

**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.

**§ 3249. Secretarial administrative authorities and responsibilities**

**(a) In general**

In accordance with chapter 5 of title 5, the Secretary may prescribe rules and regulations to carry out this subchapter, only to the extent necessary to administer and ensure compliance with the requirements of this subchapter. Such rules and regulations may include provisions making adjustments authorized by section 6504 of title 31. All such rules and regulations shall be published in the Federal Register at least 30 days prior to their effective dates. Copies of each such rule or regulation shall be transmitted to the appropriate committees of Congress on the date of such publication and shall contain, with respect to each material provision of such rule or regulation, a citation to the particular substantive section of law that is the basis for the provision.

**(b) Acquisition of certain property and services**

The Secretary is authorized, in carrying out this subchapter, to accept, purchase, or lease in the name of the Department of Labor, and employ or dispose of in furtherance of the purposes of this subchapter, any money or property, real, personal, or mixed, tangible or intangible, received by gift, devise, bequest, or otherwise, and to accept voluntary and uncompensated services notwithstanding the provisions of section 1342 of title 31.

**(c) Authority to enter into certain agreements and to make certain expenditures**

The Secretary may make such grants, enter into such contracts or agreements, establish such procedures, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend such funds under this subchapter, as may be necessary to carry out this subchapter, including making expenditures for construction, repairs, and capital improvements, and including making necessary adjustments in payments on account of over-payments or underpayments.

**(d) Annual report**

The Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate an annual report regarding the programs and activities funded under this subchapter. The Secretary shall include in such report—

(1) a summary of the achievements, failures, and challenges of the programs and activities in meeting the objectives of this subchapter;

(2) a summary of major findings from research, evaluations, pilot projects, and experiments conducted under this subchapter in the fiscal year prior to the submission of the report;

(3) recommendations for modifications in the programs and activities based on analysis of such findings; and

(4) such other recommendations for legislative or administrative action as the Secretary determines to be appropriate.

**(e) Utilization of services and facilities**

The Secretary is authorized, in carrying out this subchapter, under the same procedures as are applicable under subsection (c) or to the extent permitted by law other than this subchapter, to accept and use the services and facilities of departments, agencies, and establishments of the United States. The Secretary is also authorized, in carrying out this subchapter, to accept and use the services and facilities of the agencies of any State or political subdivision of a State, with the consent of the State or political subdivision.

**(f) Obligational authority**

Notwithstanding any other provision of this subchapter, the Secretary shall have no authority to enter into contracts, grant agreements, or other financial assistance agreements under this subchapter, except to such extent and in such amounts as are provided in advance in appropriations Acts.

**(g) Program year**

**(1) In general**

**(A) Program year**

Except as provided in subparagraph (B), appropriations for any fiscal year for programs and activities funded under this subchapter shall be available for obligation only on the basis of a program year. The program year shall begin on July 1 in the fiscal year for which the appropriation is made.

**(B) Youth workforce investment activities**

The Secretary may make available for obligation, beginning April 1 of any fiscal year, funds appropriated for such fiscal year to carry out youth workforce investment activities under part B and activities under section 3226 of this title.

**(2) Availability**

**(A) In general**

Funds obligated for any program year for a program or activity funded under part B may be expended by each State receiving such funds during that program year and the 2 succeeding program years. Funds received by local areas from States under part B during a program year may be expended during that program year and the succeeding program year.

**(B) Certain national activities**

**(i) In general**

Funds obligated for any program year for any program or activity carried out under section 3224 of this title shall remain available until expended.

**(ii) Incremental funding basis**

A contract or arrangement entered into under the authority of subsection (a) or (b) of section 3224 of this title (relating to

evaluations, research projects, studies and reports, and multistate projects), including a long-term, nonseverable services contract, may be funded on an incremental basis with annual appropriations or other available funds.

**(C) Special rule**

No amount of the funds obligated for a program year for a program or activity funded under this subchapter shall be deobligated on account of a rate of expenditure that is consistent with a State plan, an operating plan described in section 3201 of this title, or a plan, grant agreement, contract, application, or other agreement described in part D, as appropriate.

**(D) Funds for pay-for-performance contract strategies**

Funds used to carry out pay-for-performance contract strategies by local areas shall remain available until expended.

**(h) Enforcement of Military Selective Service Act**

The Secretary shall ensure that each individual participating in any program or activity established under this subchapter, or receiving any assistance or benefit under this subchapter, has not violated section 3 of the Military Selective Service Act (50 U.S.C. App. 453) [now 50 U.S.C. 3802] by not presenting and submitting to registration as required pursuant to such section. The Director of the Selective Service System shall cooperate with the Secretary to enable the Secretary to carry out this subsection.

**(i) Waivers**

**(1) Special rule regarding designated areas**

A State that has enacted, not later than December 31, 1997, a State law providing for the designation of service delivery areas for the delivery of workforce investment activities, may use such areas as local areas under this subchapter, notwithstanding section 3121 of this title.

**(2) Special rule regarding sanctions**

A State that has enacted, not later than December 31, 1997, a State law providing for the sanctioning of such service delivery areas for failure to meet performance accountability measures for workforce investment activities, may use the State law to sanction local areas for failure to meet State performance accountability measures under this subchapter.

**(3) General waivers of statutory or regulatory requirements**

**(A) General authority**

Notwithstanding any other provision of law, the Secretary may waive for a State, or a local area in a State, pursuant to a request submitted by the Governor of the State (in consultation with appropriate local elected officials) with a plan that meets the requirements of subparagraph (B)—

(i) any of the statutory or regulatory requirements of part A, part B, or this part (except for requirements relating to wage and labor standards, including non-displacement protections, worker rights,

participation and protection of workers and participants, grievance procedures and judicial review, nondiscrimination, allocation of funds to local areas, eligibility of providers or participants, the establishment and functions of local areas and local boards, the funding of infrastructure costs for one-stop centers, and procedures for review and approval of plans, and other requirements relating to the basic purposes of this subchapter); and

(ii) any of the statutory or regulatory requirements of sections 49g through 49i of this title (excluding requirements relating to the provision of services to unemployment insurance claimants and veterans, and requirements relating to universal access to basic labor exchange services without cost to jobseekers).

**(B) Requests**

A Governor requesting a waiver under subparagraph (A) shall submit a plan to the Secretary to improve the statewide workforce development system that—

(i) identifies the statutory or regulatory requirements that are requested to be waived and the goals that the State or local area in the State, as appropriate, intends to achieve as a result of the waiver;

(ii) describes the actions that the State or local area, as appropriate, has undertaken to remove State or local statutory or regulatory barriers;

(iii) describes the goals of the waiver and the expected programmatic outcomes if the request is granted;

(iv) describes the individuals impacted by the waiver; and

(v) describes the process used to monitor the progress in implementing such a waiver, and the process by which notice and, in the case of a waiver for a local area, an opportunity to comment on such request has been provided to the local board for the local area for which the waiver is requested.

**(C) Conditions**

Not later than 90 days after the date of the original submission of a request for a waiver under subparagraph (A), the Secretary shall provide a waiver under this subsection if and only to the extent that—

(i) the Secretary determines that the requirements requested to be waived impede the ability of the State or local area, as appropriate, to implement the plan described in subparagraph (B); and

(ii) the State has executed a memorandum of understanding with the Secretary requiring such State to meet, or ensure that the local area for which the waiver is requested meets, agreed-upon outcomes and to implement other appropriate measures to ensure accountability.

**(D) Expedited determination regarding provision of waivers**

If the Secretary has approved a waiver of statutory or regulatory requirements for a State or local area pursuant to this sub-

section, the Secretary shall expedite the determination regarding the provision of that waiver, for another State or local area if such waiver is in accordance with the approved State or local plan, as appropriate.

(Pub. L. 113-128, title I, §189, July 22, 2014, 128 Stat. 1599.)

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##### 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.

### § 3250. Workforce flexibility plans

#### (a) Plans

A State may submit to the Secretary, and the Secretary may approve, a workforce flexibility plan under which the State is authorized to waive, in accordance with the plan—

(1) any of the statutory or regulatory requirements applicable under this subchapter to local areas, pursuant to applications for such waivers from the local areas, except for requirements relating to the basic purposes of this subchapter, wage and labor standards, grievance procedures and judicial review, non-discrimination, eligibility of participants, allocation of funds to local areas, establishment and functions of local areas and local boards, procedures for review and approval of local plans, and worker rights, participation, and protection;

(2) any of the statutory or regulatory requirements applicable under sections 49g through 49i of this title to the State (excluding requirements relating to the provision of services to unemployment insurance claimants and veterans, and requirements relating to universal access to basic labor exchange services without cost to jobseekers); and

(3) any of the statutory or regulatory requirements applicable under the Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) to State agencies on aging with respect to activities carried out using funds allotted under section 506(b) of such Act (42 U.S.C. 3056d(b)), except for requirements relating to the basic purposes of such Act, wage and labor standards, eligibility of participants in the activities, and standards for grant agreements.

#### (b) Content of plans

A workforce flexibility plan implemented by a State under subsection (a) shall include descriptions of—

(1)(A) the process by which local areas in the State may submit and obtain approval by the State of applications for waivers of requirements applicable under this subchapter; and

(B) the requirements described in subparagraph (A) that are likely to be waived by the State under the plan;

(2) the requirements applicable under sections 49g through 49i of this title that are proposed to be waived, if any;

(3) the requirements applicable under the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.] that are proposed to be waived, if any;

(4) the outcomes to be achieved by the waivers described in paragraphs (1) through (3); and

(5) other measures to be taken to ensure appropriate accountability for Federal funds in connection with the waivers.

#### (c) Periods

The Secretary may approve a workforce flexibility plan for a period of not more than 5 years.

#### (d) Opportunity for public comments

Prior to submitting a workforce flexibility plan to the Secretary for approval, the State shall provide to all interested parties and to the general public adequate notice of and a reasonable opportunity for comment on the waiver requests proposed to be implemented pursuant to such plan.

(Pub. L. 113-128, title I, §190, July 22, 2014, 128 Stat. 1602.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Older Americans Act of 1965, referred to in subsecs. (a)(3) and (b)(3), 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. For complete classification of this Act to the Code, see Short Title note set out under section 3001 of Title 42 and Tables.

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##### WORKFORCE FLEXIBILITY PARTNERSHIP DEMONSTRATION PROGRAM

Pub. L. 105-78, title I, Nov. 13, 1997, 111 Stat. 1469, provided in part: "That the Secretary of Labor shall establish a workforce flexibility (work-flex) partnership demonstration program under which the Secretary shall authorize not more than six States, of which at least three States shall each have populations not in excess of 3,500,000, with a preference given to those States that have been designated Ed-Flex Partnership States under section 311(e) of Public Law 103-227 [former 20 U.S.C. 5891(e)], to waive any statutory or regulatory requirement applicable to service delivery areas or substate areas within the State under titles I-III of the Job Training Partnership Act [former 29 U.S.C. 1511 et seq., 1601 et seq., 1651 et seq.] (except for requirements relating to wage and labor standards, grievance procedures and judicial review, non-discrimination, allotment of funds, and eligibility), and any of the statutory or regulatory requirements of sections 8-10 of the Wagner-Peyser Act [29 U.S.C. 49g-49i] (except for requirements relating to the provision of services to unemployment insurance claimants and veterans, and to universal access to basic labor exchange services without cost to job seekers), for a duration not to exceed the waiver period authorized under section 311(e) of Public Law 103-227, pursuant to a plan submitted by such States and approved by the Secretary for the provision of workforce employment and training activities in the States, which includes a description of the process by which service delivery areas and substate areas may apply for and have waivers approved by the State, the requirements of the Wagner-Peyser Act [29 U.S.C. 49 et seq.] to be waived, the outcomes to be achieved and other measures to be taken to ensure appropriate accountability for Federal funds."