

administrative authority over the program or activity under that Federal law.

(Pub. L. 113–128, title I, §103, July 22, 2014, 128 Stat. 1450.)

Editorial Notes

REFERENCES IN TEXT

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsecs. (a)(2)(A) and (c)(4), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

The Social Security Act, referred to in subsec. (a)(2)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title IV of the Act is classified generally to part A (§601 et seq.) of subchapter IV of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Trade Act of 1974, referred to in subsec. (a)(2)(E), is Pub. L. 93–618, Jan. 3, 1975, 88 Stat. 1978. Chapter 2 of title II of the Act is classified generally to part 2 (§2271 et seq.) of subchapter II of chapter 12 of Title 19, Customs Duties. For complete classification of this Act to the Code, see section 2101 of Title 19 and Tables.

The Older Americans Act of 1965, referred to in subsec. (a)(2)(H), is Pub. L. 89–73, July 14, 1965, 79 Stat. 218, which is classified generally to chapter 35 (§3001 et seq.) of Title 42, The Public Health and Welfare. Title V of the Act, known as the Community Service Senior Opportunities Act, is classified generally to subchapter IX (§3056 et seq.) of chapter 35 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

The Community Services Block Grant Act, referred to in subsec. (a)(2)(J), is subtitle B (§671 et seq.) of title VI of Pub. L. 97–35, Aug. 13, 1981, 95 Stat. 511, which is classified generally to chapter 106 (§9901 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of Title 42 and Tables.

Section 60532 of title 34, referred to in subsec. (a)(2)(K), was repealed by Pub. L. 115–391, title V, §504(a), Dec. 21, 2018, 132 Stat. 5233.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as a note under section 3101 of this title.

SUBPART 2—LOCAL PROVISIONS

§ 3121. Workforce development areas

(a) Regions

(1) Identification

Before the second full program year after July 22, 2014, in order for a State to receive an allotment under section 3162(b) or 3172(b) of this title and as part of the process for developing the State plan, a State shall identify regions in the State after consultation with the local boards and chief elected officials in the local areas and consistent with the considerations described in subsection (b)(1)(B).

(2) Types of regions

For purposes of this Act, the State shall identify—

(A) which regions are comprised of 1 local area that is aligned with the region;

(B) which regions are comprised of 2 or more local areas that are (collectively) aligned with the region (referred to as planning regions, consistent with section 3102 of this title); and

(C) which, of the regions described in subparagraph (B), are interstate areas contained within 2 or more States, and consist of labor market areas, economic development areas, or other appropriate contiguous subareas of those States.

(b) Local areas

(1) In general

(A) Process

Except as provided in subsection (d), and consistent with paragraphs (2) and (3), in order for a State to receive an allotment under section 3162(b) or 3172(b) of this title, the Governor of the State shall designate local workforce development areas within the State—

(i) through consultation with the State board; and

(ii) after consultation with chief elected officials and local boards, and after consideration of comments received through the public comment process as described in section 3112(b)(2)(E)(iii)(II) of this title.

(B) Considerations

The Governor shall designate local areas (except for those local areas described in paragraphs (2) and (3)) based on considerations consisting of the extent to which the areas—

(i) are consistent with labor market areas in the State;

(ii) are consistent with regional economic development areas in the State; and

(iii) have available the Federal and non-Federal resources necessary to effectively administer activities under part B and other applicable provisions of this Act, including whether the areas have the appropriate education and training providers, such as institutions of higher education and area career and technical education schools.

(2) Initial designation

During the first 2 full program years following July 22, 2014, the Governor shall approve a request for initial designation as a local area from any area that was designated as a local area for purposes of the Workforce Investment Act of 1998 for the 2-year period preceding July 22, 2014, performed successfully, and sustained fiscal integrity.

(3) Subsequent designation

After the period for which a local area is initially designated under paragraph (2), the Governor shall approve a request for subsequent designation as a local area from such local area, if such area—

(A) performed successfully;

(B) sustained fiscal integrity; and

(C) in the case of a local area in a planning region, met the requirements described in subsection (c)(1).

(4) Designation on recommendation of State board

The Governor may approve a request from any unit of general local government (including a combination of such units) for designation of an area as a local area if the State board determines, based on the considerations described in paragraph (1)(B), and recommends to the Governor, that such area should be so designated.

(5) Areas served by rural concentrated employment programs

The Governor may approve, under paragraph (2) or (3), a request for designation as a local area from an area described in section 3122(c)(1)(C) of this title.

(6) Appeals

A unit of general local government (including a combination of such units) or grant recipient that requests but is not granted designation of an area as a local area under paragraph (2) or (3) may submit an appeal to the State board under an appeal process established in the State plan. If the appeal does not result in such a designation, the Secretary of Labor, after receiving a request for review from the unit or grant recipient and on determining that the unit or grant recipient was not accorded procedural rights under the appeals process described in the State plan, as specified in section 3112(b)(2)(D)(i)(III) of this title, or that the area meets the requirements of paragraph (2) or (3), may require that the area be designated as a local area under such paragraph.

(7) Redesignation assistance

On the request of all of the local areas in a planning region, the State shall provide funding from funds made available under sections 3163(a) and 3173(a)(1) of this title to assist the local areas in carrying out activities to facilitate the redesignation of the local areas to a single local area.

(c) Regional coordination

(1) Regional planning

The local boards and chief elected officials in each planning region described in subparagraph (B) or (C) of subsection (a)(2) shall engage in a regional planning process that results in—

- (A) the preparation of a regional plan, as described in paragraph (2);
- (B) the establishment of regional service strategies, including use of cooperative service delivery agreements;
- (C) the development and implementation of sector initiatives for in-demand industry sectors or occupations for the region;
- (D) the collection and analysis of regional labor market data (in conjunction with the State);
- (E) the establishment of administrative cost arrangements, including the pooling of funds for administrative costs, as appropriate, for the region;
- (F) the coordination of transportation and other supportive services, as appropriate, for the region;

(G) the coordination of services with regional economic development services and providers; and

(H) the establishment of an agreement concerning how the planning region will collectively negotiate and reach agreement with Governor¹ on local levels of performance for, and report on, the performance accountability measures described in section 3141(c) of this title, for local areas or the planning region.

(2) Regional plans

The State, after consultation with local boards and chief elected officials for the planning regions, shall require the local boards and chief elected officials within a planning region to prepare, submit, and obtain approval of a single regional plan that includes a description of the activities described in paragraph (1) and that incorporates local plans for each of the local areas in the planning region. The State shall provide technical assistance and labor market data, as requested by local areas, to assist with such regional planning and subsequent service delivery efforts.

(3) References

In this Act, and the core program provisions that are not in this Act:

(A) Local area

Except as provided in section 3111(d)(9) of this title, this section, paragraph (1)(B) or (4) of section 3122(c) of this title, or section 3122(d)(12)(B) of this title, or in any text that provides an accompanying provision specifically for a planning region, the term “local area” in a provision includes a reference to a planning region for purposes of implementation of that provision by the corresponding local areas in the region.

(B) Local plan

Except as provided in this subsection, the term “local plan” includes a reference to the portion of a regional plan developed with respect to the corresponding local area within the region, and any regionwide provision of that plan that impacts or relates to the local area.

(d) Single State local areas

(1) Continuation of previous designation

The Governor of any State that was a single State local area for purposes of title I of the Workforce Investment Act of 1998, as in effect on July 1, 2013, may designate the State as a single State local area for purposes of this subchapter. In the case of such designation, the Governor shall identify the State as a local area in the State plan.

(2) Effect on local plan and local functions

In any case in which a State is designated as a local area pursuant to this subsection, the local plan prepared under section 3123 of this title for the area shall be submitted for approval as part of the State plan. In such a State, the State board shall carry out the functions of a local board, as specified in this

¹ So in original.

Act or the provisions authorizing a core program, but the State shall not be required to meet and report on a set of local performance accountability measures.

(e) Definitions

For purposes of this section:

(1) Performed successfully

The term “performed successfully”, used with respect to a local area, means the local area met or exceeded the adjusted levels of performance for primary indicators of performance described in section 3141(b)(2)(A) of this title (or, if applicable, core indicators of performance described in section 136(b)(2)(A) of the Workforce Investment Act of 1998 [29 U.S.C. 2871(b)(2)(A)], as in effect the day before July 22, 2014) for each of the last 2 consecutive years for which data are available preceding the determination of performance under this paragraph.

(2) Sustained fiscal integrity

The term “sustained fiscal integrity”, used with respect to a local area, means that the Secretary has not made a formal determination, during either of the last 2 consecutive years preceding the determination regarding such integrity, that either the grant recipient or the administrative entity of the area misexpended funds provided under part B (or, if applicable, title I of the Workforce Investment Act of 1998 as in effect prior to the effective date of such part B) due to willful disregard of the requirements of the provision involved, gross negligence, or failure to comply with accepted standards of administration.

(Pub. L. 113–128, title I, §106, July 22, 2014, 128 Stat. 1452; Pub. L. 114–18, §2(a)(1), May 22, 2015, 129 Stat. 213.)

Editorial Notes

REFERENCES IN TEXT

This Act, referred to in subsecs. (a)(2), (b)(1)(B)(iii), (c)(3), and (d)(2), is Pub. L. 113–128, July 22, 2014, 128 Stat. 1425, known as the Workforce Innovation and Opportunity Act, which enacted this chapter, repealed chapter 30 (§2801 et seq.) of this title and chapter 73 (§9201 et seq.) of Title 20, Education, and made amendments to numerous other sections and notes in the Code. For complete classification of this Act to the Code, see Short Title note set out under section 3101 of this title and Tables.

The Workforce Investment Act of 1998, referred to in subsecs. (b)(2), (d)(1), and (e)(2), is Pub. L. 105–220, Aug. 7, 1998, 112 Stat. 936, and was repealed by Pub. L. 113–128, title V, §§506, 511(a), July 22, 2014, 128 Stat. 1703, 1705, effective July 1, 2015. Title I of the Act was classified principally to chapter 30 (§2801 et seq.) of this title. For complete classification of this Act to the Code, see Tables.

The effective date of such part B, referred to in subsec. (e)(2), is the first day of the first full program year after July 22, 2014 [probably July 1, 2015], see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of this title.

AMENDMENTS

2015—Subsec. (b)(5) to (7). Pub. L. 114–18 added par. (5) and redesignated former pars. (5) and (6) as (6) and (7), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114–18 effective as if included in the Workforce Innovation and Opportunity Act [Pub. L. 113–128], see §2(f) of Pub. L. 114–18, set out as a note under section 3112 of this title.

EFFECTIVE DATE

Section effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as a note under section 3101 of this title.

§ 3122. Local workforce development boards

(a) Establishment

Except as provided in subsection (c)(2)(A), there shall be established, and certified by the Governor of the State, a local workforce development board in each local area of a State to carry out the functions described in subsection (d) (and any functions specified for the local board under this Act or the provisions establishing a core program) for such area.

(b) Membership

(1) State criteria

The Governor, in partnership with the State board, shall establish criteria for use by chief elected officials in the local areas for appointment of members of the local boards in such local areas in accordance with the requirements of paragraph (2).

(2) Composition

Such criteria shall require that, at a minimum—

(A) a majority of the members of each local board shall be representatives of business in the local area, who—

(i) are owners of businesses, chief executives or operating officers of businesses, or other business executives or employers with optimum policymaking or hiring authority;

(ii) represent businesses, including small businesses, or organizations representing businesses described in this clause, that provide employment opportunities that, at a minimum, include high-quality, work-relevant training and development in in-demand industry sectors or occupations in the local area; and

(iii) are appointed from among individuals nominated by local business organizations and business trade associations;

(B) not less than 20 percent of the members of each local board shall be representatives of the workforce within the local area, who—

(i) shall include representatives of labor organizations (for a local area in which employees are represented by labor organizations), who have been nominated by local labor federations, or (for a local area in which no employees are represented by such organizations) other representatives of employees;

(ii) shall include a representative, who shall be a member of a labor organization or a training director, from a joint labor-management apprenticeship program, or if