

WORKFORCE DEVELOPMENT ACT - KEYSTONE WORKS PROGRAM

Act of Jul. 5, 2012, P.L. 970, No. 107

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No. 2012-107

HB 1539

AN ACT

Amending the act of December 18, 2001 (P.L.949, No.114), entitled, as amended, "An act establishing a unified workforce investment system; restructuring certain administrative functions, procedures and entities; transferring workforce development functions of Commonwealth agencies; establishing the Pennsylvania Workforce Investment Board; providing for critical job training grants, for guarantees for program quality and performance for workforce development programs, for workforce leadership grants, for industry partnerships; and authorizing local workforce investment boards," amending the title of the act; and establishing the Keystone Works Program.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The title of the act of December 18, 2001 (P.L.949, No.114), known as the Workforce Development Act, amended July 7, 2011 (P.L.289, No.67), is amended to read:

AN ACT

Establishing a unified workforce investment system; restructuring certain administrative functions, procedures and entities; transferring workforce development functions of Commonwealth agencies; establishing the Pennsylvania Workforce Investment Board; providing for critical job training grants, for guarantees for program quality and performance for workforce development programs, for workforce leadership grants[,] **and for industry partnerships; establishing the Keystone Works Program;** and authorizing local workforce investment boards.

Section 2. The act is amended by adding a chapter to read:

CHAPTER 14

KEYSTONE WORKS PROGRAM

Section 1401. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Business." An individual or entity that is an "employer" within the meaning of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law.

"Claimant." A person collecting regular unemployment compensation benefits under Article IV of the Unemployment Compensation Law. The term does not include a claimant receiving extended benefits under Article IV-A of the Unemployment Compensation Law or federally funded unemployment compensation benefits.

"Department." The Department of Labor and Industry of the Commonwealth.

"High-priority occupations." As defined in section 1301.

"Job opening." A bona fide opportunity for employment with a business in a high-priority occupation for at least 35 hours per week.

"Program." The Keystone Works Program established in section 1402.

"Training." A planned, structured learning environment for the primary benefit of the trainee and from which the employer derives no immediate advantage and which is designed to provide the skills and knowledge necessary to meet a business' specifications for an occupation or trade.

Section 1402. Program.

(a) Establishment.--

(1) The Keystone Works Program is established.

(2) The department shall administer the program from funds appropriated for the program.

(3) The department may promulgate regulations and issue guidelines that it deems necessary to administer the program.

(b) Claimants.--A claimant may voluntarily enroll in the program and shall be qualified for training if all of the following apply:

(1) The department determines that the claimant is an appropriate match with a job opening at a participating business.

(2) At the start of the training, the unexpended balance of regular unemployment compensation to which the claimant is financially eligible equals or exceeds the product of:

(i) the claimant's weekly benefit rate; and

(ii) the number of weeks of training .

(3) The claimant certifies to the department, in a writing subject to 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities), that the claimant:

(i) will not accept any form of compensation, cash or otherwise, from the participating business or individual or entity associated with the participating business for participation in the program;

(ii) will provide information and documentation to the department as requested; and

(iii) will cooperate with requests from the department for evaluation of aspects of the program.

(c) Businesses.--The following are required for a business to be eligible to provide training under the program.

(1) The business must satisfy all of the following criteria:

(i) The business has a job opening to which a claimant may be matched by the department.

(ii) The business will register with the Pennsylvania CareerLink system.

(iii) The business will provide bona fide training to the claimant for the job opening.

(iv) Upon completion of the training period, the business will consider the claimant for employment in the job opening for which the claimant was trained.

(v) If the business hires the claimant upon completion of the training period, the claimant will perform services in "employment" within the meaning of the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law .

(vi) The claimant will not work in a contract or self-employment capacity for the business.

(vii) The business and individuals or entities associated with the business will not provide a participating claimant with any form of compensation, cash or otherwise, for participation in training under the program.

(viii) The business will not provide training under the program while a work stoppage attributable to a labor dispute is in effect.

(ix) The business will not provide training while concurrently participating in a shared-work program under Article XIII of the Unemployment Compensation Law.

(x) Providing training under the program and hiring the claimant upon completion of training would not violate a collective bargaining agreement.

(xi) Providing training under the program and hiring the claimant upon completion of training would not displace or adversely impact existing employees.

(xii) The business will cooperate with requests from the department for information and documentation related to the program.

(2) The business must satisfy any additional criteria established by the department in administering the program. This paragraph includes imposing conditions on participating businesses to ensure that an appropriate number of claimants participating in the program receive offers of suitable long-term employment.

(3) The business must certify in a writing subject to 18 Pa.C.S. § 4904 that all requirements of this subsection are or will be satisfied.

(4) The business must not be disqualified under subsection (d)(2)(iii).

(c.1) Business program.--

(1) To be eligible to participate in the program, a business, its owner or authorized agent must certify that:

(i) It has no tax liabilities or other obligations under the laws of the United States or the Commonwealth, or has filed a timely administrative or judicial appeal if such liabilities or obligations exist, or is subject to a duly approved deferred payment plan if such liabilities exist.

(ii) Neither the business nor any subcontractors are under suspension or debarment by the Commonwealth or other government entity.

(2) The Secretary of Labor and Industry may through guidelines provide for additional eligibility requirements or restrictions deemed necessary for a business to participate in the program.

(d) Description.--

(1) The department shall match claimants with businesses that have job openings and are willing to provide training for the corresponding high-priority occupations.

(2) When a claimant is matched with a business, the business shall provide the claimant a maximum of 24 hours of unpaid training per week, for a maximum of eight weeks. At the end of the training period, the following apply:

(i) The business shall consider the claimant for employment in the job opening.

(ii) The business is not required to hire the claimant.

(iii) The department shall disqualify from participation in the program any employer showing a pattern of acting in bad faith regarding job offers.

A claimant who is participating in training may opt to discontinue participation in the program .

Section 1403. Administration.

The department has the following powers and duties under the program:

(1) Establish guidelines and applications it deems necessary for the administration of the program.

(2) Provide notice to businesses and claimants regarding eligibility for and participation in the program.

(3) Develop policies and procedures to register eligible businesses and eligible claimants for the program.

(4) Develop policies and procedures to review applications.

(5) Develop policies and procedures to match claimants with businesses that have job openings for training under the program.

(6) Develop policies and procedures to provide participating claimants and businesses with administrative remedies for department determinations.

Section 1404. Workers' compensation.

(a) Department.--The department shall purchase or arrange for workers' compensation insurance coverage for approved claimants during their participation in the program with an approved business.

(b) Employment relationship.--A claimant's participation in the program does not create an employment relationship with the department for purposes of the act of June 2, 1915 (P.L.736, No.338), known as the Workers' Compensation Act.

(c) Computation.--For the purposes of computing an approved claimant's wage compensation and benefit amount under the Workers' Compensation Act:

(1) the average weekly wage shall be the claimant's maximum weekly unemployment compensation benefit rate for the benefit year in effect at the time of injury; and

(2) the unemployment compensation benefit offset permitted under section 204(a) of the Workers' Compensation Act shall not apply.

Section 1405. Eligibility.

Notwithstanding any other law, a claimant's participation in the program, option to discontinue participation in the program, termination from the program by a participating business or completion of the program shall not affect the eligibility of the claimant to receive unemployment compensation if the claimant remains eligible to receive those benefits under the act of December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1), known as the Unemployment Compensation Law.

Section 1406. Business incentives.

(a) Eligibility.--Subject to the availability of funding under subsection (b), if, at the end of a training period, a business hires a claimant for a job opening under section 1402(d), the business is eligible to receive incentive payments in the amount of \$375 for each period of four consecutive workweeks the claimant remains employed at a minimum of 35 hours per week, for up to four consecutive periods of four consecutive workweeks and for a maximum of \$1,500 total incentive payments.

(b) Funding.--

(1) Incentive payments under subsection (a) shall be paid from money appropriated for payment.

(2) Fifteen percent of the total amount of money authorized for a fiscal year shall be reserved for businesses with fewer than 100 employees. If the reserved amount is not committed by April 30 of each year, it shall be available to businesses that have at least 100 employees.

Section 1407. Performance evaluation system.

The department shall develop and implement an evaluation and performance improvement system which does the following:

(1) Collects critical information on an annual basis or more frequently as determined by the department, including:

- (i) Increases in claimant skills.
- (ii) Skill training being provided by businesses.
- (iii) Placement of claimants after training.
- (iv) Challenges foreseen by businesses.
- (v) Business training best practices.
- (vi) Amount of weeks claimants received unemployment compensation benefits after completion of the training period.

(2) Defines the benefits of the program and its training to businesses, claimants and the Unemployment Compensation Fund.

Section 1407.1. Annual report.

No later than July 1 of each year, the department shall submit an annual report to the chairman and minority chairman of the Labor and Industry Committee of the Senate and to the chairman and minority chairman of the Labor and Industry Committee of the House of Representatives providing all data available on the operation of the program during the prior year. The report shall include, but not be limited to, claimant and business participation, administrative costs, relevant data, facts and statistics and any other information that the department believes necessary in the content of the report that is available.

Section 1408. Expiration.

This chapter shall expire June 30, 2017.

Section 3. This act shall take effect immediately.

APPROVED--The 5th day of July, A.D. 2012.

TOM CORBETT