

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Senate Bill 461

BY SENATORS COLE (MR. PRESIDENT) AND KESSLER

(BY REQUEST OF THE EXECUTIVE)

[Passed March 8, 2016;
in effect 90 days from passage]

1 AN ACT to amend and reenact §5B-2B-1, §5B-2B-2, §5B-2B-3, §5B-2B-4, §5B-2B-4a, §5B-2B-
2 5, §5B-2B-6 and §5B-2B-9 of the Code of West Virginia, 1931, as amended; and to amend
3 said code by adding thereto a new section, designated §5B-2B-4b, all relating to West
4 Virginia Workforce Development Board; updating West Virginia Workforce Investment Act
5 to West Virginia Innovation and Opportunity Act; defining terms; creating West Virginia
6 Workforce Development Board; providing for composition of West Virginia Workforce
7 Development Board; setting forth requirements for board members; setting forth duties of
8 board; updating reporting requirements; requiring open proceedings of board; and
9 updating language.

Be it enacted by the Legislature of West Virginia:

1 That §5B-2B-1, §5B-2B-2, §5B-2B-3, §5B-2B-4, §5B-2B-4a, §5B-2B-5, §5B-2B-6 and
2 §5B-2B-9 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that
3 said code be amended by adding thereto a new section, designated §5B-2B-4b, all to read as
4 follows:

**ARTICLE 2B. WEST VIRGINIA WORKFORCE INNOVATION AND OPPORTUNITY
ACT.**

§5B-2B-1. Short title.

1 This article shall be known and may be cited as the West Virginia Workforce Innovation
2 and Opportunity Act.

§5B-2B-2. Definitions.

1 As used in this article, the following terms have the following meanings, unless the context
2 clearly indicates otherwise:

3 “Board” means the West Virginia Workforce Development Board.

4 “Commission” or “Legislative Oversight Commission” means the Legislative Oversight
5 Commission on Workforce Investment for Economic Development created pursuant to section

6 seven of this article.

7 “Local area” means a local workforce investment area.

8 “Local board” means a local workforce development board.

9 “Team” means the workforce investment interagency collaborative team.

10 “WIOA” means the Workforce Innovation and Opportunity Act, 29 U. S. C. §3101, *et seq.*

§5B-2B-3. West Virginia Workforce Development Board; membership of board; meetings; quorum requirements.

1 (a) The West Virginia Workforce Development Board is hereby created and shall serve as
2 the state’s Workforce Development Board, as required by the WIOA. The board shall make
3 general recommendations regarding workforce investment in the state to the Governor and the
4 Legislature.

5 (b) The membership of the board shall meet the requirements of WIOA §101(b) and
6 represent diverse geographic areas of the state, including urban, rural and suburban areas. The
7 board membership includes:

8 (1) The Governor, or his or her designated representative; and

9 (2) The President of the Senate, or his or her designee, and the Speaker of the House of
10 Delegates, or his or her designee, both of whom shall be nonvoting members of the board; and

11 (3) Members appointed by the Governor, with the advice and consent of the Senate, which
12 shall include:

13 (A) Representatives of businesses or organizations, who shall comprise a majority of the
14 board membership, who:

15 (i) Are the owner or chief executive officer for the business or organization, or is an
16 executive with the business or organization with optimum policy-making or hiring authority, and
17 may also be members of a local board as described in WIOA §107(b)(2)(A)(i);

18 (ii) Represent businesses, or organizations that represent businesses described in
19 paragraph (A), subdivision (3), subsection (b) of this section, that, at a minimum, provide

20 employment and training opportunities that include high-quality, work-relevant training and
21 development in in-demand industry sectors or occupations in the state;

22 (iii) Are appointed from a list of potential members proposed by state business
23 organization and business trade associations; and

24 (iv) At a minimum, one member representing small businesses as defined by the U. S.
25 Small Business Administration.

26 (B) Not less than twenty percent of the board shall be representatives of the workforce
27 within the state, which:

28 (i) Shall include two or more representatives of labor organizations appointed from a list
29 proposed by state labor federations;

30 (ii) Shall include one representative who shall be a member of a labor organization or
31 training director from a joint labor-management apprenticeship program, or, if no such joint
32 program exists in the state, a member of a labor organization or training director who is a
33 representative of an apprenticeship program;

34 (iii) May include one or more representatives of community-based organizations that have
35 demonstrated experience and expertise in addressing the employment, training or education
36 needs of individuals with barriers to employment, including organizations that serve veterans or
37 provide or support competitive, integrated employment for individuals with disabilities; and

38 (iv) May include one or more representative of organizations that have demonstrated
39 experience and expertise in addressing the employment, training or education needs of eligible
40 youth, including representative of organizations that serve out-of-school youth.

41 (C) The balance of the members:

42 (i) Shall include representatives of government including:

43 (l) The lead state officials with primary responsibility for each of the core programs. Where
44 the lead official represents more than one core program, that official shall ensure adequate
45 representation of the needs of all core programs under his or her jurisdiction; and

46 (II) Two or more chief elected officials, collectively representing both cities and counties,
47 where appropriate.

48 (ii) May include other appropriate representatives and officials designated by the
49 Governor, such as, but not limited to, state agency officials responsible for one-stop partner
50 programs, economic development or juvenile justice programs in the state, individuals who
51 represent an Indian tribe or tribal organization as defined in WIOA §166(b), and state agency
52 officials responsible for education programs in the state, including chief executive officers of
53 community colleges and other institutions of higher education.

54 (c) The Governor shall select a chairperson for the board from the business
55 representatives on the board described in paragraph (A), subdivision (3), subsection (b) of this
56 section.

57 (d) Initial terms for appointed members of the board are for up to three years as determined
58 by the Governor. All subsequent terms shall be for three years.

59 (e) Members who represent organizations, agencies or other entities described in
60 paragraphs (B) and (C), subdivision (3), subsection (b) of this section shall be individuals who
61 have optimum policy-making authority in the organizations they represent.

62 (f)(1) A board member may not represent more than one of the categories described in:

63 (A) Paragraph (A), subdivision (3), subsection (b) of this section;

64 (B) Paragraph (B), subdivision (3), subsection (b) of this section; or

65 (C) Paragraph (C), subdivision (3), subsection (b) of this section.

66 (2) A board member may not serve as a representative of more than one subcategory
67 under paragraph (B), subdivision (3), subsection (b) of this section.

68 (3) A board member may not serve as a representative of more than one subcategory
69 under paragraph (C), subdivision (3), subsection (b) of this section: *Provided*, That where a single
70 government agency is responsible for multiple required programs, the head of the agency may
71 represent each of the required programs.

72 (g) All required board members, other than the ex officio members of the Legislature, shall
73 have voting privileges. The Governor may also convey voting privileges to nonrequired members.

§5B-2B-4. Duties of the Workforce Development Board.

1 (a) The board shall provide information and guidance to local boards and staff, to enable
2 them to better educate both women and men about higher paying jobs and careers including jobs
3 traditionally dominated by men or women. Such guidance shall promote services provided by the
4 local boards for job seekers that includes:

5 (1) Current information about compensation for jobs and careers that offer high earning
6 potential including jobs that are traditionally dominated by men or women;

7 (2) Counseling, skills development and training opportunities that encourage both women
8 and men to seek employment in such jobs;

9 (3) Referral information to employers offering such jobs; or

10 (4) Information regarding the long-term consequences, including lower social security
11 benefits or pensions, of choosing jobs that offer lower earnings potential and are traditionally
12 dominated by women or men.

13 (b) Under WIOA §101(d), the board shall assist the Governor in the:

14 (1) Development, implementation and modification of the four-year state plan;

15 (2) Review of statewide policies, programs and recommendations on actions that should
16 be taken by the state to align workforce development programs to support a comprehensive and
17 streamlined workforce development system. Such review of policies, programs and
18 recommendations shall include a review and provision of comments on the state plans, if any, for
19 programs and activities of one-stop partners that are not core programs;

20 (3) Development and continuous improvement of the workforce development system,
21 including:

22 (A) Identification of barriers and means for removing barriers to better coordinate, align
23 and avoid duplication among programs and activities;

24 (B) Development of strategies to support career pathways for the purpose of providing
25 individuals, including low-skilled adults, youth and individuals with barriers to employment,
26 including individuals with disabilities, with workforce investment activities, education and
27 supportive services to enter or retain employment;

28 (C) Development of strategies to provide effective outreach to, and improved access for,
29 individuals and employers who could benefit from workforce development system;

30 (D) Development and expansion of strategies to meet the needs of employers, workers
31 and jobseekers, particularly through industry or sector partnerships related to in-demand industry
32 sectors and occupations;

33 (E) Identification of regions, including planning regions for the purpose of WIOA §106(a),
34 and the designation of local areas under WIOA §106 after consultation with local boards and chief
35 elected officials;

36 (F) Development and continuous improvement of the one-stop delivery system in local
37 areas, including providing assistance to local boards, one-stop operators, one-stop partners and
38 providers. Such assistance includes assistance with planning and delivering services, including
39 training and supportive services, to support effective delivery of services to workers, jobseekers
40 and employers; and

41 (G) Development of strategies to support staff training and awareness across the
42 workforce development system and its programs;

43 (4) Development and updating of comprehensive state performance and accountability
44 measures to assess core program effectiveness under WIOA §116(b);

45 (5) Identification and dissemination of information on best practices, including best
46 practices for:

47 (A) The effective operation of one-stop centers, relating to the use of business outreach,
48 partnerships and service delivery strategies, including strategies for serving individuals with
49 barriers to employment;

50 (B) The development of effective local boards, which may include information on factors
51 that contribute to enabling local boards to exceed negotiated local levels of performance, sustain
52 fiscal integrity and achieve other measures of effectiveness; and

53 (C) Effective training programs that response to real-time labor market analysis, that
54 effectively use direct assessment and prior learning assessment to measure an individual's prior
55 knowledge, skills, competencies and experiences for adaptability, to support efficient placement
56 into employment or career pathways;

57 (6) Development and review of statewide policies affecting the coordinated provision of
58 services through the state's one-stop delivery system described in WIOA §121(e), including the
59 development of:

60 (A) Objective criteria and procedures for use by local boards in assessing the
61 effectiveness, physical and programmatic accessibility and continuous improvement of one-stop
62 centers. Where a local board serves as the one-stop operator, the board shall use such criteria
63 to assess and certify the one-stop center;

64 (B) Guidance for the allocation of one-stop center infrastructure funds under WIOA
65 §121(h); and

66 (C) Policies relating to the appropriate roles and contributions of entities carrying out one-
67 stop partner programs within the one-stop delivery system, including approaches to facilitating
68 equitable and efficient cost allocation in the system;

69 (7) Development of strategies for technological improvements to facilitate access to, and
70 improve the quality of services and activities provided through, the one-stop delivery system,
71 including such improvements to:

72 (A) Enhance digital literacy skills (as defined in §202 of the Museum and Library Service
73 Act, 20 U. S. C. §9101);

74 (B) Accelerate acquisition of skills and recognized post-secondary credentials by
75 participants;

76 (C) Strengthen professional development of providers and workforce professionals; and

77 (D) Ensure technology is accessible to individuals with disabilities and individuals residing
78 in remote areas;

79 (8) Development of strategies for aligning technology and data systems across one-stop
80 partner programs to enhance service delivery and improve efficiencies in reporting on
81 performance accountability measures, including design implementation of common intake, data
82 collection, case management information, and performance accountability measurement and
83 reporting processes and the incorporation of local input into such design and implementation to
84 improve coordination of services across one-stop partner programs;

85 (9) Development of allocation formulas for the distribution of funds for employment and
86 training activities for adults and youth workforce investment activities, to local areas as permitted
87 under WIOA §128(b)(3) and §133(b)(3);

88 (10) Preparation of the annual reports described in paragraphs (1) and (2) of WIOA
89 §116(d);

90 (11) Development of the statewide workforce and labor market information system
91 described in §15(e) of the Wagner-Peyser Act, 29 U. S. C. §49, *et seq.*; and

92 (12) Development of other policies as may promote statewide objectives for and enhance
93 the performance of the workforce development system in the state.

§5B-2B-4a. Report to Legislature.

1 (a) The Legislature finds that:

2 (1) The state needs to take all necessary steps to retain, educate and train West Virginians
3 to have the skills necessary to compete for job opportunities resulting from horizontal drilling; and

4 (2) Specific attention shall be made by the State of West Virginia to train and educate
5 West Virginia citizens that have not historically or traditionally been exposed to the oil and gas
6 industry through training programs offered by community colleges, technical schools and
7 institutions and small business owners. Small business owners shall be made aware by the State

8 of West Virginia of any and all programs and grants available to assist them in training said
9 individuals.

10 (b) To assist in maximizing the economic opportunities available with horizontal drilling,
11 the board shall make a report to the Joint Committee on Government and Finance and the
12 Legislative Oversight Commission on Education Accountability on or before November 1 of each
13 year through 2016, detailing a comprehensive review of the direct and indirect economic impact
14 of employers engaged in the production of horizontal wells in the State of West Virginia, as more
15 specifically defined in article six-a, chapter twenty-two of this code, which shall include:

16 (1) A review of the total number of jobs created;

17 (2) A review of total payroll of all jobs created;

18 (3) The average salary per job type;

19 (4) A review of total economic impact;

20 (5) The board's recommendations for the establishment of an overall workforce
21 investment public education agenda with goals and benchmarks toward maximizing job creation
22 opportunities in the State of West Virginia;

23 (6) A review of number of jobs created for minorities based on race, ethnicity and gender;

24 (7) A review of number of jobs created for individuals reemployed from the State of West
25 Virginia's unemployment rosters;

26 (8) A review of number of jobs created for returning veterans; and

27 (9) A review of number of jobs created for legal West Virginia residents and non-West
28 Virginia residents.

29 (c) To the extent permitted by federal law, and to the extent necessary for the board to
30 comply with this section, the board, Workforce West Virginia, the Division of Labor and the Office
31 of the Insurance Commissioner may enter into agreements providing for the sharing of job data
32 and related information.

§5B-2B-4b. Open meetings; public information.

1 (a) The board shall conduct business in an open manner as required by WIOA §101(g).

2 (b) The board shall make available to the public, on a regular basis through electronic
3 means and open meetings, information about the activities and functions of the board including:

4 (1) The state plan, or modification to the state plan, prior to submission of the plan or
5 modification of the plan;

6 (2) Information regarding membership; and

7 (3) Minutes of formal meetings of the board upon request.

§5B-2B-5. State agencies.

1 On or before November 1, any state agency that receives federal or state funding that has
2 been used for workforce investment activities for the past fiscal year shall provide to the board a
3 report, detailing the source and amount of federal, state or other funds received; the purposes for
4 which the funds were provided; the services provided in each regional workforce investment area;
5 the measures used to evaluate program performance, including current and baseline performance
6 data; and any other information requested by the board. All reports submitted pursuant to this
7 section are to be in a form approved by the board.

§5B-2B-6. Administration of board.

1 (a) Workforce West Virginia shall provide administrative and other services to the board
2 as the board requires.

3 (b) Workforce West Virginia shall facilitate the coordination of board activities and local
4 workforce investment activities, including holding meetings with the executive directors of each
5 local board at least monthly. Any executive director of a local board who participates in a meeting
6 held pursuant to this subsection shall report to his or her local board and the county commission
7 of each county represented by the local board regarding the meeting.

**§5B-2B-9. Coordination between agencies providing workforce investment programs,
local workforce investment boards and the Executive Director of Workforce West**

Virginia.

1 (a) To provide ongoing attention to addressing issues that will build and continually
2 improve the overall workforce investment system, the Workforce Investment Interagency
3 Collaborative Team is hereby created. The team shall be the single state interagency source for
4 addressing issues or concerns related to building and maintaining the most effective and efficient
5 implementation of WIOA and the overall workforce development system in West Virginia. The
6 team shall focus on how best to collaborate between and among the state agencies directly
7 involved in workforce investment activities and shall develop a strategic plan to that end. The
8 team shall serve as a forum for the board to seek information or recommendations in furtherance
9 of its responsibilities under this article. Workforce West Virginia is the entity which shall convene
10 the team at least monthly and shall provide administrative and other services to the team as the
11 team requires.

12 (b) The team shall consist of members from each agency subject to the reporting
13 provisions of section five of this article. Each agency shall appoint two representatives to the team
14 consisting of the chief official of the department or division and the official within that department
15 or division who is directly responsible for overseeing the workforce investment program or
16 activities at the state level. A designee may be selected to represent a member appointed to the
17 team: *Provided*, That the designee has policy-making decision authority regarding workforce
18 investment activities including program and fiscal issues. The team members have authority to
19 make decisions on behalf of the agency at the level required for the team to address issues and
20 advance system improvements.

21 (c) The team shall coordinate the development of a self-sufficiency standard study for the
22 State of West Virginia. The self-sufficiency standard is to measure how much income is needed
23 for a household of a given composition in a given place to adequately meet its basic needs without
24 public or private assistance. Beginning on November 1, 2004, and every two years thereafter, this

25 study is to be reported to the Speaker of the House of Delegates, the President of the Senate,
26 the board and the Legislative Oversight Commission on Workforce Investment for Economic
27 Development.

28 (d) Beginning January 1, 2003, in order to lawfully continue any workforce investment
29 activities, any agency subject to the reporting provisions of section five of this article shall enter
30 into a memorandum of understanding with the Executive Director of Workforce West Virginia and
31 any local board representing an area of this state in which the agency is engaged in workforce
32 investment activities. To the extent permitted by federal law, the agreements are to maximize
33 coordination of workforce investment activities and eliminate duplication of services on both state
34 and local levels.

35 (e) No memorandum of understanding may be effective for more than one year without
36 annual reaffirmation by the parties.

37 (f) Any state agency entering a memorandum of understanding shall deliver a copy thereof
38 to both the board and the Legislative Oversight Commission.