

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provisions set out as notes under sections 1501, 2301, and 2940 of this title and section 11421 of Title 42, and repealed provisions set out as notes under sections 801 and 2301 of this title and section 1255a of Title 8, Aliens and Nationality.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

consultation with the chief elected official in the local area to appoint members of the local board, in accordance with the State criteria established under subsection (b) of this section, and to carry out any other responsibility relating to workforce investment activities assigned to such official under this Act.

**(2) Certification**

**(A) In general**

The Governor shall, once every 2 years, certify 1 local board for each local area in the State.

**(B) Criteria**

Such certification shall be based on criteria established under subsection (b) of this section and, for a second or subsequent certification, the extent to which the local board has ensured that workforce investment activities carried out in the local area have enabled the local area to meet the local performance measures.

**(C) Failure to achieve certification**

Failure of a local board to achieve certification shall result in reappointment and certification of another local board for the local area pursuant to the process described in paragraph (1) and this paragraph.

**(3) Decertification**

**(A) Fraud, abuse, failure to carry out functions**

Notwithstanding paragraph (2), the Governor may decertify a local board, at any time after providing notice and an opportunity for comment, for—

- (i) fraud or abuse; or
- (ii) failure to carry out the functions specified for the local board in any of paragraphs (1) through (7) of subsection (d) of this section.

**(B) Nonperformance**

Notwithstanding paragraph (2), the Governor may decertify a local board if a local area fails to meet the local performance measures for such local area for 2 consecutive program years (in accordance with section 2871(h) of this title).

**(C) Plan**

If the Governor decertifies a local board for a local area under subparagraph (A) or (B), the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected official in the local area, and in accordance with the criteria established under subsection (b) of this section.

**(4) Single State area**

Notwithstanding subsection (b) of this section and paragraphs (1) and (2), if a State described in section 2831(b) of this title indicates in the State plan that the State will be treated as a local area for purposes of the application of this chapter, the Governor may designate the State board to carry out any of the

functions described in subsection (d) of this section.

**(d) Functions of local board**

The functions of the local board shall include the following:

**(1) Local plan**

Consistent with section 2833 of this title, each local board, in partnership with the chief elected official for the local area involved, shall develop and submit a local plan to the Governor.

**(2) Selection of operators and providers**

**(A) Selection of one-stop operators**

Consistent with section 2841(d) of this title, the local board, with the agreement of the chief elected official—

- (i) shall designate or certify one-stop operators as described in section 2841(d)(2)(A) of this title; and
- (ii) may terminate for cause the eligibility of such operators.

**(B) Selection of youth providers**

Consistent with section 2843 of this title, the local board shall identify eligible providers of youth activities in the local area by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council.

**(C) Identification of eligible providers of training services**

Consistent with section 2842 of this title, the local board shall identify eligible providers of training services described in section 2864(d)(4) of this title in the local area.

**(D) Identification of eligible providers of intensive services**

If the one-stop operator does not provide intensive services in a local area, the local board shall identify eligible providers of intensive services described in section 2864(d)(3) of this title in the local area by awarding contracts.

**(3) Budget and administration**

**(A) Budget**

The local board shall develop a budget for the purpose of carrying out the duties of the local board under this section, subject to the approval of the chief elected official.

**(B) Administration**

**(i) Grant recipient**

**(I) In general**

The chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of, the grant funds allocated to the local area under sections 2853 and 2863 of this title, unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear such liability.

**(II) Designation**

In order to assist in the administration of the grant funds, the chief elected official or the Governor, where the Governor

serves as the local grant recipient for a local area, may designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent. Such designation shall not relieve the chief elected official or the Governor of the liability for any misuse of grant funds as described in subclause (I).

**(III) Disbursal**

The local grant recipient or an entity designated under subclause (II) shall disburse such funds for workforce investment activities at the direction of the local board, pursuant to the requirements of this chapter, if the direction does not violate a provision of this Act. The local grant recipient or entity designated under subclause (II) shall disburse the funds immediately on receiving such direction from the local board.

**(ii) Staff**

The local board may employ staff.

**(iii) Grants and donations**

The local board may solicit and accept grants and donations from sources other than Federal funds made available under this Act.

**(4) Program oversight**

The local board, in partnership with the chief elected official, shall conduct oversight with respect to local programs of youth activities authorized under section 2854 of this title, local employment and training activities authorized under section 2864 of this title, and the one-stop delivery system in the local area.

**(5) Negotiation of local performance measures**

The local board, the chief elected official, and the Governor shall negotiate and reach agreement on local performance measures as described in section 2871(c) of this title.

**(6) Employment statistics system**

The local board shall assist the Governor in developing the statewide employment statistics system described in section 497-2(e) of this title.

**(7) Employer linkages**

The local board shall coordinate the workforce investment activities authorized under this subchapter and carried out in the local area with economic development strategies and develop other employer linkages with such activities.

**(8) Connecting, brokering, and coaching**

The local board shall promote the participation of private sector employers in the statewide workforce investment system and ensure the effective provision, through the system, of connecting, brokering, and coaching activities, through intermediaries such as the one-stop operator in the local area or through other organizations, to assist such employers in meeting hiring needs.

**(e) Sunshine provision**

The local board shall make available to the public, on a regular basis through open meet-

ings, information regarding the activities of the local board, including information regarding the local plan prior to submission of the plan, and regarding membership, the designation and certification of one-stop operators, and the award of grants or contracts to eligible providers of youth activities, and on request, minutes of formal meetings of the local board.

**(f) Limitations**

**(1) Training services**

**(A) In general**

Except as provided in subparagraph (B), no local board may provide training services described in section 2864(d)(4) of this title.

**(B) Waivers of training prohibition**

The Governor of the State in which a local board is located may, pursuant to a request from the local board, grant a written waiver of the prohibition set forth in subparagraph (A) (relating to the provision of training services) for a program of training services, if the local board—

(i) submits to the Governor a proposed request for the waiver that includes—

(I) satisfactory evidence that there is an insufficient number of eligible providers of such a program of training services to meet local demand in the local area;

(II) information demonstrating that the board meets the requirements for an eligible provider of training services under section 2842 of this title; and

(III) information demonstrating that the program of training services prepares participants for an occupation that is in demand in the local area;

(ii) makes the proposed request available to eligible providers of training services and other interested members of the public for a public comment period of not less than 30 days; and

(iii) includes, in the final request for the waiver, the evidence and information described in clause (i) and the comments received pursuant to clause (ii).

**(C) Duration**

A waiver granted to a local board under subparagraph (B) shall apply for a period of not to exceed 1 year. The waiver may be renewed for additional periods of not to exceed 1 year, pursuant to requests from the local board, if the board meets the requirements of subparagraph (B) in making the requests.

**(D) Revocation**

The Governor may revoke a waiver granted under this paragraph during the appropriate period described in subparagraph (C) if the Governor determines that the local board involved has engaged in a pattern of inappropriate referrals to training services operated by the local board.

**(2) Core services; intensive services; designation or certification as one-stop operators**

A local board may provide core services described in section 2864(d)(2) of this title or intensive services described in section 2864(d)(3)

of this title through a one-stop delivery system described in section 2864(c) of this title or be designated or certified as a one-stop operator only with the agreement of the chief elected official and the Governor.

**(3) Limitation on authority**

Nothing in this Act shall be construed to provide a local board with the authority to mandate curricula for schools.

**(g) Conflict of interest**

A member of a local board may not—

(1) vote on a matter under consideration by the local board—

(A) regarding the provision of services by such member (or by an entity that such member represents); or

(B) that would provide direct financial benefit to such member or the immediate family of such member; or

(2) engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the State plan.

**(h) Youth council**

**(1) Establishment**

There shall be established, as a subgroup within each local board, a youth council appointed by the local board, in cooperation with the chief elected official for the local area.

**(2) Membership**

The membership of each youth council—

(A) shall include—

(i) members of the local board described in subparagraph (A) or (B) of subsection (b)(2) of this section with special interest or expertise in youth policy;

(ii) representatives of youth service agencies, including juvenile justice and local law enforcement agencies;

(iii) representatives of local public housing authorities;

(iv) parents of eligible youth seeking assistance under this subchapter;

(v) individuals, including former participants, and representatives of organizations, that have experience relating to youth activities; and

(vi) representatives of the Job Corps, as appropriate; and

(B) may include such other individuals as the chairperson of the local board, in cooperation with the chief elected official, determines to be appropriate.

**(3) Relationship to local board**

Members of the youth council who are not members of the local board described in subparagraphs (A) and (B) of subsection (b)(2) of this section shall be voting members of the youth council and nonvoting members of the board.

**(4) Duties**

The duties of the youth council include—

(A) developing the portions of the local plan relating to eligible youth, as determined by the chairperson of the local board;

(B) subject to the approval of the local board and consistent with section 2843 of this title—

(i) recommending eligible providers of youth activities, to be awarded grants or contracts on a competitive basis by the local board to carry out the youth activities; and

(ii) conducting oversight with respect to the eligible providers of youth activities, in the local area;

(C) coordinating youth activities authorized under section 2854 of this title in the local area; and

(D) other duties determined to be appropriate by the chairperson of the local board.

**(i) Alternative entity**

**(1) In general**

For purposes of complying with subsections (a), (b), and (c) of this section, and paragraphs (1) and (2) of subsection (h) of this section, a State may use any local entity (including a local council, regional workforce development board, or similar entity) that—

(A) is established to serve the local area (or the service delivery area that most closely corresponds to the local area);

(B) is in existence on December 31, 1997;

(C)(i) is established pursuant to section 1512 of this title, as in effect on December 31, 1997; or

(ii) is substantially similar to the local board described in subsections (a), (b), and (c) of this section, and paragraphs (1) and (2) of subsection (h) of this section; and

(D) includes—

(i) representatives of business in the local area; and

(ii)(I) representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local labor federations; or

(II) other representatives of employees in the local area (for a local area in which no employees are represented by such organizations).

**(2) References**

References in this Act to a local board or a youth council shall be considered to include such an entity or a subgroup of such an entity, respectively.

(Pub. L. 105-220, title I, § 117, Aug. 7, 1998, 112 Stat. 954; Pub. L. 105-277, div. A, § 101(f) [title VIII, § 401(4)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-411.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (a), (c)(4), and (d)(3)(B)(i)(III), was in the original “this title” meaning title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, 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, Public 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.

This Act, referred to in subsecs. (c)(1)(C), (d)(3)(B)(i)(III), (iii), (f)(3), and (i)(2), is Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 936, known as the Workforce Investment Act of 1998. For complete classification of this Act to the Code, see Short Title note set out under section 9201 of Title 20, Education, and Tables.

Section 1512 of this title, referred to in subsec. (i)(1)(C)(i), was repealed by Pub. L. 105-220, title I, § 199(b)(2), Aug. 7, 1998, 112 Stat. 1059, effective July 1, 2000.

#### AMENDMENTS

1998—Subsec. (f)(1)(D). Pub. L. 105-277, § 101(f) [title VIII, § 401(4)(A)], substituted “if the Governor” for “if the State”.

Subsec. (i)(1)(D)(ii)(II). Pub. L. 105-277, § 101(f) [title VIII, § 401(4)(B)], added subcl. (II) and struck out former subcl. (II) which read as follows: “(for a local area in which no employees are represented by such organizations), other representatives of employees in the local area.”

### § 2833. Local plan

#### (a) In general

Each local board shall develop and submit to the Governor a comprehensive 5-year local plan (referred to in this chapter as the “local plan”), in partnership with the appropriate chief elected official. The plan shall be consistent with the State plan.

#### (b) Contents

The local plan shall include—

- (1) an identification of—
  - (A) the workforce investment needs of businesses, jobseekers, and workers in the local area;
  - (B) the current and projected employment opportunities in the local area; and
  - (C) the job skills necessary to obtain such employment opportunities;
- (2) a description of the one-stop delivery system to be established or designated in the local area, including—
  - (A) a description of how the local board will ensure the continuous improvement of eligible providers of services through the system and ensure that such providers meet the employment needs of local employers and participants; and
  - (B) a copy of each memorandum of understanding described in section 2841(c) of this title (between the local board and each of the one-stop partners) concerning the operation of the one-stop delivery system in the local area;
- (3) a description of the local levels of performance negotiated with the Governor and chief elected official pursuant to section 2871(c) of this title, 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 local fiscal agent (where appropriate), eligible providers, and the one-stop delivery system, in the local area;
- (4) a description and assessment of the type and availability of adult and dislocated worker employment and training activities in the local area;
- (5) a description of how the local board will coordinate workforce investment activities carried out in the local area with statewide rapid response activities, as appropriate;

(6) a description and assessment of the type and availability of youth activities in the local area, including an identification of successful providers of such activities;

(7) a description of the process used by the local board, consistent with subsection (c) of this section, to provide an opportunity for public comment, including comment by representatives of businesses and comment by representatives of labor organizations, and input into the development of the local plan, prior to submission of the plan;

(8) an identification of the entity responsible for the disbursement of grant funds described in section 2832(d)(3)(B)(i)(III) of this title, as determined by the chief elected official or the Governor under section 2832(d)(3)(B)(i) of this title;

(9) a description of the competitive process to be used to award the grants and contracts in the local area for activities carried out under this subchapter; and

(10) such other information as the Governor may require.

#### (c) Process

Prior to the date on which the local board submits a local plan under this section, the local board shall—

- (1) make available copies of a proposed local plan to the public through such means as public hearings and local news media;
- (2) allow members of the local board and members of the public, including representatives of business and representatives of labor organizations, to submit comments on the proposed local plan to the local board, not later than the end of the 30-day period beginning on the date on which the proposed local plan is made available; and
- (3) include with the local plan submitted to the Governor under this section any such comments that represent disagreement with the plan.

#### (d) Plan submission and approval

A local plan submitted to the Governor under this section shall be considered to be approved by the Governor at the end of the 90-day period beginning on the day the Governor receives the plan, unless the Governor makes a written determination during the 90-day period that—

- (1) deficiencies in activities carried out under this subchapter have been identified, through audits conducted under section 2934 of this title or otherwise, and the local area has not made acceptable progress in implementing corrective measures to address the deficiencies; or
- (2) the plan does not comply with this chapter.

(Pub. L. 105-220, title I, § 118, Aug. 7, 1998, 112 Stat. 961.)

#### REFERENCES IN TEXT

This chapter, referred to in subsecs. (a) and (d)(2), was in the original “this title” meaning title I of Pub. L. 105-220, Aug. 7, 1998, 112 Stat. 939, 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, Public Buildings, Property, and Works, sections 11421, 11441 to