

as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (2)(R) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

PART B—LOCAL PROVISIONS

§ 2831. Local workforce investment areas

(a) Designation of areas

(1) In general

(A) Process

Except as provided in subsection (b) of this section, and consistent with paragraphs (2), (3), and (4), in order for a State to receive an allotment under section 2852 or 2862 of this title, the Governor of the State shall designate local workforce investment areas within the State—

(i) through consultation with the State board; and

(ii) after consultation with chief elected officials and after consideration of comments received through the public comment process as described in section 2822(b)(9) of this title.

(B) Considerations

In making the designation of local areas, the Governor shall take into consideration the following:

(i) Geographic areas served by local educational agencies and intermediate educational agencies.

(ii) Geographic areas served by post-secondary educational institutions and area vocational education schools.

(iii) The extent to which such local areas are consistent with labor market areas.

(iv) The distance that individuals will need to travel to receive services provided in such local areas.

(v) The resources of such local areas that are available to effectively administer the activities carried out under this subchapter.

(2) Automatic designation

The Governor shall approve any request for designation as a local area—

(A) from any unit of general local government with a population of 500,000 or more;

(B) of the area served by a rural concentrated employment program grant recipient of demonstrated effectiveness that served as a service delivery area or substate area under the Job Training Partnership Act, if the grant recipient has submitted the request; and

(C) of an area that served as a service delivery area under section 101(a)(4)(A)(ii) of the Job Training Partnership Act (as in effect on the day before August 7, 1998) in a State that has a population of not more than 1,100,000 and a population density greater than 900 persons per square mile.

(3) Temporary and subsequent designation

(A) Criteria

Notwithstanding paragraph (2)(A), the Governor shall approve any request, made

not later than the date of submission of the initial State plan under this subchapter, for temporary designation as a local area from any unit of general local government (including a combination of such units) with a population of 200,000 or more that was a service delivery area under the Job Training Partnership Act on the day before August 7, 1998, if the Governor determines that the area—

(i) performed successfully, in each of the last 2 years prior to the request for which data are available, in the delivery of services to participants under part A of title II and title III of the Job Training Partnership Act (as in effect on such day); and

(ii) has sustained the fiscal integrity of the funds used by the area to carry out activities under such part and title.

(B) Duration and subsequent designation

A temporary designation under this paragraph shall be for a period of not more than 2 years, after which the designation shall be extended until the end of the period covered by the State plan if the Governor determines that, during the temporary designation period, the area substantially met (as defined by the State board) the local performance measures for the local area and sustained the fiscal integrity of the funds used by the area to carry out activities under this subchapter.

(C) Technical assistance

The Secretary shall provide the States with technical assistance in making the determinations required by this paragraph. The Secretary shall not issue regulations governing determinations to be made under this paragraph.

(D) Performed successfully

In this paragraph, the term “performed successfully” means that the area involved met or exceeded the performance standards for activities administered in the area that—

(i) are established by the Secretary for each year and modified by the adjustment methodology of the State (used to account for differences in economic conditions, participant characteristics, and combination of services provided from the combination assumed for purposes of the established standards of the Secretary); and

(ii)(I) if the area was designated as both a service delivery area and a substate area under the Job Training Partnership Act (as in effect on the day before August 7, 1998)—

(aa) relate to job retention and earnings, with respect to activities carried out under part A of title II of such Act (as in effect on such day); and

(bb) relate to entry into employment, with respect to activities carried out under title III of such Act (as in effect on such day);

(II) if the area was designated only as a service delivery area under such Act (as in effect on such day), relate to the standards described in subclause (I)(aa); or

(III) if the area was only designated as a substate area under such Act (as in effect on such day), relate to the standards described in subclause (I)(bb).

(E) Sustained the fiscal integrity

In this paragraph, the term “sustained the fiscal integrity”, used with respect to funds used by a service delivery area or local area, means that the Secretary has not made a final determination during any of the last 3 years for which data are available, prior to the date of the designation request involved, that either the grant recipient or the administrative entity of the area misexpended the funds due to willful disregard of the requirements of the Act involved, gross negligence, or failure to observe accepted standards of administration.

(4) Designation on recommendation of State board

The Governor may approve a request from any unit of general local government (including a combination of such units) for designation (including temporary designation) as a local area if the State board determines, taking into account the factors described in clauses (i) through (v) of paragraph (1)(B), and recommends to the Governor, that such area should be so designated.

(5) Appeals

A unit of general local government (including a combination of such units) or grant recipient that requests but is not granted designation of an area as a local area under paragraph (2) or (3) may submit an appeal to the State board under an appeal process established in the State plan. If the appeal does not result in such a designation, the Secretary, after receiving a request for review from the unit or grant recipient and on determining that the unit or grant recipient was not accorded procedural rights under the appeal process established in the State plan or that the area meets the requirements of paragraph (2) or (3), as appropriate, may require that the area be designated as a local area under such paragraph.

(b) Small States

The Governor of any State that was a single State service delivery area under the Job Training Partnership Act as of July 1, 1998, may designate the State as a single State local area for the purposes of this chapter. In the case of such a designation, the Governor shall identify the State as a local area under section 2822(b)(5) of this title.

(c) Regional planning and cooperation

(1) Planning

As part of the process for developing the State plan, a State may require regional planning by local boards for a designated region in the State. The State may require the local boards for a designated region to participate in a regional planning process that results in the establishment of regional performance measures for workforce investment activities authorized under this subchapter. The State

may award regional incentive grants to the designated regions that meet or exceed the regional performance measures.

(2) Information sharing

The State may require the local boards for a designated region to share, in feasible cases, employment statistics, information about employment opportunities and trends, and other types of information that would assist in improving the performance of all local areas in the designated region on local performance measures.

(3) Coordination of services

The State may require the local boards for a designated region to coordinate the provision of workforce investment activities authorized under this subchapter, including the provision of transportation and other supportive services, so that services provided through the activities may be provided across the boundaries of local areas within the designated region.

(4) Interstate regions

Two or more States that contain an interstate region that is a labor market area, economic development region, or other appropriate contiguous subarea of the States may designate the area as a designated region for purposes of this subsection, and jointly exercise the State functions described in paragraphs (1) through (3).

(5) Definitions

In this subsection:

(A) Designated region

The term “designated region” means a combination of local areas that are partly or completely in a single labor market area, economic development region, or other appropriate contiguous subarea of a State, that is designated by the State, except as provided in paragraph (4).

(B) Local board for a designated region

The term “local board for a designated region” means a local board for a local area in a designated region.

(Pub. L. 105-220, title I, §116, Aug. 7, 1998, 112 Stat. 951; Pub. L. 105-277, div. A, §101(f) [title VIII, §401(3)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-411.)

REFERENCES IN TEXT

The Job Training Partnership Act, referred to in subsecs. (a)(2)(B), (C), (3) and (b), is Pub. L. 97-300, Oct. 13, 1982, 96 Stat. 1322, as amended, which was classified generally to chapter 19 (§1501 et seq.) of this title, prior to repeal by Pub. L. 105-220, title I, §199(b)(2), (c)(2)(B), Aug. 7, 1998, 112 Stat. 1059. Part A of title II and title III of the Act were classified generally to part A (§1601 et seq.) of subchapter II and subchapter III (§1651 et seq.), respectively, of chapter 19 of this title, prior to repeal by Pub. L. 105-220. Section 101 of the Act was classified to section 1511 of this title, prior to repeal by Pub. L. 105-220. For complete classification of this Act to the Code, see Tables.

This chapter, referred to in subsec. (b), was in the original “this title” meaning title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, as amended, which enacted this chapter, repealed sections 1501 to 1505, 1511 to 1583, 1592 to 1735, 1737 to 1791h, 1792 to 1792b, 2301 to 2314 of this title, section 211 of former Title 40, Appendix, Pub-

lic Buildings, Property, and Works, sections 11421, 11441 to 11447, 11449, 11450, 11461 to 11466, 11471, and 11472 of Title 42, The Public Health and Welfare, and sections 42101 to 42106 of Title 49, Transportation, enacted provisions set out as notes under sections 1501, 2301, and 2940 of this title and section 11421 of Title 42, and repealed provisions set out as notes under sections 801 and 2301 of this title and section 1255a of Title 8, Aliens and Nationality. For complete classification of title I to the Code, see Tables.

AMENDMENTS

1998—Subsec. (a)(3)(D)(ii)(I)(aa). Pub. L. 105-277 substituted “; and” for “; or”.

§ 2832. Local workforce investment boards

(a) Establishment

There shall be established in each local area of a State, and certified by the Governor of the State, a local workforce investment board, to set policy for the portion of the statewide workforce investment system within the local area (referred to in this chapter as a “local workforce investment system”).

(b) Membership

(1) State criteria

The Governor of the State, in partnership with the State board, shall establish criteria for use by chief elected officials in the local areas for appointment of members of the local boards in such local areas in accordance with the requirements of paragraph (2).

(2) Composition

Such criteria shall require, at a minimum, that the membership of each local board—

(A) shall include—

(i) representatives of business in the local area, who—

(I) are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority;

(II) represent businesses with employment opportunities that reflect the employment opportunities of the local area; and

(III) are appointed from among individuals nominated by local business organizations and business trade associations;

(ii) representatives of local educational entities, including representatives of local educational agencies, local school boards, entities providing adult education and literacy activities, and postsecondary educational institutions (including representatives of community colleges, where such entities exist), selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities;

(iii) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees;

(iv) representatives of community-based organizations (including organizations rep-

resenting individuals with disabilities and veterans, for a local area in which such organizations are present);

(v) representatives of economic development agencies, including private sector economic development entities; and

(vi) representatives of each of the one-stop partners; and

(B) may include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

(3) Authority of board members

Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within the organizations, agencies, or entities.

(4) Majority

A majority of the members of the local board shall be representatives described in paragraph (2)(A)(i).

(5) Chairperson

The local board shall elect a chairperson for the local board from among the representatives described in paragraph (2)(A)(i).

(c) Appointment and certification of board

(1) Appointment of board members and assignment of responsibilities

(A) In general

The chief elected official in a local area is authorized to appoint the members of the local board for such area, in accordance with the State criteria established under subsection (b) of this section.

(B) Multiple units of local government in area

(i) In general

In a case in which a local area includes more than 1 unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials—

(I) in the appointment of the members of the local board from the individuals nominated or recommended to be such members in accordance with the criteria established under subsection (b) of this section; and

(II) in carrying out any other responsibilities assigned to such officials under this subchapter.

(ii) Lack of agreement

If, after a reasonable effort, the chief elected officials are unable to reach agreement as provided under clause (i), the Governor may appoint the members of the local board from individuals so nominated or recommended.

(C) Concentrated employment programs

In the case of a local area designated in accordance with section 2831(a)(2)(B) of this title, the governing body of the concentrated employment program involved shall act in