

# **WEST VIRGINIA LEGISLATURE**

**2021 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2290**

BY DELEGATES GRAVES, FERRELL, CONLEY, D. JEFFRIES,

G. WARD, KIMBLE, HORST, JENNINGS, B. WARD, TULLY

AND MAZZOCCHI

[Passed March 30, 2021; in effect ninety days from passage.]



1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §18-10Q-1, §18-10Q-2, §18-10Q-3, §18-10Q-4, and §18-10Q-5; all relating to  
3 initiating a State Employment First Policy to facilitate integrated employment of disabled  
4 persons; providing legislative findings; establishing a taskforce to develop a State  
5 Employment First Policy; providing for implementation of the State Employment First  
6 Policy; providing definitions for “competitive employment”, “customized employment”, and  
7 “integrated employment”; and incorporating a sunset provision.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 10Q. EMPLOYMENT FIRST POLICY.**

**§18-10Q-1. Legislative findings.**

1 The Legislature finds a need to create a state initiative to promote competitive, integrated,  
2 and customized employment opportunities for disabled citizens using publicly funded services  
3 regardless of the individual’s level of disability. The state Employment First Policy initiative is  
4 intended to promote the expectation that individuals with intellectual, developmental, and other  
5 disabilities are valued members of the workforce, and can often meet the same employment  
6 standards, responsibilities, and expectations as other working-age adults when provided the  
7 proper education, reasonable accommodations, and supports.

**§18-10Q-2. Definitions.**

1 “Competitive Employment” means work that is performed on a full-time or part-time basis  
2 (including self-employment) for which an individual is compensated at a rate that is not less than  
3 the rates specified in §21-5C-2 of this code, and for which the employee is eligible for the level of  
4 benefits provided to other employees and which presents opportunities for advancement that are  
5 similar to those for other employees who are not individuals with disabilities who have similar  
6 positions.

7           “Customized Employment” means those employment supports and services for an  
8 individual that are designed in a way to personalize the employment relationship between the  
9 person with a disability and employer in a way that meets the needs of both.

10           “Integrated employment” means employment at a location where the percentage of  
11 employees with disabilities relative to the employees without disabilities is consistent with the  
12 norms of the general workforce, and where the employees with disabilities interact with other  
13 persons, to the same extent as employees in comparable positions without disabilities.

**§18-10Q-3. Creation of Employment First Taskforce; membership; meeting requirements.**

1           (a) The Commissioner of the West Virginia Bureau for Behavioral Health shall establish a  
2 taskforce for the purpose of developing and implementing a state Employment First Policy.

3           (b) The commissioner shall appoint the membership of the taskforce, which shall include,  
4 at a minimum, the following members:

5           (1) The Commissioner of the West Virginia Bureau for Behavioral Health, or his or her  
6 representative, who shall chair the taskforce;

7           (2) An individual with a developmental disability;

8           (3) An individual with an intellectual disability;

9           (4) A family member of a person with a disability;

10           (5) A representative of the Department of Education;

11           (6) A representative of Workforce West Virginia;

12           (7) A representative of the Division of Rehabilitation Services;

13           (8) A representative of the Bureau for Medical Services (State Medicaid Agency);

14           (9) A representative of the West Virginia Developmental Disabilities Council;

15           (10) A representative of a provider of integrated and competitive employment services  
16 who does not also provide sheltered or otherwise segregated services for individuals with  
17 disabilities;

18           (11) A representative of West Virginia Center of Excellence in Disabilities;

19 (12) A representative of Disability Rights of West Virginia (the Governor-designated state  
20 protection and advocacy agency);

21 (13) A representative of the West Virginia Statewide Independent Living Council;

22 (14) A representative of the West Virginia Community and Technical College Systems;

23 (15) A representative of the West Virginia Behavioral Healthcare Providers Association;

24 (16) A representative of the West Virginia Association of Rehabilitation Facilities; and

25 (17) The State of West Virginia Americans with Disabilities Act Coordinator.

26 (c) The taskforce shall hold meetings at the call of the chairperson or upon written request  
27 of a majority of the members. The taskforce shall meet at least four times a year.

28 (d) The chairman of the taskforce shall appointment a member to act as secretary for the  
29 purposes of the taking of minutes. The minutes shall be approved by the taskforce at each  
30 meeting. The minutes and all other documentation shall be maintained by the chair.

**§18-10Q-4. Powers and duties of the taskforce; state Employment First Policy; required  
plan; reporting requirements.**

1 (a) The state Employment First Taskforce shall develop and implement a plan that  
2 includes the following:

3 (1) Describes time frames and proposals for aligning state policies, including eligibility and  
4 funding priorities, allocations for responsibility, and authority for ensuring implementation;

5 (2) Details cost projections for additional state funding needed over a five-year period to:

6 (A) Provide rate increases and incentives to providers that implement Employment First  
7 services; and

8 (B) Train or retrain the workforce;

9 (3) Describes strategies, timelines, and plans to increase investment in integrated  
10 employment services and may carefully consider plans to reduce sheltered work settings;

11 (4) Incorporates Employment First practices and methods in policy improvement plans  
12 providing customized, person-centered, and individually tailored employment supports to people

13 with intellectual, developmental, and other disabilities, including people with complex support  
14 needs;

15 (5) Complies with federal policy and practice mandates regarding employment services  
16 design, settings, and coordination among stakeholders, including:

17 (A) The Centers for Medicare and Medicaid Services Home and Community-Based  
18 Services;

19 (B) Workforce Innovation and Opportunity Act; and

20 (C) The United States Department of Justice rulings that found that segregated work  
21 settings violate the “most integrated setting” rule of the Americans with Disabilities Act relative to  
22 the findings of the Supreme Court of the United States in the Olmstead court case;

23 (6) Describes minimal workforce competency-based training standards applicable for job  
24 coaches, case managers, and other relevant personnel;

25 (7) Establishes interagency agreements, as appropriate, to improve coordination of  
26 services, and collect and share data to inform long-term systems planning;

27 (8) Proposes initiatives to address the culture of low expectations, to which parents of  
28 young children with intellectual, developmental, and other disabilities are exposed;

29 (9) Provides the Governor and Legislature the State Employment First Policy within 12  
30 months of the enactment of this bill;

31 (10) Ensures:

32 (A) That individuals, particularly secondary and post-secondary students with disabilities,  
33 understand the importance of, and are given the opportunity to explore, options for further training  
34 as a pathway to integrated employment;

35 (B) The availability and accessibility of individualized training and support in an individual’s  
36 preferred employment options;

37 (C) The availability and accessibility of resources necessary to enable an individual to  
38 understand possible effects of earned income and accumulation of assets on the individual’s

39 eligibility for public benefits and opportunities to properly manage and save income and assets  
40 without jeopardizing such benefits;

41 (D) That competitive integrated employment, while being the first and preferred outcome,  
42 is not required of an individual with a disability to secure and maintain necessary public benefits,  
43 health care, training, and support for individuals with disabilities and this statute may not be  
44 construed to limit or disallow any disability benefits to which a person with a disability who is  
45 unable to be employed as contemplated by this statute would otherwise be entitled; and

46 (E) That the staff of public schools, vocational service programs, and community providers  
47 are trained and supported to assist in achieving the goal of competitive integrated employment  
48 for all individuals with disabilities; and

49 (11) Promotes partnerships with employers to overcome barriers to meet workforce needs,  
50 including the creative use of technology and innovation

51 (b) The taskforce shall provide a written report annually to the Governor and the Joint  
52 Committee on Government and Finance on the findings and results of the efforts of the taskforce  
53 to accomplish the goals of the plan. These reports shall present data which reflects the number  
54 of people with disabilities who attained employment as a result of the implementation of the plan,  
55 as well as any barriers to implementation and strategies developed to address them.

56 (c) The plan as required by this section shall be updated biennially or more frequently as  
57 needed.

58 (d) The Bureau for Behavioral Health, Division of Rehabilitation Services, the Department  
59 of Education, Workforce West Virginia, and the Bureau for Medical Services shall, as  
60 recommended by the Employment First Taskforce as established in §18-10Q-3 of this code, adopt  
61 and implement a joint State Employment First Policy, which recognizes that earning a wage  
62 through competitive employment in the general workforce is the first and preferred outcome of all  
63 publicly funded services provided to working-age individuals with disabilities.

**§18-10Q-5. Sunset date.**

- 1           The taskforce established in §18-10Q-3 of this code shall terminate and cease to exist on
- 2   December 31, 2025, unless continued by act of the Legislature.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2021.

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*Governor*