



**NORTH CAROLINA DEPARTMENT OF COMMERCE
DIVISION OF WORKFORCE SOLUTIONS**

DWS POLICY STATEMENT NUMBER: PS 15-2013

Date: August 16, 2013

**Subject: Enactment of Requirement for Local Workforce
Development Boards to Use Competitive Selection
Process**

From:

Roger Shackleford, Assistant Secretary

Purpose: To inform Local Workforce Development Boards of changes to North Carolina General Statutes 143B-438.11 to include the addition of a requirement that Boards use a competitive selection process for providers of Workforce Investment Act (WIA) Adult and Dislocated Worker services.

Background: In the 2013 session of the North Carolina General Assembly, Senate Bill 73 (attached) was ratified. Governor Pat McCrory signed the bill into law on July 23, 2013. The bill includes the following additional item to the list of Local Workforce Development Board duties found in N.C. General Statutes 143B-438.11 *“(7a) To designate through a competitive selection process, by no later than July 1, 2014, the providers of adult and dislocated worker services authorized in the Workforce Investment Act of 1998.”*

Action: Local Workforce Development Boards must follow all applicable federal, state and local procurement requirements in selecting service providers to deliver services funded by WIA resources. Federal requirements include, but are not limited to,

- 1) United States Office of Management and Budget (OMB) Circular A-87 (revised) which establishes principles and standards for determining costs for all Federal awards carried out by state and local governments; and
- 2) WIA Sections 118(b)(9) and Federal Regulations 20 CFR 652.

Local Workforce Development Boards are to comply with N.C. General Statutes 143B-438.11 by maintaining transparency, documentation and an ‘arm’s length’ financial transaction approach, consistent with Generally Accepted Accounting Principles, in their competitive selection process.

Local Workforce Development Boards are also reminded that WIA-funded services to Youth must be competitively procured per WIA Section 117(d)(2)(B). Exceptions to any required competitive procurement may be found in WIA Sections 117(f)(1)(A) and 117(f)(1)(B), and Section 661.310 of the WIA Final Rules.

The Division of Workforce Solutions will provide oversight of compliance through:

- 1) Local Area Workforce Development Plan Instructions and review of responses outlining procurement procedures;
- 2) monitoring activities including direct site visits;
- 3) oversight summary reports; and
- 4) review of actions related to the Local Workforce Development Boards' adherence to *Local Area Issuance No. 2009-10 'Procurement and Contracting Policy'* and any subsequent revisions.

Effective Date: Immediately

Expiration: Indefinitely

Contact: Assigned Division Field Services Financial Representative

Attachment: N.C. Senate Bill 73

Rescinded

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 73
House Committee Substitute Favorable 7/15/13

Short Title: Local Workforce Dev./Dislocated Workers. (Public)

Sponsors:

Referred to:

February 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THAT LOCAL WORKFORCE DEVELOPMENT BOARDS USE A
3 COMPETITIVE SELECTION PROCESS TO AWARD ADULT AND DISLOCATED
4 WORKER SERVICES PROVIDER CONTRACTS AUTHORIZED IN THE
5 WORKFORCE INVESTMENT ACT OF 1998 AND TO TRANSFER THE
6 APPRENTICESHIP PROGRAM TO THE DEPARTMENT OF COMMERCE.

7 The General Assembly of North Carolina enacts:

8 SECTION 1. G.S. 143B-438.11 reads as rewritten:

9 "§ 143B-438.11. Local Workforce Development Boards.

10 (a) Duties. – Local Workforce Development Boards shall have the following powers
11 and duties:

- 12 (1) To develop policy and act as the governing body for local workforce
13 development.
- 14 (2) To provide planning, oversight, and evaluation of local workforce
15 development programs, including the local One-Stop Delivery System.
- 16 (3) To provide advice regarding workforce policy and programs to local elected
17 officials, employers, education and employment training agencies, and
18 citizens.
- 19 (4) To develop a local plan in coordination with the appropriate community
20 partners to address the workforce development needs of the service area.
- 21 (5) To develop linkages with economic development efforts and activities in the
22 service area and promote cooperation and coordination among public
23 organizations, education agencies, and private businesses.
- 24 (6) To review local agency plans and grant applications for workforce
25 development programs for coordination and achievement of local goals and
26 needs.
- 27 (7) To serve as the Workforce Investment Board for the designated substate area
28 for the purpose of the federal Workforce Investment Act of 1998.
- 29 (7a) To designate through a competitive selection process, by no later than July 1,
30 2014, the providers of adult and dislocated worker services authorized in the
31 Workforce Investment Act of 1998.
- 32 (8) To provide the appropriate guidance and information to Workforce
33 Investment Act consumers to ensure that they are prepared and positioned to
34 make informed choices in selecting a training provider. Each local
35 Workforce Development Board shall ensure that consumer choice is



1 properly maintained in the one-stop centers and that consumers are provided
2 the full array of public and private training provider information.

3 (9) To provide coordinated regional workforce development planning and labor
4 market data sharing."

5 **SECTION 2.(a)** All functions, powers, duties, obligations, resources, and
6 appropriations vested in the Apprenticeship Program and the Apprenticeship Council are
7 transferred to, vested in, and consolidated into the Department of Commerce as a Type I
8 transfer, as defined in G.S. 143A-6. The Secretary of Commerce and the Office of State Budget
9 and Management are authorized to take all other steps necessary to consolidate the
10 Apprenticeship Program and Apprenticeship Council into the Department of Commerce.

11 **SECTION 2.(b)** G.S. 143A-71 is repealed.

12 **SECTION 2.(c)** Chapter 94 of the General Statutes reads as rewritten:

13 **"Chapter 94.**

14 **"Apprenticeship.**

15 **"§ 94-1. Purpose.**

16 The purposes of this Chapter are: to open to young people the opportunity to obtain training
17 that will equip them for profitable employment and citizenship; to set up, as a means to this
18 end, a program of voluntary apprenticeship under approved apprentice agreements providing
19 facilities for their training and guidance in the arts and crafts of industry and trade, with parallel
20 instruction in related and supplementary education; to promote employment opportunities for
21 young people under conditions providing adequate training and reasonable earnings; to relate
22 the supply of skilled workers to employment demands; to establish standards for apprentice
23 training; to establish an Apprenticeship Council and apprenticeship committees and sponsors to
24 assist in effectuating the purposes of this Chapter; to provide for a Director of Apprenticeship
25 within the Department of ~~Labor, Commerce~~; to provide for reports to the legislature and to the
26 public regarding the status of apprentice training in the State; to establish a procedure for the
27 determination of apprentice agreement controversies; and to accomplish related ends.

28 **"§ 94-2. Apprenticeship Council.**

29 ~~The Commissioner of Labor Secretary of Commerce~~ shall appoint an Apprenticeship
30 Council composed of four representatives each from employer and employee organizations
31 respectively and three representatives from the public at large. One State official designated by
32 the Department of Public Instruction and one State official designated by the Department of
33 Community Colleges shall be a member ex officio of said council, without vote. The terms of
34 office of the members of the Apprenticeship Council first appointed by the ~~Commissioner of~~
35 ~~Labor Secretary of Commerce~~ shall expire as designated by the ~~Commissioner Secretary~~ at the
36 time of making the appointment: two representatives each of employers and employees, being
37 appointed for one year and one representative of the public at large being appointed for two
38 years; and one representative each of employers, employees, and the public at large being
39 appointed for a term of three years. Any member appointed to fill a vacancy occurring prior to
40 the expiration of the term of his predecessor shall be appointed for the remainder of said term.
41 Each member of the Council not otherwise compensated by public moneys, shall be reimbursed
42 for transportation and shall receive such per diem compensation as is provided generally for
43 boards and commissions under the biennial maintenance appropriation acts for each day spent
44 in attendance at meetings of the Apprenticeship Council. The ~~Commissioner of Labor Secretary~~
45 ~~of Commerce~~ shall annually appoint one member of the Council to act as its chairman.

46 The Apprenticeship Council shall meet at the call of the ~~Commissioner of Labor Secretary~~
47 ~~of Commerce~~ and shall aid him in formulating policies for the effective administration of this
48 Chapter. Subject to the approval of the ~~Commissioner, Secretary~~, the Apprenticeship Council
49 shall establish standards for apprentice agreement which in no case shall be lower than those
50 prescribed by this Chapter, shall issue such rules and regulations as may be necessary to carry
51 out the intent and purposes of said Chapter, and shall perform such other functions as the

1 ~~Commissioner-Secretary~~ may direct. Not less than once a year the Apprenticeship Council
2 shall make a report through the ~~Commissioner of Labor-Secretary~~ of its activities and findings
3 to the legislature and to the public.

4 **"§ 94-3. Director of Apprenticeship.**

5 The ~~Commissioner of Labor-Secretary of Commerce~~ is hereby directed to appoint a
6 Director of Apprenticeship which appointment shall be subject to the confirmation of the State
7 Apprenticeship Council by a majority vote. The ~~Commissioner of Labor-Secretary of~~
8 ~~Commerce~~ is further authorized to appoint and employ such clerical, technical, and
9 professional help as shall be necessary to effectuate the purposes of this Chapter.

10 **"§ 94-4. Powers and duties of Director of Apprenticeship.**

11 The Director, under the supervision of the ~~Commissioner of Labor-Secretary of Commerce~~
12 and with the advice and guidance of the Apprenticeship Council is authorized to administer the
13 provisions of this Chapter; in cooperation with the Apprenticeship Council and apprenticeship
14 committees and sponsors, to set up conditions and training standards for apprentice agreements,
15 which conditions or standards shall in no case be lower than those prescribed by this Chapter;
16 to act as secretary of the Apprenticeship Council; to approve for the Council if in his opinion
17 approval is for the best interest of the apprenticeship any apprentice agreement which meets the
18 standards established under this Chapter; to terminate or cancel any apprentice agreement in
19 accordance with the provisions of such agreement; to keep a record of apprentice agreements
20 and their disposition; to issue certificates of completion of apprenticeship; and to perform such
21 other duties as are necessary to carry out the intent of this Chapter, including other on-job
22 training necessary for emergency and critical civilian production: Provided, that the
23 administration and supervision of related and supplemental instruction for apprentices,
24 coordination of instruction with job experiences, and the selection and training of teachers and
25 coordinators for such instruction shall be the responsibility of State and local boards
26 responsible for vocational education.

27 ...

28 **§ 94-6. Definition of an apprentice.**

29 The term "apprentice," as used herein, shall mean a person at least 16 years of age who is
30 covered by a written apprenticeship agreement approved by the Apprenticeship Council, which
31 apprenticeship agreement provides for not less than 2,000 hours of reasonably continuous
32 employment for such person for his participation in an approved schedule of work experience
33 and for organized, related supplemental instruction in technical subjects related to the trade. A
34 minimum of 144 hours of related supplemental instruction for each year of apprenticeship is
35 recommended. The required hours for apprenticeship agreements and the recommended hours
36 for related supplemental instruction may be decreased or increased in accordance with
37 standards adopted by the apprenticeship committee or sponsor, subject to approval of the
38 ~~Commissioner of Labor-Secretary of Commerce~~.

39 ...

40 **§ 94-12. Fees.**

41 The following fees are imposed on each apprentice who is covered by a written
42 apprenticeship agreement entered into under this Chapter: (i) a new registration fee of fifty
43 dollars (\$50.00); and (ii) an annual fee of fifty dollars (\$50.00). The fees are departmental
44 receipts and must be applied to the costs of administering the apprenticeship program. The
45 ~~Commissioner-Secretary of Commerce~~ may adopt rules pursuant to Chapter 150B of the
46 General Statutes to implement this section."

47 **SECTION 3.** Section 2 of this act becomes effective January 1, 2014. The
48 remainder of this act is effective when it becomes law.