

CHAPTER 668

S.B. No. 642

AN ACT

relating to the creation of the Council on Workforce and Economic Competitiveness, the creation of local workforce development boards, and the development of an integrated state and local program delivery system serving all Texans.

Be it enacted by the Legislature of the State of Texas:

ARTICLE 1. LEGISLATIVE FINDINGS

SECTION 1.01. LEGISLATIVE FINDINGS. The legislature finds that:

- (1) the economic future of this state and the prosperity of its citizens depend on the ability of businesses in this state to compete effectively in the world economy;
- (2) a well-educated and highly trained workforce provides businesses in this state with the competitive edge critical for their success;
- (3) the state's current workforce development effort is a fragmented array of more than 21 separately funded and administered education, job training, and employment programs operated by seven separate state agencies;
- (4) this fragmented approach to service delivery results in the lack of clear accountability for results, duplication of services, inappropriate training, and wasted resources;
- (5) consolidating the planning and budgeting functions of the various federal and state workforce development programs at the state and local level will improve the quality and effectiveness of services and provide businesses in this state with an element critical to their success, a high quality workforce; and
- (6) empowering local business, labor, and community leaders to take a more active role in their communities' economic and workforce development will enhance the quality, efficiency, and responsiveness of these programs.

SECTION 1.02. SHORT TITLE. Articles 2 through 6 of this Act may be cited as the Workforce and Economic Competitiveness Act.

SECTION 1.03. APPLICATION OF SUNSET ACT. The Council on Workforce and Economic Competitiveness is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished September 1, 2001.

SECTION 1.04. DEFINITIONS. In this Act:

- (1) "Council" means the Council on Workforce and Economic Competitiveness.

(2) "Human resource investment council" means a human resource investment council under the Job Training Reform Amendments Act of 1992 (Pub. L. No. 102-367, Section 701 et seq.).

(3) "Program year" means July 1 to June 30.

(4) "Workforce development" includes workforce education programs and workforce training and services.

(5) "Workforce education" means articulated career-path programs and the constituent courses of those programs that lead to initial or continuing licensure or certification or associate degree-level accreditation and that are subject to:

(A) initial and ongoing state approval or regional or specialized accreditation;

(B) a formal state evaluation that provides the basis for program continuation or termination;

(C) state accountability and performance standards; and

(D) regional or statewide employer-driven labor market demand documentation.

(6) "Workforce training and services" means training and services programs that are not included within the definition of workforce education.

ARTICLE 2. COUNCIL ON WORKFORCE AND ECONOMIC COMPETITIVENESS

SECTION 2.01. CREATION OF COUNCIL. The Council on Workforce and Economic Competitiveness is created as a state agency to act as a human resources investment council.

SECTION 2.02. MEMBERSHIP OF COUNCIL. (a) The council shall be appointed by the governor, who shall designate one of the business or labor representatives on the council to serve as presiding officer. The membership shall reflect the ethnic and geographic diversity of the state.

(b) The council shall be composed of:

(1) the following ex officio voting members:

(A) the commissioner of education;

(B) the commissioner of higher education;

(C) the commissioner of health and human services;

(D) the executive director of the Texas Department of Commerce; and

(E) the administrator of the Texas Employment Commission;

(2) six voting members appointed by the governor who represent education, at least one of whom represents local public education, one of whom represents public postsecondary education, one of whom represents secondary vocational education, and one of whom represents postsecondary vocational education;

(3) seven voting members who represent organized labor appointed by the governor based on recommendations made by recognized labor organizations;

(4) seven voting members appointed by the governor who represent business and industry, including business members serving on local workforce development boards or private industry councils;

(5) one voting member appointed by the governor who represents a community-based organization;

(6) one voting member appointed by the governor who represents a joint-sponsored apprenticeship program as defined by the United States Department of Labor's Bureau of Apprenticeship and Training appointed from a list of three nominees submitted to the governor by the Apprenticeship and Training Association of Texas;

(7) one voting member appointed by the governor who represents a community-based adult literacy organization;

(8) one voting member appointed by the governor who represents adult basic and continuing education programs;

(9) six voting members appointed by the governor each of whom represents not more than one of the following categories:

- (A) literacy groups;
 - (B) local welfare or public housing agencies;
 - (C) units of local government;
 - (D) adult education organizations;
 - (E) teachers or counselors;
 - (F) local service delivery organizations;
 - (G) special needs populations;
 - (H) rural and agricultural organizations;
 - (I) proprietary schools;
 - (J) members of the state legislature; and
 - (K) other groups and organizations; and
- (10) the following ex officio nonvoting members:

- (A) the chair of the State Board of Education;
- (B) the chair of the Texas Higher Education Coordinating Board;
- (C) the presiding officer of the Texas Board of Human Services;
- (D) the presiding officer of the governing board of the Texas Department of Commerce;
- (E) the chair of the Texas Employment Commission;
- (F) the commissioner of the Texas Rehabilitation Commission; and
- (G) the executive director of the Texas Commission for the Blind.

(c) The presiding officer of the council shall designate a member of the council as assistant presiding officer to preside in the absence of the presiding officer.

SECTION 2.03. MEETINGS; TERMS. (a) The council shall meet at least quarterly and at other times at the call of the presiding officer or as provided by rules adopted by the council.

(b) A member of the council who does not serve as an ex officio member serves a six-year term, with one-third of those members' terms expiring in each odd-numbered year. An ex officio member shall continue to serve as a member of the council as long as the member continues to serve in the designated office.

SECTION 2.04. DESIGNATED REPLACEMENTS. A member of the council may designate another person to attend a meeting for the member. The designated person may participate in the activities and discussions of the council but may not vote.

SECTION 2.05. GROUNDS FOR REMOVAL FROM COUNCIL. (a) It is a ground for removal from the council if a non-ex officio member:

- (1) does not have at the time of appointment the qualifications required by Section 2.02 of this Act;
- (2) does not maintain during service on the council the qualifications required by Section 2.02 of this Act;
- (3) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability;
- (4) is absent from more than one-fourth of the regularly scheduled council meetings that the member is eligible to attend during a calendar year; or
- (5) is absent from two consecutive council meetings for which the member received notice not less than 48 hours before the time of the meeting.

(b) The validity of an action of the council is not affected by the fact that it is taken when a ground for removal of a council member exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the council of the ground. The presiding officer shall then notify the governor that a potential ground for removal exists.

SECTION 2.06. COUNCIL FUNCTIONS. (a) The council shall:

(1) promote the development of a well-educated, highly skilled workforce in this state through literacy, adult basic education, community education, apprenticeship, and state-of-the-art occupational skills education and training programs;

(2) serve as an advocate for the development of an integrated workforce development system to provide quality services addressing the needs of business and workers in this state;

(3) promote and assist in the development of an industry-based skills standards and certification system for occupations requiring less than a baccalaureate-level education and training;

(4) promote the development of high productivity workplaces in this state;

(5) recommend to the governor the components of a school and training-to-work transition process;

(6) develop and recommend to the governor a single strategic plan that establishes the framework for the budgeting and operation of all workforce development programs administered by agencies represented on the council;

(7) recommend to the governor the designation of workforce development areas for the local planning and delivery of workforce development programs;

(8) identify and recommend to the governor incentives to encourage the consolidation of local boards, councils, and committees;

(9) design and implement a state-local planning process for the state's workforce training and services programs;

(10) review local workforce training and services plans and make recommendations to the governor for approval;

(11) implement a statewide system for evaluating the effectiveness of all workforce development programs using the administrative records of the state's unemployment compensation program and other sources as appropriate;

(12) support research and demonstration projects designed to develop new programs and approaches to service delivery;

(13) provide for training and professional development for council members, local chief elected officials, workforce development boards and staff, and private industry councils and staff;

(14) serve as an advocate at the state and federal levels for the local workforce development boards;

(15) establish and operate a comprehensive labor market information system that serves employers, students, workers, and state and local planning organizations;

(16) ensure that occupational skills training is provided in occupations that are currently in demand at the local level and is directed toward high-skill and high-wage jobs;

(17) develop and recommend to the governor and legislature not later than November 15, 1994, a plan for consolidating all workforce development programs in this state;

(18) oversee the operation of the state's workforce development programs to assess the degree to which the programs are effective in achieving state and local goals and objectives;

(19) develop and recommend to the governor criteria for the establishment of local workforce development boards;

(20) develop objective criteria for granting waivers allowed under this Act;

(21) develop and recommend to the governor a plan to ensure client accessibility to workforce programs that includes a uniform statewide client application system for determining an applicant's eligibility for a workforce program for which state or federal financial assistance is available; and

(22) carry out the federal and state mandated duties and responsibilities for all advisory councils under applicable federal and state workforce development programs.

(b) The council shall assume the duty to:

(1) develop, with the assistance of the appropriate state agencies, and recommend to the governor state plans required by applicable federal laws in order for the state to receive federal funds;

(2) make policy recommendations to the governor regarding goals and priorities for both formula and discretionary funds for all applicable programs;

(3) participate directly in the development of the master plan for vocational education, as required by law, and recommend the plan to the State Board of Education, the Texas Higher Education Coordinating Board, and the governor;

(4) ensure that general revenue funds previously available to the Texas Literacy Council are used to support the efforts of local literacy councils in a manner consistent with the state strategic plan;

(5) recommend to the State Board of Vocational Education the division of federal funds between secondary and postsecondary educational agencies under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. Section 2301 et seq.); and

(6) make recommendations to the Texas Employment Commission regarding unemployment insurance issues pertinent to the responsibilities of the council.

(c) In addition to the council's powers and duties under Subsections (a) and (b) of this section, the council may:

(1) adopt rules necessary and essential to the internal functions and duties of the council but not rules related to the operation of a workforce development program;

(2) make expenditures, enter into contracts with public, private, and nonprofit organizations or agencies, require reports to be made, conduct investigations, and take other actions necessary or suitable to fulfill the council's duties under this Act;

(3) delegate to the executive director any power or duty imposed on the council by law, including the authority to make a final order or decision but not including the authority to adopt rules;

(4) provide for the mediation or arbitration of disputes between agencies that perform functions for state and federal programs as provided by this Act;

(5) accept gifts, grants, and donations of money, goods, or services to be used only to accomplish the council's duties under this Act; and

(6) share employees with another state agency.

SECTION 2.07. STRATEGIC PLAN. (a) In addition to the other requirements of this Act, the strategic plan recommended by the council shall recognize and address literacy and basic education as activities that are critical to the well-being of individuals and the state without regard to whether the training and education is directed at preparing an individual for employment.

(b) The strategic plan shall include goals, objectives, and performance measures for all workforce development programs of state agencies that are represented on the council.

(c) On approval of the plan by the governor, an agency represented on the council shall use the strategic plan to develop the agency's operational plan.

SECTION 2.08. TRAINING FOR LOCAL WORKFORCE DEVELOPMENT BOARD MEMBERS. (a) The council shall provide management and board development training for all members of local workforce development boards. The training shall include information regarding the importance of high quality workforces to the economic prosperity of their communities and encourage board members to be advocates in their communities for effective and efficient workforce development programs. A member of a workforce development board must receive the training under this section not later than the third month after beginning service on a certified board or the member shall be ineligible to continue serving on the board.

(b) Training may be provided directly by the council or by a third party that has demonstrated experience in providing training to local workforce development or similar boards.

(c) Local workforce development boards shall provide 25 percent of the costs for all members' management and board development training.

SECTION 2.09. JOB PLACEMENT INFORMATION. (a) The council shall establish and maintain an automated follow-up and evaluation system based on unemployment insurance wage records maintained by the Texas Employment Commission, student follow-up information available through the Texas Higher Education Coordinating Board, and other information, as appropriate. Each state agency represented on the council shall provide information to support the council's follow-up and evaluation system as requested. The system shall be used to assist the council, local workforce development boards, institution boards, the Texas Higher Education Coordinating Board, the Central Education Agency, and other agencies in evaluating the labor market success and effectiveness of workforce development programs in this state.

(b) Evaluation data in the system shall include placement rates, wages paid, retention in employment statistics, the number of education and training-related placements, and other factors, including the pursuit of additional education.

(c) The council may develop a method for collecting occupational information to supplement wage record data collected by the Texas Employment Commission. The council may request employers, providers, and other appropriate sources to provide placement, employment, and earnings data to the council.

(d) At least annually, the council shall issue an occupation-specific analysis by provider of the job placement performance of each workforce education program for the previous one-year, three-year, and five-year periods to:

(1) each provider of a workforce education program or workforce training and services program;

(2) the Texas Higher Education Coordinating Board for each provider of a workforce education program approved and administered by the board; and

(3) each local workforce development board for each provider of workforce training and services within the workforce development area.

(e) The Texas Higher Education Coordinating Board shall use the job placement information received under this section and other information to:

(1) evaluate the effectiveness of workforce education programs;

(2) determine whether a public or private workforce education program is not effective in placing persons who successfully complete the program in jobs related to the persons' training; and

(3) determine whether to continue, expand, or terminate a program established under Section 61.051, Education Code.

(f) The council and each local workforce development board shall use the information under this section and other information to determine whether a specific workforce training and service program administered by the local board is effective and whether to continue or discontinue the training and service program.

SECTION 2.10. SUBCOMMITTEES; TECHNICAL ADVISORY COMMITTEES. (a) The presiding officer of the council may appoint subcommittees consisting of members of the council for any purpose consistent with the duties and responsibilities of the council under this Act.

(b) The presiding officer of the council may appoint technical advisory committees composed of council members or persons who are not council members, or both members and nonmembers.

SECTION 2.11. TRANSFER OF STATE ADVISORY COUNCIL RESPONSIBILITIES. (a) The council shall assume the responsibilities assigned to the state advisory council under the following federal laws:

(1) the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.);

(2) the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. Section 2301 et seq.);

(3) the National and Community Service Act of 1990 (42 U.S.C. Section 12501 et seq.);

(4) the Adult Education Act (20 U.S.C. Section 1201 et seq.);

(5) the Wagner-Peyser Act (29 U.S.C. Section 49 et seq.);

(6) Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 681 et seq.);

(7) the employment program established under Section 6(d)(4), Food Stamp Act of 1977 (7 U.S.C. Section 2015(d)(4)); and

(8) the National Literacy Act of 1991 (Pub. L. 102-73 et seq.).

(b) The council shall assume the responsibilities formerly exercised by the following state advisory councils:

(1) the State Job Training Coordinating Council;

(2) the Texas Council on Vocational Education;

(3) the technical advisory committee to the State Occupational Information Coordinating Council;

(4) the Texas Literacy Council; and

(5) the Apprenticeship and Training Advisory Committee.

SECTION 2.12. FISCAL AGENT. The council may designate another state agency to serve as the council's fiscal agent if the designated agent agrees to the designation.

SECTION 2.13. EXECUTIVE DIRECTOR; COUNCIL STAFF. (a) The presiding officer of the council shall appoint an executive director for the council.

(b) The executive director shall:

(1) report to the presiding officer of the council;

(2) perform duties assigned by the council and under state law;

(3) administer the day-to-day operations of the council;

(4) appoint officers, accountants, attorneys, experts, and other employees for the council and assign duties for these employees as necessary in the performance of the council's powers and duties under this Act;

(5) delegate authority to persons appointed under this section as the executive director considers to be reasonable and proper for the effective administration of the council; and

(6) perform other duties assigned by this Act.

(c) The executive director may adopt the administrative and personnel procedures of the council's fiscal agent rather than adopting new procedures for the council.

(d) The council shall have an independent staff with sufficient expertise to perform all duties and responsibilities assigned to the council under this Act and under state and federal law. The staff of the council may be supplemented by staff from other state agencies who are temporarily assigned to assist with special projects.

(e) The executive director of the State Occupational Information Coordinating Council shall report to the executive director of the council and shall provide labor market information, information relevant to workforce program evaluation, and technical assistance to the council and its staff as requested. The executive director of the State Occupational Information Coordinating Council may enter into contracts for products and services with State Occupational Information Coordinating Council membership agencies and other organizations if consistent with the state strategic plan.

SECTION 2.14. PERSONNEL POLICIES. (a) The executive director of the council shall develop an intraagency career ladder program. The program shall require the intraagency posting of all non-entry-level positions concurrently with any public posting.

(b) The executive director shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for council employees must be based on the system established under this subsection.

SECTION 2.15. TRAINING; STANDARDS OF CONDUCT INFORMATION. (a) Each council member shall comply with the member training requirements established by any other state agency that is given authority to establish the requirements for the council.

(b) The executive director shall provide to the council's members and employees, as often as necessary, information regarding their qualifications for office or employment under this Act and their responsibilities under applicable laws relating to standards of conduct for state officers and employees.

SECTION 2.16. EQUAL EMPLOYMENT OPPORTUNITY POLICIES. (a) The executive director shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, application, training, and promotion of personnel that are in compliance with the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes);

(2) a comprehensive analysis of the council's workforce that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the council's workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(b) A policy statement under Subsection (a) of this section must cover an annual period, be updated annually, be reviewed by the Commission on Human Rights for compliance with Subsection (a)(1) of this section, and be filed with the governor's office.

(c) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (b) of this section. The report may be made separately or as part of other biennial reports to the legislature.

SECTION 2.17. COUNCIL RECOMMENDATIONS; COOPERATION WITH STATE AGENCIES. (a) The council shall develop recommendations periodically in each of the council's areas of responsibility and shall submit the recommendations to the governor.

(b) The governor shall consider the recommendations submitted under this section. The governor shall approve, disapprove, or modify the recommendations and return the recommendations to the council to be forwarded as appropriate or forward an approved or modified recommendation without returning the recommendation to the council. An approved or modified recommendation shall be forwarded to the appropriate agency for implementation. A recommendation that is approved or modified that requires a change in state or federal law shall be forwarded to the appropriate legislative body for consideration.

(c) A recommendation that is not approved, disapproved, or modified by the governor before the 60th day after the date the recommendation is submitted shall be considered to be approved by the governor.

(d) State agencies that are responsible for the administration of human resources and workforce development programs in this state shall implement the recommendations if the recommendations do not violate an existing federal or state law, regulation, or rule.

(e) A state agency shall:

(1) provide requested information to the council in a timely manner;

(2) report on the implementation of the council's recommendations at the time and in the format requested by the council; and

(3) notify the governor, the executive director, and the presiding officer of the council if the agency determines that a recommendation cannot be implemented.

(f) A recommendation approved by the governor with regard to the state or federal Job Training Partnership Act (29 U.S.C. Section 1501 et seq.) shall be implemented by the agency responsible for the administration of that Act as required by federal law.

SECTION 2.18. FUNDING. (a) Federal funding for the operation of the council shall be allocated according to federal requirements.

(b) The council shall develop a budget to carry out the council's duties and responsibilities under this Act. The budget must be submitted to the governor and the Legislative Budget Board for approval. The budget shall identify funds appropriated for the biennium ending August 31, 1995, for planning and evaluation of a workforce development program administered by an agency represented on the council and shall recommend the transfer of those funds to the functions being assumed by the council.

(c) A state agency represented on the council shall provide funds for the support of the council in proportion to the agency's financial participation in the workforce development system.

ARTICLE 3. DESIGNATION OF WORKFORCE DEVELOPMENT AREAS

SECTION 3.01. DESIGNATION OF WORKFORCE DEVELOPMENT AREAS. (a) The governor shall, after receiving the recommendations of the Council on Workforce and Economic Competitiveness, publish a proposed designation of local workforce development areas for the planning and delivery of workforce development programs, each of which:

- (1) is composed of more than one contiguous unit of general local government, that includes at least one county;
- (2) is consistent with either a local labor market area, a metropolitan statistical area, one of the 24 substate planning areas, or one of the 10 uniform state service regions; and
- (3) is of sufficient size to have the administrative resources necessary to provide for the effective planning, management, and delivery of workforce development services.

(b) Units of general local government, business and labor organizations, and other affected persons and organizations shall have an opportunity to comment on the proposed designation of a workforce development area and to request revisions of the designation.

(c) The governor, after considering all comments and requests for changes, shall make the final designation of workforce development areas. The governor may redesignate workforce development areas not more than once every two years. A redesignation must be made not later than four months before the beginning of a program year.

ARTICLE 4. LOCAL WORKFORCE DEVELOPMENT BOARDS

SECTION 4.01. CREATION OF LOCAL WORKFORCE DEVELOPMENT BOARDS. (a) The chief elected officials in a workforce development area designated by the governor under Section 3.01 of this Act may form, in accordance with rules established by the council, a local workforce development board to plan and oversee the delivery of all workforce training and services programs and evaluate all workforce development programs in the workforce development area.

(b) On agreement regarding the formation of a local workforce development board, the chief elected officials shall reduce the agreement to writing. The local government agreement shall include:

- (1) the purpose for the agreement;
- (2) the process that will be used to select the chief elected official who will act on behalf of the other chief elected officials;
- (3) the initial size of the local workforce development board;
- (4) the process to be used to appoint the board members, which must be consistent with applicable federal and state laws; and
- (5) the terms of office of the members of the board.

(c) The chief elected officials shall consider the views of all affected local organizations, including private industry councils and quality workforce planning committees, before making a final decision regarding the formation of a local workforce development board.

(d) None of the powers and duties granted a workforce development board under this Act may be exercised in a workforce development area until the chief elected officials in that area reach an agreement providing for the establishment of a local workforce development board and the board is certified by the governor.

(e) A private industry council in an area in which a local workforce development board is not created or in which the chief elective officers are unable to negotiate the establishment of a local workforce development board may not exercise any of the powers granted a local workforce development board by this Act, except for a power granted under the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.).

SECTION 4.02. LOCAL BOARD MEMBERSHIP. (a) A local workforce development board is appointed by the chief elected officials consistent with the local government agreement and applicable federal and state laws. Board members serve fixed and staggered terms as provided by the agreement or applicable federal or state laws and may continue to serve until successors are appointed. Board membership shall reflect the ethnic and geographic diversity of the workforce development area. A board is composed as follows:

(1) representatives of the private sector, who shall constitute a majority of the membership of the board and who are owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management or policy responsibilities;

(2) representatives of organized labor and community-based organizations, who shall constitute not less than 15 percent of the membership of the board; and

(3) representatives of each of the following:

(A) educational agencies, including secondary and postsecondary practitioners representing vocational education, that are representative of all educational agencies in the service delivery area;

(B) vocational rehabilitation agencies;

(C) public assistance agencies;

(D) economic development agencies;

(E) the public employment service;

(F) local literacy councils; and

(G) adult basic and continuing education organizations.

(b) The chairman of the board shall be selected from among the members of the board who represent the private sector.

(c) Private sector representatives on the board shall be selected from among individuals nominated by general-purpose business organizations after consulting with and receiving recommendations from other business organizations in the workforce development area. The number of the nominations shall be at least 150 percent of the number of individuals to be appointed under Subsection (a)(1) of this section. The nominations and the individuals selected from the nominations must reasonably represent the industrial and demographic composition of the business community. If possible, at least one-half of the business and industry representatives shall be representatives of small business, including minority business.

(d) In this section:

(1) "general purpose business organization" means an organization that admits to membership any for-profit business operating within the workforce development area; and

(2) "small business" means a private for-profit enterprise employing not more than 500 employees.

(e) The education representatives on the board shall be selected from among individuals nominated by regional or local educational agencies, vocational education institutions, institutions of higher education, including entities offering adult education, and general organizations of the institutions within the workforce development area.

(f) The labor representatives on the board shall be selected from individuals recommended by recognized state and local labor federations. If a state or local labor federation fails to nominate a sufficient number of individuals to meet the labor representation requirements of Subsection (a)(2) of this section, individual workers may be included on the council to complete the labor representation.

(g) The remaining members of the board shall be selected from individuals recommended by interested organizations.

(h) The board may create committees as needed to carry out its duties and responsibilities. The board may create technical advisory groups composed of both council and noncouncil members to provide assistance as needed.

(i) Members of the board shall avoid the appearance of conflict of interest by recusing themselves on votes of the board directly affecting the funding of their organization or any organization that they represent.

SECTION 4.03. CERTIFICATION OF BOARD. The governor shall certify a local workforce development board if the governor determines that the board's composition and appointments are consistent with applicable federal and state laws and requirements and meet established state criteria. Certification shall be made or denied not later than the 30th day after the date a certification request is submitted to the governor. None of the powers and duties granted a board under this Act shall be exercised in a workforce development area until the board is certified by the governor.

SECTION 4.04. FUNCTIONS OF BOARD. (a) A board is directly responsible and accountable to the council for the planning and oversight of all workforce training and services in the workforce development area. A workforce development board shall ensure effective outcomes consistent with statewide goals, objectives, and performance standards approved by the governor. The council shall assist workforce development boards in designing effective measures to accomplish this responsibility.

(b) A board is directly responsible to the agency designated by the governor to administer the Job Training Partnership Act in this state for the administration of local programs under the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.).

(c) A board shall:

(1) serve as a single point of contact for local business to communicate their skill needs and influence the direction of all workforce development programs in the workforce development area;

(2) develop a local plan for addressing the workforce development needs of the workforce development area that:

(A) is responsive to the goals, objectives, and performance standards established by the governor;

(B) targets services to meet local needs, including the identification of industries and employers likely to employ workers who complete job training programs; and

(C) ensures that the workforce development system, including the educational system, has the flexibility to meet the needs of local businesses;

(3) designate the board or some other entity as the board's fiscal agent to be responsible and accountable for the management of all workforce development funds available to the board;

(4) create local workforce development centers as established in Article 5 of this Act;

(5) review plans for workforce education to ensure that the plans address the needs of local businesses and recommend changes in the delivery of education services as appropriate;

(6) assume the functions and responsibilities of local workforce development advisory boards, councils, and committees authorized by federal or state laws, including private industry councils, quality workforce planning committees, job service employer committees, and local general vocational program advisory committees;

(7) monitor and evaluate the effectiveness of the workforce development centers, state agencies and other contractors providing workforce training and services, and vocational and technical education programs operated by local education agencies and institutions of higher education to ensure that performance is consistent with state and local goals and objectives;

(8) promote cooperation and coordination among public organizations, community organizations, and private business providing workforce development services; and

(9) review applications as consistent with rules developed by the Texas Department of Commerce for funds under the smart jobs fund program under Subchapter J, Chapter 481, Government Code.

(d) The board may provide relevant labor market information and information regarding the availability of existing workforce development programs to the department in performing the board's duties under Subsection (c)(9) of this section.

(e) A provider must respond to a change recommended by a board under Subsection (c)(5) of this section not later than the 30th day after the date on which the provider receives the recommendation.

SECTION 4.05. LOCAL PLAN. (a) A local workforce development board shall develop a single plan for the delivery of all workforce training and services in the board's service area under the following programs:

(1) the Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes);

(2) postsecondary vocational and technical job training programs that are not part of approved courses or programs that lead to licensing, certification, or an associate degree under Chapters 61, 108, 130, and 135, and Subchapter E, Chapter 88, Education Code;

(3) adult education programs under Section 11.18, Education Code;

(4) apprenticeship programs under Chapter 33, Education Code;

(5) the trade adjustment assistance program under Part 2, Subchapter II, Trade Act of 1974 (19 U.S.C. Section 2271 et seq.);

(6) the senior citizens employment program under Chapter 101, Human Resources Code;

(7) the Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes);

(8) literacy funds available to the state under the National Literacy Act of 1991 (Pub. L. 102-73 et seq.);

(9) the National and Community Service Act of 1990 (42 U.S.C. Section 12501 et seq.);

(10) the job opportunities and basic skills program under Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 682); and

(11) the food stamp employment and training program authorized under 7 U.S.C. Section 2015(d).

(b) A local plan shall identify:

(1) goals, objectives, and performance measures;

(2) the population to be served;

(3) the mix of services to be provided;

(4) the service providers; and

(5) the structure of the delivery system.

SECTION 4.06. EMPLOYER-DRIVEN NEEDS ASSESSMENT. (a) A board in conjunction with the council shall establish and operate an automated, interactive employer-driven labor market information system to identify occupation-specific labor demand in each workforce development area.

(b) A board shall periodically provide a report summarizing occupation-specific labor demand to each public postsecondary institution providing vocational and technical education and each entity under contract to the board to provide workforce training and services in a workforce development area.

(c) If a need is identified in the availability of workforce education as indicated by the labor market information system provided by the board, by a direct request of employers located in the workforce area, or as the result of an economic development incentive package designed to attract or retain an employer, the institution shall apply within 30 days to the Texas Higher Education Coordinating Board for approval to offer the needed workforce education. The coordinating board shall give immediate priority to the institution's application and shall

notify the institution of the board's approval or disapproval not later than the 100th day after the date the application is received.

(d) If more than one institution in a workforce development area applies under Subsection (c) of this section to provide the needed workforce education, the Texas Higher Education Coordinating Board shall select one or more institutions to offer the needed education as provided by Section 61.051, Education Code.

(e) A local workforce development board may solicit other qualified providers to apply to the coordinating board to provide needed education to be funded through state-appropriated formula funds if an institution approved by the Texas Higher Education Coordinating Board does not offer the approved workforce education in a timely manner.

(f) A public community college shall promptly provide workforce training and services that are requested:

(1) by the workforce development board based on the board's labor demand information system for the area;

(2) by employers located in the college's taxing district when the request is presented directly to the college by the employers or through the workforce development board; or

(3) as part of an economic development incentive package designed to attract or retain an employer, including a package offered under the smart jobs fund program under Subchapter J, Chapter 481, Government Code.

(g) An institution of higher education that has local taxing authority and is governed by a locally elected board of trustees is the primary provider of local workforce training and services that are needed by an employer within the taxing district and funded fully or in part by local funds, except in Cameron, McLennan, and Potter counties, or by technical vocational funds administered by the Texas Higher Education Coordinating Board. A local workforce development board shall select another qualified local or statewide provider if the local institution does not promptly provide locally needed workforce training and services.

(h) This section does not prohibit an institution of higher education from offering workforce education or workforce training and services that:

(1) are needed by an employer located in the college's taxing district and that meet all applicable standards; or

(2) have been approved under applicable law and that are reviewed by the Texas Higher Education Coordinating Board.

(i) This Act may not be interpreted to restrict a person's authority to contract for the provision of workforce education or workforce training and services that are provided without state or federal funds.

SECTION 4.07. LIST OF PUBLICLY FUNDED PROGRAMS AND CLASSES. (a) A local education agency and public or private postsecondary educational institution shall provide the local workforce development board a list of all vocational-technical programs and classes the agency or institution offers that are funded by state or federal funds.

(b) A local workforce development board, with the assistance of the demand occupation list developed by the board, shall evaluate the supply of vocational-technical programs in relation to the demand for the programs and report any discrepancies between supply and demand to the appropriate educational institution, the Central Education Agency, the Texas Higher Education Coordinating Board, the Council on Workforce and Economic Competitiveness, and the Legislative Budget Board.

SECTION 4.08. BUDGET AND STAFFING. (a) A board shall establish a budget for the board that must be included in the local workforce development plan submitted to the Council on Workforce and Economic Competitiveness. A board may employ professional, technical, and support staff as necessary to carry out its strategic planning, oversight, and evaluation functions. A board's staff shall be separate from and independent of any organization providing workforce education or workforce training and services in the workforce development area.

(b) The requirement for separate staffing does not preclude a local workforce development board from designating a qualified organization to provide staff services to the board provided

that the board arranges for independent evaluation of any other workforce services provided by the staffing organization and requests and obtains a waiver of the separate staffing requirement from the council. The request for the waiver must contain a detailed justification based on such factors as cost-effectiveness, prior experience, geographic or budgetary considerations, and availability of qualified applicants.

SECTION 4.09. APPROVAL OF FISCAL AGENT. The agency designated by the governor to administer the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.) in this state must approve the fiscal agent selected by a local workforce development board before the disbursement of any federal or state workforce development funds to the board. The agency's approval shall be based on an audit of the financial capability of the fiscal agent to assure that fiscal controls and fund accounting procedures necessary to guarantee the proper disbursement of and accounting for federal and state funds are in place.

SECTION 4.10. CONTRACTING FOR SERVICE DELIVERY. (a) A local workforce development board may not be a direct provider of workforce training and services. A board may request a waiver of this requirement from the council. The request for a waiver must include a detailed justification based on the lack of an existing qualified alternative for delivery of workforce training and services in the workforce development area.

(b) If a board receives a waiver to provide workforce training and services, the evaluation of results and outcomes is provided by the council.

SECTION 4.11. INCENTIVES AND WAIVERS. (a) A local workforce development board certified by the governor is eligible for incentives and program waivers to promote and support integrated planning and evaluation of workforce development programs.

(b) Incentives, to the extent feasible under existing federal and state workforce development laws, include priority for discretionary funding, including financial incentives for the consolidation of service delivery areas authorized under the federal Job Training Partnership Act (29 U.S.C. Section 1501 et seq.).

(c) The governor, in concert with the council and the local workforce development boards, shall:

- (1) identify specific barriers to integrated service delivery at the local level;
- (2) request waivers from existing federal and state regulations; and
- (3) advocate changes in federal and state laws to promote local service integration.

SECTION 4.12. SANCTIONS FOR NONPERFORMANCE. (a) The council shall provide technical assistance to local workforce development areas that fail to meet performance standards established under this Act and other applicable federal and state laws. If a local workforce development area fails to meet performance standards for two consecutive program years, the council shall develop and impose a reorganization plan that may include restructuring the local workforce development board, prohibiting the use of designated service providers, including state agencies, and merging the local workforce development area with another area. If nonperformance is directly attributable to a specific state agency, the council may select an alternative provider.

(b) A local workforce development area that is the subject of a reorganization plan may appeal to the governor to rescind or revise the plan not later than the 30th day after the date of receiving notice of the plan.

SECTION 4.13. SANCTIONS FOR LACK OF FISCAL ACCOUNTABILITY. If, as a result of financial and compliance audits or for another reason, the agency designated by the governor to administer the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.) in this state determines that there is a substantial violation of a specific provision of this Act or another federal or state law or regulation and corrective action has not been taken, the council shall:

- (1) issue a notice of intent to revoke all or part of the affected local plan;
 - (2) issue a notice of intent to immediately cease reimbursement of local program costs;
- or
- (3) impose a reorganization plan under Section 4.12 of this Act for the local workforce development area.

SECTION 4.14. NONPROFIT STATUS; ABILITY TO SOLICIT FUNDS. (a) A local workforce development board may apply for and receive a charter as a private, nonprofit corporation under the laws of this state and may choose to be recognized as a Section 501(c)(3) organization under the Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)).

(b) In addition to receiving funds specified in this Act, a local workforce development board may solicit additional funds from other sources, both public and private. A board may not solicit or accept money from an entity with whom the board contracts for the delivery of services.

ARTICLE 5. LOCAL DELIVERY SYSTEM

SECTION 5.01. WORKFORCE DEVELOPMENT CENTERS. A local workforce development board shall establish workforce development centers accessible to students, workers, and employers throughout the workforce development area. Each center shall provide access to information and services available in the workforce development area and shall address the individual needs of students, workers, and employers. The services available at a center shall be tailored to meet individual needs and shall include the following:

- (1) labor market information, including the skills of the area workforce, available job openings, and the education, training, and employment opportunities in the local area, in the state, and as feasible, in the nation;
- (2) common intake and eligibility determination for all workforce development programs and services;
- (3) independent assessment of individual needs and the development of an individual service strategy;
- (4) centralized and continuous case management and counseling;
- (5) individual referral for services including basic education, classroom skills training, on-the-job training, and customized training; and
- (6) supportive services, including child care, loans, and other forms of financial assistance required to participate in and complete training.

SECTION 5.02. RIGHT TO KNOW. A local workforce development center shall provide each person, before the person participates in a vocational or technical training program, a written document that informs the person of current employment prospects and the current wage level for a person who completes the vocational or technical training program in which the person is considering participating.

ARTICLE 6. STATE AGENCY RESPONSIBILITIES

SECTION 6.01. FUND AVAILABILITY AND SERVICES. A state agency represented on the council shall provide to the council and each local workforce development board an estimate of fund availability and services provided by the state agency in each local workforce development area.

SECTION 6.02. PROVISION OF SERVICES BY STATE AGENCIES. (a) A state agency represented on the council shall provide workforce training and services in accordance with the local workforce development plan developed by the board and approved by the governor and shall implement rules and policies consistent with the plan.

(b) This article may not be construed to require an affected state agency to violate state or federal law.

ARTICLE 7. CONFORMING AMENDMENTS

SECTION 7.01. CONFORMING AMENDMENT. Subsections (f) and (j), Section 61.051, Education Code, are amended to read as follows:

(f) The board shall encourage and develop new certificate programs in technical and vocational education in Texas public technical institutes and public community colleges as the needs of technology and industry may demand and shall recommend the elimination of such programs for which a need no longer exists. *The board shall conduct a review of the certificate programs at least every four years or on the request of the Council on Workforce*

and Economic Competitiveness and shall terminate a program that does not meet performance review standards and other criteria established by the board. The board shall assume the leadership role and administrative responsibilities for state level administration of postsecondary technical-vocational education programs in Texas public community colleges, public technical institutes, and other eligible public postsecondary institutions. The board shall ensure that standardized minimum technical and skill-specific competency and performance standards for each workforce education program, as developed by the Council on Workforce and Economic Competitiveness, are used in the board's review, approval, or disapproval of a vocational and technical program financed by state and federal funds.

(j) No off-campus courses for credit may be offered by any public technical institute, public community college, or public college or university without specific prior approval of the board. The board may not prohibit a public junior college district from offering a course for credit outside the boundaries of the junior college district when such course has met the requirements for approval as adopted by the board. The board shall establish regulations for the coordination of credit [and noncredit] activities of adult and continuing education by public technical institutes, public community colleges, or public colleges and universities.

SECTION 7.02. CONFORMING AMENDMENT. Section 61.077, Education Code, is amended to read as follows:

Sec. 61.077. JOINT ADVISORY COMMITTEE. (a) There is hereby created a joint advisory committee for the purpose of advising the *Texas Higher Education Coordinating Board*, [~~Texas College and University System,~~] and the State Board of Education in coordinating postsecondary vocational-technical activities, [and] vocational-technical teacher education programs offered or proposed to be offered in the colleges and universities of this state, and other relevant matters, including those listed in Section 61.076 of this code. The committee shall be composed of three members from the State Board of Education, appointed by the chairman of the board and three members from the *Texas Higher Education Coordinating Board*, [~~Texas College and University System,~~] appointed by the chairman of the board, [and] one member designated by the presiding officer of the Council on Workforce and Economic Competitiveness, and one member representing business designated by the chair of the Texas Partnership for Economic Development [~~of the Texas Council on Vocational Education, appointed by the chairman of the council~~]. A member of the [coordinating] board shall be designated as chairman of the joint advisory committee by the chairman of the [coordinating] board. The committee shall hold regular annual meetings as called by the chairman.

(b) The purposes of this committee shall include the following:

(1) to advise the two boards on the coordination of postsecondary vocational-technical education and the articulation between postsecondary vocational-technical education and secondary vocational-technical education;

(2) to facilitate the transfer of responsibilities for the administration of postsecondary vocational-technical education from the State Board of Education to the board [~~Coordinating Board, Texas College and University System,~~] in accordance with Section 111(a)(I) of the Carl D. Perkins Vocational Education Act, Public Law 98-524; [and]

(3) to advise the State Board of Education, when it acts as the State Board of Vocational Education, on the following:

(A) [~~the allocation between secondary and postsecondary education of funds received by the State of Texas from the United States government under the Vocational Education Act of 1963, as amended, and other federal statutes relating to postsecondary vocational-technical education;~~

[(B)] the transfer of federal funds to the [coordinating] board for allotment to eligible public postsecondary institutions of higher education;

(B) [(C)] the vocational-technical education funding for projects and institutions as determined by the [coordinating] board when the State Board of Vocational Education is required by federal law to endorse such determinations;

(C) [(D)] the development and updating of the state plan for vocational-technical education and the evaluation of programs, services, and activities of postsecondary

vocational-technical education and such amendments to the state plan for vocational-technical education as may relate to postsecondary education; [and]

(D) [(E)] other matters related to postsecondary vocational-technical education; and

(E) the coordination of curricula, instructional programs, research, and other functions as appropriate, including areas listed in Section 61.076 of this code, school-to-work and school-to-college transition programs, and professional development activities; and

(4) to advise the Council on Workforce and Economic Competitiveness on educational policy issues related to workforce preparation.

SECTION 7.03. CONFORMING AMENDMENT. The Texas Job-Training Partnership Act (Article 4413(52), Vernon's Texas Civil Statutes) is amended by adding Section 7A to read as follows:

Sec. 7A. PRIVATE INDUSTRY COUNCIL; LOCAL WORKFORCE DEVELOPMENT BOARD. For the purposes of this Act, private industry council refers to both:

(1) the entity described as a private industry council by the federal Act; and

(2) a local workforce development board in a local market area in which a local workforce development board created under Article 4, Workforce and Economic Competitiveness Act, has been established.

ARTICLE 8. TRANSITION PROVISIONS

SECTION 8.01. EFFECTIVE DATE; TRANSITION. (a) This Act takes effect September 1, 1993.

(b) The Council on Workforce and Economic Competitiveness shall be appointed and operational not later than September 1, 1993.

(c) The state advisory councils listed in Section 2.11 of this Act are abolished September 1, 1993.

(d) The materials, furniture, and other assets and property and the unexpended and unobligated appropriations and other funds of the councils and committees abolished under this Act shall be transferred to the Council on Workforce and Economic Competitiveness not later than September 1, 1993.

SECTION 8.02. REPEALER. The following laws are repealed:

(1) Section 481.025, Government Code;

(2) Subchapter B, Chapter 31, Education Code; and

(3) Section 33.05, Education Code.

SECTION 8.03. MISCELLANEOUS TRANSITION PROVISIONS. (a) The chief elected officials of a workforce development area may apply for certification of a local workforce development board on or after January 1, 1995. The chief elected officials may request a waiver to allow the officials to establish a local workforce development board before that date from the Council on Workforce and Economic Competitiveness.

(b) To provide continuity, the chief elected officials shall consider appointing persons to the local workforce development boards who are serving or who have served previously on a private industry council, a quality workforce planning committee, a job service employer committee, and any other entity affected by this Act.

(c) A local workforce development board established under this Act and certified by the governor shall establish local workforce development centers not later than the 180th day after the board is certified.

SECTION 8.04. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed the Senate on May 3, 1993, by a viva-voce vote; May 23, 1993, Senate refused to concur in House amendment and requested appointment of Conference Committee; May 25, 1993, House granted request of the Senate; May 29, 1993, Senate adopted

Conference Committee Report by the following vote: Yeas 31, Nays 0; passed the House, with amendment, on May 14, 1993, by a non-record vote; May 25, 1993, House granted request of the Senate for appointment of Conference Committee; May 29, 1993, House adopted Conference Committee Report by a non-record vote.

Approved June 15, 1993.

Effective Sept. 1, 1993.