

Date of Hearing: April 21, 2015

ASSEMBLY COMMITTEE ON JOBS, ECONOMIC DEVELOPMENT, AND THE ECONOMY

Eduardo Garcia, Chair

AB 1270 (Eduardo Garcia) – As Amended April 6, 2015

SUBJECT: California Workforce Innovation and Opportunity Act

SUMMARY: Updates the California statute to reflect the new requirements of the federal Workforce Innovation and Opportunity Act of 2014. While the bill makes conforming changes to state law, it also maintains core state policies related to:

- 1) The significance of regional economies and sector strategies;
- 2) Preparation of a workforce ready to support dominant and emerging industries; and
- 3) The development of career pathways that provide workers with economic security and career advancement.

In addition, the bill retains recently enacted state workforce initiatives, including those designed to establish workforce data and measurement metrics, incentivize high performing boards, and set minimum local training expenditures.

EXISTING LAW establishes the California Workforce Investment Board (CWIB), comprised of members appointed by the Governor and the appropriate presiding officer(s) of each house of the Legislature, and specifies that the executive director of the CWIB report to the Secretary of the California Labor and Workforce Development Agency. The CWIB is responsible for assisting the state in meeting the requirements of the federal Workforce Investment Act of 1998 (WIA), as well as assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system.

FISCAL EFFECT: Unknown

POLICY ISSUE FRAME:

The federal Workforce Innovation and Opportunity Act of 2014 represents the most significant shift in federal workforce policy in several decades. AB 1270 makes the changes necessary to conform to the new federal law. The bill, however, takes a strategic approach by retaining recently enacted state workforce policies which are not otherwise prohibited under the new federal act.

Information has been included in the Comment section of the analysis on the California Workforce Investment Board, the new federal Workforce Innovation and Opportunity Act, evolving workforce needs in a globally linked economy, and related legislation. Comment 5 includes a list of recommendations submitted to the Committee on realigning the state's education and workforce systems, including the implementation of the Workforce Innovation and Opportunity Act.

COMMENTS:

- 1) **Author's Purpose:** According to the author's statement, "AB 1270 substantively updates California law to reflect the changes necessary to conform with the federal Workforce Innovation and Opportunity Act."
- 2) **WIA and the California Workforce Investment Board:** Enacted in 1998, WIA provides states with federal funding for job training and employment investment activities and programs, including work incentive and employment training outreach programs. Distribution of the funds is based on a set formula which includes specified economic and demographic data and flows to the state through three primary programs: Adult, Youth, and Dislocated Workers.

California's WIA allocation from the U.S. Department of Labor has declined over the years from a high of \$630 million in 2000-01 to \$391 million in 2014-15. Federal law dictates that 85% of Adult and Youth formula funds, and 60% of Dislocated Worker formula funds, are distributed to local workforce investments boards (LWIBs). Funding for the state's activities is derived from the 15% WIA discretionary funds.

California will receive approximately \$390 million in Program Year 2014-15, \$356 million is allocated to the LWIBs to provide services for adults, laid-off workers, and youth, and \$34 million will remain at the state-level for program oversight and discretionary programs. Discretionary funding in 2015-16 is expected to increase and will be detailed in the May Revision.

California's WIA dollars are overseen by the 56-member CWIB, of which 61% of the members represent the private sector, as required by federal law. The CWIB has a staff of 17 authorized positions and is currently led by Executive Director Tim Rainey. In 2008, CWIB established the Green Collar Jobs Council to address the workforce development needs of the emerging clean and green economy.

Among its primary duties, the CWIB provides guidance to LWIBs and is responsible for the development of a unified, strategic plan to coordinate various education, training, and employment programs that result in an integrated workforce development system that supports economic development. The plan is required to be updated at least every 5 years in order to address the state's changing economic, demographic, and workplace needs. The most recent plan was submitted to the federal Department of Labor in April 2013 and approved after consultation and modest revisions in June 2013. California's Strategic Workforce Development Plan 2013-2017 - "Shared Strategy for a Shared Prosperity," prioritizes regional coordination among key partners, sector-based employment strategies, skill attainment through "earn and learn" and other effective training models (including, but not limited to apprenticeship), and development of career pathways.

Based on the framework of the state plan, in July 2013, the LWIBs submitted local workforce investment plans for the CWIB's review. Key among the policy enhancements in the current state and local plans are strengthened performance indicators to allow for ongoing monitoring of the plan's success. There are 49 LWIBs that plan for and oversee the workforce investment system at the local level. Each LWIB also has one or more One-Stop Centers, which provide access to career information, counseling, and funding for education, training and supportive services.

- 3) **Federal Workforce Innovation and Opportunity Act:** The federal Workforce Innovation and Opportunity Act was signed into law on July 22, 2014 and represents the single most significant change in federal workforce policy in over 15 years.

The Workforce Innovation and Opportunity Act supersedes the federal Workforce Investment Act of 1998, which expired under its own terms in 2003. The new federal Act also amends the Adult Education and Family Literacy Act, the Wagner-Peyser Act, and the Rehabilitation Act of 1973.

The structure of the federal Workforce Innovation and Opportunity Act, calls for phased implementation with few programmatic changes in the initial year. It is envisioned that states will use this time for engagement with stakeholders to develop their regional and state plans that will drive future workforce development activities. Most provisions take effect on July 1, 2015, which is the first full program year after enactment. The new state plans and performance accountability system will become effective July 1, 2016.

The CWIB established a 14-member Workforce Innovation and Opportunity Act Implementation Work Group (Work Group) in September 2014 for the purpose of seeking stakeholder input in the development of performance measures and multi-agency metrics, strategies for aligning the state's education and workforce training systems, models for regional collaboration, and making recommendations that will remove systemic and institutional barriers to change.

The California Labor Agency is sponsoring two measures to provide the necessary changes to existing workforce development statutes to conform to the new federal guidelines under the Workforce Innovation and Opportunity Act. AB 1270 is intended to be a one-year bill that makes only the most necessary changes to meet the requirements of the federal law. SB 45 (Mendoza) is intended to be a two-year bill and serve as the vehicle for the longer range policy discussions on implementing key discretionary elements of the federal act.

Contributions from the Work Group and the Legislature, as well as other stakeholder engagements will help form the basis of the recommended changes to SB 45.

- 4) **Federal Regulations:** The National Skills Coalition has undertaken an initial review of the five notices of proposed rulemaking issued by the Departments of Labor (DOL) and Education (ED) governing the implementation and administration of federal Workforce Innovation and Opportunity Act. A selection of highlights and issues identified by the National Skills Coalition are provided below.
- **Small Business Participation:** Sections 679.110(b)(3)(i)(D) and 679.320(b) propose that at least one member of the state board and at least two members of the local board must represent small business.
 - **Sector Partnerships:** Sec. 134(c) of WIOA identifies the development, convening, or implementation of industry or sector partnerships as a required local employment and training activity; however, the regulations offer limited guidance as to how this aspect of the law should be implemented at the local level, and provides relatively little guidance on how state boards can support the development and expansion of sector partnerships.
 - **Career Pathways:** WIOA requires state boards to develop career pathways strategies and the local boards to develop and implement career pathways. The law further requires that adult education

must be aligned with the other core programs to develop career pathways. While proposed §679.370(f) reiterates the WIOA requirement that local boards lead efforts to develop career pathways with representatives of secondary and postsecondary education programs, the regulations are less clear on the role of adult education as a partner in the development and implementation of career pathways.

- **Business Services:** The notice of proposed rule making describes business services that must be provided through the one-stop system. Industry sector strategies, customized assistance in developing a registered apprenticeship program, career pathways, skills upgrading, and skill standard development are included in a list of allowable activities that may be provided by business intermediaries or by using economic, philanthropic, and other public and private resources (§678.435(c)).
- **Pre-Apprenticeships:** §681.480 defines pre-apprenticeship as “a program or set of strategies designed to prepare individuals to enter and succeed in a registered apprenticeship program and has a documented partnership with at least one, if not more, registered apprenticeship program(s).” The definition is based on the definition of a quality pre-apprenticeship included in Training and Employment Notice (TEN) No. 13-12. WIOA did not include a definition for pre-apprenticeship.
- **Incumbent Worker Training:** WIOA permits up to 20 percent of local adult and dislocated worker funds to be used for incumbent worker training (IWT). DOL suggests that an ideal incumbent worker training scenario is one where a worker acquires skills that allow them to advance in their employment within the company and allows the company to backfill the incumbent worker’s position.
- **Integrated Education and Training:** Articulates the required elements for integrated education and training programs, and proposes how such programs can show that they meet the requirement to be “for the purpose of educational and career advancement (§463.38).”
- **English Language Acquisition Programs:** Solicits public comment on how English language acquisition programs can satisfy the requirement that they lead to attainment of a high school diploma and transition to postsecondary education or employment (§463.32).
- **Youth Work Experiences:** DOL suggests the WIOA requirement that 20 percent of youth formula funds must be spent on work experiences for youth, is, “arguably the most important element as signaled by the minimum expenditure requirement.” Section 681.620 clarifies that summer youth employment is no longer required under WIOA (although it remains a permissible work experience activity).

The proposed regulations will officially be published in the federal register on April 16, 2015, with public comment due 60 days later.

- 5) **Tracking Recommendations:** Below is a list of recommendations for SB 45 on California's implementation of the federal Workforce Innovation and Opportunity Act or other measures before the Legislature that contribute to the stronger alignment of the state's education and workforce systems. The list includes recommendations from the informational hearings held by the Assembly Committee on Jobs, Economic Development and the Economy (JEDE) in February and March 2015,

as well as other comments submitted to stakeholder groups. JEDE will continue to track recommendations and provide the list to stakeholders, as requested.

- a) California should utilize, among other resources, the Innovation Hubs and their preexisting relationships with industry when seeking private sector input on nontraditional apprenticeships, industry-recognized certificates, and other issues related to private sector engagement on workforce development.
- b) Regions should be based on economic development patterns.
- c) Regional boundaries should recognize that a local workforce investment board may be serving more than one region.
- d) California's new and better aligned education and workforce system should recognize the importance of public high school diplomas being offered by California's WASC-accredited drop-out recovery high schools including those operated by SIATech and YouthBuild.
- e) Given the size and range of issues facing California youth, workers, and businesses, California's regional plans should embrace and integrate, where appropriate, the full range of local, state, and national programs that are designed to serve targeted populations including, but not limited to, Youth Build, Jobs Corps, and other Education Code Section 47612.1 programs serving out-of-school youth.
- f) In developing policies that support innovation-based industries and the timely completion of certificates and two-year degrees, certain technology and science-based course content should be available for credit by exam on a statewide basis. These credits would not be subject to the current residency requirement of 12 units.
- g) The California Partnership Academy Program has the highest multiple year retention rate of students through a career sequence of any of the programs serving youth. Workforce investment boards should consider how the California Partnership Academies can serve youth in their region, including integrating summer youth employment programs that serve eligible students enrolled in these academies, as well as other internships and mentoring programs.
- h) Include an assessment process and criteria for one-stop systems, including site reviews, in any high performing board designation, as well as a deep partnership with CWA in the development of the high-performing board process.
- i) Provide access on Wagner-Peyser budgets and staffing plans for each co-location site to local boards, and instruct EDD to examine Wagner-Peyser job descriptions so that staff in each co-located site can perform duties necessary to achieve the vision of local, regional and state plans as well as the vision of the system through WIOA.
- j) Community Colleges should be given a waiver on data reporting for the first two years of WIOA as they develop methods and collection needed to bring their data in line with the requirements of the law.
- k) The state should allow one-stop operators and career service providers to be staffed by workforce boards and/or agencies designated by the chief local elected official's organizations (with the Governor's written approval, as required by federal law). The approval should take place through the local planning process.
- l) Local Boards should be allowed to utilize unused Rapid Response funding that is currently present with the local areas to fund transition activities to WIOA, as outlined in Federal TEGL 26-14.

- 6) **The California Economy in the Future:** As California continues to transition from the recession, businesses and workers face an economy comprised of highly integrated industry sectors that are also more geographically dispersed. Advances in technology and processes are occurring more rapidly. This is resulting in competitiveness being increasingly defined in terms of speed, flexibility, specialization, and innovation. These changes are placing new challenges on California's training and workforce system.

Economists have identified nine key trends (see chart) that will most influence the U.S. and California economies. Several of these trends will have particularly significant impacts on workforce development.

The rise of smaller businesses is one of these trends. Due to their ability to provide innovative technologies and help other businesses access global markets, small businesses, and the entrepreneurs that lead them, are vital economic players. These small and adaptable businesses will have an inherent advantage in the post-recession economy, provided they are able to learn the skillsets necessary to run a successful business and have access to appropriately trained workers.

Key Economic Trends Affecting the California Economy	
1	Cities and regions will become more dominant economic players.
2	Global networks will be supported through more advanced information and transportation technologies.
3	Barriers to trade will continue to decline among both developed and emerging economies.
4	The world's largest companies will increasingly be headquartered in emerging foreign markets.
5	Global and more diversified markets will provide new opportunities for entrepreneurs and smaller size businesses.
6	Scarcity and rising prices will increase pressure on the development and deployment of cleaner technologies.
7	Deepening income inequality will result in costly outcomes, most adversely affecting women, minorities, immigrants, the disabled, and the formerly incarcerated, and thus require the diversion of public resources to address unemployment, poverty, and social unrest.
8	The retirement of Boomers will place an even greater need for middle- and high-skilled workers.
9	The U.S workforce will be smaller, more ethnically diversified, and have educational backgrounds that are lower than many other developed economies.
Source: Researched and compiled from various sources by the Assembly Committee on Jobs, Economic Development, and the Economy	

Another key economic trend is the rising importance of regional economies as one of the primary drivers of economic growth. The economic foundation of many strong regional economies are innovation-based industry clusters which have the ability to support high-paying jobs, lucrative career ladders, and longer term job stability. Economic researchers have shown that industry clusters rise in areas where local universities, research labs, and competing businesses within the same industry provide a critical mass of skilled workers. Though the economic composition of regions may differ in California, each region has strengths and weaknesses. The effective identification and cultivation of these industry strengths will factor heavily on the future economic success of California's regional economies.

Advances in information technology and the need to have more environmentally sustainable products will also influence the basic education and training needs of California workers. Even entry-level workers will be expected to have important soft skills, such as the ability to work in teams, actively listen, communicate effectively with co-workers and bosses, and be able to negotiate workplace needs in a positive manner. Unlike hard skills, which are about a person's ability to perform a certain task or

activity, soft skills provide the tools necessary to learn and advance in the state's continually evolving workplace environment.

Many of these new market realities are already coming into fruition and, for now, California's workforce is underprepared to meet these demands. There are still numerous unemployed and underemployed workers in California, while, simultaneously there are businesses reporting that they are unable to find qualified workers to fill empty positions. Strong early education programs, career technology pathways, accessible higher education, and effective and timely workforce development programs are key to equipping California workers with the skillsets that are in demand.

- 7) **Current Employment Trends in California:** Employment trends in California over the past year point to an improving economy that is growing at a rate exceeding the national average. The **chart below** illustrates that employment in California was up from the prior year and that the state experienced a drop in unemployment that exceeds 14%.

California and U.S. Labor Force Trends						
	California Labor Force Trends (seasonally adjusted)			U.S. Labor Force Trends (seasonally adjusted)		
	February 2014	February 2015	% Change	February 2014	February 2015	% Change
Population	30,022,000	30,370,000	1.2%	247,085,000	249,899,000	1.1%
Labor Force	18,710,000	18,943,000	1.2%	155,688,000	157,002,000	0.8%
Employment	17,218,000	17,668,000	2.6%	145,301,000	148,297,000	2.1%
Unemployed	1,492,000	1,275,000	-14.5%	10,387,000	8,705,000	-16.2%

Source: California Labor Market Review, October 2014

The Employment Development Department reports that civilian employment was up 426,000 (2.5%) jobs from the prior year. All 11 nonfarm industry sectors in California gained jobs between October 2013 and October 2014: construction (5.3%); professional and business services (4.5%); mining and logging (4.3%); information (3.9%); educational and health services (2.9%); leisure and hospitality (2.4%); trade, transportation and utilities (1.6%); financial services (0.6%); manufacturing (0.3%); government (0.2%); and, other services (0.1%).

EDD currently projects that the number of employed persons in California will reach 18,511,200 by 2020, an increase of about 11.2% from 2013. Roughly 70% of all projected nonfarm job growth is expected to be concentrated in four industry sectors: professional and business services; educational services, healthcare, and social assistance; leisure and hospitality; and retail trade. Many of these high growth industry subsectors require specialized training, such as employment related to nursing and residential care facilities, technical consulting services, and computer system designs.

- 8) **Related Legislation:** Below is a list of bills from the current and prior sessions.
- a) **AB 285 (Brown) Scope of Practice for the California Workforce Investment Board:** This bill would have required the California Workforce Investment Board to make recommendations and provide technical assistance on entrepreneurial training opportunities that could be made available through local workforce investment boards. The bill would have also deleted certain required duties of the California Workforce Investment Board and made changes to the definition of microenterprise. Status: Vetoed by the Governor, 2013. Small businesses and entrepreneurial training was included in later legislation.
 - b) **AB 1093 (E. Garcia and Hernández) Workforce Innovation and Opportunity Act:** This bill makes modifications to the Supervised Population Workforce Training Grant Program, which is

administered by the California Workforce Investment Board, for the purpose of expediting the allocation of funds in the 2014-15 fiscal year. Status: Scheduled to be heard in the Assembly Committee on Jobs, Economic Development, and the Economy on April 21, 2015.

- c) ***SB 45 (Mendoza) Workforce Innovation and Opportunity Act***: This bill makes necessary changes to existing workforce development statutes in code to conform to the new federal guidelines under the Workforce Innovation and Opportunity Act. The bill is sponsored by the California Labor Agency. Status: Pending on the Senate Floor.
 - d) ***SB 118 (Lieu) Education and Workforce Investment Systems***: This bill required the California Workforce Investment Board to incorporate specific principles into the state's strategic plan to align the education and workforce investment systems of the state to the needs of the 21st century economy and promotes a well-educated and highly skilled workforce to meet the state's future workforce needs. Status: Signed by the Governor, Chapter 562, Statutes of 2013.
 - e) ***SJR 10 (Lieu) Reauthorization of Workforce Investment Act of 1998***: This resolution urges the U.S. Congress to reauthorize the federal Workforce Investment Act of 1998, and for Congress to include policies that provide adequate funding and encourage cooperation between state or local workforce investment boards and their clientele. Status: Adopted by the Legislature, Chapter 121, Statutes of 2013.
- 9) **Double Referral**: The Assembly Rules Committee has referred this measure to the Assembly Committee on Labor and the Assembly Committee on Jobs, Economic Development and the Economy. This measure passed the Assembly Committee on Labor on a 6 to 0 vote.

REGISTERED SUPPORT / OPPOSITION:

Support

California Labor and Workforce Development Agency (sponsor)
California Chamber of Commerce
California Manufacturers and Technology Association
California Primary Care Association
California Workforce Association
SIATech

Opposition

California Right to Life Committee

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