

26106550D

HOUSE BILL NO. 693

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on General Laws)

on _____)

(Patron Prior to Substitute—Delegate McAuliff)

A BILL to amend and reenact §§ 2.2-2035, 2.2-2041, 2.2-2046, 2.2-2472, 23.1-2907.2, 40.1-6, and 54.1-1131 of the Code of Virginia and to amend and reenact the seventh enactment of Chapter 624 and the seventh enactment of Chapter 625 of the Acts of Assembly of 2023, relating to Department of Workforce Development and Advancement; workforce development programs; apprenticeship program.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2035, 2.2-2041, 2.2-2046, 2.2-2472, 23.1-2907.2, 40.1-6, and 54.1-1131 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2035. Department of Workforce Development and Advancement; creation; appointment of Commissioner.

A. There is hereby created in the executive branch the Department of Workforce Development and Advancement. The Department shall be headed by the Commissioner of the Department of Workforce Development and Advancement who shall be appointed by the Governor, subject to confirmation by the General Assembly, to serve at the pleasure of the Governor.

B. The Department is the federally and state-designated agency responsible for workforce development in the Commonwealth, including oversight, coordination, and strategic direction of all related initiatives and programs conferred to the Department to ensure cohesive policy implementation and integration across public and private sectors.

B. C. The Commissioner may establish divisions within the Department and assign to such divisions any duties described in this chapter or otherwise imposed upon the Department.

§ 2.2-2041. Workforce program evaluations; sharing of certain data; prohibited uses; civil penalty.

A. To the extent permitted under state and federal law, the agencies specified in subsection D shall share data from within their respective databases to (i) develop meaningful analyses and evaluations of workforce programs required by subdivision B 8 of § 2.2-214.3 and clause (i) of subdivision B 10 of § 2.2-214.3; (ii) meet state and federal reporting requirements; (iii) improve coordination, outcomes, and efficiency across public workforce programs and partner organizations; (iv) enable the development of comprehensive consumer-facing software applications; (v) support requirements for performance-driven contracts; and (vi) support workforce initiatives developed by the General Assembly or the Governor.

B. Data shared pursuant to subsection A shall include only the identifying and attribute information required to match entities across programs, support the coordination of services, and evaluate outcomes, shall be encrypted, and shall be transmitted to the Governor or his designee. Upon receipt of such data, the Governor or his designee shall maintain the data in an encrypted state pursuant to § 2.2-2009 and restrict data sharing according to the Virginia Workforce Data Trust memorandum of understanding.

The agencies specified in subsection D shall enter into a memorandum of understanding supporting the Virginia Workforce Data Trust and the associated application ecosystem. Such memorandum of understanding shall include provisions for authorizing bona fide research requests that are related to the data sharing referenced in subsection A. In accordance with the governance process defined in such memorandum of understanding, the data sharing referenced in subsection A shall be accomplished by integrating additional organizations, systems, data elements, and functionality into the Virginia Workforce Data Trust.

C. The Governor or his designee and all agencies authorized under this section shall destroy or erase all shared data upon completion of all required evaluations and analyses. The Governor may retain a third-party entity to assist with the evaluation and analysis.

D. The data from the following agencies relating to workforce development programs, workforce education and training programs, and workforce services programs as those terms are defined in § 2.2-2036 shall be shared solely to achieve the purposes specified in subsection A:

1. Virginia Employment Commission: Unemployment Insurance;
2. Virginia Community College System: Postsecondary Career and Technical Education;
3. Department for Aging and Rehabilitative Services: Vocational Rehabilitation and Senior Community Services Employment Program;
4. Department for the Blind and Vision Impaired: Vocational Rehabilitation;
5. Department of Education: *Special Adult* Education and Career and Technical Education;
6. Department of Social Services: Supplemental Nutrition Assistance Program, Virginia Initiative for Education and Work;
7. Virginia Economic Development Partnership Authority: Virginia Jobs Investment Program;
8. Department of Juvenile Justice: Youth Industries and Institutional Work Programs, Career and

60 Technical Education Programs;
61 9. Department of Corrections: Career and Technical Education Programs;
62 10. The State Council of Higher Education for Virginia: *Innovative Internship Program and certifications, certificates, and degrees;*
63 11. Department of Veterans Services: Virginia Values Veterans;
64 12. Department of Workforce Development and Advancement: Apprenticeship, Job Service, Reemployment Services and Eligibility Assessment program, Trade Adjustment Assistance Program Act, Veterans Employment Training Programs, Innovative Internship Program, Workforce Innovation and Opportunity Act of 2014 (P.L. 113-128) Titles I and III, and other workforce development programs of the Department as determined by the Commissioner; and
70 13. Any other agencies as deemed necessary by the Secretary of Labor, the Chief Data Officer of the *Office of Data Governance and Analytics*, and the Commissioner.

72 E. Nothing in this section shall prohibit the inclusion of data from other sources deemed beneficial by the Secretary of Labor, the Chief Data Officer of the *Office of Data Governance and Analytics*, and the Commissioner.

75 F. Agencies participating in the Virginia Longitudinal Data System and the Virginia Workforce Data Trust shall meet annually and work with the Office of Data Governance and Analytics for the purpose of coordinating responses to changes in data collection of the participating agencies and the needs of the Commonwealth with respect to workforce development and education policy development. Subject to the approval by each participating agency, the Virginia Longitudinal Data System and the Virginia Workforce Data Trust may develop processes to facilitate intersystem operability and communication between the two entities for research and analysis purposes.

82 G. All agencies providing information to the Virginia Workforce Data Trust shall be prohibited from disclosing any personal information or data, except as required under this section or other state law or federal law, or to accomplish a proper purpose of the agency.

85 H. Any person alleging a violation of this section may bring a civil action for appropriate injunctive relief. A court rendering judgment in favor of a complainant pursuant to this subsection shall award all or a portion of the costs of litigation, including reasonable attorney fees and witness fees, to the complainant.

88 **§ 2.2-2046. Commissioner to administer article; requirements for certain programs.**

89 A. The Commissioner, with the advice and guidance of the Council, shall be responsible for administering the provisions of this article.

91 B. The Commissioner shall:

92 1. Approve, if approval is in the best interests of the apprentice, any apprenticeship agreement that meets the standards established under this article;

94 2. Terminate or cancel any apprenticeship agreement in accordance with the provisions of such agreement;

96 3. Keep a record of apprenticeship agreements and their disposition;

97 4. Issue certificates of completion upon the completion of the apprenticeship;

98 5. Initiate deregistration proceedings when an apprenticeship program is not conducted, operated, and administered in accordance with the registered provisions, except that deregistration proceedings for violation of equal opportunity requirements shall be processed in accordance with the provisions of the Virginia State Plan for Equal Employment Opportunity in Apprenticeship;

102 6. Establish policies governing the provision of apprenticeship-related instruction delivered by state and local public education agencies and provide for the administration and supervision of related and supplemental instruction for apprentices; and

105 7. Perform such other duties as are necessary to carry out the intent of this article.

106 C. Any apprenticeship program designed to prepare individuals to engage in a career as a tradesman shall be a program of registered apprenticeships that ~~meet~~ meets or exceeds the U.S. Department of Labor standards for registered apprenticeships, and such program shall meet or exceed the standards that were in place with the Apprenticeship Division of the ~~Virginia~~ Department of ~~Labor and Industry~~ Workforce Development and Advancement as of January 31, 2023. As used in this subsection, "tradesman" means an individual engaged in the electrical, plumbing and heating, ventilation and air conditioning, carpentry, pipe fitting, boiler making, iron working, steel working, painting, or welding profession.

113 D. No state agency or locality shall sponsor, recognize, or establish any apprenticeship program designed to prepare individuals to engage in a career as a tradesman unless such apprenticeship program meets the requirements established in subsection C.

116 **§ 2.2-2472. Powers and duties of the Board; Virginia Workforce System created.**

117 A. The Board shall implement a Virginia Workforce System that shall undertake the following actions to implement and foster workforce development and training and better align education and workforce programs to meet current and projected skills requirements of an increasingly technological, global workforce:

120 1. Provide policy advice to the Governor on workforce and workforce development issues in order to create a business-driven system that yields increasing rates of attainment of workforce credentials in demand

122 by business and increasing rates of jobs creation and attainment;

123 2. Provide policy direction to local workforce development boards;

124 3. Assist the Governor in the development, implementation, and modification of any combined state plan

125 developed pursuant to the WIOA;

126 4. Identify current and emerging statewide workforce needs of the business community;

127 5. Forecast and identify training requirements for the new workforce;

128 6. Recommend strategies to match trained workers with available jobs to include strategies for increasing

129 business engagement in education and workforce development;

130 7. Evaluate the extent to which the state's workforce development programs emphasize education and

131 training opportunities that align with employers' workforce needs and labor market statistics and report the

132 findings of this analysis to the Governor every two years;

133 8. Advise and oversee the development of a strategic workforce dashboard and tools that will inform the

134 Governor, policy makers, system stakeholders, and the public on issues such as state and regional labor

135 market conditions, the relationship between the supply and demand for workers, workforce program

136 outcomes, and projected employment growth or decline. The Department of Workforce Development and

137 Advancement, along with other workforce partners, shall provide data to populate the tools and dashboard;

138 9. Determine and publish a list of jobs, trades, and professions for which high demand for qualified

139 workers exists or is projected by the Department of Workforce Development and Advancement. The

140 Department of Workforce Development and Advancement shall support the Virginia Board of Workforce

141 Development in making such determination. Such information shall be published biennially and disseminated

142 to employers; education and training entities, including associate-degree-granting and baccalaureate public

143 institutions of higher education; government agencies, including the Department of Education and public

144 libraries; and other users in the public and private sectors;

145 10. Develop pay-for-performance contract strategy incentives for rapid reemployment services consistent

146 with the WIOA as an alternative model to traditional programs;

147 11. Conduct a review of budgets, which shall be submitted annually to the Board by each agency

148 conducting federal and state funded career and technical and adult education and workforce development

149 programs, that identify the agency's sources and expenditures of administrative, workforce education and

150 training, and support services for workforce development programs;

151 12. Review and recommend industry credentials that align with high demand occupations, which

152 credentials shall include a credential that determines career readiness;

153 13. Define the Board's role in certifying WIOA training providers, including those not subject to the

154 authority expressed in Article 3 (§ 23.1-213 et seq.) of Chapter 2 of Title 23.1;

155 14. Provide an annual report to the Governor concerning its actions and determinations under subdivisions

156 1 through 13;

157 15. Create quality standards, guidelines, and directives applicable to local workforce development boards

158 and the operation of one-stops, as necessary and appropriate to carry out the purposes of this article;

159 16. Conduct or cause to be conducted, on a biennial basis, an independent evaluation of the operational

160 and program objectives of the Department of Workforce Development and Advancement and submit a report

161 to the Governor and the General Assembly summarizing such evaluation; and

162 17. Perform any act or function in accordance with the purposes of this article.

163 B. The Board may establish such committees as it deems necessary

164 C. The Board, the Secretary of Labor, and the Governor's other Cabinet Secretaries shall assist the

165 Governor in complying with the provisions of the WIOA and ensuring the coordination and effectiveness of

166 all federal and state funded career and technical and adult education and workforce development programs

167 and providers within Virginia's Workforce System.

168 D. The Board shall assist the Governor in the following areas with respect to workforce development:

169 development of any combined state plan developed pursuant to the WIOA; development and continuous

170 improvement of a statewide workforce development system that ensures career readiness and coordinates and

171 aligns career and technical education, adult education, and federal and state workforce programs;

172 development of linkages to ensure coordination and nonduplication among programs and activities;

173 designation of local areas; development of local discretionary allocation formulas; development and

174 continuous improvement of comprehensive state performance measures including, without limitation,

175 performance measures reflecting the degree to which one-stop centers provide comprehensive services with

176 all mandatory partners and the degree to which local workforce development boards have obtained funding

177 from sources other than the WIOA; preparation of the annual report to the U.S. Secretary of Labor;

178 development of a statewide employment statistics system; and development of a statewide system of one-stop

179 centers that provide comprehensive workforce services to employers, employees, and job seekers.

180 The Board shall share information regarding its meetings and activities with the public.

181 E. Each local workforce development board shall develop and submit to the Governor and the Board an

182 annual workforce demand plan for its workforce development board area based on a survey of local and

183 regional businesses that reflects the local employers' needs and requirements and the availability of trained

184 workers to meet those needs and requirements. Local boards shall also designate or certify one-stop
185 operators; identify eligible providers of youth activities; develop a budget; conduct local oversight of
186 one-stop operators and training providers in partnership with its local chief elected official; negotiate local
187 performance measures, including incentives for good performance and penalties for inadequate performance;
188 assist in developing statewide employment statistics; coordinate workforce development activities with
189 economic development strategies and the annual demand plan, and develop linkages among them; develop
190 and enter into memoranda of understanding with one-stop partners and implement the terms of such
191 memoranda; promote participation by the private sector; actively seek sources of financing in addition to
192 WIOA funds; report performance statistics to the Board; and ~~certify~~ identify local training providers seeking
193 certification in accordance with criteria provided by the Board. Further, a local training provider certified by
194 any workforce development board has reciprocal certification for all workforce development boards.

195 F. Each workforce development board shall develop and execute a strategic plan designed to combine
196 public and private resources to support sector strategies, career pathways, and career readiness skills
197 development. Such initiatives shall include or address (i) a regional vision for workforce development; (ii)
198 protocols for planning workforce strategies that anticipate industry needs; (iii) the needs of incumbent and
199 underemployed workers in the region; (iv) the development of partners and guidelines for various forms of
200 on-the-job training, such as registered apprenticeships; (v) the setting of standards and metrics for operational
201 delivery; (vi) alignment of monetary and other resources, including private funds and in-kind contributions,
202 to support the workforce development system; and (vii) the generation of new sources of funding to support
203 workforce development in the region.

204 G. Local workforce development boards are encouraged to implement pay-for-performance contract
205 strategy incentives for rapid reemployment services consistent within the WIOA as an alternative model to
206 traditional programs. Such incentives shall focus on (i) partnerships that lead to placements of eligible job
207 seekers in unsubsidized employment and (ii) placement in unsubsidized employment for hard-to-serve job
208 seekers. At the discretion of the local workforce development board, funds to the extent permissible under §§
209 128(b) and 133(b) of the WIOA may be allocated for pay-for-performance partnerships.

210 H. Each chief local elected official shall consult with the Governor regarding designation of local
211 workforce development areas; appoint members to the local board in accordance with state criteria; serve as
212 the local grant recipient unless another entity is designated in the local plan; negotiate local performance
213 measures with the Governor; ensure that all mandated partners are active participants in the local workforce
214 development board and one-stop center; and collaborate with the local workforce development board on local
215 plans and program oversight.

216 I. Each local workforce development board shall develop and enter into a memorandum of understanding
217 concerning the operation of the one-stop delivery system in the local area with each entity that carries out any
218 of the following programs or activities:

- 219 1. Programs authorized under Title I of the WIOA;
- 220 2. Programs authorized under the Wagner-Peyser Act (29 U.S.C. § 49 et seq.);
- 221 3. Adult education and literacy activities authorized under Title II of the WIOA;
- 222 4. Programs authorized under Title I of the Rehabilitation Act of 1973 (29 U.S.C. § 720 et seq.);
- 223 5. Postsecondary career and technical education activities authorized under the Carl D. Perkins Vocational
224 and Applied Technology Education Act (20 U.S.C. § 2301 et seq.);
- 225 6. Activities authorized under Chapter 2 of Title II of the Trade Act of 1974 (19 U.S.C. § 2271 et seq.);
- 226 7. Activities pertaining to employment and training programs for veterans authorized under 38 U.S.C. §
227 4100 et seq.;
- 228 8. Programs authorized under Title 60.2, in accordance with applicable federal law;
- 229 9. Workforce development activities or work requirements of the Temporary Assistance to Needy
230 Families (TANF) program known in Virginia as the Virginia Initiative for Education and Work (VIEW)
231 established pursuant to § 63.2-608;
- 232 10. Workforce development activities or work programs authorized under the Food Stamp Act of 1977 (7
233 U.S.C. § 2011 et seq.);
- 234 11. Other programs or activities as required by the WIOA; and
- 235 12. Programs authorized under Title I of the WIOA.

236 J. The quorum for a meeting of a local workforce development board shall consist of a majority of both
237 the private sector and public sector members. Each local workforce development board shall share
238 information regarding its meetings and activities with the public.

239 K. For the purposes of implementing the WIOA, income from service in the Virginia National Guard shall
240 not disqualify unemployed service members from WIOA-related services.

241 L. The Secretary of Labor shall be responsible for the coordination of the Virginia Workforce System and
242 the implementation of the WIOA.

243 **§ 23.1-2907.2. Registered apprenticeships; uniform instruction.**

244 The System, in consultation with the Department of ~~Labor and Industry~~ Workforce Development and
245 Advancement, shall develop and deliver uniform, related instruction for registered apprenticeships in

246 high-demand programs, as determined occupations according to the list published annually by the Virginia
 247 Board of Workforce Development and the Virginia Employment Commission pursuant to § 2.2-2472, and for
 248 which coursework is not otherwise available. Such instruction shall be available statewide and shall be
 249 delivered in a face-to-face, online, or blended format.

250 **§ 40.1-6. Powers and duties of Commissioner.**

251 The Commissioner shall:

252 1. Have general supervision and control of the Department;

253 2. Enforce the provisions of this title and shall cause to be prosecuted all violations of law relating to
 254 employers or business establishments before any court of competent jurisdiction;

255 3. Make such rules and regulations as may be necessary for the enforcement of this title and procedural
 256 rules as are required to comply with the federal Occupational Safety and Health Act of 1970 (P.L. 91-596).
 257 All such rules and regulations shall be subject to Chapter 40 (§ 2.2-4000 et seq.) of Title 2.2;

258 4. In the discharge of his duties, have power to take and preserve testimony, examine witnesses, and
 259 administer oaths and to file a written or printed list of relevant interrogatories and require full and complete
 260 answers to the same to be returned under oath within 30 days of the receipt of such list of questions;

261 5. Have power to appoint such representatives as may be necessary to aid the Commissioner in his work,
 262 with the duties of such representatives to be prescribed by the Commissioner;

263 6. Determine the prevailing wage required to be paid under a public contract for public works as provided
 264 in § 2.2-4321.3 and perform all other duties imposed on the Commissioner under such section. Any
 265 determination of the prevailing wage rate made by the Commissioner shall be based on applicable prevailing
 266 wage rate determinations made by the U.S. Secretary of Labor under the provisions of the Davis-Bacon Act,
 267 40 U.S.C. § 276 et seq., as amended;

268 7. Have power to require that accident, injury, and occupational illness records and reports be kept at any
 269 place of employment and that such records and reports be made available to the Commissioner or his duly
 270 authorized representatives upon request, and to require employers to develop, maintain, and make available
 271 such other records and information as are deemed necessary for the proper enforcement of this title;

272 8. Have power, upon presenting appropriate credentials to the owner, operator, or agent in charge:

273 a. To enter without delay and at reasonable times any business establishment, construction site, or other
 274 area, workplace, or environment where work is performed by an employee of any employer in this
 275 Commonwealth; and

276 b. To inspect and investigate, during regular working hours and at other reasonable times and within
 277 reasonable limits and in a reasonable manner, without prior notice unless such notice is authorized by the
 278 Commissioner or his representative, any such business establishment or place of employment and all
 279 pertinent conditions, structures, machines, apparatus, devices, equipment, and materials therein, and to
 280 question privately any such employer, officer, owner, operator, agent, or employee. If such entry or
 281 inspection is refused, prohibited, or otherwise interfered with, the Commissioner shall have power to seek
 282 from a court having equity jurisdiction an order compelling such entry or inspection;

283 9. Make rules and regulations governing the granting of temporary or permanent variances from all
 284 standards promulgated by the Board under this title. Any interested or affected party may appeal to the Board,
 285 the Commissioner's determination to grant or deny such a variance. The Board may, as it sees fit, adopt,
 286 modify, or reject the determination of the Commissioner;

287 10. Have authority to issue orders to protect the confidentiality of all information reported to or otherwise
 288 obtained by the Commissioner, the Board, or the agents or employees of either that contains or might reveal a
 289 trade secret. Such information shall be confidential and shall be limited to those persons who need such
 290 information for purposes of enforcement of this title. Violations of such orders shall be punishable as civil
 291 contempt upon application to the Circuit Court of the City of Richmond. It shall be the duty of each employer
 292 to notify the Commissioner or his representatives of the existence of trade secrets where he desires the
 293 protection provided herein; and

294 11. Serve as executive officer of the Virginia Safety and Health Codes Board and of the Apprenticeship
 295 Council and see that the rules, regulations, and policies that they promulgate the Board promulgates are
 296 carried out.

297 **§ 54.1-1131. Exemptions.**

298 A. An individual certified or licensed by any one of the following agencies shall not be required to fulfill
 299 the examination requirement specified in § 54.1-1130 for a tradesman license:

300 1. The Board of Housing and Community Development prior to July 1, 1995.

301 2. Any local governing body prior to July 1, 1978.

302 3. An apprenticeship program which that is approved by the Commissioner of Labor and Industry
 303 Workforce Development and Advancement.

304 Individuals applying for a tradesman license between July 1, 1995, and July 1, 1998, shall be deemed to
 305 have fulfilled the examination requirement if they are able to demonstrate that they have the required number
 306 of years of discipline-free experience set forth in Board regulations.

307 B. Upon satisfactory evidence to the Board, the following individuals shall not be required to fulfill the

308 examination requirement specified in § 54.1-1130 to be certified as a backflow prevention device worker or
309 licensed as a liquefied petroleum gas fitter:

310 1. Individuals approved, or recognized as having expertise, by a local governing body prior to July 1,
311 1998, to perform backflow prevention device work;

312 2. Individuals applying for certification as a backflow prevention device worker between July 1, 1998, and
313 July 1, 1999, who are able to demonstrate that they have the required number of years of discipline-free
314 experience and education or training set forth in Board regulations; or

315 3. Individuals applying for licensure as a liquefied petroleum gas fitter within one year of the effective
316 date of the Board's final regulations, who are able to demonstrate that they have at least five years' experience
317 as a liquefied petroleum gas fitter.

318 C. The provisions of this article shall not apply to any individual who is performing work on (i) any ship,
319 boat, barge or other floating vessel or (ii) a single-family residence where the value of the work performed is
320 less than \$250 and such individual does not hold himself out to the general public as a tradesman.

321 D. Individuals applying for a natural gas fitter provider license within one year of the effective date of the
322 Board's final regulations, shall be deemed to have fulfilled the examination requirement if they are able to
323 demonstrate that they have five years' prior experience as a natural gas fitter provider.

324 E. Individuals applying for a natural gas fitter provider license between July 1, 1999, and July 1, 2004,
325 shall be deemed to have fulfilled the examination requirement if they are able to demonstrate that they have
326 at least five years' experience in an apprenticeship capacity under the direct supervision of a gas fitter.

327 F. Individuals applying for licensure as a liquefied petroleum gas fitter between July 1, 2000, and July 1,
328 2005, shall be deemed to have fulfilled the examination requirements if they are able to demonstrate that they
329 have at least five years' experience in an apprenticeship capacity under the direct supervision of a gas fitter.

330 **2. That the seventh enactment of Chapter 624 and the seventh enactment of Chapter 625 of the Acts of
331 Assembly of 2023 are amended and reenacted as follows:**

332 **7. That the regulations of the Virginia Community College System, the Virginia Employment
333 Commission, and the Department of Labor and Industry relating to any program, service, or function
334 be transferred to the Department of Workforce Development and Advancement (the Department),
335 established pursuant to § 2.2-2035 of the Code of Virginia, as created by this act, and shall be
336 administered by the Department and shall remain in full force and effect until the Department
337 promulgates regulations pursuant to this act. *The Department's initial adoption of regulations necessary
338 to implement the provisions of this act, and any additional regulations necessary to implement the
339 provisions of this act, shall be exempt from the Administrative Process Act (§ 2.2-4000 et seq. of the Code
340 of Virginia), provided that, prior to the final adoption of such regulations, the Department publishes in the
341 Virginia Register of Regulations and posts on the Virginia Regulatory Town Hall an action that provides
342 (i) a 30-day comment period; (ii) a summary of the proposed regulations, the text of the proposed
343 regulations, and the name, address, email address, and telephone number of the agency contact person
344 responsible for receiving public comments; and (iii) the statutory authority to promulgate the regulations.***