

# VIRGINIA ACTS OF ASSEMBLY -- 2024 SESSION

## CHAPTER 507

*An Act to amend and reenact §§ 2.2-2035, 2.2-2036, 2.2-2041, 2.2-2043 through 2.2-2046, 2.2-2049, 2.2-2050, 2.2-2052, 2.2-2472.2, 23.1-627.3, and 23.1-2911.2 of the Code of Virginia, relating to Department of Workforce Development and Advancement; Director.*

[S 436]

Approved April 4, 2024

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 2.2-2035, 2.2-2036, 2.2-2041, 2.2-2043 through 2.2-2046, 2.2-2049, 2.2-2050, 2.2-2052, 2.2-2472.2, 23.1-627.3, and 23.1-2911.2 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 ~~Director~~ *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 ~~Director~~ *Commissioner* may establish divisions within the Department and assign to such divisions any duties described in this chapter or otherwise imposed upon the Department.

**§ 2.2-2036. Definitions.**

As used in this chapter, unless the context requires a different meaning:

*"Commissioner" means the Commissioner of the Department of Workforce Development and Advancement.*

*"Council" means the Apprenticeship Council.*

*"Department" means the Department of Workforce Development and Advancement.*

~~*"Director" means the Director of Workforce Development and Advancement.*~~

*"Encrypted" means the same as that term is defined in § 18.2-186.6.*

*"Identifying information" means the same as that term is defined in § 18.2-186.3.*

*"Virginia Longitudinal Data System" means the multiagency partnership administered by the State Council of Higher Education for Virginia pursuant to subdivision 9 of § 23.1-203.*

*"Virginia Workforce Data Trust" means a workforce database maintained by the Department in an encrypted state in compliance with § 2.2-2009.*

*"Workforce development program" means a publicly funded education, training, and support services program designed and administered to prepare and enable participants to enter into and advance in careers. Such program may, but is not required to, lead to nondegree credentials and may fall under the administrative functions of the Department or reside in other agencies.*

*"Workforce education and training program" means a workforce development program offered by an education provider with the goal of providing an individual with a credential that leads to employment.*

*"Workforce services program" means a workforce development program that is primarily focused on providing, coordinating, and supporting services to assist individuals in attaining employment, including assistance with locating job opportunities, connecting to workforce education and training programs, and coordinating with other available supportive services.*

**§ 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 databases data~~ from the following agencies relating to ~~the specific programs identified in this subsection may~~ 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 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 Technical Education Programs;
9. Department of Corrections: Career and Technical Education Programs;
10. The State Council of Higher Education for Virginia: certifications, certificates, and degrees;
11. Department of Veterans Services: Virginia Values Veterans;
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 ~~Director~~ *Commissioner*; and
13. Any other agencies as deemed necessary by the Secretary of Labor, *the* Chief Data Officer, and ~~Director of the Department of Workforce Development and Advancement~~ *the Commissioner*.

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, and ~~Director of the Department of Workforce Development and Advancement~~ *the Commissioner*.

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.

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.

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.

#### **§ 2.2-2043. Definitions.**

As used in this article, unless the context requires a different meaning:

"Apprentice" means a person at least 16 years of age who is covered by a written agreement with an employer and approved by the ~~Director~~ *Commissioner*. The agreement shall provide for not less than 2,000 hours of reasonably continuous employment for such person, for his participation in an approved schedule of work experience through employment, and for the amount of related instruction required in the occupation.

"Apprenticeable occupation" means a skilled occupation having the following characteristics:

1. It is customarily learned in a practical way through a structured systematic program of on-the-job supervised work experience;
2. It is clearly identifiable and recognized throughout an industry;
3. It involves manual, mechanical, or technical skills that require a minimum of 2,000 hours of on-the-job work experience of new apprenticeable trades not otherwise established; and
4. It requires related instruction to supplement the on-the-job work experience.

"Employer" means any person or organization employing a registered apprentice, whether or not such

person or organization is a party to an apprenticeship agreement with a sponsor.

"Joint apprenticeship committee" means a group equally representative of management and labor representatives that works under a bargaining agreement and is established to carry out the administration of an apprenticeship training program.

"Sponsor" means either an individual employer, a group of employers, or an association or organization operating an apprenticeship program and in whose name the program is registered.

**§ 2.2-2044. Apprenticeship Council; membership and terms of office; meetings and duties; report.**

A. The Governor shall appoint an Apprenticeship Council composed of four representatives each from employer and employee organizations respectively *and two representatives of workforce training programs, one of whom shall represent an employee organization*, and all of whom shall be familiar with apprenticeable occupations. The ~~Director~~ *Commissioner*, the Chancellor of the Virginia Community College System, *the Director of the Department of Professional and Occupational Regulation, the Commissioner of the Department of Labor and Industry, and the Superintendent of Public Instruction* or their designated representatives, and a local superintendent from a school division that provides apprenticeship-related instruction shall be ex officio members of the Council. At the beginning of each year, the Governor shall designate one member to serve as chairman. Each member shall be appointed for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the remainder of such term. All members, including ex officio members, shall have voting privileges.

B. The Council shall meet *quarterly* at the call of the chairman of the Council and shall formulate policies for the effective administration of this article.

C. The Council shall establish standards for apprentice agreements that shall not be lower than those prescribed by this article and those established pursuant to Article 3 (§ 54.1-1128 et seq.) of Chapter 11 of Title 54.1 and shall perform such other functions as may be necessary to carry out the intent and purposes of this article. Not less than once a year, the Council shall make a report of its activities and findings to the General Assembly and to the public.

**§ 2.2-2045. Authority of Council.**

The Council may:

1. Determine standards for apprentice agreements, which standards shall not be lower than those prescribed by this article;
2. Appoint the secretary of the Council to act as secretary of each state joint apprenticeship committee;
3. Review decisions of local joint apprenticeship committees relating to apprenticeship disputes pursuant to subdivision C 3 of § 2.2-2047;
4. Perform such other duties as are necessary to carry out the intent of this article; and
5. Advise the ~~Director~~ *Commissioner* on policies to coordinate apprenticeship-related instruction delivered by state and local public education agencies.

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

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

B. The ~~Director~~ *Commissioner* shall:

1. Approve, if approval is in the best interests of the apprentice, any apprenticeship agreement that meets the standards established under this article;
2. Terminate or cancel any apprenticeship agreement in accordance with the provisions of such agreement;
3. Keep a record of apprenticeship agreements and their disposition;
4. Issue certificates of completion upon the completion of the apprenticeship;
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;
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
7. Perform such other duties as are necessary to carry out the intent of this article.

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 or exceed 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 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.

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.

**§ 2.2-2049. Requisites of apprentice agreement.**

Every apprentice agreement entered into under this article shall contain:

1. The names, signatures, and addresses of the contracting parties;
2. The date of birth of the apprentice;
3. The contact information of the program sponsor and the Division of Registered Apprenticeship;
4. A statement of the occupation or business that the apprentice is to be taught and the time at which the apprenticeship will begin and end;
5. A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related or supplemental instruction;
6. A statement setting forth a schedule of the processes in the occupation or industry division in which the apprentice is to be taught and the approximate time to be spent at each process;
7. A statement of the graduated scale of wages to be paid the apprentice and whether the required related instruction shall be compensated;
8. A statement providing for a period of probation of not less than 500 hours of employment and instruction extending over not less than four months, during which time the apprentice agreement shall be terminated by the ~~Director~~ *Commissioner* at the request in writing of either party, and providing that after such probationary period the apprentice agreement may be terminated by the ~~Director~~ *Commissioner* by mutual agreement of all parties thereto or cancelled by the ~~Director~~ *Commissioner* for good and sufficient reason;
9. A reference incorporating as part of the apprentice agreement the standards of the apprenticeship program as they exist on the date of the apprentice agreement and as they may be amended during the period of the apprentice agreement;
10. A statement that the apprentice will be accorded equal opportunity in all phases of apprenticeship employment and training without discrimination as provided in § 2.2-2048;
11. Contact information, including name, address, phone number, and email if appropriate, of the appropriate authority designated under the program to receive, process, and make disposition of controversies or differences arising out of the apprentice agreement when the controversies or differences cannot be adjusted locally or resolved in accordance with the established procedure or applicable collective bargaining provisions;
12. A provision that an employer who is unable to fulfill his obligation under the apprentice agreement may, with the approval of the ~~Director~~ *Commissioner*, transfer such contract to any other employer if (i) the apprentice consents, (ii) such other employer agrees to assume the obligations of the apprentice agreement, and (iii) the transfer is reported to the registration agency within 30 days of the transfer; and
13. Such additional terms and conditions as may be prescribed or approved by the ~~Director~~ *Commissioner* not inconsistent with the provisions of this article.

**§ 2.2-2050. Approval of apprentice agreement by Commissioner; signing.**

No apprentice agreement under this article shall be effective until approved by the ~~Director~~ *Commissioner*. Every apprentice agreement shall be signed by the employer, or by an association of employers or an organization of employees as provided in § 2.2-2052, and by the apprentice, and, if the apprentice is a minor, by the minor's parent, provided that if both parents are dead or legally incapable of giving consent or have abandoned their children, then by the guardian of the minor.

**§ 2.2-2052. Apprentice agreement signed by association of employers or organization of employees.**

For the purpose of providing greater diversity of training or continuity of employment, any apprentice agreement made under this article may in the discretion of the ~~Director~~ *Commissioner* be signed by an association of employers or an organization of employees instead of by an individual employer. In such a case, the apprentice agreement shall expressly provide that the association of employers or organization of employees does not assume the obligation of an employer but agrees to use its best endeavors to procure employment and training for such apprentice with one or more employers that will accept full responsibility, as herein provided, for all the terms and conditions of employment and training set forth in the agreement between the apprentice and employer association or employee organization during the period of each such employment. The apprentice agreement in such a case shall also expressly provide for the transfer of the apprentice, subject to the approval of the ~~Director~~ *Commissioner*, to such employer or employers as shall sign a written agreement with the apprentice, and if the apprentice is a minor with his parent or guardian, as specified in § 2.2-2050, contracting to employ the apprentice for the whole or a definite part of the total period of apprenticeship under the terms and conditions of employment and training set forth in the agreement entered into between the apprentice and the employer association or employee organization.

**§ 2.2-2472.2. Minimum levels of fiscal support from WIOA Adult and Dislocated Worker funds by local workforce development boards; incentives.**

- A. Each local workforce development board shall allocate a minimum of 40 percent of WIOA Adult

and Dislocated Worker funds to training services as defined under § 134(c)(3)(D) of the WIOA that lead to recognized postsecondary education and workforce credentials aligned with in-demand industry sectors or occupations in the local area or region. Beginning October 1, 2016, and biannually thereafter, the Secretary of Labor shall submit a report to the Board evaluating the rate of the expenditure of WIOA Adult and Dislocated Worker funds under this section.

B. Failure by a local workforce development board to meet the required training expenditure percentage requirement shall result in sanctions, to increase in severity for each year of noncompliance. These sanctions may include corrective action plans; ineligibility to receive state-issued awards, additional WIOA incentives, or sub-awards; the recapturing and reallocation of a percentage of the local area board's Adult and Dislocated Worker funds; or for boards with recurring noncompliance, development of a reorganization plan through which the Governor would appoint and certify a new local board.

C. The ~~Virginia Community College System~~ *Department of Workforce Development and Advancement*, in consultation with the Governor, shall develop a formula providing for 30 percent of WIOA Adult and Dislocated Worker funds reserved by the Governor for statewide activities to be used solely for providing incentives to postsecondary workforce training institutions through local workforce development boards to accelerate the increase of workforce credential attainment by participants. Fiscal incentive awards provided under this section must be expended on training activities that lead participants to a postsecondary education or workforce credential that is aligned with in-demand industry sectors or occupations within each local workforce area. Apprenticeship-related instruction shall be included as a qualifying training under this subsection if such instruction is provided through a postsecondary education institution.

**§ 23.1-627.3. New Economy Workforce Credential Grant Fund and Program established; administration.**

A. There is hereby created in the state treasury a special nonreverting fund to be known as the New Economy Workforce Credential Grant Fund. The Fund shall be established on the books of the Comptroller. All moneys appropriated by the General Assembly, and from any other sources, public or private, shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of disbursing moneys to eligible institutions for the award of grants pursuant to the Program. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the director of the Council.

B. There is hereby established a New Economy Workforce Credential Grant Program for the purpose of disbursing moneys from the Fund to eligible institutions for the award of grants to benefit students pursuant to this article.

C. The Council shall administer the Program and shall carry out the goals and purposes of the Program set forth in this article. In administering the Program, the Council (i) shall require eligible institutions to provide student-specific data and make final decisions on any dispute between eligible institutions and grant recipients; (ii) shall undertake periodic assessments of the overall success of the Program and recommend modifications, interventions, and other actions based on such assessment; and (iii) may adopt such regulations for the administration of the Program as it deems necessary and appropriate.

D. The Council shall instruct the Comptroller to annually disburse moneys to eligible institutions on a first-come, first-served basis as eligible students enroll in noncredit workforce training programs, giving priority to noncredit workforce training programs in high-demand fields in which employer demand is currently unmet by the available workforce. No more than one-quarter of the moneys in the Fund shall be disbursed annually to any eligible institution. The Council shall set forth the procedure by which eligible institutions shall notify the Council when eligible students enroll in noncredit workforce training programs identified by the governing board of the eligible institution pursuant to subsection E.

E. ~~The Board shall make recommendations to eligible institutions to help determine high-demand fields~~ *Office of Education and Labor Market Alignment, in consultation with the Virginia Board of Workforce Development, shall establish the high-demand fields* for which noncredit workforce training programs may be offered pursuant to the Program. The governing board of each eligible institution shall determine the noncredit workforce training programs offered pursuant to the Program.

**§ 23.1-2911.2. Get Skilled, Get a Job, Give Back Fund and Program.**

A. As used in this section, "high-demand field" means a discipline or field, as defined by the list established by the *Department of Workforce Development and Advancement based on analysis and evaluation provided by the Virginia Office of Education Economics*, in which there is a shortage of skilled workers to fill current and anticipated additional job vacancies.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Get Skilled, Get a Job, Give Back (G3) Fund, referred to in this section as "the Fund." The Fund shall be established on the books of the Comptroller. All gifts, donations, grants, bequests, and other funds

received on its behalf shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of providing financial assistance pursuant to subsection C. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Chancellor.

C. The System shall establish the Get Skilled, Get a Job, Give Back Program (G3 Program) for the purpose of providing financial assistance from the Fund to low-income and middle-income Virginia students who are enrolled in an educational program at an associate-degree-granting public institution of higher education that leads to an occupation in a high-demand field.

D. The Virginia Board of Workforce Development, in consultation with the System, the Council, and the staffs of the House Committee on Appropriations and Senate Committee on Finance and Appropriations, shall make recommendations to the Governor and General Assembly, no later than December 1 of each year, for additions or other changes to the high-demand fields that qualify for financial assistance under the G3 Program.

E. In order to be eligible for financial assistance under the G3 Program, an applicant shall (i) report a total household income that is not more than 400 percent of the federal poverty guidelines established by the U.S. Department of Health and Human Services; (ii) be enrolled or accepted for enrollment, (a) as a full-time student or a part-time student, for a minimum of six credit hours per semester, in a credit-bearing educational program or (b) in a noncredit educational program, at an associate-degree-granting public institution of higher education that leads to an occupation in a high-demand field; and (iii) have completed and submitted applications for any other federal or state student financial aid program for which the applicant may be eligible.

F. In order to remain eligible for financial assistance under the G3 Program, a participating student shall (i) meet standards for satisfactory academic progress and maintain the required grade point average established in Title IV of the federal Higher Education Act of 1965, as amended; (ii) demonstrate reasonable progress to complete his specific program of study to earn an associate degree in no more than three years; and (iii) not exceed 150 percent of the required credits for the relevant certificate or degree.

G. Each financial assistance award under the G3 Program shall consist of (i) a grant up to the amount necessary to pay for the last-dollar cost of the institution's tuition and mandatory fees and a textbook stipend after all other federal and state financial aid to which the student is entitled is taken into account and (ii) for any student who is enrolled full time and receives a full Federal Pell Grant, a student-support incentive grant as provided in the general appropriation act. Each student-support incentive grant shall be disbursed in two equal payments, the first of which shall occur after the census date for the enrollment period is reached and the second of which shall occur at the end of the academic term for which the student receives the grant, provided, however, that no student who withdraws from or otherwise stops attending the institution during such term shall receive additional payments and that each such student shall be subject to repayment of the funds already received in accordance with state financial aid policies.

H. Each eligible institution that participates in the G3 Program shall provide academic and career advising to all students enrolled in the G3 Program.

I. No later than September 1 of each year, each associate-degree-granting public institution of higher education shall submit to the Council and the System a report with data from the previous fiscal year on student participation in and completion of the G3 Program, including (i) data on student enrollment, student retention rates between academic terms and years, and student wages, including median wages prior to enrollment and one year after completion of a credential or degree and wage rates of students who have not enrolled in over a year and did not complete a credential, and (ii) a comparison of job demand and completion rates. Such data shall be disaggregated by program of study and student income level at the start of participation in the G3 program. The Council and System shall work collaboratively to compile the data provided by each associate-degree-granting public institution of higher education and annually report such data, in the aggregate and by program of study, institution, and student income level at the start of participation in the G3 program, to the Governor and the Chairmen of the House Committee on Appropriations, the Senate Committee on Finance and Appropriations, the House Committee on Education, and the Senate Committee on Education and Health.

J. No later than September 1 of each year, each associate-degree-granting public institution of higher education that participates in the G3 Program shall adopt and amend, as necessary, policies and procedures to ensure that student participation in the G3 Program does not cause financial assistance awards to exceed funds available for such purpose.