUSE BILL NO. 2033

Offered January 14, 2015

Prefiled January 14, 2015

A BILL to amend and reenact §§ 2.2-435.7, 2.2-2470, 2.2-2471, and 2.2-2472 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 4.2 of Title 2.2 a section numbered 2.2-435.9, by adding in Title 2.2 a chapter numbered 4.3, consisting of sections numbered 2.2-435.10, 2.2-435.11, and 2.2-435.12, and by adding sections numbered 2.2-2471.1, 2.2-2472.1, and 2.2-2472.2, relating to workforce development; coordination of statewide delivery of workforce development and training programs and activities.

Patrons—Byron, Cline and Filler-Corn

Referred to Committee on Commerce and Labor

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-435.7, 2.2-2470, 2.2-2471, and 2.2-2472 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 4.2 of Title 2.2 a section numbered 2.2-435.9, by adding in Title 2.2 a chapter numbered 4.3, consisting of sections numbered 2.2-435.10, 2.2-435.11, and 2.2-435.12, and by adding sections numbered 2.2-2471.1, 2.2-2472.1, and 2.2-2472.2 as follows:

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

A. The responsibilities of 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~~ *Coordinate with the Workforce Development Consortium created pursuant to § 2.2-435.10 to determine* 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 *to the extent permissible under applicable federal law;*

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 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;

INTRODUCED

HB2033

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.

§ 2.2-435.9. Annual report by publicly funded career and technical education and workforce development programs; performance on state level metrics.

Beginning November 1, 2016, and annually thereafter, each publicly funded career and technical education and workforce development program shall submit to the Governor and the Virginia Board of Workforce Development a report detailing the program's performance against state level metrics established by the Virginia Board of Workforce Development and the Chief Workforce Development Advisor.

CHAPTER 4.3.

WORKFORCE DEVELOPMENT CONSORTIUM.

§ 2.2-435.10. Workforce Development Consortium; purpose; memorandum of understanding.

The Workforce Development Consortium (Consortium) is hereby created to administer the coordinated implementation of the statewide delivery of workforce development and training programs and activities. The Consortium shall consist of the Governor's Chief Workforce Development Advisor, the Commissioner of the Virginia Employment Commission (VEC) or his designee, and the Chancellor of the Virginia Community College System (VCCS) or his designee. Members of the Consortium shall enter into a memorandum of understanding setting forth (i) roles and responsibilities of the individual members, (ii) a funding mechanism to adequately support Consortium operations, and (iii) a procedure for the resolution of any disagreements that may arise concerning policy, funding, or administration of the federal Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128) (WIOA) by the Consortium.

§ 2.2-435.11. Powers and duties of the Consortium.

The Consortium shall have the following powers and duties:

1. *To the extent permissible under applicable federal law, determine 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;*

2. *Supervise, in coordination with the Virginia Board of Workforce Development, the administration of grant funds provided to the Commonwealth under the WIOA to produce workforce programs that are (i) business driven, (ii) aligned with current and reliable labor market data, and (iii) targeted to provide participants with workforce credentials with demonstrated value to employers and job seekers;*

3. *Facilitate the establishment of regional workforce systems consisting of local workforce development boards and regional components of VEC and VCCS as well as other identified public and private entities that are in WIOA or represented on the Virginia Board of Workforce Development to coordinate strategic planning and goal setting in order to (i) meet current and emerging labor market needs, (ii) match job-ready applicants to available jobs, and (iii) prepare and train job seekers who are not immediately ready for job placement; and*

4. *Submit an annual report to the Governor and the General Assembly for publication as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports. The Executive Director shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Consortium no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.*

§ 2.2-435.12. Executive Director.

The Governor shall appoint an Executive Director to serve as the principal administrative officer of the Consortium. The Executive Director shall be under the supervision of the Governor's Chief Workforce Development Advisor.

§ 2.2-2470. Definitions.

As used in this article:

"Consortium" means the Workforce Development Consortium established pursuant to § 2.2-435.10.

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

"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 core services are provided, either on-site or electronically, and access to intensive 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 H 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, and the Workforce Development Consortium in meeting workforce training 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 occupational training.

B. The Board shall consist of a maximum of 26 members as follows:

1. The Board shall include two members of the House of Delegates to be appointed by the Speaker of the House of Delegates and two members 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; and the Chancellor of the Virginia Community College System or his designee shall serve as ex officio members.

3. The Governor shall appoint members as follows: one local elected official; two representatives nominated by state labor federations; and 14 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 shall represent diverse regions of the state, to include urban, suburban, and rural areas, at least two of whom shall 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 nonlegislative citizen members representing the business community appointed in accordance with subdivision B 3. No member shall be eligible to serve more than one two-year term as chairman. The Board shall meet upon the call of the chair or the Governor. 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, approving reports to the Governor, and responding to urgent federal, state, and local issues between scheduled Board meetings.

E. 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.

F. 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.

§ 2.2-2471.1. Executive Director; staff support.

Board staffing shall be led by a full-time Executive Director to be supervised by the Chief Workforce Development Advisor 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 Executive 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 created.

A. The Board shall undertake the following actions to implement and foster workforce 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;
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 the federal Wagner-Peyser Act (29 U.S.C. § 49 et seq.) WIOA;
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~~ WIOA funds from local workforce ~~investment~~ development boards;
10. 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 training, and leadership funds for workforce development programs;
11. Administer the Virginia Career Readiness Certificate Program in accordance with § 2.2-2477 and review and recommend industry credentials that align with high demand occupations;
12. 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. Provide an annual report to the Governor concerning its actions and determinations under subdivisions 1 through 1312;
14. Create procedures, 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
15. 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, State Council of Higher Education for Virginia, 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 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) 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 Development 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 career 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; 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; 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. *The Board, at the state level, and each workforce development board at the regional level shall develop initiatives designed to combine public and private resources to support career pathways and career readiness skills development for job seekers who are not immediately ready for job placement. Such initiatives shall include or address (i) a regional vision for workforce development; (ii) protocols for planning workforce strategies that anticipate industry needs; (iii) the needs of incumbent and underemployed workers in the region; (iv) the development of partners and guidelines for various forms of on-the-job training, such as registered apprenticeships; (v) the setting of standards and metrics for operational delivery; (vi) alignment of monetary and other resources, including private funds and in-kind contributions, to support the workforce development system; and (vii) the generation of new sources of funding to support workforce development in the region.*

G. 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. H. 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; and
12. Programs authorized under Title I of the WIOA.

H. I. The Chief Workforce Development Advisor shall be responsible for the coordination of the Virginia Workforce Network System and the implementation of the ~~WIA~~ WIOA.

§ 2.2-2472.1. Regional convener designation required; development of regional workforce pipelines and training solutions.

A. As used in this section, "regional convener" means the local workforce development board having responsibility for coordinating business, economic development, labor, regional planning commissions, education at all levels, and human services organizations to focus on community workforce issues and the development of solutions to current and prospective business needs for a skilled labor force at the regional level.

B. As a condition of receiving WIOA funds, each local workforce development board shall either be designated as the regional convener for the WIOA region or enter into a memorandum of agreement supporting the public or private entity identified as serving as the regional convener.

§ 2.2-2472.2. Minimum levels of fiscal support from WIOA Adult and Dislocated Worker funds by local workforce development boards; incentives.

A. Each local workforce development board shall allocate a minimum of 40 percent of WIOA Adult and Dislocated Worker funds to training services as defined under § 134(c)(3)(D) of the WIOA that lead to recognized postsecondary education and workforce credentials aligned with in-demand industry sectors or occupations in the local area or region. Beginning October 1, 2016, and biannually thereafter, the Consortium shall submit a report to the Board evaluating the rate of the expenditure of WIOA Adult and Dislocated Worker funds under this provision.

B. Failure by a local workforce development board to meet the required training expenditure percentage requirement shall result in sanctions, to increase in severity for each year of noncompliance. These sanctions may include corrective action plans; ineligibility to receive state-issued awards, additional WIOA incentives, or sub-awards; the recapturing and reallocation of a percentage of the local area board's Adult and Dislocated Worker funds; or for boards with recurring noncompliance, development of a reorganization plan through which the Governor would appoint and certify a new local board.

C. The Virginia Community College System, in consultation with the Governor, shall develop a formula providing for 30 percent of WIOA Adult and Dislocated Worker funds reserved by the Governor for statewide activities to be used solely for providing incentives to postsecondary workforce training institutions through local workforce investment boards to accelerate the increase of workforce credential attainment by participants. Fiscal incentive awards provided under this section must be expended on training activities that lead participants to a postsecondary education or workforce credential that is aligned with in-demand industry sectors or occupations within each local workforce area. Apprenticeship-related instruction shall be included as a qualifying training under this subsection if such instruction is provided through a postsecondary education institution.

2. That on October 1, 2017, the Workforce Development Consortium shall report to the Virginia Board of Workforce Development evaluating the rate of the expenditures for incentives established under subsection C of § 2.2-2472.2, as created by this act, from July 1, 2015 through July 1, 2017.