

# Policy Points

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## A Summary of Act 1125 The Arkansas Workforce Investment Act

During the 1999 legislative session, Representatives Lisa Ferrell (Little Rock), Percy Malone (Arkadelphia), Tracy Steele (North Little Rock), Courtney Sheppard (El Dorado) and Senators Jay Bradford (Pine Bluff) and Jodie Mahony (El Dorado) co-sponsored HB 1074, the Arkansas Workforce Investment Act. The bill focuses primarily on governance issues related to the implementation of the Federal Workforce Investment Act which passed Congress in August of 1998. You can view the full text of the Act on the Arkansas General Assembly's home page, which can be found at [www.arkleg.state.ar.us](http://www.arkleg.state.ar.us). The following is a summary of the Act.

### WHAT IS THE PURPOSE OF THE ARKANSAS WORKFORCE INVESTMENT ACT?

The purpose of the Act is to outline a workforce development plan for Arkansas and to comply with the Federal Workforce Investment Act of 1998 by providing workforce investment activities that increase the occupational skills attainment, employment, retention, and earnings of participants.

### WHAT DOES THE ACT DO?

The Act establishes the Arkansas Workforce Investments Board and delineates who will serve on that board and what their duties will be. It also lays out what the state must include in its plan for the workforce investment system. For activities at the local level, the Act describes how the Governor will designate local workforce investment areas, how local workforce boards will be established and certified, who will serve on the local boards, the functions of the local boards, the content of local workforce plans, and the members and duties of local youth councils.

### WHO SERVES ON THE ARKANSAS WORKFORCE INVESTMENT BOARD?

Members of the Board include: the Governor; a member of the House to be appointed by the Speaker of the House; a member of the Senate to be appointed by the Speaker Pro Tem; a member of the Women's Caucus to

### Highlights:

- Establishes membership and duties of State and Local Workforce Boards
- Lays out requirements for State and Local Workforce Plans
- Requires the State to ensure that Local Workforce Boards support Local TEA Coalition Plans
- Lays out the process for public input into Local Workforce Plans
- Sets performance requirements for Local Workforce Boards
- Puts stipulations on the kinds of services that Local Workforce Boards can provide



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be appointed by its Chair; a member of the Black Caucus to be appointed by its Chair; the Directors of the Departments of Workforce Education, Employment Security, Human Services, Economic Development, and Higher Education, a representative of training activities carried out by the federal Department of Housing and Urban Development, and the Director of the Arkansas Rehabilitative Services.

The Governor also appoints the following members subject to confirmation by the Senate: representatives of business in Arkansas who have policymaking or hiring authority and are representative of employment opportunities in Arkansas; a chief elected official nominated by the Arkansas Municipal league and one nominated by the Association of Arkansas Counties, no less than 3 representatives of labor organizations to be nominated by the Arkansas labor federation, no less than 2 representatives who have experience with youth activities, no less than 3 representatives who have experience delivering workforce investment activities (one has to be a CEO of a 2 year college, one has to be an administrator of a workforce investment board, and one has to be with a community-based organization), and a disabled person who is familiar with vocational rehabilitation and is either a businessperson or represents an organization of Arkansans with disabilities.

The Board cannot have more than 48 members, and a majority of the members must be business people. The Board must meet quarterly; the first meeting must be held by July 15, 1999.

#### **WHO SERVES ON THE WORKFORCE INVESTMENT BOARD EXECUTIVE COMMITTEE?**

Executive committee members include: at least 7 business people, with at least one who serves on a local workforce investment board; at least 2 Arkansas labor federation representatives; at least 2 members of the General Assembly; at least 1 community college representative; and at least one chief elected official. The Executive Committee must have at least 11 members and no more than 15 members. The first meeting of the Executive Committee must be in August 1999. The Executive Committee must meet monthly and report to the Board at the quarterly meetings.

#### **WHAT ARE THE DUTIES OF THE BOARD?**

The Board advises and assists the Governor and the General Assembly in the following:

- Development of a state workforce development plan;
- Development and continuous improvement of a statewide system of activities carried out through a one-stop delivery system which receives funds under this Act;
- Commenting on an annual basis on the measures taken pursuant to section 113(b) (14) of the Carl D. Perkins Vocational and Applied Technology Education Act;
- Designation of local workforce investment areas;
- Development of an allocation formula for the distribution of funds for adult employment and training activities and youth activities to local areas;
- Development and continuous improvement of comprehensive state performance measures, including state levels of performance, to assess the effectiveness of the workforce investment activities in the state;
- Preparation of the annual report to the U.S. Secretary of Labor;
- Development of a statewide employment statistics system;
- Development of an application for an incentive grant;
- Recommendation of programs which may be consolidated or realigned;
- Creation of workforce investment program accountability measures and standards;

- Development of workforce training standards;
- Evaluation of the entire Arkansas workforce investment system, to determine if it is meeting the goals of this Act;
- Re-evaluation of this Act;
- Coordination of state agencies to assist in the development of the state workforce development plan;
- Development of additional state workforce development plans every three (3) years;
- Use of federal, state or private funds, donations, and grants made available for the development of the Arkansas Workforce Development Plan;
- Establishment of procedures that will be taken by the State to assure coordination of and avoid duplication among Workforce Investment Programs; and,
- Development of a report prior to each regular session to the Arkansas General Assembly with recommendations for appropriate statutory changes that may enhance the delivery of Workforce Investment in and for Arkansas.

The Board may also recommend to the Governor the resolution of any disagreements between or among state agencies pertaining to their duties and responsibilities in the state workforce investment plan. Based on the program accountability measures and standards, the Board must recommend performance incentives and sanctions for failure to achieve the standards. The Board has the authority to promulgate any rules or regulations necessary to carry out the provisions of this Act and to comply with the Federal Workforce Investment Act of 1998. The Board will have a Director who can hire staff to carry out the duties of the Board.

#### **WHAT MUST THE STATE'S WORKFORCE INVESTMENT PLAN INCLUDE?**

The state has to submit a five-year plan to the U.S. Department of Labor by April 1, 2000. The plan must include:

- A description of the state board;
- A description of state-imposed requirements for the workforce investment system;
- A description of the state performance accountability system for the workforce investment activities, including but not limited to, state performance measures;
- Information describing:
  - The state's needs regarding current and projected employment opportunities, by occupation;
  - The job skills necessary to obtain employment opportunities;
  - The skills and economic development needs of the state; and,
  - The type and availability of workforce investment activities in the state;
- An identification of local areas designated in the state, including a description of the process used for the designation of the areas;
- An identification of criteria to be used by chief elected officials for the appointment of members of local boards;
- The detailed plans required under section 8 of the Wagner-Peyser Act;
- A description of the procedures that will be taken by the state to assure coordination of and avoid duplication among state and federal workforce investment activities including common data collection and reporting processes. The programs covered include:

- Wagner-Peyser Act programs;
- Title I of the Rehabilitation Act of 1973;
- The TEA program;
- The Food Stamp Education and Training program;
- Training activities under title V of the Older Americans Act of 1965,
- Post-secondary vocational education activities under the Perkins Act;
- Activities authorized under chapter 2 of title II of the Trade Act of 1974;
- Activities authorized under chapter 41 of title 38, United States Code;
- Employment and training activities carried out under the Community Services Block Grant Act;
- Activities authorized under the National and Community Service Act of 1990;
- U.S. Department of Housing and Urban Development Employment training activities; and,
- Programs authorized under state unemployment compensation laws.
- A description of the process used by the state to provide an opportunity for public comment and input into development of the plan, prior to submission of the plan;
- Information identifying how the state will use funds the state receives under this Act to leverage other federal, state, local, and private resources;
- Assurances that the state will provide for fiscal control;
- A description of the methods and factors the state will use in distributing funds to local areas;
- Information specifying the actions that constitute a conflict of interest;
- A description of the state's strategy for assisting local areas in development and implementation of fully operational one-stop delivery systems;
- A description of the appeals process;
- A description of the competitive process to be used by the state to award grants and contracts in the state for activities carried out under this Act;
- A description of:
  - The employment and training activities for adults that will be carried out with funds under this Act;
  - How the state will provide rapid response activities to dislocated workers from funds reserved for the purposes;
  - The procedures the local boards in the state will use to identify eligible providers of training services; and,
  - How the state will serve the employment and training needs of dislocated workers, low-income individuals, individuals training for nontraditional employment, and other individuals with multiple barriers to employment.
- A description of :
  - The state strategy for providing comprehensive services to eligible youth, particularly those eligible youth who are recognized as having significant barriers to employment;
  - The criteria to be used by local boards in awarding grants for youth activities, including criteria that the Governor and local boards will use to identify effective and ineffective youth activities and providers of the activities;
  - How the state will coordinate the youth activities carried out in the state with the services provided by Job Corps centers in the state; and,
  - How the state will coordinate youth activities with activities carried out through the youth opportunity grants.

- A description of the eligibility criteria set by the state to certify training providers including post-secondary institutions, apprenticeship programs, and other public or private providers of training. Criteria shall be established for both initial and subsequent eligibility and must be applied equitably to all training providers. The state must develop these criteria with input from the public and the training providers.
- A description of how the state will ensure that local workforce investment board plans include information as to how they will support the Transitional Employment Assistance implementation plans for the counties in its service areas.

### **HOW WILL LOCAL WORKFORCE INVESTMENT AREAS BE DESIGNATED?**

The Governor will designate local workforce investment areas by September 30, 1999. He will consult with the Board and chief elected officials and consider public comments. In designating the areas he will consider the following: geographic areas served by local education agencies, post-secondary institutions, and vocational schools; consistency with labor market areas; traveling distance to receive services; and, resources available.

The Governor must approve a request for temporary designation from any unit of local government, or combination of local governments, with a population of 200,000 or more, that was a service delivery area under the Job Training Partnership Act (JTPA), if that area performed successfully in the last 2 years and maintained fiscal integrity.

### **WHO ARE THE MEMBERS OF LOCAL WORKFORCE BOARDS?**

By January 15, 2000, each local area has to have a workforce investment board. The Governor and the State Board will set criteria for the membership of these local boards, but the law sets a minimum list of members. Those members include: representatives of business in the local area who have policymaking or hiring authority, have employment opportunities reflective of the area, and are nominated by their peers; representatives of local educational entities nominated by their peers; representatives of labor organizations, nominated by Arkansas local labor federations, or other representatives of employees if no employees are represented by labor organizations; representatives of community-based organizations; representatives of economic development agencies, including private sector economic development entities; representatives of each of the one-stop partners; a member who is a person with a disability, is familiar with vocational rehabilitation, and is either a business person or represents an organization of Arkansans with disabilities, and one member who represents veterans organizations. A majority of members must be business people. Members from organizations, agencies, or other entities must have policymaking authority within their organizations. Minority groups must be represented on the Board.

### **WHAT ARE THE FUNCTIONS OF THE LOCAL WORKFORCE BOARD?**

The functions of the local boards include the following:

- Develop a local plan;
- Designate or certify one-stop operators and terminate, for cause, the eligibility of the operators;
- 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;
- Identify eligible providers of training services, using criteria established by the state;
- Identify eligible providers of intensive services in the local area if the one-stop operator does not

provide them;

- Develop a budget for the purpose of carrying out the duties of the local board subject to the approval of the chief elected official; and.
- Provide a progress report annually to the State Board.

#### **WHAT MUST BE INCLUDED IN A LOCAL WORKFORCE PLAN?**

Local workforce boards must develop 5-year plans that are consistent with the state plan and that are updated every three years. The plans must include:

- An identification of:
  - The workforce investment needs of businesses, job seekers, and workers in the local area;
  - The current and projected employment opportunities in the local area; and,
  - The job skills necessary to obtain the employment opportunities.
- A description of the one-stop delivery system to be established or designated in the local area, including:
  - A description of how the local board will ensure the continuous improvement of eligible providers of services through the system and ensure that the providers meet the employment needs of local employers and participants; and,
  - A copy of each memorandum of understanding concerning the operation of the one-stop delivery system in the local area.
- A description of the local levels of performance negotiated with the Governor and chief elected official to be used to measure the performance of the local area and to be used by the local board for measuring the performance of the local fiscal agent, eligible providers, and the one-stop delivery system, in the local area;
- A description and assessment of the type and availability of adult and dislocated worker employment and training activities in the local area;
- A description of how the local board will coordinate workforce investment activities carried out in the local area with statewide rapid response activities, as appropriate;
- A description and assessment of the type and availability of youth activities in the local area, including an identification of successful providers of the activities;
- A description of the process used by the local board to provide an opportunity for public comment, and input into the development of the local plan, prior to submission of the plan;
- An identification of the entity responsible for the disbursement of grant funds as determined by the chief elected official or the Governor;
- A description of the competitive process to be used to award the grants and contracts in the local area for activities carried out under this Act; and,
- Other information as the Governor may require.

#### **WHAT IS THE PROCESS FOR PUBLIC INPUT INTO LOCAL WORKFORCE PLANS?**

The Board must make copies of the plan available through public hearings and the local news media. They must allow members of the local board and of the public to submit comments on the plan for a 30-day period. When they submit the plan to the state, they must include all comments submitted by the public that represent a disagreement with the plan.

#### **WHO IS LIABLE FOR THE USE OF FUNDS AT THE LOCAL LEVEL?**

The chief elected official is the local grant recipient for workforce investment funds and is liable for any misuse of funds allocated to that local area unless he or she reaches an agreement with the Governor that the state will be the local grant recipient. The chief elected official may designate an

entity to serve as a local grant subrecipient for the funds or as a local fiscal agent. However, the chief elected official or the Governor will still be liable for the use of the funds.

### **WHAT IS THE CONNECTION BETWEEN WORKFORCE INVESTMENT ACTIVITIES AND ECONOMIC DEVELOPMENT ACTIVITIES?**

The local board must coordinate the workforce investment activities carried out in the local area with economic development strategies and develop other employer linkages with the activities. The local board must 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 like the one-stop operator in the local area or through other organizations, to assist the employers in meeting hiring needs.

### **CAN A LOCAL BOARD PROVIDE CORE OR INTENSIVE SERVICES?**

A local board can provide core services and/or intensive services, as defined in the Federal Workforce Investment Act of 1998, or may be designated or certified as a one-stop operator, only with the agreement of the chief elected official(s) and the Governor.

### **CAN A LOCAL BOARD PROVIDE TRAINING SERVICES?**

No local board can provide training services unless the Board submits to the Governor a proposed waiver request that includes: 1) satisfactory evidence that there is an insufficient number of eligible training providers to meet local demand; 2) information demonstrating that the board meets the requirements for an eligible provider of training services; and, 3) information demonstrating that the proposed training prepares participants for an occupation that is in demand in the local area.

The local board must make the proposed waiver request available to eligible training providers and other interested members of the public for a public comment period of not less than thirty (30) calendar days and must include those comments in the waiver request. A waiver granted to a local board will be in effect for no more than one year and can be renewed for subsequent one-year periods at the request of the local board. The Governor can revoke a waiver if the state determines that the local board has engaged in a pattern of inappropriate referrals to training services operated by the local board.

### **WHAT HAPPENS TO A LOCAL BOARD THAT DOES NOT MEET ITS PERFORMANCE GOALS?**

Every two years, the Governor will certify local boards for each local area in the state. Once the initial certification has been made, local boards will be evaluated on whether or not the local workforce investment activities have enabled the local area to meet its performance measures. A board may be decertified for failure to meet performance measures for two consecutive years. Failure of a local board to achieve certification will result in reappointment and certification of another local board.

### **WHO ARE THE MEMBERS OF THE YOUTH COUNCIL?**

Each local board must have a youth council. The members include: members of the local board with special interest or expertise in youth policy; representatives of youth service agencies, including juvenile justice and local law enforcement agencies; representatives of local public housing authorities; parents of eligible youth; individuals, including former participants and representatives of organizations, that have experience relating to youth activities; and

representatives of the Job Corps, as appropriate. Members of the youth council who are not members of the local board will be voting members of the youth council and nonvoting members of the board.

### **WHAT ARE THE DUTIES OF THE YOUTH COUNCIL?**

The duties of the youth council include:

- Developing the portions of the local plan relating to eligible youth;
- Recommending eligible providers of youth activities, to be awarded grants or contracts on a competitive basis by the local board to carry out the youth activities;
- Conducting oversight with respect to the eligible providers of youth activities in the local area;
- Coordinating youth activities in the local area; and
- Other duties determined to be appropriate by the chairperson of the local board.



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