

CHAPTER 278

AN ACT providing preferences for certain businesses applying for workforce development grants and amending P.L.1992, c.43.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 4 of P.L.1992, c.43 (C.34:15D-4) is amended to read as follows:

C.34:15D-4 Workforce Development Partnership Program.

4. a. The Workforce Development Partnership Program is hereby established in the Department of Labor and Workforce Development and shall be administered by the Commissioner of Labor and Workforce Development. The purpose of the program is to provide qualified displaced, disadvantaged and employed workers with the employment and training services most likely to enable the individual to obtain employment providing self-sufficiency for the individual and also to provide the greatest opportunity for long-range career advancement with high levels of productivity and earning power. To implement that purpose, the program shall provide those services by means of training grants or customized training services in coordination with funding for the services from federal or other sources. The commissioner is authorized to expend moneys from the Workforce Development Partnership Fund to provide the training grants or customized training services and provide for each of the following:

- (1) The cost of counseling required pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7), to the extent that adequate funding for counseling is not available from federal or other sources;

- (2) Reasonable administrative costs, which shall not exceed 10% of the revenues collected pursuant to section 2 of P.L.1992, c.44 (C.34:15D-13) during any fiscal year ending before July 1, 2001, except for additional start-up administrative costs approved by the Director of the Office of Management and Budget during the first year of the program's operation;

- (3) Reasonable costs, which shall not exceed 0.5% of the revenues collected pursuant to section 2 of P.L.1992, c.44 (C.34:15D-13) during any fiscal year ending before July 1, 2001, as required by the State Employment and Training Commission to design criteria and conduct an annual evaluation of the program; and

- (4) The cost of reimbursement to individuals for excess contributions pursuant to section 6 of P.L.1992, c.44 (C.34:15D-17).

b. Not more than 10% of the moneys received by any service provider pursuant to this act shall be expended on anything other than direct costs to the provider of providing the employment and training services, which direct costs shall not include any administrative or overhead expense of the provider.

c. Training and employment services or other workforce investment services shall be provided to a worker who receives counseling pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7) only if the counselor who evaluates the worker pursuant to that section determines that the worker can reasonably be expected to successfully complete the training and instruction identified in the Employability Development Plan developed pursuant to that section for the worker.

d. All occupational training provided under this act:

- (1) Shall be training which is likely to substantially enhance the individual's marketable skills and earning power; and

- (2) Shall be training for a labor demand occupation, except for:

(a) Customized training provided to the present employees of a business which the commissioner deems to be in need of the training to prevent job loss caused by obsolete skills, technological change or national or global competition; or

(b) Customized training provided to employees at a facility which is being relocated from another state into New Jersey; or

(c) Entrepreneurial training and technical assistance supported by training grants provided pursuant to subsection b. of section 6 of P.L.1992, c.43 (C.34:15D-6).

e. During any fiscal year ending before July 1, 2001, not less than 25% of the total revenues dedicated to the program during any one fiscal year shall be reserved to provide employment and training services for qualified displaced workers; not less than six percent of the total revenues dedicated to the program during any one fiscal year shall be reserved to provide employment and training services for qualified disadvantaged workers; not less than 45% of the total revenues dedicated to the program during any one fiscal year shall be reserved for and appropriated to the Office of Customized Training; not less than 3% of the total revenues dedicated to the program during any one fiscal year shall be reserved for occupational safety and health training; and 5% of the total revenues dedicated to the program during any one fiscal year shall be reserved for and appropriated to the Youth Transitions to Work Partnership created pursuant to P.L.1993, c.268 (C.34:15E-1 et seq.).

f. Funds available under the program shall not be used for activities which induce, encourage or assist: any displacement of currently employed workers by trainees, including partial displacement by means such as reduced hours of currently employed workers; any replacement of laid off workers by trainees; or any relocation of operations resulting in a loss of employment at a previous workplace located in the State.

g. On-the-job training shall not be funded by the program for any employment found by the commissioner to be of a level of skill and complexity too low to merit training. The duration of on-the-job training funded by the program for any worker shall not exceed the duration indicated by the Bureau of Labor Statistics' Occupational Information Network, or "O*NET," for the occupation for which the training is provided and shall in no case exceed 26 weeks. The department shall set the duration of on-the-job training for a worker for less than the indicated maximum, when training for the maximum duration is not warranted because of the level of the individual's previous training, education or work experience. On-the-job training shall not be funded by the program unless it is accompanied, concurrently or otherwise, by whatever amount of classroom-based or equivalent occupational training, remedial instruction or both, is deemed appropriate for the worker by the commissioner. On-the-job training shall not be funded by the program unless the trainee is provided benefits, pay and working conditions at a level and extent not less than the benefits and working conditions of other trainees or employees of the trainee's employer with comparable skills, responsibilities, experience and seniority.

h. Employment and training services funded by the program shall not replace, supplant, compete with or duplicate in any way approved apprenticeship programs.

i. No activities funded by the program shall impair existing contracts for services or collective bargaining agreements, except that activities which would be inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and employer who are parties to the agreement.

j. All staff who are hired and supported by moneys from the Workforce Development Partnership Fund, including any of those staff located at any One Stop Career Center, but not including any staff of a service provider providing employment and training services supported by a customized training grant pursuant to section 5 of P.L.1992, c.43 (C.34:15D-

5) or an individual training grant pursuant to section 6 of P.L.1992, c.43 (C.34:15D-6), shall be hired and employed by the State pursuant to Title 11A, Civil Service, of the New Jersey Statutes, be hired and employed by a political subdivision of the State, or be qualified staff hired and employed by a non-profit organization which began functioning as the One Stop Career Center operator with the written consent of the chief elected official and the commissioner prior to the effective date of P.L.2004, c.39 (C.34:1A-1.2 et al.), or be qualified staff hired and employed by an approved community-based or faith-based organization to provide services at the level of staffing provided in an agreement entered into by the organization before the effective date of P.L.2004, c.39 (C.34:1A-1.2 et al.).

k. Employers in the State who apply for grants for training and employment services or other workforce investment services for their employees in the State shall be evaluated by the commissioner and preference shall be given to those employers who:

- (1) provide equipment, supplies, or services to military bases and installations pursuant to a procurement or military contract with the United States Department of Defense, the United States Department of Veterans Affairs, or any branch of the United States Armed Forces;
- (2) are engaged in one or more of the following fields or industries: science, technology, engineering, mathematics, or advanced manufacturing within these fields or industries;
- (3) are manufacturers; or
- (4) intend to train veterans.

Pursuant to this paragraph, "veteran" means a person who has served in the Army, Navy, Air Force, Marines or Coast Guard of the United States or a Reserve component thereof or the National Guard of this State as defined in section 1 of P.L.1963, c.109 (C.38A:1-1), and has been honorably discharged or released under conditions other than dishonorable from that service.

2. Section 5 of P.L.1992, c.43 (C.34:15D-5) is amended to read as follows:

C.34:15D-5 Office of Customized Training established.

5. a. There is hereby established, as part of the Workforce Development Partnership Program, the Office of Customized Training. Moneys allocated to the office from the fund shall be used to provide employment and training services to eligible applicants approved by the commissioner.

b. An applicant shall be eligible for customized training services if it is one of the following:

- (1) An individual employer that seeks the customized training services to create, upgrade or retain jobs in a labor demand occupation;
- (2) An individual employer that seeks customized training services to upgrade or retain jobs in an occupation which is not a labor demand occupation, if the commissioner determines that the services are necessary to prevent the likely loss of the jobs or that the services are being provided to employees at a facility which is being relocated from another state into New Jersey;
- (3) An employer organization, labor organization or community-based or faith-based organization seeking the customized training services to provide training in labor demand occupations in a particular industry;
- (4) A consortium made up of one or more educational institutions and one or more eligible individual employers or labor, employer or community-based or faith-based organizations that seeks the customized training services to provide training in labor demand occupations in a particular industry;

(5) An individual employer who provides equipment, supplies, or services to military bases and installations pursuant to a procurement or military contract with the United States Department of Defense, the United States Department of Veterans Affairs, or any branch of the United States Armed Forces;

(6) An individual employer who is engaged in one or more of the following fields or industries: science, technology, engineering, mathematics, or advanced manufacturing within these fields or industries;

(7) An individual employer who is a manufacturer; or

(8) An individual employer who intends to train veterans. For the purposes of this subparagraph, a "veteran" is a person who has served in the Army, Navy, Air Force, Marines or Coast Guard of the United States or a Reserve component thereof or the National Guard of this State as defined in section 1 of P.L.1963, c.109 (C.38A:1-1), and has been honorably discharged or released under conditions other than dishonorable from that service.

c. Each applicant seeking funding for customized training services shall submit an application to the commissioner in a form and manner prescribed in regulations adopted by the commissioner. The application shall be accompanied by a business plan of each employer which will receive customized training services if the application is approved. The business plan shall include:

(1) A justification of the need for the services and funding from the office, including information sufficient to demonstrate to the satisfaction of the commissioner that the applicant will provide significantly less of the services if the requested funding is not provided by the office;

(2) A comprehensive long-term human resource development plan which:

(a) Extends significantly beyond the period of time in which the services are funded by the office;

(b) Significantly enhances the productivity and competitiveness of the employer operations located in the State and the employment security of workers employed by the employer in the State; and

(c) States the number of current or newly-hired workers who will be trained under the grant and the pay levels of jobs which will be created or retained for those workers as a result of the funding and the plan.

(3) Evidence, if the training sought is for an occupation which is not a labor demand occupation, that the customized training services are needed to prevent job loss caused by obsolete skills, technological change or national or global competition or that the services are being provided to employees at a facility which is being relocated from another state into New Jersey;

(4) Information demonstrating that most of the individuals receiving the services will be trained primarily for work in the direct production of goods or services;

(5) A commitment to provide the information needed by the commissioner to evaluate the success of the funding and the plan in creating and retaining jobs, to assure compliance with the provisions of P.L.1992, c.43 (C.34:15D-1 et seq.); and

(6) Any other information or commitments which the commissioner deems appropriate to assure compliance with the provisions of P.L.1992, c.43 (C.34:15D-1 et seq.).

The commissioner may provide whatever assistance he deems appropriate in the preparation of the application and business plan, which may include labor market information, projections of occupational demand and information and advice on alternative training and instruction strategies.

d. Each employer that receives a grant for customized training services shall contribute a minimum of 50% of the total cost of the customized training services, except that the commissioner shall set a higher or lower minimum contribution by an employer, if warranted by the size and economic resources of the employer or other factors deemed appropriate by the commissioner, and except that, for individuals hired by the employer through a One Stop Career Center who receive classroom training under the grant and were recipients of benefits under the Work First New Jersey program at any time during the 12 months preceding the date of employment, the employer shall be eligible for reimbursement of up to 50% of wages paid to the individual during the classroom training in addition to reimbursement for tuition and other direct costs of the training as determined to be appropriate by the office, and provided, further, that no individual shall be hired or placed in a manner which results in a violation of the restrictions of subsection f. of section 4 of P.L.1992, c.43 (C.34:15D-4) against displacing current employees.

e. Each employer receiving a grant for customized training services shall hire or retain in permanent employment each worker who successfully completes the training and instruction provided under the customized training. The employer shall be entitled to select the qualified employed, disadvantaged or displaced workers who will participate in the customized training, except that if any collective bargaining unit represents a qualified employed worker, the selection shall be conducted in a manner acceptable to both the employer and the collective bargaining unit. The commissioner shall provide for the withholding, for a time period he deems appropriate, of whatever portion he deems appropriate of program funding as a final payment for customized training services, contingent upon the hiring and retention of a program completer as required pursuant to this section. If an employer receiving a grant for customized training services pursuant to this section relocates or outsources any or all of the jobs out of the State for which the customized training services were provided under the grant within three years following the end date of the customized contract, the employer shall, if all of the jobs are relocated or outsourced, return all of the moneys provided to the employer by the State for customized training services, or, if only a portion of the jobs are relocated or outsourced, return a part of the moneys, deemed by the commissioner to be appropriate and proportional to the portion of the jobs relocated or outsourced, and the returned amount shall be deposited into the Workforce Development Partnership Fund.

f. The customized training services provided to an approved applicant may include any combination of employment and training services or any single employment and training service approved by the commissioner, including remedial instruction provided to upgrade workplace literacy. Each service may be provided by a separate approved service provider. No training or employment service shall be funded through a customized training grant, unless the service is provided directly by an employer or is provided by an approved service provider. An employer who directly provides training and employment services to his own employees shall not be regarded as a service provider and shall not be subject to any requirement to obtain approval by the State as a service provider, including the requirements of section 13 of P.L.2005, c.354 (C.34:15C-10.1) to be approved as a qualifying school or the requirements of section 14 of P.L.2005, c.354 (C.34:15C-10.2) to be included on the State Eligible Training Provider List.

g. Customized training services shall include any remedial instruction determined necessary pursuant to section 7 of this act. Applications for customized training services shall include estimates of the total need for remedial instruction determined in a manner deemed appropriate by the commissioner.

h. Any business seeking customized training services shall, in the manner prescribed by the commissioner, participate in the development of a plan to provide the services. Any business seeking customized training services for workers represented by a collective bargaining unit shall notify the collective bargaining unit and permit it to participate in developing the plan. No customized training services shall be provided to a business employing workers represented by a collective bargaining unit without the written consent of both the business and the collective bargaining unit.

i. Any business receiving customized training services shall be responsible for providing workers' compensation coverage for any worker participating in the customized training.

j. The commissioner shall establish an annual goal that 15% or more of the jobs to be created or retained in connection with training supported by grants from the office shall be jobs provided to individuals who were recipients of benefits under the Work First New Jersey program at any time during the 12 months prior to being placed in the jobs. The means to attain the goal shall include coordinated efforts between the office and One Stop Career Centers to prepare recipients for employment and make them available to employers, but shall not include any policy which may penalize employers or discourage employers from using customized training service provided by the office.

3. This act shall take effect immediately.

Approved January 9, 2020.