

House Bill 393 (AS PASSED HOUSE AND SENATE)

By: Representatives Hamilton of the 24th, Lindsey of the 54th, Carter of the 175th, Hatchett of the 150th, Kirby of the 114th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 14 of Title 34 of the Official Code of Georgia Annotated, relating to the
2 Georgia Workforce Investment Board, so as to provide a short title; to provide definitions;
3 to provide for powers and duties of the Georgia Workforce Investment Board; to provide for
4 its meetings and chairperson; to provide for the powers of the chairperson; to provide for
5 staffing; to provide for funding methods; to provide for certain priorities of service; to
6 provide for local workforce investment areas; to provide for local workforce investment
7 boards and their composition, officers, meetings, powers, duties, and immunities; to prohibit
8 certain conflicts of interest; to provide for the removal of board members under certain
9 circumstances; to provide for certification and funding and budgets; to provide for contracts
10 and limitations with regard thereto; to provide for sanctions for nonperformance and lack of
11 fiscal responsibility; to provide for the delivery of certain services and limitations thereon;
12 to provide for related matters; to provide an effective date; to repeal conflicting laws; and for
13 other purposes.

14 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

15 **SECTION 1.**

16 This Act shall be known as and may be cited as the "Local Workforce Investment Good
17 Governance Act for Georgia."

18 **SECTION 2.**

19 Chapter 14 of Title 34 of the Official Code of Georgia Annotated, relating to the Georgia
20 Workforce Investment Board, is amended by revising the chapter as follows:

"CHAPTER 14

ARTICLE 1

23 34-14-1.

24 As used in this chapter, the term:

25 (1) 'Board' means the Georgia Workforce Investment Board.

26 (2) 'Director' means the executive director of the Governor's Office of Workforce
27 Development.

28 (3) 'Federal law' means the Workforce Investment Act of 1998, Public Law 105-220.

29 (4) 'Local labor market' means an economically integrated geographical area within
30 which individuals may reside and find employment within a reasonable distance.

31 ~~(4)~~(5) 'Office' means the Governor's Office of Workforce Development.

32 (6) 'Workforce development' includes workforce education and workforce training and
33 services.

34 34-14-2.

35 (a) Pursuant to the Workforce Investment Act of 1998, Public Law 105-220, there is
36 created the Georgia Workforce Investment Board.

37 (b) The board shall consist of members to be selected by the Governor consistent with
38 federal law requirements, two members of the House of Representatives, appointed by the
39 Speaker of the House, and two members of the Senate, appointed by the Lieutenant
40 Governor. A majority of the members of the board shall be representatives of businesses
41 in this state. Other members may include, but shall not be limited to, representatives of
42 individuals and organizations that have experience and expertise in education, the
43 economy, the workforce, and labor and who meet federal requirements for a broad
44 composition of the board.

45 (c) The chairperson and vice chairperson of the board shall be appointed by the Governor.
46 Other officers shall be elected or otherwise selected as determined by the Governor.

47 (d) The members of the board shall serve such terms as established by the Governor, and
48 the members shall continue at the discretion of the Governor, except for the members of
49 the House of Representatives and the Senate, who shall continue at the discretion of the
50 Speaker of the House and the Lieutenant Governor, respectively.

51 (e) The board shall have such powers and duties as specified by the Governor and as
52 provided by federal law. Without limiting the powers and duties of the board, the board
53 shall:

54 (1) Promote the development of a well-educated, highly skilled workforce in this state;

- 55 (2) Advocate the development of an integrated workforce development system to provide
 56 quality services addressing the needs of business and workers in this state;
- 57 (3) Recommend to the Governor the designation or redesignation of local workforce
 58 investment areas for the local planning and delivery of workforce development;
- 59 (4) Identify and recommend to the Governor incentives to encourage the consolidation,
 60 on a regional labor market basis, of:
- 61 (A) Local boards and committees; and
- 62 (B) Service delivery areas authorized under federal workforce legislation;
- 63 (5) Review plans for local workforce development and make recommendations to the
 64 Governor for approval;
- 65 (6) Evaluate the effectiveness of the workforce development system;
- 66 (7) Use the administrative records of the state's unemployment compensation program
 67 and other sources as appropriate in evaluating the workforce development program;
- 68 (8) Encourage, support, or develop research and demonstration projects designed to
 69 develop new programs and approaches to service delivery;
- 70 (9) Recommend measures to ensure that occupational skills training is:
- 71 (A) Provided in occupations that are state wide or locally in demand; and
- 72 (B) Directed toward high-skill and high-wage jobs;
- 73 (10) Monitor the operation of the state's workforce development system to assess the
 74 degree to which the system is effective in achieving state and local goals and objectives;
- 75 (11) Develop and recommend to the Governor criteria for the establishment of local
 76 workforce development boards;
- 77 (12) Carry out the federal and state duties and responsibilities of advisory boards under
 78 applicable federal and state workforce development laws or regulations; and
- 79 (13) Report not less than once per year to the Governor and the legislature.
- 80 (f) The board shall adopt bylaws to guide its proceedings.
- 81 (g) The board shall be funded by federal law as provided in this chapter which shall be
 82 allocated according to federal requirements.
- 83 (h) The board shall be attached to the Office of Planning and Budget for administrative
 84 purposes only.
- 85 (i) Each member of the board who is not otherwise a state officer or employee shall be
 86 authorized to receive reimbursement for reasonably necessary travel expenses incurred in
 87 the performance of his or her duties as a member of the board, provided that such funds are
 88 available and such reimbursements are allowable under federal law. Should funds not be
 89 available or allowable for this purpose, such members shall serve without compensation.
 90 Each member of the board who is otherwise a state officer or employee shall be reimbursed
 91 by the agency of which he or she is an officer or employee for reasonably necessary travel

92 expenses actually incurred in the performance of his or her duties as a member of the
 93 board, provided that such funds are available and such reimbursements are allowable under
 94 federal law. Except as otherwise provided in this subsection, members of the board shall
 95 receive no compensation for their services.

96 (j) The board shall be authorized to consult with and form committees with members and
 97 persons knowledgeable on the subject matter at issue in order to carry out effectively its
 98 duties. Such consultants shall serve without compensation but shall be reimbursed for
 99 travel and other reasonable and necessary expenses incurred while attending meetings of
 100 or on behalf of the board, provided that such travel and other expenses are approved by the
 101 director and such reimbursements are allowable under federal law.

102 (k) The Governor's Office of Workforce Development shall be authorized to employ and
 103 contract with other individuals and organizations as needed to assist in executing the
 104 board's responsibilities, provided that funds are available for such expenditures and such
 105 expenditures are allowable under federal law.

106 (l) All state departments, institutions, agencies, commissions, councils, authorities, boards,
 107 bureaus, or other entities of the state shall provide all information and support as required
 108 by the board to perform its duties.

109 (m) The board is authorized to promulgate rules and regulations for purposes of
 110 implementing the provisions of this chapter.

111 (n) The members of the board shall develop and implement policies that:

112 (1) Clearly allocate the policy-making responsibilities between the members of the
 113 board; and

114 (2) Provide the public with a reasonable opportunity to appear before the board and to
 115 speak on any issue under the jurisdiction of the board.

116 (o) To facilitate the seamless delivery of integrated workforce programs in this state, the
 117 board shall:

118 (1) Evaluate programs administered by agencies represented on the board to identify:

119 (A) Any duplication of or gaps in the services provided by those programs; and

120 (B) Any other problems that adversely affect the seamless delivery of those services;
 121 and

122 (2) Develop and implement immediate and long-range strategies to address problems
 123 identified by the board.

124 (p) The board may:

125 (1) Adopt rules essential to the internal functions and duties of the board; and

126 (2) Make expenditures, enter into contracts with public, private, and nonprofit
 127 organizations or agencies, require reports to be made, conduct investigations, and take
 128 other actions necessary or suitable to fulfill the board's duties under this chapter.

129 (q) The Governor, with the board and the local workforce development boards, shall:

130 (1) Identify specific barriers to integrated service delivery at the local level; and

131 (2) Request waivers from federal and state regulations.

132 34-14-3.

133 (a)(1) The Governor's Office of Workforce Development is hereby established to
134 implement state workforce development policy as directed by the Governor and to serve
135 as staff to the board.

136 (2) The office is authorized and encouraged to work with the state's emerging workforce,
137 including rising and graduating high school students, with the goal that, upon graduation,
138 high school students have both a diploma and certification in soft skills and work
139 readiness to enable them to be successful in postsecondary education, a career pathway,
140 or both. The office may collaborate with the Department of Education and the State
141 Board of the Technical College System of Georgia to facilitate coordination with high
142 schools so that high school students can attain certification in soft skills. The office is
143 authorized to explore local, national, and international soft skills programs for the
144 purpose of developing a soft skills certification system.

145 (b) The Governor's Office of Workforce Development shall have an executive director
146 appointed by the Governor whose duties are to implement state-wide workforce
147 development policy as directed by the Governor, to serve as workforce development policy
148 advisor to the Governor, and to serve as executive director to the board.

149 (c) The Governor's Office of Workforce Development shall be attached to the Office of
150 Planning and Budget for administrative purposes only.

151 34-14-4.

152 (a) The Georgia Workforce Investment Board shall meet at least quarterly and at such
153 other times at the call of the presiding officer or as provided by the rules of the board.

154 (b) A member of the board may designate another person to attend meetings of the board
155 on such person's behalf. Such designee may participate in the activities and discussions of
156 the board, but shall not have a vote in matters before the board.

157 (c) The chairperson of the board may appoint subcommittees consisting of members of the
158 board for any purpose consistent with the duties and responsibilities of the board under this
159 chapter.

160 (d) The chairperson of the board may appoint technical advisory committees composed
161 of board members, persons who are not board members, or a combination of board and
162 nonboard members.

163 34-14-5.

164 (a) The board shall have an independent staff with expertise sufficient to perform all duties
 165 and responsibilities of the board.

166 (b) The staff of the board may be supplemented by staff from other state agencies who are
 167 temporarily assigned to assist with special projects.

168 34-14-6.

169 Workforce services in Georgia, which shall include, but not be limited to, the federal
 170 Workforce Investment Act, Wagner-Peyser Act, the Trade Adjustment Assistance Act, and
 171 related federal labor programs under the management of the Governor's Office of
 172 Workforce Development and the Georgia Department of Labor, shall require a priority of
 173 service designation for United States veterans of the United States military and their
 174 spouses and Georgia citizens receiving unemployment insurance benefits.

175 34-14-7.

176 This chapter shall not restrict a person's authority to contract for the provision of workforce
 177 development without state or federal funds.

178 34-14-8.

179 Under this chapter, a program year shall begin on July 1 and end on June 30 of the
 180 following calendar year unless otherwise specified under appropriate state or federal law.

181 ARTICLE 2

182 34-14-20.

183 As used in this article, the term:

184 (1) 'Board' means a local workforce investment board.

185 (2) 'Cause,' unless the context clearly indicates otherwise, includes but is not limited to
 186 engaging in fraud or other criminal acts, incapacity, unfitness, neglect of duty, official
 187 incompetence and irresponsibility, misfeasance, malfeasance, nonfeasance, or lack of
 188 performance.

189 (3) 'Fiscal agent/grant recipient' means a city or county government, or regional
 190 commission.

191 (4) 'Local workforce investment area' means an area that is:

192 (A) Composed of one or more contiguous units of general local government;

193 (B) Consistent with either a local labor market area or a metropolitan statistical area;

194 and

195 (C) Of a size sufficient to have the administrative resources necessary to provide for
 196 the effective planning, management, and delivery of workforce development, as defined
 197 by the Georgia Workforce Investment Board.

198 (5) 'Veteran' means a person who:

199 (A) Has served in:

200 (i) The Army, Navy, Air Force, Coast Guard, or Marine Corps of the United States;

201 or

202 (ii) A reserve or guard component of one of those branches of the armed forces; and

203 (B) Has received an honorable or general discharge or an entry level separation from
 204 the branch of the service in which the person served, but shall not be a person who
 205 received an other than honorable discharge, a bad conduct discharge, or a dishonorable
 206 discharge.

207 34-14-21.

208 (a) The Governor shall, after receiving the recommendations of the Georgia Workforce
 209 Investment Board, publish a proposed designation of local workforce investment areas for
 210 the planning and delivery of workforce development.

211 (b) Units of general local government, business and labor organizations, and other affected
 212 persons and organizations shall be given an opportunity to comment on and request
 213 revisions to the proposed designation of a local workforce investment area.

214 (c) After considering all comments and requests for changes, the Governor shall make the
 215 final designation of local workforce investment areas in accordance with the federal
 216 Workforce Investment Act.

217 34-14-22.

218 (a) In accordance with federal law, the elected officials within each local workforce
 219 investment area shall select a chief local elected official to represent the area. The elected
 220 officials for each local workforce investment area shall be the mayors and county
 221 commission chairpersons within the designated local workforce investment area. No more
 222 than one mayor shall represent a county in the local workforce investment area.
 223 Three-quarters of the elected officials within the local workforce investment area must be
 224 present to vote on the chief local elected official. The chief local elected official shall serve
 225 for a term of no more than two years and shall serve no more than two consecutive terms
 226 unless the local workforce investment area is composed of one city or county.

227 (b) Meeting minutes must be submitted to the Governor's Office of Workforce
 228 Development within five business days of the election of a chief local elected official.

229 (c) The chief local elected official shall designate a fiscal agent/grant recipient.

230 (d)(1) The chief local elected official in a local workforce investment area shall form, in
 231 accordance with rules established by the Governor's Office of Workforce Development,
 232 a local workforce investment board to:

233 (A) Plan and oversee the delivery of workforce training and services; and

234 (B) Evaluate workforce development in the local workforce investment area.

235 (2) This authority shall not give a local workforce investment board any direct authority
 236 or control over workforce funds and programs in its workforce investment area, other
 237 than programs approved through that board. An agreement on the formation of a board
 238 shall be in writing, be submitted to the Governor's Office of Workforce Development,
 239 and include:

240 (A) The purpose for the agreement;

241 (B) The process to be used to select the chief local elected official who will act on
 242 behalf of the other elected officials;

243 (C) The process to be used to keep the elected officials informed regarding local
 244 workforce investment area activities;

245 (D) The initial size of the board;

246 (E) The process, consistent with applicable federal and state law, for the appointment
 247 of the board members; and

248 (F) The terms of office of the board members.

249 (3) The Governor's Office of Workforce Development shall assign staff to meet with
 250 each local workforce investment board annually to review the board's performance and
 251 adherence to state and federal law regulating board activities.

252 (e) Local boards shall set policy, to be included in their by-laws, establishing what
 253 constitutes a quorum necessary for voting. At a minimum, the standard for a quorum shall
 254 include over 30 percent of board membership being present for meetings.

255 (f) A power or duty granted to a board shall not be exercised in a workforce investment
 256 area until:

257 (1) The elected officials in that local workforce investment area agree on the
 258 establishment of a board; and

259 (2) The board is certified by the Governor.

260 (g) The chief local elected official shall appoint the board. Such appointments shall:

261 (1) Be consistent with the local government agreement and applicable federal and state
 262 law and federal Workforce Investment Act regulations; and

263 (2) Reflect the ethnic and geographic diversity of the local workforce investment area.

264 To provide continuity, the chief local elected official shall consider appointing persons with
 265 management or direct hiring authority responsibility to the board who are serving or who
 266 have served previously on a private industry board, a workforce planning committee, a job

267 service employer committee, and any other entity affected by this chapter. Local boards
268 shall also include one staff member from the Department of Economic Development and
269 one staff member from each Technical College System of Georgia school within the local
270 workforce investment area.

271 (h) Proxy voting shall not be permitted on a local workforce investment board or in the
272 election of a chief local elected official.

273 (i) A member or former member of a board shall not be held personally liable for a claim,
274 damage, loss, or repayment obligation of federal or state funds that arises under this chapter
275 unless the act or omission that causes the claim, damage, loss, or repayment obligation
276 constitutes, on the part of the board member or former board member:

277 (1) Official misconduct;

278 (2) Willful disregard of the requirements of this chapter; or

279 (3) Gross negligence.

280 (j) To prevent conflicts of interest, chief local elected officials, local board members, and
281 executive directors shall sign a conflict of interest statement upon accepting a position on
282 a local board, disclosing any and all potential conflicts. The Governor's Office of
283 Workforce Development may request any local board member to file a personal financial
284 statement without cause.

285 (k) The Georgia Workforce Investment Board may remove a fiscal agent/grant recipient,
286 a member of the local board, the executive director for the local board, or the designated
287 person responsible for the operational and administrative functions of the local board for
288 cause. Cause for removal shall be determined by the Georgia Workforce Investment Board
289 after consultation with the appropriate chief local elected official and the senior fiscal agent
290 representative.

291 (l) The chairperson of a board shall be selected from the members of the board who
292 represent the private sector. The chairperson shall serve for a term of no more than two
293 years and shall serve no more than two terms.

294 (m) A board may create committees as needed to carry out its duties and responsibilities.

295 (n) The Governor shall certify a board on determining that the board's composition is
296 consistent with applicable federal and state law and requirements and meets established
297 state criteria as determined by the Georgia Workforce Investment Board.

298 (o) A board shall adopt a budget for the board that shall be included in the local workforce
299 investment area plan submitted to the Governor's Office of Workforce Development no
300 later than two weeks after the chief local elected official approves the budget. The chief
301 local elected official shall approve in writing the budget submitted by the board.

302 (p) Any non-budgeted purchase or expenditure over \$5,000.00 by a board shall require
303 approval by the Governor's Office of Workforce Development except for training provider

304 expenditures approved on the eligible training provider list, approved operational
305 expenditures which shall include salaries and benefits, and any purchase requirement in
306 accordance with federal law.

307 34-14-23.

308 (a) The Governor's Office of Workforce Development shall approve the fiscal agent/grant
309 recipient selected by a chief local elected official before any federal or state workforce
310 development funds shall be disbursed by the state.

311 (b) The Governor's Office of Workforce Development shall base its approval on an audit
312 of the financial capability of the fiscal agent to ensure that fiscal controls and fund
313 accounting procedures necessary to guarantee the proper disbursement of and accounting for
314 federal and state funds are in place.

315 34-14-24.

316 (a) Except as otherwise provided in this Code section, a board shall not directly provide
317 workforce training or one-stop workforce services.

318 (b) A board may request a waiver from the Governor's Office of Workforce Development
319 to directly provide workforce training or one-stop workforce services. The request for a
320 waiver shall include a detailed justification based on the lack of an existing qualified
321 alternative for delivery of workforce training or services in the local workforce investment
322 area.

323 (c) If a board receives a waiver to provide workforce training or one-stop workforce
324 services, the evaluation of results and outcomes shall be provided by the Governor's Office
325 of Workforce Development.

326 (d) In consultation with boards, the Governor's Office of Workforce Development by rule
327 shall establish contracting guidelines for boards, including guidelines designed to:

328 (1) Ensure that each independent contractor that contracts to provide one-stop workforce
329 services has sufficient insurance, bonding, and liability coverage for the overall financial
330 security of one-stop workforce services funds and operations; and

331 (2) Prevent potential conflicts of interest between board members and entities that
332 contract with boards.

333 (e) The Governor's Office of Workforce Development shall ensure that each board
334 complies with this Code section and shall approve a local plan only if the plan complies
335 with this Code section.

336 (f) Boards shall not contract with, directly or through a business entity, a member of the
337 board, a relative of a board member, or an employee of the board.

338 (g) Board members who have potential conflicts or contracts may remain on their
 339 respective boards until the board's next certification period as determined in accordance
 340 with the federal Workforce Investment Act.

341 34-14-25.

342 (a) A board certified by the Governor shall be eligible for incentives and program waivers
 343 to promote and support integrated planning and evaluation of workforce development.

344 (b) To the extent feasible under federal and state workforce development law, incentives
 345 include priority for discretionary funding, including financial incentives for the
 346 consolidation of service delivery areas authorized under federal law.

347 34-14-26.

348 (a) The Georgia Workforce Investment Board shall provide technical assistance to local
 349 workforce investment areas that do not meet performance standards established by the
 350 Georgia Workforce Investment Board and other applicable federal and state laws.

351 (b) The Georgia Workforce Investment Board shall set sanctions policies and procedures
 352 for failing or nonperforming local workforce investment areas in accordance with federal
 353 law.

354 (c) If a local workforce investment area does not meet performance standards, the Georgia
 355 Workforce Investment Board shall develop and impose a reorganization plan that may
 356 include, but not be limited to:

357 (1) Restructuring the board;

358 (2) Prohibiting the use of designated service providers, including state agencies; and

359 (3) Merging the local workforce investment area with another area.

360 (d) A local workforce investment area that is the subject of a reorganization plan may
 361 appeal to the Governor to rescind or revise the plan not later than the thirtieth day after the
 362 date of receiving notice of the plan.

363 34-14-27.

364 If, as a result of financial and compliance audits or for another reason, the Georgia
 365 Workforce Investment Board finds a substantial violation of a specific provision of this
 366 chapter or another federal or state law or regulation and corrective action has not been
 367 taken, the Georgia Workforce Investment Board shall:

368 (1) Issue a notice of intent to revoke all or part of the affected local plan;

369 (2) Issue a notice of intent to cease immediately reimbursement of local program costs;

370 or

371 (3) Impose a reorganization plan for the local workforce investment area.

372 34-14-28.

373 (a) As used in this Code section, the term 'supportive services' means services such as
374 transportation, child care, dependent care, housing, and needs-related payments that are
375 necessary to enable an individual to participate in activities authorized under this Code
376 section, consistent with the provisions of this Code section, and consistent with criteria
377 established by the Georgia Workforce Investment Board.

378 (b) The Georgia Workforce Investment Board shall set a cap on supportive service
379 payments as a percentage of total allotment provided to each local workforce investment
380 area. Supportive service payments shall have full documentation on each expenditure for
381 each participant."

382 **SECTION 3.**

383 This Act shall become effective upon its approval by the Governor or upon its becoming law
384 without such approval.

385 **SECTION 4.**

386 All laws and parts of laws in conflict with this Act are repealed.