

HOUSE BILL NO. 589
INTRODUCED BY W. STAHL

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING WORKFORCE INVESTMENT LAWS; REVISING THE DEFINITION OF "WORKFORCE INVESTMENT AREA" AND DEFINING "PRIVATE SECTOR MEMBER" AND "PROGRAM PARTNER"; ESTABLISHING VOTING REQUIREMENTS FOR THE STATE WORKFORCE INVESTMENT BOARD; DESIGNATING THE TWO LOCAL WORKFORCE INVESTMENT AREAS IN THE STATE; EXPANDING THE DUTIES OF LOCAL WORKFORCE INVESTMENT BOARDS; CLARIFYING THE STATE'S OVERSIGHT ROLE WITH RESPECT TO CERTAIN TYPES OF FEDERAL FUNDING; ESTABLISHING CRITERIA FOR ONE-STOP DELIVERY SYSTEMS; CLARIFYING THE COORDINATION OF SERVICES AMONG THE STATE AND LOCAL WORKFORCE INVESTMENT BOARDS AND ONE-STOP SYSTEMS; AND AMENDING SECTIONS 53-2-1202, 53-2-1203, 53-2-1204, 53-2-1206, AND 53-2-1207, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-2-1201, MCA, is amended to read:

"53-2-1201. Legislative findings and intent. (1) The legislature finds and declares that:

(a) many Montanans need access to information and high quality services in order to manage their careers; and

(b) Montana businesses need skilled workers.

(2) It is the intent of the legislature to establish and continually improve a workforce development system that:

(a) streamlines services through better integration of employment and training programs coordinated and consolidated through local in a one-stop delivery system systems under the guidance of local boards;

(b) empowers individuals to make informed decisions about their careers and career preparation and allows for individuals who are registered participants to choose the qualified training program that best meets their needs;

(c) provides for universal access through a one-stop delivery system;

(d) calls for increased accountability through a series of performance indicators and consumer reports that holds the state, localities, and training providers accountable for their performance;

(e) requires local boards to focus focuses on promoting personal responsibility, strategic planning, policy

development, and oversight of the local system and on choosing local operators to direct and manage the operational details of the local boards' one-stop delivery systems; and

(f) efficiently provides services to guarantee maximum impacts local flexibility and integration, allowing localities to build on existing reforms, and provides for unified planning intended to free local groups from conflicting management directives and allow for local innovations."

Section 2. Section 53-2-1202, MCA, is amended to read:

"53-2-1202. Definitions. For the purposes of this part, unless the context otherwise requires, the following definitions apply:

(1) "Act" means the federal Workforce Investment Act of 1998, ~~Public Law 105-220~~ (29 U.S.C. 2801, et seq.);

(2) "Local board" means a local workforce investment board provided for in 53-2-1204.

(3) "One-stop ~~center operator~~" means one or more entities designated or certified under section 121(d) of the Act, (29 U.S.C. 2841(d)).

(4) "One-stop delivery system" means a system under which entities responsible for administering separate workforce investment, educational, and other human resource programs and funding sources collaborate to create a seamless system of service delivery to enhance access to the programs' services and improve long-term employment outcomes for individuals receiving assistance.

(5) "Private sector member" means a member who is representing the private sector, as provided for in 53-2-1204, and who is subject to the provisions of section 117 of the Act, 29 U.S.C. 2832, for the purposes of appointments to local boards. The term includes a person who is self-employed, including as a consultant, and a person engaged in agricultural and ranch production or related activities.

(6) "Program partner" means a program listed in section 121(b) of the Act, 29 U.S.C. 2841.

~~(5)~~(7) "State board" means the state workforce investment board provided for in 53-2-1203.

(8) "Wagner-Peyser Act" means the federal Wagner-Peyser Act, 29 U.S.C. 49, et seq.

~~(6)~~(9) "Workforce investment area" means a the local concentrated employment program workforce investment area and the balance of state workforce investment area designated by the governor in accordance with section 116 of the Act, (29 U.S.C. 2831)."

Section 3. Section 53-2-1203, MCA, is amended to read:

"53-2-1203. State workforce investment board -- membership -- duties. (1) There is a state

workforce investment board.

(2) The state board consists of:

(a) the governor or a person designated by the governor to act on behalf of the governor;

(b) two members of the house of representatives, each from a different political party, and two members of the senate, each from a different political party, appointed by the presiding officer of each respective chamber; and

(c) individuals appointed by the governor, including:

(i) representatives of businesses located in Montana who:

(A) are owners of businesses, chief executive or operating officers, and other business executives or employers with optimum policymaking or hiring authority, including business members of local boards; and

(B) represent businesses with employment opportunities that reflect the employment opportunities in Montana;

(ii) chief elected officials of local government;

(iii) representatives of labor organizations;

(iv) representatives of individuals and organizations who have experience with respect to youth activities;

(v) representatives of individuals and organizations who have experience and expertise in the delivery of workforce investment activities;

(vi) representatives of the state agencies who are responsible for the programs and activities that are carried out by the one-stop ~~centers~~ operators, including but not limited to:

(A) the department of labor and industry;

(B) the department of public health and human services;

(C) the office of the commissioner of higher education; and

(D) the office of public instruction; and

(vii) other representatives that the governor may designate.

(3) The selection and appointment of members of the state board must follow the nominating provisions of section 111 of the Act, {29 U.S.C. 2821}.

(4) (a) The governor shall appoint enough individuals described in subsection (2)(c)(i) so that those persons compose a majority of the membership of the state board.

(b) With respect to any issue on which the state board votes, the individuals described in subsection (2)(c)(i) must constitute a majority of those voting.

(5) The governor shall consider the special needs of Montana's hard-to-serve Indian population and the

state's relationship with tribal governments when making appointments to the state board.

(6) The state board shall perform the functions described in section 111(d) of the Act, {29 U.S.C. 2821}."

NEW SECTION. Section 4. Local workforce investment areas. (1) (a) Pursuant to the designation requirements under section 116 of the Act, 29 U.S.C. 2831, there are two local workforce investment areas in the state.

(b) The two local workforce investment areas are:

(i) the currently designated concentrated employment program area, which is made up of 10 counties, including Beaverhead, Broadwater, Deer Lodge, Granite, Jefferson, Lewis and Clark, Madison, Meagher, Powell, and Silver Bow; and

(ii) the balance of state workforce investment area, which consists of the remaining 46 counties.

(2) The consortium of counties for each local workforce investment area has the authority delegated to the chief elected officials under section 116 of the Act, 29 U.S.C. 2831. The counties within the consortiums may enter into an agreement describing how they will fulfill their duties.

Section 5. Section 53-2-1204, MCA, is amended to read:

"53-2-1204. Local workforce investment boards. (1) The chief elected official or officials in ~~each~~ the state's two workforce investment ~~area~~ areas shall establish a local board to plan and carry out the duties and responsibilities of the local board in each respective workforce investment area of the state.

(2) (a) Selection of the local boards must be made using the criteria established by the governor and the state board. The membership of the local board must be in accordance with the requirements of section 117 of the Act, {29 U.S.C. 2832}, and a majority of the members must be private sector members.

(b) The criteria for appointing private sector members to local boards must be consistent with and not more restrictive than the criteria used in appointing private sector members to the state board.

(3) Each local board shall carry out the duties and responsibilities of a local board as provided in section 117 of the Act, {29 U.S.C. 2832}.

(4) The local board, together with the chief elected official or officials, has planning, policy, and oversight responsibility for the local one-stop delivery system.

(5) (a) In addition to the duties and responsibilities referred to in subsection (3), the duties and functions of the local board include those specified by the consortium agreement and approved by the local county commissions.

(b) A local board has the following responsibilities:

(i) to develop, submit, ratify, and amend the local plan pursuant to section 118 of the Act, 29 U.S.C. 2833, and the provisions of this part;

(ii) to designate the fiscal agent and administrative entity for each local workforce investment area pursuant to section 118 of the Act, 29 U.S.C. 2833;

(iii) to designate and oversee the one-stop delivery system in the local board's area and, when the local board and the consortium of local elected officials determine that it would be in the best interest of the local workforce investment area to operate the one-stop delivery system, to provide direct client services and to function as the one-stop operator.

(6) A determination made by a local board and consortium of local elected officials pursuant to subsection (5)(b)(iii) constitutes a waiver as provided for in section 117 of the Act, 29 U.S.C. 2832.

(7) For purposes of the Social Security Act, employees who work for the one-stop delivery system meet the definition of public official, which authorizes the employees to have access to unemployment compensation wage records for purposes of managing services and performance under the Act. The employees shall comply with any applicable confidentiality requirements.

(8) Local boards may appoint local committees to assist in the development of policies and procedures. The importance of minority and gender representation must be considered when appointments are made to any committee established by the local boards.

(9) Local boards and their administrative entities are not state agencies, and they may adopt their own policies and procedures for conducting day-to-day operations and to implement the programs and services necessary to deliver workforce services under the Act. The local boards shall comply with state open meeting laws."

NEW SECTION. Section 6. Funding -- incumbent worker training program -- rapid response funds. (1) Funding of local boards must be in accordance with the existing formula agreed to by the state board in consultation with the local elected officials as required under sections 128 and 132 of the Act, 29 U.S.C. 2853 and 2863.

(2) To the extent that there are changes to the formula allocations under the Act, the maximum amount of funds available to the local workforce investment areas must be allocated to the local boards.

(3) For any new program or funding related to workforce development, including the training of employed, unemployed, underemployed, and dislocated workers, funded by the federal government, the state shall

coordinate with the state board and the local boards, and except when prohibited by statute, the program must be administered by the local boards.

(4) With respect to funds under the Act retained at the state level, a minimum of 10% of the funds retained must be passed to the local boards to be used for providing technical and capacity-building assistance to the local workforce investment areas pursuant to section 134 of the Act, 29 U.S.C. 2864.

(5) (a) Rapid response funds must be used in accordance with section 134 of the Act, 29 U.S.C. 2864. Prior to the state initiating rapid response at the local level, the state shall send notice to the administrative entity or fiscal agent for the local board and to the one-stop operator in the affected area in order to coordinate and communicate adult and dislocated worker activities with rapid response services. At the direction of the governor, for events that qualify under federal law, rapid response funds may be released to local boards. Funding must also be dedicated to maintain a unit at the state level to respond to rapid response emergencies around the state, to work with state emergency management officials, and to work with local boards.

(b) The department of labor and industry shall provide the required approval, support, and signatory authorization for national emergency and discretionary grant applications from a local board to the United States department of labor and other federal agencies requiring approval, support, or signatory authorization. Upon receipt of grant funds, the department of labor and industry and the state board shall ensure that the maximum amount of grant funds available to be allocated to the affected local board is allocated to the local board.

(6) To the extent that consolidation of funding streams is required by the Act reauthorization, all funds available for local allocation must be allocated to the local boards in accordance with the local formula funding allocations.

(7) Modifications may be made to the state's plan, policies, and procedures in order to comply with federally mandated requirements that must be complied with to maintain funding provided pursuant to section 112 of the Act, 29 U.S.C. 2822.

NEW SECTION. Section 7. One-stop delivery system. (1) The one-stop delivery system is designed to be the state's primary customer-service strategy for programs offering every Montanan access, through service sites or telephone or computer networks, to services including but not limited to the following:

- (a) job search, referral, and placement assistance;
- (b) career counseling and educational planning;
- (c) consumer reports on service providers;
- (d) recruitment and eligibility determination;

- (e) support services;
- (f) employability skills training;
- (g) adult education and basic skills training;
- (h) technical training leading to a certification or degree;
- (i) claim filing for unemployment compensation services; and
- (j) other appropriate and available workforce development services.

(2) Pursuant to section 121 of the Act, 29 U.S.C. 2841, local boards shall designate one-stop operators.

(3) A local board, in accordance with the terms of the consortium agreement, may designate as its one-stop operator any public or private entity, including the local board and its administrative or fiscal entity, to operate the one-stop delivery system and provide direct client services.

(4) (a) Employment services provided under programs funded by the Wagner-Peyser Act must be provided through the one-stop delivery system under the guidance of one-stop operators.

(b) One-stop operators have functional authority for directing the staff of the one-stop delivery system.

Section 8. Section 53-2-1206, MCA, is amended to read:

"53-2-1206. Performance indicators. (1) The 5-year strategic statewide workforce investment plan must contain performance indicators to measure the effectiveness and operation of the programs identified in Title I-B of the Act, {29 U.S.C. 2801, et seq.}. The strategic statewide plan must contain the expectation of continuous improvement, as negotiated with the secretary of the U.S. department of labor, and conform to the requirements of section 112 of the Act, {29 U.S.C. 2822}.

(2) Each 5-year local workforce investment plan must include a description of the local levels of performance to be used to measure the performance of the local area and to be used by the local board for measuring the performance of the one-stop delivery system and the one-stop ~~centers~~ operators providing services in the local area. The local plan must include the performance accountability systems required by section 136 of the Act, {29 U.S.C. 2871}."

Section 9. Section 53-2-1207, MCA, is amended to read:

"53-2-1207. Coordination of services. (1) The state board shall assist the governor in developing and continuously improving the statewide system of activities that are provided within the state workforce investment systems by:

(a) developing linkages in order to ensure coordination among the programs described in section 121(b)

of the Act, ~~{29 U.S.C. 2841(b)}~~; and

(b) reviewing local plans, which include a description of the one-stop delivery system to be established or designated in the local area.

(2) Local boards shall coordinate services provided to Indians with providers offering services pursuant to section 166 of the Act, ~~{29 U.S.C. 2911}~~, and providers offering services pursuant to the Indian Employment, Training and Related Services Demonstration Act of 1992, ~~Public Law 102-477~~ ~~{25 U.S.C. 3401}~~.

(3) Pursuant to sections 302 and 305 of the Wagner-Peyser Act, labor exchange functions must be provided in the one-stop delivery system.

(4) All job search, placement, recruitment, labor employment statistics, and other labor exchange services must be provided, consistent with the other requirements of the Wagner-Peyser Act, as part of the one-stop delivery system.

(5) In order to enhance the one-stop operator services for employers, all employees of the one-stop operator must be provided with direct access to the confidential list of new and expanding businesses maintained by the office of research and analysis of the department of labor and industry and must be provided with timely access to labor market information by the department."

NEW SECTION. Section 10. Codification instruction. [Sections 4, 6, and 7] are intended to be codified as an integral part of Title 53, chapter 2, part 12, and the provisions of Title 53, chapter 2, part 12, apply to [sections 4, 6, and 7].

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