



House Bill No. 7501

July 22 Special Session, Public Act No. 19-1

AN ACT CONCERNING THE WORKFORCE TRAINING NEEDS IN THE STATE AND REVISIONS TO AND REGULATION OF GRATUITIES PERMITTED OR APPLIED AS PART OF THE MINIMUM FAIR WAGE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 31-11hh of the general statutes is repealed and the following is substituted in lieu thereof (*Effective May 1, 2020*):

As used in this section and sections 31-11ii and 31-11jj, as amended by this act:

(1) "Administrative costs" means the costs paid or incurred by the administrator, including, but not limited to, peer review costs, professional fees, allocated staff costs and other out-of-pocket costs attributable to the administration and operation of the Workforce Training Authority Fund;

(2) "Administrator" means the [Department of] Labor Commissioner;

(3) "Board" means the Workforce Training Authority established pursuant to section 31-11ii, as amended by this act; and

(4) "Eligible recipient" means a [business] public or private entity [, including, but not limited to, those businesses in the bioscience,

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insurance, financial services, advanced manufacturing, digital media, green technology and tourism industry sectors] seeking to develop a workforce training program, either to grow an existing business or, in the case of a public entity, as part of partnership with business entities that have made a commitment to hire successful trainees from the workforce training program funded by the authority created by section 31-11ii, as amended by this act.

Sec. 2. Section 31-11ii of the general statutes is repealed and the following is substituted in lieu thereof (*Effective May 1, 2020*):

(a) There is established a Workforce Training Authority [that] within the Labor Department whose purpose is to oversee the grant program described in section 31-11jj, as amended by this act. The Workforce Training Authority shall be composed of a board that:

(1) Until April 30, 2020, shall consist of the following members: [(1)] (A) Four appointed by the Governor; [(2)] (B) one appointed by the president pro tempore of the Senate; [(3)] (C) one appointed by the Senate Republican president pro tempore; [(4)] (D) one appointed by the speaker of the House of Representatives; [(5)] (E) one appointed by the majority leader of the Senate; [(6)] (F) one appointed by the majority leader of the House of Representatives; [(7)] (G) one appointed by the minority leader of the Senate; [(8)] (H) one appointed by the minority leader of the House of Representatives; [(9)] (I) the Labor Commissioner, or the commissioner's designee, who shall serve as the chairperson of the board; [(10)] (J) the Commissioner of [the Department of] Economic and Community Development, or the commissioner's designee; [(11)] (K) the president of the Connecticut State Colleges and Universities, or the president's designee; [(12)] (L) the president of The University of Connecticut, or the president's designee; and [(13)] (M) the Commissioner of Correction, or the commissioner's designee. [Each legislatively appointed member shall have skill, knowledge or experience in industries and sciences related to insurance, financial

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services, bioscience, advance manufacturing, digital media, green technology, and tourism. All initial appointments to the board pursuant to this subsection shall be made not later than October 1, 2017. Appointed members shall each serve a term that is coterminous with the respective appointing authority. Each member shall hold office until a successor is appointed. Any vacancy occurring on the board, other than by expiration of term, shall be filled in the same manner as the original appointment for the balance of the unexpired term.] The term of any member appointed under this subdivision shall terminate on April 30, 2020;

(2) On and after May 1, 2020, shall consist of the following members: (A) Four appointed by the Governor, one of whom is a representative of a community college, one of whom is a representative of a state university, one of whom is a representative of The University of Connecticut and one of whom is a representative of the independent colleges; (B) two appointed by the president pro tempore of the Senate, one of whom is a formerly incarcerated individual or someone who helps formerly incarcerated individuals find employment and one of whom is a representative of the Connecticut AFL-CIO; (C) two appointed by the majority leader of the Senate, one of whom is a representative of a workforce investment board and one of whom is a representative of the Connecticut State Building and Construction Trades Council; (D) two appointed by the speaker of the House of Representatives, one of whom is a representative of The University of Connecticut Health Center and one of whom is a representative from a Connecticut affiliate of the National Urban League or the National Association for the Advancement of Colored People; (E) two appointed by the majority leader of the House of Representatives, one of whom is a representative of the Connecticut Center for Advanced Technology and one of whom is a representative of a Connecticut chamber of the United States Hispanic Chamber of Commerce; (F) two appointed by the minority leader of the Senate, one of whom has skill, knowledge or

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expertise in the workforce needs of the financial services industry and one of whom is a representative from the Connecticut Business and Industry Association Manufacturers Advisory Council; (G) two appointed by the minority leader of the House of Representatives, one of whom is a representative from the Connecticut Association of Public School Superintendents and one of whom has skill, knowledge and expertise in the workforce needs of the digital media industry; (H) the Labor Commissioner, or the commissioner's designee, who shall serve as chairperson of the board; (I) the Commissioner of Economic and Community Development, or the commissioner's designee; (J) the Commissioner of Correction, or the commissioner's designee; (K) the superintendent of the Technical Education and Career System, or the superintendent's designee; and (L) the Commissioner of Agriculture, or the commissioner's designee.

(b) All initial appointments to the board pursuant to subdivision (2) of subsection (a) of this section shall be made not later than July 1, 2020. Appointed members shall each serve a term that is coterminous with the respective appointing authority. Each member shall hold office until a successor is appointed. Any vacancy occurring on the board, other than by expiration of term, shall be filled in the same manner as the original appointment for the balance of the unexpired term.

[(b)] (c) The chairperson shall call the first meeting of the board appointed under subdivision (2) of subsection (a) of this section not later than [December 1, 2017] July 1, 2020. The board shall meet at such times as the chairperson deems necessary.

[(c)] (d) No member of the board shall receive compensation for such member's services.

[(d)] (e) A majority of the members of said board shall constitute a quorum for the transaction of any business or the exercise of any power of the board. The board may act by a majority of the members present

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at any meeting at which a quorum is in attendance for the transaction of any business or the exercise of any power of the board, except as otherwise provided in this section.

[(e)] (f) Notwithstanding any provision of the general statutes, it shall not constitute a conflict of interest for a trustee, director, partner, officer, manager, shareholder, proprietor, counsel, public official acting in his or her official capacity or employee of an eligible recipient, or any individual with a financial interest in an eligible recipient, to serve as a member of the board, provided such trustee, director, partner, officer, manager, shareholder, proprietor, counsel, employee or individual shall abstain from deliberation, action or vote by the board concerning any matter relating to such eligible recipient, except such public official acting in his or her official capacity shall be permitted to engage in such deliberation.

[(f)] (g) The board may develop industry-specific advisory councils to provide guidance on job market trends and develop connections with the business community.

Sec. 3. Section 31-11jj of the general statutes is repealed and the following is substituted in lieu thereof (*Effective May 1, 2020*):

(a) There is established the Workforce Training Authority Fund, which shall be an account [in the Department of] within the Labor Department. The following moneys shall be deposited in the fund: (1) Any moneys received as part of a memorandum of understanding with the Workforce Training Authority; (2) all private contributions, gifts, grants, donations, bequests or devises received by the fund; and (3) to the extent not otherwise prohibited by state or federal law, any local, state or federal funds received by the fund.

(b) The Workforce Training Authority Fund shall be used by the administrator: (1) To provide training assistance to eligible recipients as

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may be approved by the Workforce Training Authority pursuant to subsection (e) of this section, and (2) to pay or reimburse the administrator for administrative costs pursuant to subsection [(c)] (h) of this section. Such training assistance shall be awarded for the purpose of: Developing and implementing training programs for the recruitment of businesses to the state and the training or retraining of persons in the state to achieve the workforce goals established by the Connecticut Employment and Training Commission and the relevant sections of the strategic master plan for higher education developed pursuant to section 10a-11b. Training assistance shall target job growth in the areas of construction, health care, early childhood education, insurance, financial services, bioscience, advance manufacturing, digital media, green technology, and tourism.

(c) All expenditures from the Workforce Training Authority Fund, except for administrative costs reimbursed to the administrator pursuant to subsection (h) of this section, shall be approved by the board, provided the board may delegate to staff of the administrator the approval of transactions not greater than one hundred thousand dollars. Any such approval by the board shall be (1) specific to an individual expenditure to be made; (2) for budgeted expenditures with such variations as the board may authorize at the time of such budget approval; or (3) for training assistance programs to be administered by staff of the administrator, subject to limits, eligibility requirements and other conditions established by the Workforce Training Authority at the time of such program approval.

(d) The administrator shall provide any necessary staff, office space, office systems and administrative support for the operation of the Workforce Training Authority Fund in accordance with this section. In acting as administrator of the fund, the Labor [Department] Commissioner shall have and may exercise all of the powers set forth in the general statutes, provided expenditures from the fund shall be

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approved by the Workforce Training Authority pursuant to subsection (c) of this section.

(e) The Workforce Training Authority shall establish an application and approval process with guidelines and terms for the development and implementation of training programs and training assistance awarded by the administrator from the Workforce Training Authority Fund to any eligible recipient. Such guidelines and terms shall include: (1) A requirement that any applicant for training assistance operate in the state or propose to relocate operations to the state, in whole or in part, as a condition of such training assistance; (2) eligibility requirements for training, including a requirement for applicants to obtain [matching] funds or in-kind services from nonstate sources; (3) a process for preliminary review of applications for strength and eligibility by the administrator before such applications are presented to the board for consideration; (4) return on investment objectives, including, but not limited to, job growth and leveraged investment opportunities; (5) a requirement that any [business] entity that receives assistance [must] first consider applicants who have completed the universal intake form; and (6) such other guidelines and terms as the board determines to be necessary and appropriate in furtherance of the objectives of this section. In developing such guidelines, the board shall include considerations for the size of such [businesses] entities and the number of workers employed by such [businesses] entities. Additionally, the board shall give consideration to developing training programs and creating career pathways for women, minorities and soon to be released and formerly incarcerated individuals.

(f) Training assistance awarded to eligible recipients from the Workforce Training Authority Fund [to eligible recipients] shall be used for costs related to facilities, necessary furniture, fixtures and equipment, development of programs, implementation of training programs, materials and supplies, compensation, apprenticeship and

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such other costs that the Workforce Training Authority [Board] determines [pursuant to subsection (e) of this section] to be eligible for training assistance within the purposes of this section pursuant to subsection (e) of this section.

(g) On July 1, 2018, and prior to [each] the commencement of the next fiscal year thereafter, the administrator shall prepare a plan of operations and an operating and capital budget for the Workforce Training Authority Fund, provided not later than ninety days prior to the start of each fiscal year, the administrator shall submit such plan and budget to the board of the Workforce Training Authority [Board] for its review and approval.

(h) Administrative costs shall be paid or reimbursed to the administrator from the Workforce Training Authority Fund, provided the total of such administrative costs in any fiscal year shall not exceed five per cent of the total amount of the allotted funding for such fiscal year, as determined in the operating budget prepared pursuant to subsection (g) of this section. Nothing in this section shall be [deemed] construed to require the administrator to risk or expend the funds of the Labor Department in connection with the administration of the Workforce Training Authority Fund.

(i) On January 1, 2019, and annually thereafter, the administrator shall provide a report of the [activities] expenditures of the Workforce Training Authority Fund to the Workforce Training Authority for the board's review and approval. Upon such approval, the board shall provide such report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to labor, commerce and employment advancement. Such report shall contain available information on the status and progress of the operations of the programs funded by and [funding] resources of the Workforce Training Authority Fund and the types, amounts and recipients of financial assistance awarded.

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(j) The administrator shall consult with the office of apprenticeship training, the Connecticut Employment and Training Commission, the Planning Commission on Higher Education and the administrator of the Connecticut Manufacturing Innovation Fund to ensure coordination and compatibility of the development and implementation of training programs awarded by the Workforce Training Authority. [Fund.]

Sec. 4. (*Effective from passage*) (a) Not later than May 1, 2020, the Labor Department, in collaboration with workforce development boards within the state, shall conduct a study of programs offered to individuals seeking employment within the state. The topics of such study shall include, but not be limited to:

(1) The location, ownership and management of workforce development board offices within the state;

(2) The number of employees dedicated to assisting individuals seeking employment in each American Job Center office;

(3) The number of individuals seeking employment who are served through each American Job Center office and by which program on an annual basis;

(4) The number of employers, classified by industry, that utilize workforce development boards throughout the state;

(5) The number of individuals who successfully find employment through the American Job Centers and the nature of that employment, classified by industry;

(6) The number of individuals who successfully found employment, then lost that employment, who re-enrolled in an American Job Center program;

(7) The type of training programs;

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(8) Whether activities offered by individual workforce development boards are planned in conjunction with the department to maximize efficiency and avoid duplication of resources;

(9) The funding sources for each workforce development board and any in-kind contributions offered by the state including, but not limited to, office space, utilities and equipment;

(10) Whether an individual seeking employment can simultaneously participate in a state-operated employment program through the department and a workforce development board program;

(11) The methods by which the department and workforce development boards coordinate employment programs in each region of the state; and

(12) The methods by which workforce development boards report to the department and whether the resources currently allocated to the workforce development boards by the department are adequate for the operation of the programs offered by the workforce development boards.

(b) Not later than January 1, 2021, the department shall submit, in accordance with the provisions of section 11-4a of the general statutes, a report to the joint standing committee of the General Assembly having cognizance of matters relating to labor detailing the findings of the study conducted pursuant to subsection (a) of this section.

Sec. 5. (NEW) (*Effective from passage*) Not later than April 1, 2020, the Labor Commissioner shall post on the eRegulations System a notice of intent to adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, concerning employees who perform both service and nonservice duties and allowances for gratuities permitted or applied as part of the minimum fair wage pursuant to section 31-60 of the general statutes. The Labor Commissioner shall consult with

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representatives of the restaurant industry, restaurant employees, service employees and other interested stakeholders prior to posting such notice. Such notice shall also provide for the repeal of section 31-62-E4 of the regulations of Connecticut state agencies upon the effective date of regulations adopted pursuant to this section. Regulations adopted pursuant to this section shall be: (1) In accordance with the Fair Labor Standards Act, 29 USC 203(m)(2) and 29 CFR 531.56(e), as interpreted by Section 30d00(e) of the federal Department of Labor's Field Operations Handbook, prior to November 8, 2018, which was previously referred to as the "80/20 rule", and (2) effective when posted to the eRegulations System web site by the Secretary of the State.

Sec. 6. Subsection (a) of section 31-68 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) (1) If any employee is paid by his or her employer less than the minimum fair wage or overtime wage to which he or she is entitled under sections 31-58, 31-59 and 31-60 or by virtue of a minimum fair wage order he or she shall recover, in a civil action, ~~[(1)] (A)~~ twice the full amount of such minimum wage or overtime wage less any amount actually paid to him or her by the employer, with costs and such reasonable attorney's fees as may be allowed by the court, or ~~[(2)] (B)~~ if the employer establishes that the employer had a good faith belief that the underpayment of such wages was in compliance with the law, the full amount of such minimum wage or overtime wage less any amount actually paid to him or her by the employer, with costs and such reasonable attorney's fees as may be allowed by the court.

(2) Notwithstanding the provisions of subdivision (1) of this subsection, if any employee is paid by his or her employer less than the minimum fair wage or overtime wage to which he or she is entitled under section 31-62-E4 of the regulations of Connecticut state agencies, such employee shall recover, in a civil action, (A) twice the full amount

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of such minimum wage or overtime wage less any amount actually paid to such employee by the employer, with costs and such reasonable attorney's fees as may be allowed by the court, or (B) if the employer establishes that the employer had a good faith belief that the underpayment of such wages was in compliance with the law, the full amount of such minimum wage or overtime wage less any amount actually paid to such employee by the employer, with costs as may be allowed by the court. A good faith belief includes, but is not limited to, reasonable reliance on written guidance from the Labor Department.

(3) Notwithstanding the provisions of section 52-105, no person may be authorized by a court to sue for the benefit of other alleged similarly situated persons in a case brought for violations of section 31-62-E4 of the regulations of Connecticut state agencies, unless such person, in addition to satisfying any judicial rules of practice governing class action certifications, demonstrates to the court, under the appropriate burden of proof, that the defendant is liable to all individual proposed class members because all such members (A) performed nonservice duties while employed by the defendant, for more than a de minimis amount of time, that were not incidental to service duties, and (B) were not properly compensated by the defendant for some portion of their nonservice duties in accordance with section 31-62-E4 of the regulations of Connecticut state agencies.

(4) Any agreement between an employee and his or her employer to work for less than such minimum fair wage or overtime wage shall be no defense to such action as described in this section. The commissioner may collect the full amount of unpaid minimum fair wages or unpaid overtime wages to which an employee is entitled under said sections or order, as well as interest calculated in accordance with the provisions of section 31-265 from the date the wages should have been received, had they been paid in a timely manner. In addition, the commissioner may bring any legal action necessary to recover twice the full amount of the

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unpaid minimum fair wages or unpaid overtime wages to which the employee is entitled under said sections or under an order, and the employer shall be required to pay the costs and such reasonable attorney's fees as may be allowed by the court. The commissioner shall distribute any wages or interest collected pursuant to this section to the employee or in accordance with the provisions of subsection (b) of this section.

Sec. 7. (NEW) (*Effective from passage*) Not later than thirty days following the date of adoption of regulations pursuant to section 5 of this act, the Labor Commissioner shall begin conducting random wage and hour audits of tipped workers in not less than seventy-five restaurants in the state of Connecticut and prepare a report on compliance by such restaurants with the regulations adopted pursuant to section 5 of this act. Not later than one year following the date of adoption of regulations pursuant to section 5 of this act, the Labor Commissioner shall report, in accordance with the provisions of section 11-4a of the general statutes, on the random wage and hour audits conducted pursuant to this section to the joint standing committee of the General Assembly having cognizance of matters relating to labor.

Sec. 8. (*Effective from passage*) (a) For the fiscal year ending June 30, 2020, the sum of \$120,717 dollars appropriated to the Labor Department for the Workforce Training Authority in the biennial budget shall be reserved for three wage and hour investigators of the three wage and hour investigators.

(b) For the fiscal year ending June 30, 2020, the sum of \$35,217 of the \$120,717 reserved under subsection (a) of this section shall be available to reimburse the comptroller for associated fringe benefits costs.

Approved January 6, 2020