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HOUSE BILL NO. 1300

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator Miller, Y.B.

on March 7, 1996)

(Patron Prior to Substitute—Delegate Cunningham)

A BILL to amend and reenact § 63.1-133.49 of the Code of Virginia, relating to the Virginia Initiative for Employment Not Welfare (VIEW).

Be it enacted by the General Assembly of Virginia:

1. That § 63.1-133.49 of the Code of Virginia is amended and reenacted as follows:

§ 63.1-133.49. Virginia Initiative for Employment Not Welfare (VIEW).

A. The Department shall establish and administer the Virginia Initiative for Employment Not Welfare (VIEW), to reduce long-term dependence on welfare, to emphasize personal responsibility and to enhance opportunities for personal initiative and self-sufficiency by promoting the value of work. The Department shall endeavor to develop placements for VIEW participants that will enable participants to develop job skills that are likely to result in independent employment and that take into consideration the proficiency, experience, skills and prior training of a participant. The State Board shall promulgate the necessary regulations and shall implement VIEW within 280 days of the enactment of this chapter.

VIEW shall recognize clearly defined responsibilities and obligations on the part of public assistance recipients and shall include a written agreement of personal responsibility requiring parents to participate in work activities, which may include appropriate training or education, while receiving AFDC, earned-income disregards to reduce disincentives to work, and a limit on AFDC financial assistance.

VIEW shall require all able-bodied recipients of AFDC who do not meet an exemption and who are not employed within ninety days of receipt of AFDC benefits to participate in a work activity, which may include appropriate training or education. VIEW shall require eligible AFDC recipients to participate in unsubsidized, partially subsidized or fully subsidized employment or other work activities and enter into an agreement of personal responsibility. If recipients cannot be placed in an unsubsidized or subsidized job, they shall be required to participate in a six-month community work experience placement or other work activities. Upon completion of the initial six-month work requirement, participants may receive education and training in conjunction with continued work experience other work activities to make them more employable.

B. To the maximum extent permitted by federal law, and notwithstanding other provisions of Virginia law, the Department and local departments may, through applicable procurement laws and regulations, engage the services of public and private organizations to operate VIEW and to provide services incident to such operation.

C. All VIEW participants shall be under the direction and supervision of a case manager.

D. The Department shall ensure that participants are assigned to one of the following employment categories in priority order not less than ninety days after AFDC eligibility determination:

1. Unsubsidized private-sector employment;

2. Subsidized employment, as follows:

(a) The Department shall conduct a program in accordance with this section and any applicable federal waivers that shall be known as the Full Employment Program (FEP). FEP replaces AFDC and food stamp benefits with subsidized employment. Persons not able to find unsubsidized employment who are otherwise eligible for both AFDC and food stamp benefits shall participate in FEP unless exempted by this chapter. FEP will assign participants to and subsidize wage-paying private-sector jobs designed to increase the participants' self-sufficiency and improve their competitive position in the work force.

(b) The Department shall administer a wage fund, which shall be used exclusively to meet the necessary expenditures of FEP. Funds to operate FEP, drawn from funds appropriated for expenditure by or apportioned to Virginia for operation of the AFDC and food stamp programs, shall be deposited in this pool. All payments by the Department to participating employers for FEP participants shall be made from the pool.

(c) Participants in FEP shall be placed in full-time employment when appropriate and shall be paid by the employer at an hourly rate not less than the federal or state minimum wage, whichever is higher. For each participant hour worked, the Department shall reimburse the employer the amount of the federal or state minimum wage and costs up to the available amount of the participant's combined value of AFDC and food stamps. At no point shall a participant's spendable income received from wages and tax credits be less than the value of AFDC and food stamps received prior to the work placement.

(d) Every employer subject to the Virginia unemployment insurance tax shall be eligible for assignment of FEP participants, but no employer shall be required to utilize such participants. Employers

60 may provide on-the-job training to the degree necessary for the participants to perform their duties.
61 Employers shall ensure that jobs made available to FEP participants are in conformity with Section 3304
62 (a) (5) of the Federal Unemployment Tax Act, which requires that the job offered cannot be available as
63 a result of a strike or labor dispute, that the job cannot require the employee to join nor prohibit the
64 employee from joining a labor organization, and that. FEP participants cannot shall be used neither to
65 displace regular workers; nor to fill unfilled positions previously established.

66 (e) FEP employers shall:

67 (i) Endeavor to make FEP placements positive learning and training experiences;

68 (ii) Provide on-the-job training to the degree necessary for the participants to perform their duties;

69 (iii) Pay wages to participants at the same rate that they are paid to other employees performing the
70 same type of work and having similar experience and employment tenure;

71 (iv) Provide sick leave, holiday and vacation benefits to participants to the same extent and on the
72 same basis that they are provided to other employees performing the same type of work and having
73 similar employment experience and tenure;

74 (v) Maintain health, safety and working conditions at or above levels generally acceptable in the
75 industry and no less than those in which other employees perform the same type of work;

76 (vi) Provide workers' compensation coverage for participants;

77 (vii) Encourage volunteer mentors from among their other employees to assist participants in
78 becoming oriented to work and the workplace; and

79 (viii) Sign an agreement with the local department outlining the employer requirements to participate
80 in FEP. All agreements shall include notice of the employer's obligation to repay FEP reimbursements
81 in the event the employer violates Program rules.

82 (f) As a condition of FEP participation, employers shall be prohibited from discriminating against
83 any person, including program participants, on the basis of race, color, sex, national origin, religion,
84 age, or disability.

85 3. Part-time or temporary employment;

86 4. Community work experience as follows:

87 (a) The Department and local departments shall expand the community work experience program
88 authorized under the Job Opportunity and Basic Skills Training Program (JOBS) to include job
89 placement in community work experience programs which serve a useful public purpose as provided in
90 § 482 (f) of the Social Security Act.

91 (b) The Department and local departments shall work with other state, regional and local agencies
92 and governments in developing job placements. Placements shall be selected to provide skills and serve
93 a public function. Program participants shall not be used neither to displace regular workers nor to fill
94 unfilled positions previously established.

95 (c) The number of hours per week for participants shall be determined by combining the total dollar
96 amount of AFDC and food stamps and dividing by the minimum wage with a maximum of a work
97 week of thirty-two-hours, of which up to eight hours of employment-related education and training may
98 substitute for work experience employment.

99 E. Participants At any time, participants may be re-evaluated after a period determined by the local
100 department and re-assigned to another work component. In addition, notwithstanding the provisions of
101 subsection D, the number of hours worked may be reduced or eliminated by the local department at any
102 time so that a participant may complete additional training and/or education at any level, including but
103 not limited to basic, remedial, vocational, secondary or post-secondary education or training, to further
104 his employability.

105 In order to have the number of hours worked reduced or eliminated a participant shall make such a
106 request of the local department and the local department shall thoroughly evaluate such request taking
107 into account, but not limited to, the following factors: (i) the participant's commitment to his training or
108 education program, (ii) the length of time needed for the participant to complete the training or
109 education program, (iii) whether the participant has unusual family or other responsibilities that
110 significantly restrict his time, and (iv) whether the training or education program is likely to lead to
111 employment that will enable the participant to be self-sufficient. There shall be no requirement that a
112 participant be enrolled in such training or education program prior to or at the time of entry into VIEW
113 in order for the work requirement to be reduced or eliminated.

114 F. Local departments shall be authorized to sanction participants up to the full amount of the AFDC
115 grant and food stamps allotment for noncompliance.

116 G. VIEW participants shall not be assigned to projects which require that they travel unreasonable
117 distances from their homes or remain away from their homes overnight without their consent.

118 Any injury to a VIEW participant by accident arising out of and in the course of community work
119 experience shall be covered by the participant's existing Medicaid coverage. If a community work
120 experience participant is unable to work due to such an accident, his status shall be reviewed to
121 determine whether he is eligible for an exemption from the limitation on AFDC financial assistance.

122 A community work experience participant who becomes incapacitated for thirty days or more shall
123 be eligible for AFDC financial assistance for the duration of the incapacity, if otherwise eligible.
124 The State Board shall promulgate regulations providing for the accrual of paid sick leave or other
125 equivalent mechanism for community work experience participants.