

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2920 Session of  
1994

INTRODUCED BY VEON, MUNDY, D. R. WRIGHT, CAPPABIANCA, SCRIMENTI,  
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GRUITZA, TRICH, LAUB, M. COHEN, MELIO, JAROLIN, DeWEESE,  
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GIGLIOTTI, ROONEY, LAUGHLIN, STEELMAN, KELLER, HUGHES,  
BISHOP, COLAFELLA AND CORRIGAN, JUNE 16, 1994

REFERRED TO COMMITTEE ON LABOR RELATIONS, JUNE 16, 1994

AN ACT

1 Amending the act of December 5, 1936 (2nd Sp.Sess., 1937  
2 P.L.2897, No.1), entitled "An act establishing a system of  
3 unemployment compensation to be administered by the  
4 Department of Labor and Industry and its existing and newly  
5 created agencies with personnel (with certain exceptions)  
6 selected on a civil service basis; requiring employers to  
7 keep records and make reports, and certain employers to pay  
8 contributions based on payrolls to provide moneys for the  
9 payment of compensation to certain unemployed persons;  
10 providing procedure and administrative details for the  
11 determination, payment and collection of such contributions  
12 and the payment of such compensation; providing for  
13 cooperation with the Federal Government and its agencies;  
14 creating certain special funds in the custody of the State  
15 Treasurer; and prescribing penalties," further providing for  
16 contributions; establishing the Employment Training Board;  
17 providing for the powers and duties of the Employment  
18 Training Board, the Department of Labor and Industry and the  
19 Department of Commerce; and establishing the Employment  
20 Training Fund.

21 The General Assembly finds and declares as follows:

22 (1) There is an inadequate number of jobs in this  
23 Commonwealth to meet the needs of those seeking employment.

24 (2) Despite the large number of unemployed job seekers, many

1 employers in new and expanding industries are having difficulty  
2 finding the skilled workers they need. A similar problem exists  
3 in industries where overall employment may not be expanding, but  
4 where there is an acute need for skilled workers in particular  
5 occupations.

6 (3) The intent of this act is to use a small portion of  
7 employer unemployment insurance payments to put unemployment  
8 insurance recipients to work by encouraging employers to locate  
9 and expand facilities in this Commonwealth and by training  
10 unemployment insurance recipients in skills needed by employers.

11 (4) The purpose of this act is to establish an employment  
12 training program which shall foster job creation, minimize  
13 employers' unemployment costs, and meet employers' needs for  
14 skilled workers by providing literacy and skills training to  
15 unemployment insurance claimants, persons who have recently  
16 exhausted their benefits of unemployment insurance who have  
17 remained unemployed and potentially displaced workers who would  
18 otherwise become unemployment insurance claimants. It is the  
19 intent of the General Assembly that all training funded through  
20 this act result in new employment or creation of employment with  
21 a current employer for those who successfully complete the  
22 training.

23 (5) The funds made available by this act shall supplement,  
24 but not displace, funds available through existing programs  
25 conducted by employers themselves and by public agencies. In  
26 addition, it is further the intention of the General Assembly  
27 that programs developed pursuant to this act shall not replace,  
28 parallel, supplant, compete with or duplicate in any way already  
29 existing approved apprenticeship programs.

30 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 Section 1. Section 301.7(c) of the act of December 5, 1936  
3 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment  
4 Compensation Law, added October 19, 1988, (P.L.818, No.109) is  
5 amended to read:

6 Section 301.7. Trigger Determination.--\* \* \*

7 (c) Whenever the trigger percentage determined under  
8 subsection (a) is less than fifty per centum (50%), the  
9 secretary shall announce a reduction in the weekly benefit rate  
10 under section 404(e)(4), but only to the extent that the dollar  
11 amount of such reduction exceeds the dollar amount gained by the  
12 Unemployment Compensation Fund under the reversion provision of  
13 section 1315(d).

14 \* \* \*

15 Section 2. The act is amended by adding an article to read:

16 ARTICLE XIII

17 EMPLOYMENT TRAINING PROGRAM

18 Section 1301. Definitions.--The following words and phrases,  
19 as used in this article, shall have the following meanings  
20 unless the context clearly requires otherwise.

21 (a) "Actual training costs" means those costs of providing  
22 training to eligible participants, including salaries and  
23 benefits of trainers, supervisors and others providing training,  
24 and costs of necessary supplies, communications, equipment,  
25 premises, utilities, housekeeping services, travel, printing and  
26 indirect costs. Indirect costs shall not exceed ten per centum  
27 of the cost of salaries and benefits. Cost of equipment shall  
28 not exceed the cost of leasing such equipment for the term of  
29 the contract or a pro rata share of the value of the equipment  
30 based on the useful life of the equipment, whichever is less.

1     (b) "Board" means the Employment Training Board.

2     (c) "Costs of program administration" means the expenses  
3 which the council incurs in carrying out its responsibilities  
4 under this article, including costs of marketing, outreach and  
5 research provided under contract to the Employment Training  
6 Board, and which are not included in contracts for the purpose  
7 of providing employment training.

8     (d) "Council" means private industry council organized under  
9 the Job Training Partnership Act (Public Law 97-300, 29 U.S.C. §  
10 1501 et seq.).

11    (e) "Critical skills shortage" means a shortage of workers  
12 training to perform the particular skills needed by employers  
13 participating in the training.

14    (f) "Department" means the Department of Labor and Industry.

15    (g) "Eligible participant" means a person who, prior to  
16 beginning training or employment pursuant to this article, was  
17 either of the following:

18       (1) Unemployed and either receiving unemployment insurance  
19 benefits, or had exhausted eligibility for unemployment  
20 insurance benefits within the previous fifty-two weeks.

21       (2) Is employed, but is determined by the Employment  
22 Training Board to be likely to be displaced and therefore  
23 claiming unemployment insurance benefits because of reductions  
24 in overall employment within a business, elimination of the  
25 person's current job, or a substantial change in the skills  
26 required to remain employed due to technological changes or  
27 other factors.

28    (h) "Fund" means the Employment Training Fund.

29    (i) "In-kind contributions" means those direct and indirect  
30 costs incurred by an employer that are attributable to a

training project either as an actual training cost or a reasonable administrative cost.

(j) "Jobs with definite career potential and long-term job security" means full-time jobs of at least thirty-two hours per week unsubsidized by government training funds in which long-term tenure and advancement are customary. In addition, the jobs must provide wages that are customary for the occupation and industry in the geographic area where the employment will occur.

(k) "Persons likely to be displaced" means those persons who are likely to be unemployed within two years because of reductions in overall employment, elimination of the person's current job or a substantial change in the skills required to remain employed due to technological change or other factors. The persons must be eligible for unemployment insurance benefits if they are not retrained. In determining whether a person is likely to be displaced, the Employment Training Board shall require a statement from the person's employer stating the reason for the likely displacement and stating that the person is likely to be displaced and, therefore, to claim unemployment insurance benefits if not retrained.

(l) "Progress payment" means those partial payments which must be returned to the Employment Training Board unless subsequently earned when a person has been placed and retained in employment after training for at least ninety days in a job directly related to the training provided.

(m) "Reasonable administrative costs" means those costs of administering training to eligible participants incurred by contractors, including salaries and benefits of management personnel, supervisors and others providing training and costs of necessary supplies, communications, equipment, premises,

1 utilities, housekeeping services, travel, printing, indirect  
2 costs and expenditures for marketing and research provided under  
3 contract to the Employment Training Board for the purpose of  
4 providing employment training which otherwise would have been  
5 provided directly by the council. Indirect costs shall not  
6 exceed ten per centum of the cost of salaries and benefits. The  
7 cost of equipment shall not exceed the cost of leasing such  
8 equipment for the term of the contract or a pro rata share of  
9 the value of the equipment based on the useful life of the  
10 equipment, whichever is less.

11 (n) "Retained in employment" means that the trainee has been  
12 retained in a job with definite career potential and long-term  
13 job security. The job must be directly related to the training  
14 provided and must last for at least ninety days after the end of  
15 training and must be with a single employer, except for those  
16 occupations in which it is not customary for a worker to be  
17 employed ninety consecutive days with a single employer. In  
18 these latter cases "retained in employment" means retained in a  
19 job that has a definite career potential and long-term job  
20 security and that is directly related to the training provided,  
21 for at least five hundred hours during a period of one hundred  
22 fifty calendar days after the end of training. Upon a showing of  
23 good cause the Employment Training Board may extend the one  
24 hundred fifty day period provided for in this section.

25 (o) "Training" means any combination of classroom,  
26 laboratory or structured, onsite training of at least one  
27 hundred hours that prepares trainees for jobs with definite  
28 career potential and job security. Upon a showing of good cause,  
29 the Employment Training Board may approve training that is less  
30 than one hundred hours.

1     (p) "Training agency" means any private training entity or  
2     local educational agency.

3     Section 1302. Employment Training Board.--There is hereby  
4     established within the Department of Labor and Industry the  
5     Employment Training Board which shall consist of the Secretary  
6     of Labor and Industry, who shall serve as chairman; the  
7     Secretary of Commerce, the Secretary of Education and the  
8     Secretary of Public Welfare, a State official appointed by the  
9     Governor, one member of the Senate, one member of the House of  
10    Representatives, one member representing organized labor  
11    appointed by the Governor and one member representing private  
12    industry appointed by the Governor.

13    Section 1303. Duties and Responsibilities of Private  
14    Industry Council.--The council shall review and recommend  
15    proposals to the Employment Training Board for final approval.  
16    Recommendations shall be based on the following:

17    (1) Local labor market demand.

18    (2) The capabilities and past performance of local training  
19    agencies and employers.

20    (3) In-kind contributions by employers, including, but not  
21    limited to, equipment, instructors and training facilities.

22    (4) The priorities established by the Employment Training  
23    Board.

24    Section 1304. Annual Reports.--The Employment Training Board  
25    shall submit to the General Assembly, by November 30, an annual  
26    report on the status of projects operating during the previous  
27    fiscal year. These annual reports shall provide all of the  
28    following:

29    (a) Summaries of projects completed during the year,  
30    including their individual and aggregate performance and cost.

1     (b) Summaries of projects not completed during the year,  
2 briefly describing each project and identifying approved  
3 contract amounts by contract and for the category as a whole,  
4 and identifying any projects in which funds are expected to be  
5 disencumbered.

6     (c) Summaries of projects terminated prior to completion and  
7 the reasons for the termination.

8     (d) Policy recommendations concerning the impact of job  
9 training and the council's program on economic development,  
10 labor-management relations, employment security, and other  
11 related issues. To assist in preparation of the policy  
12 recommendations, the chairman of the board may appoint an  
13 advisory research council.

14     Section 1305. Form of Employment Training Contracts.--  
15 Contracts entered into by the Employment Training Board for the  
16 purpose of providing employment training shall be in the form of  
17 fixed-fee performance contracts. Notwithstanding any provisions  
18 of law to the contrary, contracts entered into pursuant to this  
19 article shall not be subject to competitive bidding procedures.  
20 No trainee shall receive employment training under this article  
21 for a period of more than twenty-four months. Contracts for  
22 training may be written for a period not to exceed twenty-four  
23 months for the purpose of administration by the board and the  
24 contracting employer of any group of employers acting jointly or  
25 any training agency for the purpose of providing employment  
26 training.

27     Section 1306. Allocation of Money in the Employment Training  
28 Fund.--(a) The Employment Training Board may allocate money in  
29 the fund for the following purposes:

30     (1) Reimbursement of actual training costs incurred by



1 employers and training agencies for reasonable administrative  
2 costs.

3 (2) Costs of program administration incurred under this  
4 article.

5 (b) In determining the amount of training funds to allocate  
6 for actual training costs and reasonable administrative costs in  
7 accordance with subsection (a) of this section, the council  
8 shall consider the following:

9 (1) A budget prepared by the contractor stating the  
10 contractor's actual costs.

11 (2) The length and complexity of the training.

12 (3) The method of training, including proportion of  
13 classroom, laboratory and structured, onsite training.

14 (4) The wage and occupation following training.

15 (5) Whether the trainees are unemployed or employed during  
16 training and whether the training is targeted to a particular  
17 group of trainees.

18 (6) Special factors that in the board's judgment could  
19 affect the cost of training, including the size of the business  
20 for which training is to be provided and the length of time the  
21 business has been in operation.

22 (7) The administrative and other services to be provided by  
23 the contractor.

24 (8) The cost of similar training that the board has funded  
25 previously. As a guide to such costs, the board shall prepare at  
26 least semi-annually a summary of all costs of training for  
27 contracts provided within the previous twenty-four months. This  
28 guide shall include the cost of training, the number of hours of  
29 training and cost per hour of training provided, grouped by wage  
30 following training and by retraining and new hire projects.

Section 1307. Proposals for Training.--Proposals for training shall include the following:

(a) A list of those employers who will hire and retain in employment persons who successfully complete the training, including a signed statement that the employers agreed to assist in the development and operation of the training program. All such employers shall be listed in the training contract, except that, upon a showing of good cause to the Employment Training Board, a contractor may substitute or add any other employer who has hired a trainee no more than one hundred twenty days before the termination date of the contract, but only if the new employer and job provided meet all the other criteria of the contract.

(b) A statement of the need for the purpose of the training.

(c) The number of jobs and a description of the jobs available for persons who successfully complete the training.

(d) A statement of the background of the trainees and the process by which they will be selected.

(e) A statement of the process and timetable by which the contractor shall request certification from the board that trainees selected for training are eligible for training. Trainees must begin training within ninety days of the receipt of such certification from the panel.

(f) A schedule for training.

(g) A plan for conducting the training that states the subjects to be learned or practiced and the amount of time spent learning or practicing each subject. The amount of time spent learning or practicing each subject will usually be stated in blocks of forty hours or less. The plan must document the processes by which the trainee will acquire the minimum

1 competencies to be performed in the occupation.

2 (h) The skills required to perform the job for which  
3 training is provided.

4 (i) The wages that will be paid following training and a  
5 description of the career potential and the long-term job  
6 security offered by the employer following training.

7 (j) The fixed fee that will be paid for every person  
8 trained, hired and retained in employment in a job with definite  
9 career potential and long-term job security following training  
10 and the method by which payments will be made. All payments are  
11 earned only after the trainee has been trained, hired and  
12 retained in employment in accordance with the terms of a  
13 contract and of section 1309. At the discretion of the board,  
14 contracts may provide that nonprofit organizations and  
15 government entities may receive an advance of no more than  
16 fifteen per centum of the amount of the contract. At the  
17 discretion of the board, progress payments may be made during  
18 training and upon placement of each trainee that has been  
19 retained in employment in accordance with the provisions of  
20 section 1309.

21 (k) A statement of standards for training that must be met  
22 for payment to be made, including a statement of the minimum  
23 hours of training that must be provided, the schedule for  
24 training and the job following training.

25 (l) The plan for administering the agreement.

26 (m) If training is proposed for a new business locating in  
27 this Commonwealth or for a significant expansion of an existing  
28 business, the boards may request business plans and other  
29 financial information sufficient to insure that the employer for  
30 whom funding is provided is financially stable and able to

1 provide jobs with definite career potential and long-term job  
2 security.

3 (n) Contractors who seek approval of an outline and final  
4 agreement at the same board meeting must demonstrate that they  
5 are ready to start training.

6 (o) The contractor must provide detailed recruitment plans  
7 to the board with the proposal. The plans will include list of  
8 employment offices with which the contractor is working and  
9 specific plans for direct mail and newspaper advertising to  
10 recruit trainees. Additional information also will be sought on  
11 plans to provide special recruitment aimed at women, minorities,  
12 the disabled and veterans.

13 (p) Contractors who request repeat contracts or amendment  
14 adding a substantial amount of additional funds to an existing  
15 contract must make a showing that funds previously contracted  
16 have been or will be fully used. In making such a showing, the  
17 board will require a contractor to demonstrate that all or  
18 nearly all of planned enrollments have taken place and that a  
19 substantial number of trainees have been retained in employment  
20 for the time period specified in the contract, except that the  
21 panel may waive such a requirement if it makes a finding that  
22 there is a reasonable probability that a substantial number of  
23 trainees will be retained in employment for the time period  
24 required in the contract.

25 Section 1308. Contracts with Training Agencies.--Contracts  
26 shall be made with training agencies only if the training agency  
27 can demonstrate all of the following:

28 (a) The training agency has a satisfactory record of past  
29 performance in the placement and retention of former trainees  
30 and employer satisfaction with former trainees.

1     (b) The training agency can demonstrate labor market demand  
2     for the proposed training. Proof shall include, but not be  
3     limited to, the documented need of specific employers for the  
4     workers proposed to be trained in the skills proposed by the  
5     training agency.

6     (c) The training agency can demonstrate that the training  
7     prepares trainees in a manner satisfactory to employers.

8     (d) The training agency can demonstrate that its accounting  
9     systems include controls adequate to check the accuracy and  
10    reliability of accounting data, promote operating efficiency,  
11    and assure compliance with government requirements and generally  
12    accepted accounting principles. The council shall have full  
13    access at any time to these accounting systems to assure  
14    compliance with these standards.

15    Section 1309. Limitations on Training and Payments.--(a)  
16    Contracts shall only be made for job-linked training, including  
17    literacy and basic skills training, which provides specific  
18    skills for career advancement or which is preparatory for, and  
19    leads directly to, jobs with definite career potential and long-  
20    term job security. Not less than seventy per centum of contracts  
21    shall be awarded to small businesses who employ less than two  
22    hundred fifty workers.

23    (b) Payments shall be made in accordance with a performance  
24    contract under which partial payments may be made during  
25    training. A partial payment may be made on placement or  
26    retention of each trainee, and not less than twenty-five per  
27    centum of the negotiated fees is withheld until the trainee has  
28    been retained in employment for ninety days after the end of  
29    training with a single employer, except for those occupations in  
30    which it is not customary for a worker to be employed ninety

1 consecutive days with a single employer. In these latter cases,  
2 the Employment Training Board may substitute a period similar to  
3 the probationary period customary to the occupation. In no case  
4 shall the probationary period amount to less than five hundred  
5 work hours. In no case shall any payment be considered to have  
6 been earned until the trainee has been retained in employment  
7 for ninety days or the equivalent probationary period for an  
8 occupation in which it is not customary for a worker to be  
9 employed ninety consecutive days with a single employer.

10 (c) All requests for payments must be received by the board  
11 no later than sixty days after the termination date of a  
12 contract.

13 (d) All unearned advances and progress payments paid for  
14 trainees who are not trained, hired after the completion of  
15 training and retained in employment shall be returned to the  
16 board no later than sixty days after the termination date of a  
17 contract. At any time during the term of a contract when one or  
18 more trainees have not been placed in a job within sixty days  
19 after the completion of training, the board may request the  
20 return of all advances and progress payments paid for such  
21 trainees. In addition, interest at the rate established under  
22 section 806.1 of the act of April 9, 1929 (P.L.343, No.176),  
23 known as "The Fiscal Code," shall be paid on all funds returned  
24 to the board under the provisions of this subsection from the  
25 first day of the month following the date they are received from  
26 the panel.

27 Section 1310. Audits of Training Contracts.--The Employment  
28 Training Board shall provide for audits of training contracts.  
29 These audits shall determine whether certification of  
30 eligibility for training, enrollment in training, training,

1 placement in a job, retention in that job and payments were made  
2 in accordance with the contract. For purposes of determining  
3 whether training has occurred, contractors shall maintain  
4 records of attendance in training and documentation that the  
5 plan for training was followed.

6 Section 1311. Role of Labor Organizations.--The relevant  
7 labor organization representing workers under a collective  
8 bargaining agreement for whom training is proposed shall be  
9 notified during the development of all training programs and  
10 shall have the opportunity to participate in such program  
11 development. In addition, such labor organizations must agree in  
12 writing to all training for workers covered by a collective  
13 bargaining agreement.

14 Section 1312. Public Works Program.--The Department of Labor  
15 and Industry shall develop a program to provide for employment  
16 training in public works projects under the provisions of this  
17 article.

18 Section 1313. Technical Assistance.--The Department of Labor  
19 and Industry shall cooperate with the Employment Training Board  
20 by offering necessary technical assistance, which may include,  
21 but is not limited to, labor market information, projections of  
22 occupational demand and information and advice on alternative  
23 training strategies.

24 Section 1314. Duties of Department of Commerce.--(a) The  
25 Department of Commerce shall determine those firms considering  
26 locating or expanding business in this Commonwealth in order to  
27 enable the Employment Training Board to expedite the processing  
28 of contracts for these firms. The Department of Commerce shall  
29 also provide technical assistance by marketing the Employment  
30 Training Fund to newly locating or expanding businesses in this

Commonwealth and by assisting in the packaging of employer contracts for training of eligible participants from the Employment Training Fund.

(b) The Employment Training Board and the Department of Commerce shall agree within sixty days of the effective date of this article to a statement of coordination and purpose relating to the mutual assistance to be provided by the board and the Department of Commerce pursuant to this article.

Section 1315. Employment Training Fund.--(a) There is hereby created a special fund, separate and apart from all public moneys or funds of the Commonwealth, to be known as the Employment Training Fund. The moneys in the fund shall be used exclusively to carry out the provisions of this article. Not less than twenty-five per centum of the fund shall be dedicated for purposes of the act of July 13, 1987 (P.L.346, No.66), known as the "Dislocated Worker Training Assistance Act." The moneys in the fund shall be continuously available for expenditure in accordance with this article and shall not lapse at any time or be transferred to any other fund.

(b) The total amount of wages upon which contributions are calculated for any employer are hereby reduced by one-tenth of one per centum.

(c) There is hereby imposed a tax upon each employer equal to that employer's current contribution rate, upon one-tenth of one per centum of that employer's total amount of wages. This tax shall be collected under the provisions of Article III and paid into the Employment Training Fund, except as provided under subsection (d).

(d) If the trigger percentage determined by the secretary under section 301.7 is less than fifty per centum, all funds



1 collected under this section shall revert to the Unemployment  
2 Compensation Fund, until such time as the trigger percentage  
3 exceeds fifty per centum.

4       Section 3. This act shall take effect in 60 days.