ENGROSSED HOUSE
BILL NO. 1388

By: Fields of the House

and

Stipe of the Senate

(workforce development - Oklahoma Workforce Investment Act - State Workforce Investment Board - Oklahoma Open Meeting Act and Oklahoma Open Records Act - amending 25 O.S., Section 307.1 - codification - effective date)

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9101 of Title 74, unless there is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Workforce Investment Act" (OWIA).

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9102 of Title 74, unless there is created a duplication in numbering, reads as follows:

For the purposes of this act, the Workforce Investment Act of 1998 (P.L. 105-220) shall be known and referred to as "WIA".

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9103 of Title 74, unless there is created a duplication in numbering, reads as follows:

The purpose of OWIA is to establish a state policy for the workforce investment system that is intended to strengthen and preserve local control of workforce development, prevent a "one size

fits all" approach to workforce development and enhance and improve the implementation of WIA in the State of Oklahoma.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9104 of Title 74, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Administration", pursuant to the Governor's designation, the Oklahoma Employment Security Commission will be the lead state agency for administering OWIA and WIA and as such will make the determinations, take the enforcement actions, and carry out other duties described in OWIA and WIA;

2. "Attorney General" means the Office of the Attorney General as created by Article VI, Section 1 of the Constitution of the State of Oklahoma, and Section 18 et seq. of Title 74 of the Oklahoma Statutes;

3. "Business" means private for-profit and private not-for-profit employers and shall include small, medium and large businesses where a small business may be considered one which employs less than twenty employees, a medium business may be considered one which employs between twenty-one and fifty employees, and a large business may be considered one which employs more than fifty-one employees;

4. "Chief elected official" means:

a. the chief elected executive officer of a unit of general local government in a local area, and

b. in a case in which a local area includes more than one unit of general local government, the individuals designated under the agreements described in this act and WIA;

5. "Economic development agencies" means local planning and zoning commissions or boards, community development agencies, and other local agencies and institutions responsible for regulating,

promoting, or assisting in local economic development and may include, but not be limited to, local area chambers of commerce;

6. "Employment and training activity" means an activity described in WIA that is carried out for an adult or dislocated worker;

7. "Labor market area" means an economically integrated geographic area within which individuals can reside and find employment within a reasonable distance or can readily change employment without changing their place of residence. Such an area shall be identified in accordance with criteria used by the Bureau of Labor Statistics of the Department of Labor in defining such areas or similar criteria established by the Governor;

8. "Local area" means a local workforce investment area designated under WIA and by this act;

9. "Local board" means a local workforce investment board established under WIA and by this act and shall not include in its definition the designated staff to the board;

10. "Local educational agency" has the meaning given the term in Section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);

11. "Offender" means any adult or juvenile who is or has been subject to any stage of the criminal justice process, for whom services under this act and WIA may be beneficial, or who requires assistance in overcoming artificial barriers to employment resulting from a record of arrest or conviction;

12. "Participant" means an individual who has been determined to be eligible to participate in and who is receiving services (except follow-up services authorized under WIA) under a program authorized by WIA and this act. Participation shall be deemed to commence on the first day, following determination of eligibility, on which the individual began receiving subsidized employment, training, or other services provided under WIA and OWIA;

13. "Postsecondary educational institution" means an institution of higher education, as defined in Section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088);

14. "Secondary school" has the meaning given the term in Section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801);

15. "State Board" means a State Workforce Investment Board established under WIA and by this act;

16. "Subgroup(s)" means any subcommittee(s), task force(s), working group(s), or council(s) not specifically defined or created by WIA which may be established to assist the state or any local workforce investment board in the state;

17. "Unit of general local government" means any general purpose political subdivision of the state that has the power to levy taxes and spend funds, as well as general corporate and police powers;

18. "Vocational education" has the meaning given the term in Section 521 of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2471);

19. "Workforce investment activity" means an employment and training activity and a youth activity;

20. "Youth activity" means an activity described in WIA that is carried out for eligible youth (or as described in WIA); and

21. "Youth council" means a council established under WIA.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9105 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The Governor of the state shall establish a State Workforce Investment Board to assist in the development of the state plan described in WIA and to carry out the other functions described in WIA and this act.

B. The State Workforce Investment Board shall include:

1. The Governor;

2. Four members of the Oklahoma State Legislature, two of whom are to be appointed by the Speaker of the Oklahoma House of Representatives, and two of whom are to be appointed by the President Pro Tempore of the Oklahoma State Senate; and

3. Representatives appointed by the Governor as provided by WIA.

C. The members of the Board shall represent large, medium, and small businesses as defined by this act and shall be from diverse regions of the state, including urban, rural, and suburban areas.

D. Pursuant to the provisions in WIA, a majority of the members of the State Board shall be representatives of business as defined in this act and described in WIA.

E. The Governor shall select a chairperson for the State Board from among the representatives of business as defined in this act and as described in WIA.

F. The State Board shall assist the Governor in:

1. Development of the state plan;

2. Development and continuous improvement of a statewide system of activities as provided by WIA, including:

a. development of linkages in order to assure coordination and nonduplication among the programs and activities described in WIA, and

b. review of local plans;

3. Commenting at least once annually on the measures taken pursuant to Section 113(b)(14) of the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. 2323(b)(14));

4. Designation of local areas as required in WIA and by this act;

5. Unless otherwise provided by state or federal law, development of allocation formulas for the distribution of funds for

adult employment and training activities and youth activities to local areas as permitted by WIA and this act;

6. Development and continuous improvement of comprehensive performance measures, including adjusted levels of performance, to assess the effectiveness of the workforce investment activities as required under WIA;

7. Preparation of the annual report to the United States Secretary of Labor as described in WIA;

8. Development of the statewide employment statistics system described in Section 15(e) of the Wagner-Peyser Act; and

9. Development of an application for an incentive grant under WIA.

G. A member of the State Board may not vote on a matter under consideration by the State Board regarding the provision of services by such member (or by an entity that such member represents) or that would provide direct financial benefit to such member or the immediate family of such member or engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the state plan.

H. The State Board and any subgroups of the State Board as defined by this act shall be subject to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act and shall make available to the public information regarding the activities of the State Board and any subgroups of the State Board including information regarding the state plan prior to submission of the plan, information regarding membership, information regarding the budget of the State Board and, on request, minutes of meetings of the State Board and any of its subgroups.

I. Unless otherwise provided by law, in order for the State Board to conduct official business, a quorum of its members must be present. A quorum of the State Board shall be considered a majority

of its appointed members whereby the majority of the quorum shall be a majority of business representatives as described in WIA.

J. The State Board is hereby authorized to create subgroups, as defined by this act, of the Board to assist the Board in carrying out its duties as authorized by WIA and OWIA, provided that:

1. Subgroups must be created in an open meeting and by a majority vote of all Board members;

2. Subgroups must be provided with specific assignments by the Board and must report to the Board at least quarterly on their activities; and

3. Unless otherwise provided by this act, any expenses incurred by the activities of any subgroup may be reimbursed by the administrative portion of funds allocated by WIA to the lead state agency as defined by this act and WIA under “Administration".

K. Pursuant to Section 18c of Title 74 of the Oklahoma Statutes and as part of the administrative expenses authorized pursuant to WIA, the State Board shall contract with the Oklahoma Attorney General’s Office for legal representation and assistance in interpreting the provisions of this act and WIA for the purposes of conducting its business and implementing this act and WIA. The chairman of any local workforce investment board or the chief elected official of any local workforce investment board may request legal assistance in interpreting, clarifying, and implementing OWIA and WIA from the Attorney General’s Office through a request made by the State Board.

L. To preserve the sanctity of local planning and program development, the State Board shall pursue for approval any waiver requests or recommendations submitted by local boards to the Governor or to the United States Secretary of Labor pursuant to WIA for their local workforce investment area provided that the waiver requests or recommendations substantially meet the provisions of this act and WIA.

M. 1. Prior to the start of each legislative session, the State Workforce Investment Board shall submit an annual report to the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma State Senate.

2. The State Workforce Investment Board annual report shall include but not be limited to a summary of programs, activities, performance measures, expenditures and revenues of the Board and the local workforce investment boards. The report should also include a list of all Board members and local board members by the area which they represent.

N. The State Board is hereby authorized to solicit funds from various state, federal and local agencies to support the activities of the Board and any of its subgroups, provided that, prior to any solicitation of funds, the various state and local agencies are notified in writing of such a request and that the oversight board or commission of said agencies approves the request at a regularly scheduled board or commission meeting prior to any transfer or payment of funds.

SECTION 6. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9106 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. Unless otherwise provided by law, the Governor shall designate local workforce investment areas within the state:

1. Through consultation with the State Board;

2. After consultation with chief elected officials; and

3. After consideration of comments received through the public comment process as described in WIA.

B. In making the designation of local areas, the Governor shall take into consideration the following:

1. House Concurrent Resolution No. 1021 (O.S.L. 1999);

2. Geographic areas served by local educational agencies and intermediate educational agencies;

3. Geographic areas served by postsecondary educational institutions and area vocational education schools;

4. The extent to which such local areas are consistent with labor market areas;

5. The distance that individuals will need to travel to receive services provided in such local areas; and

6. The resources of such local areas that are available to effectively administer the activities carried out under WIA.

C. The Governor shall approve any request for designation as a local area from any unit of general local government with a population of five hundred thousand (500,000) or more, or of any area served by a rural concentrated employment program grant recipient of demonstrated effectiveness that served as a service delivery area or substate area under the Job Training Partnership Act, if the grant recipient has submitted a request.

D. The Governor shall approve a request from any unit of general local government (including a combination of such units) for designation (including temporary designation) as a local area if the State Board determines, taking into account the factors described in this act and Sections 116(a)(2) and 116(a)(3) of WIA, and recommends to the Governor, that such area should be related to the approval of requests from any unit of general local government for designation as a local area if the State Board determines and recommends to the Governor that such an area be so designated and may approve a request pursuant to Section 116(a)(4) of WIA related to the approval of requests from any unit of general local government for designation as a local area if the State Board determines and recommends to the Governor that such an area be so designated.

E. A unit of general local government (including a combination of such units) or grant recipient that requests but is not granted designation of an area as a local area under this act or WIA may submit an appeal to the State Board under an appeal process

established in the state plan and if subsequently denied by the State Board may submit an appeal to the Secretary of the United States Department of Labor pursuant to the provisions set forth in WIA.

SECTION 7. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9107 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. There shall be established in each local area of the state, and certified by the Governor, a local workforce investment board, to set policy for the portion of the statewide workforce investment system within the local area (referred to in WIA as a "local workforce investment system").

B. The Governor, in partnership with the State Board, shall establish criteria for use by chief elected officials in the local areas for the appointment of members of the local boards in such local areas in accordance with the requirements of WIA and this act. Such criteria shall require, at a minimum, that the membership of each local board shall include:

1. Representatives of business as defined by this act who:

   a. are located in the local area, and who are owners of businesses, chief executives or operating officers of businesses, and other business executives or employers with optimum policymaking or hiring authority,

   b. proportionally represent businesses as defined by this act with employment opportunities that reflect the employment opportunities of the local area, and

   c. are appointed from among individuals nominated by local business organizations and business trade associations which may include, but not be limited to, local area chambers of commerce;

2. Representatives of local educational entities, including but not limited to local school boards, entities providing adult

education and literacy activities, and postsecondary educational institutions (including representatives of community colleges, where such entities exist), selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing such local educational entities;

3. Representatives of labor organizations (for a local area in which employees are represented by labor organizations), nominated by local federations, or (for a local area in which no employees are represented by such organizations), other representatives of employees;

4. Representatives of community-based organizations (including organizations representing individuals with disabilities and veterans, for a local area in which such organizations are present);

5. Representatives of economic development agencies, including private sector economic development entities;

6. Representatives of each of the one-stop partners; and

7. May include such other individuals or representatives of entities as the chief elected official in the local area may determine to be appropriate.

C. A majority of the members of the local board shall be representatives of business as defined in this act and WIA.

D. The local board shall elect a chairperson for the local board from among the representatives of business, as defined by this act.

E. The chief elected official in a local area is authorized to appoint the members of the local board for such area, in accordance with the state criteria established in this act and by WIA.

F. In a case in which a local area includes more than one unit of general local government, the chief elected officials of such units may execute an agreement that specifies the respective roles of the individual chief elected officials in the appointment of the members of the local board from the individuals nominated or

recommended to be such members in accordance with the criteria established by this act and WIA and in carrying out any other responsibilities assigned to such officials by this act and WIA.

G. If, after a reasonable effort, the chief elected officials are unable to reach an agreement as provided by this act and WIA, the Governor may appoint the members of the local board from individuals so nominated or recommended.

H. In the case of a local area designated in accordance with this act and by WIA, the governing body of the concentrated employment program involved shall act in consultation with the chief elected official in the local area to appoint members of the local board, in accordance with the state criteria established by this act and WIA, and to carry out any other responsibility relating to workforce investment activities assigned to such official under this act and WIA.

I. The Governor shall certify one local board for each local area in the state pursuant to the provisions of this act and WIA. Such certification shall be based on criteria established by this act and WIA.

J. Where the local area has been denied and to preserve the sanctity of local planning and program development, the local board shall submit for approval any appeal requests related to designations of local workforce investment areas determined to be beneficial to the local workforce investment area to the Governor or the United States Secretary of Labor pursuant to Section 116(a)(5) of WIA, provided that any appeal requests submitted substantially meet the provisions of this act and Section 116(a)(5) of WIA.

K. Failure of a local board to achieve certification shall result in reappointment and certification of another local board for the local area pursuant to the process described in this act and WIA.

L. The Governor shall not decertify a local board for any reason nor at any time after a local board has been certified without providing local board members the proper written notice and an opportunity for a public hearing and written comments from the local board members and the general public within the local area pursuant to the provisions of Section 136(h) of WIA and 20 C.F.R., Sections 667.645 and 667.650.

M. If the Governor decertifies a local board for a local area, the Governor may require that a new local board be appointed and certified for the local area pursuant to a reorganization plan developed by the Governor, in consultation with the chief elected officials in the local area, and in accordance with the criteria established under this act and WIA.

N. Pursuant to the provisions of Section 117(h) of WIA there shall be established, as a subgroup within each local board, a youth council appointed by the local board, in cooperation with the chief elected official for the local area.

SECTION 8. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9108 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. The function of the local board shall include the following:

1. Consistent with this act and WIA, each local board, in partnership with the chief elected official for the local area involved, shall develop and submit a local plan to the Governor;

2. Consistent with this act and WIA, the local board, with the agreement of the chief elected official shall designate or certify one-stop operators as described in WIA and may terminate for cause the eligibility of such operators;

3. Consistent with WIA, the local board shall identify eligible providers of youth activities in the local area by awarding grants or contracts on a competitive basis, based on the recommendations of the youth council;

4. Consistent with WIA, the local board shall identify eligible providers of training services described in WIA in the local area; and

5. If the one-stop operator does not provide intensive services in a local area, the local board shall identify eligible providers of intensive services described in WIA in the local area by awarding contracts.

B. The local board shall develop a budget for the purpose of carrying out the duties of the local board under this act and WIA, subject to the approval of the chief elected official.

C. The chief elected official in a local area shall serve as the local grant recipient for, and shall be liable for any misuse of the grant funds allocated to the local area unless the chief elected official reaches an agreement with the Governor for the Governor to act as the local grant recipient and bear such liability.

D. In order to assist in the administration of the grant funds, the chief elected official or the Governor, where the Governor serves as the local grant recipient for a local area, may designate an entity to serve as a local grant subrecipient for such funds or as a local fiscal agent. Such designation shall not relieve the chief elected official or the Governor of the liability for any misuse of grant funds as described in WIA.

E. The local grant recipient or an entity designated pursuant to the provisions of this act and WIA shall disburse such funds for workforce investment activities at the direction of the local board, pursuant to the requirements of this act and WIA, if the direction does not violate a provision of this act or WIA. The local grant recipient or entity designated pursuant to the provisions of this act and WIA shall disburse the funds immediately on receiving such direction from the local board.

F. The local board may employ staff. Nothing in this act or WIA shall preclude the chief elected official in consultation with

the local board from recommending to the state administering agency pursuant to Sections 117(f)(1) and 117(f)(2) that the staff of the local board provide the training or core services or intensive services or both core and intensive services, as defined by this act, WIA or other programs operated by the local board staff. For the purposes of this section, the term "consultation" shall not require a vote of the local board.

G. The local board may solicit and accept grants and donations from sources other than federal funds made available by WIA for the purpose of providing additional or enhanced adult and youth training and core services and intensive services as defined by this act and WIA, provided that, prior to any solicitation of funds, the local board notify in writing any other entity of such a request and that the oversight board or commission of said entity approves the request at a regularly scheduled board meeting prior to any transfer or payment of funds.

H. The local board, in partnership with the chief elected official, shall conduct oversight with respect to local programs of youth activities authorized under this act and WIA, local employment and training activities authorized under this act and WIA, and the one-stop delivery system in the local area.

I. The local board, the chief elected official, and the Governor shall negotiate and reach agreement on local performance measures as described in WIA.

J. The local board shall assist the Governor in developing the statewide employment statistics system described in Section 15(e) of the Wagner-Peyser Act.

K. The local board shall coordinate the workforce investment activities authorized under WIA and carried out in the local area with economic development strategies and develop other employer linkages with such activities.

L. The local board shall promote the participation of private sector employers in the statewide workforce investment system and ensure the effective provision, through the system, of connecting, brokering, and coaching activities, through intermediaries such as the one-stop operator in the local area or through other organizations, to assist such employers in meeting hiring needs.

M. The local workforce investment board, and any subgroups of the local workforce investment board, shall be subject to the Oklahoma Open Meeting Act and the Oklahoma Open Records Act and shall make available to the public, information regarding the activities of the local board and any subgroups of the local board, including information regarding the local plan prior to submission of the plan, information regarding membership, and, on request, minutes of meetings of the local board and any of its subgroups.

N. Unless otherwise provided by law, in order for the local workforce investment boards to conduct official business, a quorum of members must be present. A quorum of local workforce investment boards shall be considered a majority of the appointed members whereby the majority of the quorum shall be a majority of business representatives as described in this act and WIA.

O. Except as provided in this act and WIA, no local board may provide training services described in WIA.

P. The Governor may, pursuant to a request from the local board, grant a written waiver of the prohibition set forth in this act and WIA relating to the provision of training services for a program of training services, if the local board submits to the Governor a proposed request for the waiver that:

1. Includes satisfactory evidence that there is an insufficient number of eligible providers of such a program of training services to meet local demand in the local area;

2. Includes information demonstrating that the board meets the requirements for an eligible provider of training services under WIA;

3. Includes information demonstrating that the program of training services prepares participants for an occupation that is in demand in the local area;

4. Makes the proposed request available to eligible providers of training services and other interested members of the public for a public comment period of not less than thirty (30) days; and

5. Includes, in the final request for the waiver, the evidence and information and comments described in this act and WIA.

Q. A local board may provide core services or intensive services through a one-stop delivery system or be designated or certified as a one-stop operator only with the agreement of the chief elected official, in consultation with the local board, and the Governor. For the purposes of this section, the term "consultation" shall not require a vote of the local board.

R. Nothing in this act shall be construed to provide a local board with the authority to mandate curricula for common schools or vocational and technical educational schools as defined by this act and WIA.

S. A member of a local board may not vote on a matter under consideration by the local board regarding the provision of services by such member (or by an entity that such member presents) or that would provide direct financial benefit to such member or the immediate family of such member or engage in any other activity determined by the Governor to constitute a conflict of interest as specified in the state plan.

T. The chairman of any local workforce investment board or the chief elected official of any local workforce investment board may request legal assistance in interpreting, clarifying and

implementing OWIA and WIA from the Attorney General's Office through a written request made to the State Board as provided by this act.

U. To preserve the sanctity of local planning and program development, the local board shall submit for approval any waiver requests determined to be beneficial to the local workforce investment area to the Governor for submittal to the United States Secretary of Labor pursuant to the provisions of Section 189(i)(4) of WIA and 20 C.F.R., Sections 661.400, 661.420 and 661.430.

SECTION 9. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 9109 of Title 74, unless there is created a duplication in numbering, reads as follows:

A. From any funds allocated to the state by Title I, Subtitle B, Chapter IV, and the adult allocation provided for by Chapter V of WIA, the sum of Seven Hundred Four Thousand Dollars ($704,000.00), or so much thereof as may be necessary, shall be reserved for use by the Oklahoma Department of Vocational and Technical Education to administer a statewide offender employment training program within the Department of Vocational and Technical Education system.

B. The Oklahoma Department of Vocational and Technical Education, upon request of the State Board, shall provide the Board with an annual report of the statewide offender employment training program and shall comply with all federal laws, rules and guidelines as issued by the United States Department of Labor related to WIA and this act. The State Board, upon review of said annual report, shall make recommendations to the State Department of Vocational and Technical Education concerning program improvements.

C. The State Board may increase the dollar amount provided to the Oklahoma Department of Vocational and Technical Education for the statewide offender employment training program, provided that such amounts do not exceed the allocation limitations provided for adult training services and administration by WIA.

SECTION 10. AMENDATORY Section 3, Chapter 282, O.S.L. 1993, as last amended by Section 1, Chapter 148, O.S.L. 2000 (25 O.S. Supp. 2000, Section 307.1), is amended to read as follows:

Section 307.1 A. No public body shall hold meetings by teleconference except:

1. Oklahoma Futures;

2. The Oklahoma State Regents for Higher Education;

3. The Oklahoma Board of Medical Licensure and Supervision;

4. The State Board of Osteopathic Examiners;

5. The Board of Dentistry;

6. The Variance and Appeals Boards created in Sections 1021.1, 1697 and 1850.16 of Title 59 of the Oklahoma Statutes;

7. A public trust whose beneficiary is a municipality; however, no more than twenty percent (20%) of a quorum of the trustees may participate by teleconference and during any such meetings all votes shall be roll call votes;

8. The Native American Cultural and Educational Authority;

9. The Corporation Commission; ~~and~~

10. The State Board of Vocational and Technical Education;

11. The State Workforce Investment Board and any subgroups created by the Board pursuant to the Oklahoma Workforce Investment Act; and

12. Local workforce investment boards and any subgroups of the local workforce investment boards pursuant to the Oklahoma Workforce Investment Act.

B. No public body authorized to hold meetings by teleconference shall conduct an executive session by teleconference.

SECTION 11. This act shall become effective November 1, 2001.

Passed the House of Representatives the 8th day of March, 2001.

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Presiding Officer of the House of Representatives

Passed the Senate the ____ day of _____, 2001.

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Presiding Officer of the Senate