

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

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SEPTEMBER 13, 2003

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2003

2. Exceptions. Notwithstanding ~~subsection~~ subsections 1 and 1-A, the commissioner may:

See title page for effective date.

CHAPTER 114

S.P. 365 - L.D. 1093

An Act to Conform State Workforce Development Laws to the Federal Workforce Investment Act of 1998

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §1507, sub-§5-A, as repealed and replaced by PL 1993, c. 349, §7, is amended to read:

5-A. Job development training. The Governor may allocate funds from such account in amounts not to exceed in total the sum of \$1,000,000 to provide funds for any unusual, unforeseen or extraordinary needs for state assistance in creating jobs by assisting in meeting the training requirements of labor-intensive new or expanding industries. ~~In fiscal year 1989-90, \$75,000 of this amount may also be allocated for immediate job training, unemployment counseling, retraining and other assistance to displaced workers. In fiscal year 1989-90, an additional \$75,000 of this amount may also be allocated for immediate job training, unemployment counseling, retraining and other assistance to displaced workers in the midcoast area of the State.~~ Allocations for this purpose may be made from this fund by the Governor only upon the written request of the Commissioner of Labor and the Commissioner of Economic and Community Development and after consultation with the State Budget Officer. The commissioners' request to the Governor must be formulated subsequent to their consultation with the Commissioner of Education, the President of the Maine Technical College System and the director of the appropriate service delivery local workforce investment area as defined by the Job Training Partnership Act designated pursuant to the federal Workforce Investment Act of 1998, Public Law 105-220.

Sec. 2. 5 MRSA §1737, sub-§4, as amended by PL 1997, c. 46, §1, is further amended to read:

4. Directed services. Notwithstanding the provisions of subsection 2, the director may provide insurance advice or services for family foster homes as defined in Title 22, section 8101, subsection 3; specialized children's homes, as defined in Title 22, section 8101, subsection 5; respite care providers as defined in Title 34-B, section 6201, subsection 2-A; the Casco Bay Island Transit District created by

Private and Special Law 1981, chapter 22; the University of Maine System; the Maine Technical College System; the Maine Maritime Academy; and the State's service delivery local workforce investment areas designated under the federal Job Training Partnership Act Workforce Investment Act of 1998, Public Law 97-300, as amended 105-220.

Sec. 3. 20-A MRSA §12704, sub-§2, ¶D, as amended by PL 1995, c. 560, Pt. G, §5 and affected by §29, is further amended to read:

D. The employment and training programs funded under the United States Job Training Partnership Act federal Workforce Investment Act of 1998, Public Law 97-300 105-220, or its successor, and overseen by the Department of Labor, Bureau of Employment Services, or its successor; and

Sec. 4. 26 MRSA c. 25 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 25

WORKFORCE INVESTMENT

Sec. 5. 26 MRSA §2001, as enacted by PL 1983, c. 258, §1, is amended to read:

§2001. Definitions

As used in this chapter, unless the context indicates otherwise, the following terms have the following meanings.

1. Act. ~~"Act" means the Job Training Partnership Act, as established by the Federal Job Training Partnership Act, Public Law 97-300, enacted October 13, 1982.~~

2. Commissioner. "Commissioner" means the Commissioner of Labor.

3. Job Training Partnership Fund. ~~"Job Training Partnership Fund" means a separate fund created by this chapter implementing the Job Training Partnership Act.~~

4. Local area and local board. "Local area" and "local board" have the same meanings as provided in the Workforce Investment Act.

5. Workforce Investment Act. "Workforce Investment Act" means the federal Workforce Investment Act of 1998, Public Law 105-220.

Sec. 6. 26 MRSA §2002, as amended by PL 1983, c. 480, Pt. B, §28, is repealed.

Sec. 7. 26 MRSA §2003, as enacted by PL 1983, c. 258, §1, is amended to read:

§2003. Authority of commissioner

The commissioner may enter into agreements with agencies of the Federal Government, State Government or county government as required for the purpose of implementing the Federal Job Training Partnership Workforce Investment Act.

Sec. 8. 26 MRSA §2004, as amended by PL 1987, c. 542, Pt. F, §§3 and 5, is repealed.

Sec. 9. 26 MRSA §2004-A is enacted to read:

§2004-A. Authority of Legislature

The Legislature has general authority to oversee implementation of the Workforce Investment Act, including, but not limited to, authority to:

1. Review plans. Review plans, policies and standards proposed by a local board, the Maine Jobs Council, the Governor or any other agency under the Workforce Investment Act before final approval by the responsible entity;

2. Review evaluations. Review the procedures and findings of evaluations of the effectiveness of the State's implementation of the Workforce Investment Act; and

3. Receive reports. Receive reports prepared by the Maine Jobs Council, a local board, the Governor or any agency in connection with implementation of the Workforce Investment Act, including the report required by section 3101.

Sec. 10. 26 MRSA §2006, sub-§§1 and 2, as enacted by PL 1997, c. 410, §12 and affected by §13, are amended to read:

1. Responsibilities. The Maine Jobs Council is established ~~and in this section is referred to as the "council."~~ The council will to ensure that the State's workforce development system helps Maine people and businesses compete successfully in the global economy. Specific responsibilities include but are not limited to:

A. Performing all of the duties and responsibilities of the ~~State Human Resource Investment Council state board~~ as defined in the United States Job Training Partnership Workforce Investment Act, 29 United States Code, Title 29, Section 4792 2801, including, but not limited to, the duties and responsibilities set forth in subsection 5-D;

B. Recommending to the Governor ~~an annual~~ a state workforce development plan designed to

maximize utilization and effectiveness of state workforce development services;

C. Monitoring agency and system-wide strategic goals based on the statewide workforce development policy and strategic plan and evaluating progress toward meeting those goals;

D. Providing recommendations to the Governor and the Legislature that would improve system effectiveness and reduce system fragmentation;

E. Creating greater coordination between economic development and human resource development and education programs; ~~and~~

F. Ensuring a balance between rural and urban workforce development;

G. Providing policy oversight and recommendations to ensure the effectiveness of vocational programs for people with disabilities in order to support efforts that reduce barriers to employment;

H. Providing policy oversight and recommendations to ensure that self-employment, microenterprise and small business are part of the overall workforce development strategy;

I. Providing policy recommendations to ensure the effectiveness of work-related programs and services for youth, including youth with disabilities; and

J. Providing policy recommendations to ensure the effectiveness of work-related programs and services for "at-risk" youth.

2. Membership. The council consists of members appointed by the Governor.

A. ~~If the State has received a waiver under the Omnibus Appropriations Act, 1997, United States Department of Labor Appropriations, federal Public Law 104 208, Section 105, 35% Thirty-five percent~~ of the appointments must represent business and industry with consideration given to a balance among small, medium and large firms and 35% must represent employees, with no less than 15% of the total membership on the council representing organized labor. The remaining 30% must represent the general public.

B. ~~If the State has not received a waiver under the Omnibus Appropriations Act, 1997, United States Department of Labor Appropriations, federal Public Law 104 208, Section 105, appointments~~ Appointments must be made consistent with the representation requirements of the

~~United States Job Training Partnership Act, United States Code, Title 29, Section 1792a Workforce Investment Act~~, including representatives from business and industry, organized labor, state agencies responsible for human resource programs and educational and community-based institutions.

The Governor shall ensure that the council and its technical support group have sufficient expertise to effectively carry out the duties and functions of the council.

Sec. 11. 26 MRSA §2006, sub-§5, as amended by PL 1997, c. 683, Pt. D, §§7 and 8, is repealed.

Sec. 12. 26 MRSA §2006, sub-§5-D, as enacted by PL 1997, c. 683, Pt. D, §9, is repealed and the following enacted in its place:

5-D. Workforce investment. In addition to its other duties, the council shall perform the duties of the state board under the Workforce Investment Act, referred to in this subsection as "the Act."

A. The council shall assist the Governor in:

(1) Developing and continuously improving a statewide system of activities funded under the Act or carried out through a one-stop delivery system described in Section 134(c) of the Act including review of local plans and development of linkages to ensure coordination and nonduplication among the programs and activities with required and optional partners described in Section 121(b) of the Act;

(2) Designating local areas as required in Section 116 of the Act;

(3) Developing allocation formulas for the distribution to local areas of funds for youth activities and adult employment and training activities as allowed under Sections 133(b)(3)(B) and 128(b)(3)(B) of the Act;

(4) Developing and continuously improving comprehensive state performance measures including state-adjusted levels of performance to assess the effectiveness of the workforce investment activities of the State as required under Section 136(b) of the Act;

(5) Developing an application for an incentive grant under Section 503 of the Act;

(6) Preparing an annual report to the United States Secretary of Labor as described in Section 136(d) of the Act;

(7) Commenting on measures taken pursuant to Section 113(b)(14) of the federal Carl D. Perkins Vocational and Applied Technology Education Act, 20 United States Code, Section 2323(b)(14); and

(8) Developing the statewide statistics system described in Section 15(e) of the federal Wagner-Peyser Act, 29 United States Code, Section 491-2(e).

B. The council has the necessary authority to carry out the purposes of this section.

C. The commissioner may appoint employees necessary to carry out the council's responsibility under this subsection.

D. The commissioner may adopt rules, in accordance with Title 5, chapter 375, necessary to carry out the council's responsibility under this subsection.

Sec. 13. 26 MRSA §2006, sub-§7, ¶C, as enacted by PL 1997, c. 410, §12 and affected by §13, is amended to read:

C. The Governor shall appoint members to a technical support group to assist the council in the performance of its duties and responsibilities. The Governor shall appoint persons to serve on the technical support group for 3-year terms. The services provided by the State's various workforce organizations must be fairly represented in the technical support group with consideration given to a balance between rural and urban interests. Organizations with representation on the technical support group may include, but are not limited to:

(1) ~~The Job Training Partnership Act Service Delivery Areas~~ local areas;

(2) Adult education;

(3) School-to-work;

(4) Providers that specialize in women's workforce issues;

(5) Rehabilitation providers;

(6) Welfare-to-work;

(7) The University of Maine System;

(8) The Maine Technical College System;

(9) Applied technology education; and

(10) The Department of Economic and Community Development, the Department of Education, the Department of Human Services, the Department of Labor and the State Planning Office.

Sec. 14. 26 MRSA §2007 is enacted to read:

§2007. Funding

Funds received from the United States pursuant to the Workforce Investment Act must be deposited in the Employment Services Activity program account within the Department of Labor. Funds must be deposited, administered and disbursed in the same manner and under the same conditions and requirements as provided by law for other federal funds in the State Treasury. The commissioner shall ensure that management and use of the federal funds comply with the requirements of the Workforce Investment Act. Federal funds in the account do not lapse but must be carried forward to be used to implement the Workforce Investment Act.

Sec. 15. 26 MRSA §2023, sub-§1, ¶C, as enacted by PL 1991, c. 807, §2, is amended to read:

C. Travel payments according to the policies established by the ~~United States Job Training Partnership Act~~ service providers under the Workforce Investment Act;

Sec. 16. 26 MRSA §2053, as enacted by PL 1985, c. 346, §2, is repealed.

Sec. 17. 26 MRSA c. 33 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 33

MAINE WORKFORCE INVESTMENT SYSTEM

Sec. 18. 26 MRSA §2171, as corrected by RR 1995, c. 1, §25, is repealed.

Sec. 19. 26 MRSA §2171-A is enacted to read:

§2171-A. Maine Workforce Investment System

This chapter applies to actions taken under the Maine Workforce Investment System. For the purposes of this chapter, the "Maine Workforce Investment System" means all state and federal education and training programs administered by the Department of Labor and operated by a network of local boards and service delivery providers, including:

1. Workforce Investment Act. The state program under the federal Workforce Investment Act of 1998, Public Law 105-220; and

2. Maine Conservation Corps. The Maine Conservation Corps under chapter 34.

Sec. 20. 26 MRSA §2172, sub-§1, as enacted by PL 1989, c. 408, §3, is amended to read:

1. Application. This section applies to all on-the-job training contracts entered into by any agency or organization, public or private, that provides a wage subsidy for a trainee with public funds, including all contracts written under the Maine ~~Job Training~~ Workforce Investment System.

Sec. 21. 26 MRSA §2172, sub-§4, as enacted by PL 1989, c. 408, §3, is amended to read:

4. Apprenticeable occupations. With respect to each placement under the Maine ~~Job Training~~ Workforce Investment System, the Department of Labor shall:

A. Determine whether the occupation is apprenticeable in accordance with a list of apprenticeable occupations provided by the State Apprenticeship and Training Council;

B. If the occupation is determined to be apprenticeable, contact the State Apprenticeship and Training Council for assistance in establishing an apprenticeship position that would follow Maine ~~Job Training~~ Workforce Investment System placement;

C. Ensure that the State Apprenticeship and Training Council provides a semiannual and annual list to the Commissioner of Labor on both the number of Maine ~~Job Training~~ Workforce Investment System referrals received and the number of apprenticeship positions that were established from the Maine ~~Job Training~~ Workforce Investment System referrals; and

D. If an apprenticeship program is developed under this subsection, provide the trainee information on various education and training opportunities that may be of assistance for indenturing in the apprenticeship program.

Sec. 22. 26 MRSA §2172-A, sub-§1, as enacted by PL 1993, c. 630, Pt. A, §1, is amended to read:

1. Notification to training applicants. The Department of Labor shall explain to each person seeking to enroll in a Maine ~~Job Training~~ Workforce Investment System program the general nature of registered apprenticeship programs, that a registered

apprenticeship program is one of the job training options available under the Maine ~~Job Training Workforce Investment~~ System and ascertain that person's interest in such a program.

Sec. 23. 26 MRSA §2172-A, sub-§2, ¶¶B and C, as enacted by PL 1993, c. 630, Pt. A, §1, are amended to read:

B. If the occupation appears on the list of apprenticeable occupations, contact the State Apprenticeship and Training Council for assistance in establishing a registered apprenticeship program as part of or following Maine ~~Job Training Workforce Investment~~ System training;

C. Ensure that the State Apprenticeship and Training Council provides to the Commissioner of Labor a semiannual and annual list of the number of Maine ~~Job Training Workforce Investment~~ System referrals received and the number of registered apprenticeship positions established from these referrals; and

Sec. 24. 26 MRSA §2173, first ¶, as enacted by PL 1989, c. 408, §3, is amended to read:

Each person enrolled in a program under the Maine ~~Job Training Workforce Investment~~ System ~~shall~~ must be provided an informational pamphlet on labor law ~~which that~~ explains the person's rights and responsibilities and lists the appropriate agency to contact for additional information. The informational pamphlet ~~shall~~ must be developed and disseminated to all Maine ~~Job Training Workforce Investment~~ System service providers ~~by January 1, 1990~~.

Sec. 25. 26 MRSA §2173, sub-§§2 and 3, as enacted by PL 1989, c. 408, §3, are amended to read:

2. Review with providers. To enhance the trainees' knowledge of labor law, the Maine ~~Job Training Workforce Investment~~ System service providers shall, when offering prevocational services to program participants, review the content of the informational pamphlet with the program participants, unless the participants have already received this review.

3. Staff training. The direct service staff of the Maine ~~Job Training Workforce Investment~~ System service providers ~~shall~~ must receive training to expand their knowledge of the labor laws contained in the informational pamphlet.

Sec. 26. 26 MRSA §2182, as amended by PL 1999, c. 532, §1, is further amended to read:

§2182. Participants

The Corps shall strive to include a diversity of participants. Priority must be given to those whose family income is 150% or less of the nonfarm income official poverty line as defined by the federal Office of Management and Budget as revised annually in accordance with the United States Omnibus Budget Reconciliation Act of 1981, Section 673, Subsection 2 and to those who are ~~economically disadvantaged low-income individuals~~ as defined by the ~~United States Job Training Partnership Act, Subchapter II, Public Law 97-300 federal Workforce Investment Act of 1998, 29 United States Code, Section 2801~~. A person is not eligible if that person has left a secondary school for the purpose of participating in this program. Corps members may be jointly enrolled in any state or local job training program or human resource development program.

See title page for effective date.

CHAPTER 115

H.P. 328 - L.D. 420

An Act Regarding the School Board of the Governor Baxter School for the Deaf

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 20-A MRSA §7406, sub-§1, as amended by PL 1999, c. 775, §7, is further amended to read:

1. Membership. In appointing members to the school board, the Governor shall give proper consideration to achieving statewide geographical representation, cultural equity and gender equity. In appointing voting members to the school board, the Governor shall select nominees with experience or special knowledge in one or more of the following areas: law, finance, organizational issues, management, education, human resources and collective bargaining. The school board and interested parties may submit a list of recommended candidates to the Governor to aid in making appointments of voting and nonvoting members. The appointments of voting members made by the Governor are subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and subject to confirmation by the Legislature. The appointments of nonvoting members made by the Governor are not subject to review by the joint standing committee of the Legislature having jurisdiction over education matters or subject to confirmation by the Legislature. The Governor shall appoint the school board consist-