

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 ap-

propriate 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, 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.

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 busi-

nesses, 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 representing 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 491-2(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 meetings, 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—