

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1712

Short Title: Worker Training Changes.

(Public)

Sponsors: Representatives Berry and Howard.

Referred to: Commerce.

June 1, 1998

A BILL TO BE ENTITLED

1 AN ACT CENTRALIZING WITHIN THE EMPLOYMENT SECURITY
2 COMMISSION THE EMPLOYMENT TRAINING FUNCTIONS OF THE
3 DEPARTMENT OF COMMERCE AND ESTABLISHING THE NORTH
4 CAROLINA WORKERS' PREPAREDNESS COUNCIL.

5 The General Assembly of North Carolina enacts:

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8 PART I. TRANSFER OF THE EMPLOYMENT AND TRAINING DIVISION, THE
9 LABOR FORCE DEVELOPMENT COUNCIL, AND THE STATE JOB TRAINING
10 COORDINATING COUNCIL FROM THE DEPARTMENT OF COMMERCE TO THE
11 EMPLOYMENT SECURITY COMMISSION

12 Section 1. Article I of Chapter 96 of the General Statutes is amended by
13 adding a new section to read:

14 "**§ 96-4.1. Transfers to the Employment Security Commission.**

15 (a) The Employment and Training Division of the Department of Commerce is
16 transferred to the Employment Security Commission and the Division's statutory
17 authority, powers, duties, and functions, records, personnel, property, unexpended
18 balances of appropriations, allocations, or other funds, including the functions of
19 budgeting and purchasing, are transferred to the Employment Security Commission. This

1 transfer to the Employment Security Commission shall have the same effect as a Type I
2 transfer to a principal department as authorized by G.S. 143A-6.

3 (b) The State Job Training Coordinating Council of the Department of Commerce
4 is transferred to the Employment Security Commission and the Council's statutory
5 authority, powers, duties, and functions, records, personnel, property, unexpended
6 balances of appropriations, allocations, or other funds, including the functions of
7 budgeting and purchasing, are transferred to the Employment Security Commission. This
8 transfer to the Employment Security Commission shall have the same effect as a Type I
9 transfer to a principal department as authorized by G.S. 143A-6.

10 (c) The Labor Force Development Council of the Department of Commerce is
11 transferred to the Employment Security Commission and the Council's statutory
12 authority, powers, duties, and functions, records, personnel, property, unexpended
13 balances of appropriations, allocations, or other funds, including the functions of
14 budgeting and purchasing, are transferred to the Employment Security Commission. This
15 transfer to the Employment Security Commission shall have the same effect as a Type I
16 transfer to a principal department as authorized by G.S. 143A-6.

17 (d) For the purposes of this section, the term 'management functions' means
18 planning, organizing, staffing, directing, coordinating, reporting, and budgeting."

19 Section 2. G.S. 143B-432 reads as rewritten:

20 **"§ 143B-432. Transfers to Department of Commerce.**

21 (a) The Division of Economic Development of the Department of Natural and
22 Economic Resources, the Science and Technology Committee of the Department of
23 Natural and Economic Resources, the Science and Technology Research Center of the
24 Department of Natural and Economic Resources, and the North Carolina National Park,
25 Parkway and Forests Development Council of the Department of Natural and Economic
26 Resources are each hereby transferred to the Department of Commerce by a Type I
27 transfer, as defined in G.S. 143A-6.

28 (b) All functions, powers, duties, and obligations heretofore vested in the
29 following subunits of the Department of Natural Resources and Community
30 Development are hereby transferred to and vested in the Department of Commerce by a
31 Type I transfer as defined in G.S. 143A-6:

32 (1) Community Assistance Division.

33 ~~(2) Employment and Training Division.~~

34 (c) All functions, powers, duties, and obligations heretofore vested in the
35 following councils of the Department of Natural Resources and Community
36 Development are hereby transferred to and vested in the Department of Commerce by a
37 Type II transfer as defined in G.S. 143A-6:

38 (1) Community Development Council.

39 ~~(2) Job Training Coordinating Council."~~

40 Section 3. G.S. 143B-433 reads as rewritten:

41 **"§ 143B-433. Department of Commerce – organization.**

42 The Department of Commerce shall be organized to include:

43 (a) (1) The North Carolina Alcoholic Beverage Control Commission,

- 1 (2) The North Carolina Utilities Commission,
- 2 (3) The Employment Security Commission,
- 3 (4) The North Carolina Industrial Commission,
- 4 (5) State Banking Commission,
- 5 (6) Savings and Loan Association Division,
- 6 (7) The State Savings Institutions Commission,
- 7 (8) Credit Union Commission,
- 8 (9) The North Carolina Milk Commission,
- 9 (10) The North Carolina Mutual Burial Association Commission,
- 10 (11) North Carolina Cemetery Commission,
- 11 (12) The North Carolina Rural Electrification Authority,
- 12 (13) Repealed by Session Laws 1985, c. 757, s. 179(d),
- 13 (14) North Carolina Science and Technology Research Center,
- 14 (15) The North Carolina State Ports Authority,
- 15 (16) North Carolina National Park, Parkway and Forests Development
- 16 Council,
- 17 (17) Economic Development Board,
- 18 ~~(18) Labor Force Development Council,~~
- 19 (19) Energy Policy Council,
- 20 (20) Energy Division,
- 21 (21) Navigation and Pilotage Commissions established by Chapter 76 of the
- 22 General Statutes.
- 23 (22) Repealed by Session Laws 1993, c. 321, s. 313(b).

24 (b) Those agencies which are transferred to the Department of Commerce
25 including the:

- 26 (1) Community Assistance Division,
- 27 (2) Community Development Council,
- 28 ~~(3) Employment and Training Division, and~~
- 29 ~~(4) Job Training Coordinating Council, and Council.~~

30 (c) Such divisions as may be established pursuant to Article 1 of this Chapter."
31 Section 4. G.S. 143B-438.6 reads as rewritten:

32 **"§ 143B-438.6. Employment and Training Grant Program.**

33 (a) There is established in the ~~Department of Commerce,~~ Employment Security
34 Commission, the Division of Employment and Training, an Employment and Training
35 Grant Program. The purpose of the program is to make grants available to local agencies
36 operating on behalf of the Private Industry Council serving Job Training Partnership Act
37 service delivery areas. Grant funds shall be allocated for the purpose of enabling recipient
38 agencies to implement local employment and training programs in accordance with
39 existing resources, local needs, local goals, and selected training occupations. The
40 ~~Department~~ Employment Security Commission shall adopt rules in accordance with
41 Chapter 150B of the General Statutes for administering the Employment and Training
42 Grant Program, which rules shall include procedures for review and approval of grant
43 applications by local agencies and for monitoring use of grant funds by recipient

1 agencies. A State-administered program of performance standards shall be used to
2 measure grant program outcomes.

3 (b) Use of grant funds: Local agencies may use funds received under this section
4 only for the purpose of upgrading the foundation of basic skills of the adult population
5 and the existing work force in North Carolina. Services that may be provided include
6 participant programs currently available under the federal Job Training Partnership Act
7 that are appropriate for adults; on-the-job training; work experience; adult basic
8 education; skills training, upgrading, and retraining; counseling and screening for job
9 placement; service corps; and related support services. Local agencies may use grant
10 funds to provide services only to individuals who are 18 years of age or older and who
11 either (i) meet the current Federal Job Training Partnership Act definition of
12 "economically disadvantaged", or (ii) meet the current definition for eligibility under
13 Title III of the Federal Job Training Partnership Act.

14 (c) Allocation of grants: The ~~Department~~ Employment Security Commission may
15 reserve and allocate up to five percent (5%) of funds available to the Employment and
16 Training Grant Program for State and local administrative costs to implement the
17 program. The Division of Employment and Training shall allocate employment and
18 training grants to local agencies operating on behalf of the Private Industry Council
19 serving Job Training Partnership Act service delivery areas based on the following
20 formula:

- 21 (1) One half of the funds shall be allocated on the basis of the relative
22 excess number of unemployed individuals residing in each county as
23 compared to the total excess number of unemployed individuals in all
24 counties in the State.

25 "Excess number of unemployed" is defined as the number of
26 unemployed individuals in excess of four and one-half percent (4.5%) of
27 the civilian labor force in each county or the number of unemployed
28 individuals in excess of four and one-half percent (4.5%) of the civilian
29 labor force in each census tract within the county. The following
30 methodology is used to determine the excess number of unemployed:

- 31 a. For counties classified as having excess unemployment, the
32 excess number of unemployed is determined by subtracting four
33 and one-half percent (4.5%) of the civilian labor force from the
34 number of unemployed individuals within the county. The
35 difference equals the number of excess unemployed.
- 36 b. In situations where the entire county is not classified as having
37 excess unemployment, the excess number of unemployed is
38 determined by census tract unemployment within the county.
39 Census tract data is used to determine which subcounty areas
40 qualify as areas of excess unemployment. In those subcounty
41 areas classified as having excess unemployment (census tracts
42 with four and one-half percent (4.5%) or higher unemployment
43 rates), four and one-half percent (4.5%) of the census tract labor

1 force is subtracted from the number of unemployed individuals
2 within the area of excess unemployment. The subcounty figures
3 of excess number of unemployed within the county are then
4 added together to determine the total excess number of
5 unemployed within the county.

- 6 (2) One half of the funds shall be allocated on the basis of the relative
7 number of economically disadvantaged individuals within each county
8 compared to the total number of economically disadvantaged
9 individuals in the State. To determine the number of economically
10 disadvantaged individuals within each county, data from the State Data
11 Center in the Office of State Budget and Management, or from the
12 federal decennial census, whichever is most recent, shall be used.

13 (d) Reports, Coordination: The ~~Department of Commerce~~ Employment Security
14 Commission shall report quarterly to the Governor and to the Speaker of the House of
15 Representatives and the President Pro Tempore of the Senate on the North Carolina
16 Employment and Training Grant Program. The ~~Department~~ Employment Security
17 Commission shall also provide a copy of these quarterly reports to the State Job Training
18 Coordinating Council. The Council shall advise the ~~Department~~ Employment Security
19 Commission on the merger of the funds provided to implement this section with other
20 employment and training funds to develop comprehensive work-force preparedness
21 initiatives for the State.

22 (e) Funds appropriated to the Department of ~~Commerce~~ Commerce, Employment
23 Security Commission, for the Employment and Training Grant Program that are not
24 expended at the end of the fiscal year shall not revert but shall remain available to the
25 Department for the purposes established in this section."

26 Section 5. G.S. 143B-438.4 is recodified as G.S. 96-36 and reads as rewritten:
27 **"§ 96-36. Coordinating Council.**

28 (a) The State Job Training Coordinating Council is established within the
29 ~~Department of Commerce~~ Employment Security Commission.

30 (b) Operating funds and staff for the Council shall be supported with funds from
31 the Job Training Partnership Act.

32 (c) Adequate office space shall be provided by the ~~Department of Commerce~~.
33 Employment Security Commission.

34 (d) The initial staffing level of the Council and the level of funding support
35 required shall be determined by the ~~Secretary of Commerce~~ Employment Security
36 Commission. However, the staffing level shall not exceed 10 personnel as may be
37 necessary to carry out its functions under this Part and the Job Training Partnership Act.

38 (e) Duties and responsibilities of the Council include but shall not be limited to the
39 following:

- 40 (1) Overseeing the meeting of the State's goals for employment and
41 training.
42 (2) Reviewing the plans and programs of agencies operating federally
43 funded programs related to employment and training and of other

- 1 agencies providing employment and training-related services in the
2 State that may be funded with State funds.
- 3 (3) Conducting studies, preparing reports and analyses, including an annual
4 published report to the Governor and General Assembly, and providing
5 such advisory services as may be authorized or directed by the
6 Governor.
- 7 (4) Recommending the allocation of Job Training Partnership Act funds not
8 subject to the seventy-eight percent (78%) that flows directly to service
9 delivery areas.
- 10 (5) Recommending program goals to insure job training for unskilled youth
11 and adults is a matter of the highest priority and encouraging Service
12 Delivery Areas (SDA's) to reflect these goals in their SDA plans.
- 13 (6) Developing a long term tracking system to measure the effectiveness of
14 the Job Training Partnership Act with respect to permanent job
15 placements.
- 16 (7) Insuring compliance with the provisions of Sections 122(b)(7) A and B
17 and 122(b)(8) of the Job Training Partnership Act no later than May 30
18 of every year, requiring the following:
- 19 a. The identification of, in coordination with the appropriate State
20 agencies, the employment, training, and vocation education
21 needs throughout the State;
- 22 b. An assessment of the extent to which employment and training,
23 vocation education, rehabilitation services, public assistance,
24 economic development, and other federal, State, and local
25 programs and services represent a consistent, integrated, and
26 coordinated approach to meeting these needs;
- 27 c. Comments on reports required by Sections 105(d)(3) of the
28 Vocational Education Act of 1963 and appropriate
29 recommendations to the Governor and General Assembly.
- 30 (8) Annually measuring, to the extent practicable, the increase in
31 employment and earnings and the reductions in welfare dependency by
32 SDA resulting from participating in the Job Training Partnership Act
33 program and reporting those findings to the Governor and General
34 Assembly.
- 35 (9) Annually reporting to the Governor and General Assembly on funds
36 expended by each SDA for job training services.
- 37 (10) Providing management guidance and review of all State administered
38 employment and training programs and encouraging compliance by the
39 SDA's with the goals and purposes outlined by the General Assembly,
40 the Governor, and the State Council.
- 41 (11) Repealed by Session Laws 1989, c. 532, s. 2.
- 42 (12) Obtaining other information from recipients of Job Training Partnership
43 Act funds, as requested by the Governor and General Assembly.

- 1 (13) Overseeing the responsibilities required in the Economic Dislocation
2 and Worker Adjustment Assistance Act (EDWAAA), including the
3 following:
4 a. Advising the Governor on designation of sub-State areas and
5 sub-State grantees and on the procedure for selecting Private
6 Industry Council (PIC) and Local Employment Organizations
7 (LEO) representatives within sub-State areas relative to grantee
8 designation;
9 b. Advising the Governor on developing formulas for distributing
10 funds among sub-State areas and formulas for reallocating
11 unexpended funds;
12 c. Reviewing and commenting to the Governor on State and sub-
13 State EDWAAA programs;
14 d. Reviewing and submitting comments on the State plan prior to
15 submission to the Secretary and on each sub-State plan; and
16 e. Advising the Governor on the establishment and application of
17 performance standards.
- 18 (f) The State Job Training Coordinating Council:
19 (1) Shall be appointed by the Governor in a manner consistent with Section
20 122 of Public Law 97-300.
21 (2) Shall meet at the call of the chairman. A majority of the Council shall
22 constitute a quorum for the transaction of business. Members shall
23 receive per diem and necessary travel and subsistence expenses in
24 accordance with the provisions of G.S. 138-5, 138-6 or 120-3.1, as the
25 case may be.
26 (3) Repealed by Session Laws 1989, c. 532, s. 2.
27 (4) May create such committees as may be necessary to the proper conduct
28 of its business. The Governor may establish such additional advisory
29 bodies, in accordance with existing law, related to employment and
30 training as may be necessary and appropriate to the conduct of federally
31 supported employment and training-related programs."
32

33 PART II. NORTH CAROLINA WORKERS' PREPAREDNESS COUNCIL
34 ESTABLISHED

35 Section 6. Article 10 of Chapter 143B of the General Statutes is amended by
36 adding a new section to read:

37 "**§ 143B-438.7. North Carolina Workers' Preparedness Council.**

38 (a) Creation and Duties. – There is created within the Department of Community
39 Colleges the North Carolina Workers' Preparedness Council (hereinafter 'Council'). The
40 Council shall have the following duties:

- 41 (1) To provide workforce preparedness planning for the State.
42 (2) To recommend workforce preparedness policy to the Secretary of
43 Commerce, the Employment Security Commission, the General

1 Assembly, and the Governor. The recommendations may cover the
2 following issues as well as any other economic development policy
3 issues:

4 a. Use of tax abatements and other incentives to motivate workforce
5 preparedness.

6 b. Definition of which specific activities and programs should be
7 considered workforce preparedness activities and programs for
8 the purpose of receiving State appropriations and federal
9 funding.

10 c. The role of institutions of higher education in workforce
11 preparedness.

12 d. The use of State funds to leverage private nonprofit workforce
13 preparedness initiatives.

14 e. The linkage of workforce preparedness activities and initiatives,
15 and economic development planning.

16 (3) To recommend annually to the Governor biennial and annual
17 appropriations for workforce preparedness programs.

18 (4) To develop and update annually a comprehensive strategic workforce
19 preparedness plan.

20 (5) To serve as the human resource investment council for the State, as
21 permitted by federal law under Title VII of the federal Job Training
22 Reform Amendments of 1992.

23 (b) Membership. – The Council shall consist of 36 members. Members of the
24 Council shall include the following:

25 (1) Four members of the House of Representatives appointed by the
26 Speaker of the House of Representatives.

27 (2) Four members of the Senate appointed by the President Pro Tempore of
28 the Senate.

29 (3) The President of the Senate, or designee of the President of the Senate.

30 (4) The Commissioner of Labor, or designee.

31 (5) The Commissioner of Insurance, or designee.

32 (6) The President of The University of North Carolina, or designee.

33 (7) The President of the North Carolina Community College System, or
34 designee.

35 (8) The Secretary of Commerce.

36 (9) The Chairman of the Employment Security Commission.

37 (10) 21 additional members of the Council appointed by the Governor.

38 (c) Organization. – The Governor shall designate a chair and a vice-chair from
39 among the members of the Council. The Chairman of the Employment Security
40 Commission shall serve as secretary of the Council.

41 The initial appointments to the Council shall be for terms beginning on July 1, 1998.
42 Of the initial appointments made by the Governor, the terms shall expire July 1, 2002. Of
43 the initial appointments made by the Speaker of the House of Representatives and by the

1 President Pro Tempore of the Senate two appointments of each shall be designated to
2 expire on July 1, 2000; the remaining terms shall expire July 1, 2002. Thereafter, all
3 appointments shall be for a term of four years.

4 The appointing officer shall make a replacement appointment to serve for the
5 unexpired term in the case of a vacancy.

6 The members of the Council shall receive per diem and necessary travel and
7 subsistence expenses payable to members of State Boards and agencies generally
8 pursuant to G.S. 138-5 and G.S. 138-6, as the case may be. The members of the Council
9 who are members of the General Assembly shall not receive per diem but shall receive
10 necessary travel and subsistence expenses at rates prescribed by G.S. 120-3.1.

11 (d) Meetings. – The Council shall meet at least quarterly at the call of its chair or
12 the Secretary. Each quarter the Secretary shall report to the Council on the program and
13 progress of this State's workforce preparedness.

14 (e) Advice and Staff. – The Secretaries of Administration, State, and
15 Transportation, the Commissioner of Agriculture, and the State Treasurer, or their
16 designees, shall advise the Council on workforce preparedness and related activities
17 within the responsibility of their respective departments. Clerical and professional staff
18 support to the Council shall be provided by an Interagency Workforce Preparedness
19 Group composed of representatives of the following State agencies:

20 (1) The Employment Security Commission.

21 (2) The Department of Administration.

22 (3) The Department of Agriculture and Consumer Services.

23 (4) The Department of Commerce.

24 (5) The Department of Labor.

25 (6) The Department of Transportation.

26 The Employment Security Commission shall assist the Department of Community
27 Colleges with the responsibility for coordinating the activities and efforts of the
28 Interagency Workforce Preparedness Group.

29 (f) Council Supersedes Previous Commission on Workforce Preparedness. – The
30 Commission on Workforce Preparedness previously established as the human resources
31 investment council for the State is abolished and its authority, powers, duties, functions,
32 records, and unexpended balances of appropriations, allocations, or other funds, are
33 transferred to the Council."

34
35 PART III. EFFECTIVE DATE

36 Section 7. This act becomes effective July 1, 1998.