

SENATE, No. 446

STATE OF NEW JERSEY 218th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator DAWN MARIE ADDIEGO
District 8 (Atlantic, Burlington and Camden)

Senator FRED H. MADDEN, JR.
District 4 (Camden and Gloucester)

Assemblyman WAYNE P. DEANGELO
District 14 (Mercer and Middlesex)

Assemblyman ERIC HOUGHTALING
District 11 (Monmouth)

Assemblyman HAROLD "HAL" J. WIRTHS
District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Senator Oroho, Assemblyman A.M.Bucco, Assemblywoman Murphy,
Assemblymen Space, Giblin and Assemblywoman Vainieri Huttie

SYNOPSIS

Provides preferences for certain businesses applying for workforce development grants.

CURRENT VERSION OF TEXT

As reported by the Senate Labor Committee with technical review.



(Sponsorship Updated As Of: 11/26/2019)

1 AN ACT providing preferences for certain businesses applying for
2 workforce development grants and amending P.L.1992, c.43.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 4 of P.L.1992, c.43 (C.34:15D-4) is amended to read
8 as follows:

9 4. a. The Workforce Development Partnership Program is
10 hereby established in the Department of Labor and Workforce
11 Development and shall be administered by the Commissioner of
12 Labor and Workforce Development. The purpose of the program is
13 to provide qualified displaced, disadvantaged and employed
14 workers with the employment and training services most likely to
15 enable the individual to obtain employment providing self-
16 sufficiency for the individual and also to provide the greatest
17 opportunity for long-range career advancement with high levels of
18 productivity and earning power. To implement that purpose, the
19 program shall provide those services by means of training grants or
20 customized training services in coordination with funding for the
21 services from federal or other sources. The commissioner is
22 authorized to expend moneys from the Workforce Development
23 Partnership Fund to provide the training grants or customized
24 training services and provide for each of the following:

25 (1) The cost of counseling required pursuant to section 7 of
26 P.L.1992, c.43 (C.34:15D-7), to the extent that adequate funding for
27 counseling is not available from federal or other sources;

28 (2) Reasonable administrative costs, which shall not exceed
29 10% of the revenues collected pursuant to section 2 of P.L.1992,
30 c.44 (C.34:15D-13) during any fiscal year ending before July 1,
31 2001, except for additional start-up administrative costs approved
32 by the Director of the Office of Management and Budget during the
33 first year of the program's operation;

34 (3) Reasonable costs, which shall not exceed 0.5% of the
35 revenues collected pursuant to section 2 of P.L.1992, c.44
36 (C.34:15D-13) during any fiscal year ending before July 1, 2001, as
37 required by the State Employment and Training Commission to
38 design criteria and conduct an annual evaluation of the program;
39 and

40 (4) The cost of reimbursement to individuals for excess
41 contributions pursuant to section 6 of P.L.1992, c.44 (C.34:15D-
42 17).

43 b. Not more than 10% of the moneys received by any service
44 provider pursuant to this act shall be expended on anything other
45 than direct costs to the provider of providing the employment and

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 training services, which direct costs shall not include any
2 administrative or overhead expense of the provider.
- 3 c. Training and employment services or other workforce
4 investment services shall be provided to a worker who receives
5 counseling pursuant to section 7 of P.L.1992, c.43 (C.34:15D-7)
6 only if the counselor who evaluates the worker pursuant to that
7 section determines that the worker can reasonably be expected to
8 successfully complete the training and instruction identified in the
9 Employability Development Plan developed pursuant to that section
10 for the worker.
- 11 d. All occupational training provided under this act:
- 12 (1) Shall be training which is likely to substantially enhance the
13 individual's marketable skills and earning power; and
- 14 (2) Shall be training for a labor demand occupation, except for:
- 15 (a) Customized training provided to the present employees of a
16 business which the commissioner deems to be in need of the
17 training to prevent job loss caused by obsolete skills, technological
18 change or national or global competition; or
- 19 (b) Customized training provided to employees at a facility
20 which is being relocated from another state into New Jersey; or
- 21 (c) Entrepreneurial training and technical assistance supported
22 by training grants provided pursuant to subsection b. of section 6 of
23 P.L.1992, c.43 (C.34:15D-6).
- 24 e. During any fiscal year ending before July 1, 2001, not less
25 than 25% of the total revenues dedicated to the program during any
26 one fiscal year shall be reserved to provide employment and
27 training services for qualified displaced workers; not less than six
28 percent of the total revenues dedicated to the program during any
29 one fiscal year shall be reserved to provide employment and
30 training services for qualified disadvantaged workers; not less than
31 45% of the total revenues dedicated to the program during any one
32 fiscal year shall be reserved for and appropriated to the Office of
33 Customized Training; not less than 3% of the total revenues
34 dedicated to the program during any one fiscal year shall be
35 reserved for occupational safety and health training; and 5% of the
36 total revenues dedicated to the program during any one fiscal year
37 shall be reserved for and appropriated to the Youth Transitions to
38 Work Partnership created pursuant to P.L.1993, c.268 (C.34:15E-1
39 et seq.).
- 40 f. Funds available under the program shall not be used for
41 activities which induce, encourage or assist: any displacement of
42 currently employed workers by trainees, including partial
43 displacement by means such as reduced hours of currently
44 employed workers; any replacement of laid off workers by trainees;
45 or any relocation of operations resulting in a loss of employment at
46 a previous workplace located in the State.
- 47 g. On-the-job training shall not be funded by the program for
48 any employment found by the commissioner to be of a level of skill

1 and complexity too low to merit training. The duration of on-the-
2 job training funded by the program for any worker shall not exceed
3 the duration indicated by the Bureau of Labor Statistics'
4 Occupational Information Network, or "O*NET," for the
5 occupation for which the training is provided and shall in no case
6 exceed 26 weeks. The department shall set the duration of on-the-
7 job training for a worker for less than the indicated maximum, when
8 training for the maximum duration is not warranted because of the
9 level of the individual's previous training, education or work
10 experience. On-the-job training shall not be funded by the program
11 unless it is accompanied, concurrently or otherwise, by whatever
12 amount of classroom-based or equivalent occupational training,
13 remedial instruction or both, is deemed appropriate for the worker
14 by the commissioner. On-the-job training shall not be funded by
15 the program unless the trainee is provided benefits, pay and
16 working conditions at a level and extent not less than the benefits
17 and working conditions of other trainees or employees of the
18 trainee's employer with comparable skills, responsibilities,
19 experience and seniority.

20 h. Employment and training services funded by the program
21 shall not replace, supplant, compete with or duplicate in any way
22 approved apprenticeship programs.

23 i. No activities funded by the program shall impair existing
24 contracts for services or collective bargaining agreements, except
25 that activities which would be inconsistent with the terms of a
26 collective bargaining agreement may be undertaken with the written
27 concurrence of the collective bargaining unit and employer who are
28 parties to the agreement.

29 j. All staff who are hired and supported by moneys from the
30 Workforce Development Partnership Fund, including any of those
31 staff located at any One Stop Career Center, but not including any
32 staff of a service provider providing employment and training
33 services supported by a customized training grant pursuant to
34 section 5 of P.L.1992, c.43 (C.34:15D-5) or an individual training
35 grant pursuant to section 6 of P.L.1992, c.43 (C.34:15D-6), shall be
36 hired and employed by the State pursuant to Title 11A, Civil
37 Service, of the New Jersey Statutes, be hired and employed by a
38 political subdivision of the State, or be qualified staff hired and
39 employed by a non-profit organization which began functioning as
40 the One Stop Career Center operator with the written consent of the
41 chief elected official and the commissioner prior to the effective
42 date of P.L.2004, c.39 (C.34:1A-1.2 et al.), or be qualified staff
43 hired and employed by an approved community-based or faith-
44 based organization to provide services at the level of staffing
45 provided in an agreement entered into by the organization before
46 the effective date of P.L.2004, c.39 (C.34:1A-1.2 et al.).

47 k. Employers in the State who apply for grants for training and
48 employment services or other workforce investment services for

1 their employees in the State shall be evaluated by the commissioner
2 and preference shall be given to those employers who:

3 (1) provide equipment, supplies, or services to military bases
4 and installations pursuant to a procurement or military contract with
5 the United States Department of Defense, the United States
6 Department of Veterans Affairs, or any branch of the United States
7 Armed Forces;

8 (2) are engaged in one or more of the following fields or
9 industries: science, technology, engineering, mathematics, or
10 advanced manufacturing within these fields or industries; **[or]**

11 (3) are manufacturers; or

12 (4) intend to train veterans.

13 Pursuant to this paragraph, "veteran" means a person who has
14 served in the Army, Navy, Air Force, Marines or Coast Guard of
15 the United States or a Reserve component thereof or the National
16 Guard of this State as defined in section 1 of P.L.1963, c.109
17 (C.38A:1-1), and has been honorably discharged or released under
18 conditions other than dishonorable from that service.

19 (cf: P.L.2017, c.22, s.1)

20

21 2. Section 5 of P.L.1992, c.43 (C.34:15D-5) is amended to read
22 as follows:

23 5. a. There is hereby established, as part of the Workforce
24 Development Partnership Program, the Office of Customized
25 Training. Moneys allocated to the office from the fund shall be used
26 to provide employment and training services to eligible applicants
27 approved by the commissioner.

28 b. An applicant shall be eligible for customized training
29 services if it is one of the following:

30 (1) An individual employer that seeks the customized training
31 services to create, upgrade or retain jobs in a labor demand
32 occupation;

33 (2) An individual employer that seeks customized training
34 services to upgrade or retain jobs in an occupation which is not a
35 labor demand occupation, if the commissioner determines that the
36 services are necessary to prevent the likely loss of the jobs or that
37 the services are being provided to employees at a facility which is
38 being relocated from another state into New Jersey;

39 (3) An employer organization, labor organization or community-
40 based or faith-based organization seeking the customized training
41 services to provide training in labor demand occupations in a
42 particular industry;

43 (4) A consortium made up of one or more educational
44 institutions and one or more eligible individual employers or labor,
45 employer or community-based or faith-based organizations that
46 seeks the customized training services to provide training in labor
47 demand occupations in a particular industry;

1 (5) An individual employer who provides equipment, supplies,
2 or services to military bases and installations pursuant to a
3 procurement or military contract with the United States Department
4 of Defense, the United States Department of Veterans Affairs, or
5 any branch of the United States Armed Forces;

6 (6) An individual employer who is engaged in one or more of
7 the following fields or industries: science, technology, engineering,
8 mathematics, or advanced manufacturing within these fields or
9 industries; **[or]**

10 (7) An individual employer who is a manufacturer; or

11 (8) An individual employer who intends to train veterans. For
12 the purposes of this subparagraph, a "veteran" is a person who has
13 served in the Army, Navy, Air Force, Marines or Coast Guard of
14 the United States or a Reserve component thereof or the National
15 Guard of this State as defined in section 1 of P.L.1963, c.109
16 (C.38A:1-1), and has been honorably discharged or released under
17 conditions other than dishonorable from that service.

18 c. Each applicant seeking funding for customized training
19 services shall submit an application to the commissioner in a form
20 and manner prescribed in regulations adopted by the commissioner.
21 The application shall be accompanied by a business plan of each
22 employer which will receive customized training services if the
23 application is approved. The business plan shall include:

24 (1) A justification of the need for the services and funding from
25 the office, including information sufficient to demonstrate to the
26 satisfaction of the commissioner that the applicant will provide
27 significantly less of the services if the requested funding is not
28 provided by the office;

29 (2) A comprehensive long-term human resource development
30 plan which:

31 (a) Extends significantly beyond the period of time in which the
32 services are funded by the office;

33 (b) Significantly enhances the productivity and competitiveness
34 of the employer operations located in the State and the employment
35 security of workers employed by the employer in the State; and

36 (c) States the number of current or newly-hired workers who
37 will be trained under the grant and the pay levels of jobs which will
38 be created or retained for those workers as a result of the funding
39 and the plan.

40 (3) Evidence, if the training sought is for an occupation which is
41 not a labor demand occupation, that the customized training
42 services are needed to prevent job loss caused by obsolete skills,
43 technological change or national or global competition or that the
44 services are being provided to employees at a facility which is
45 being relocated from another state into New Jersey;

46 (4) Information demonstrating that most of the individuals
47 receiving the services will be trained primarily for work in the
48 direct production of goods or services;

1 (5) A commitment to provide the information needed by the
2 commissioner to evaluate the success of the funding and the plan in
3 creating and retaining jobs, to assure compliance with the
4 provisions of P.L.1992, c.43 (C.34:15D-1 et seq.); and

5 (6) Any other information or commitments which the
6 commissioner deems appropriate to assure compliance with the
7 provisions of P.L.1992, c.43 (C.34:15D-1 et seq.).

8 The commissioner may provide whatever assistance he deems
9 appropriate in the preparation of the application and business plan,
10 which may include labor market information, projections of
11 occupational demand and information and advice on alternative
12 training and instruction strategies.

13 d. Each employer that receives a grant for customized training
14 services shall contribute a minimum of 50% of the total cost of the
15 customized training services, except that the commissioner shall set
16 a higher or lower minimum contribution by an employer, if
17 warranted by the size and economic resources of the employer or
18 other factors deemed appropriate by the commissioner, and except
19 that, for individuals hired by the employer through a One Stop
20 Career Center who receive classroom training under the grant and
21 were recipients of benefits under the Work First New Jersey
22 program at any time during the 12 months preceding the date of
23 employment, the employer shall be eligible for reimbursement of up
24 to 50% of wages paid to the individual during the classroom
25 training in addition to reimbursement for tuition and other direct
26 costs of the training as determined to be appropriate by the office,
27 and provided, further, that no individual shall be hired or placed in
28 a manner which results in a violation of the restrictions of
29 subsection f. of section 4 of P.L.1992, c.43 (C.34:15D-4) against
30 displacing current employees.

31 e. Each employer receiving a grant for customized training
32 services shall hire or retain in permanent employment each worker
33 who successfully completes the training and instruction provided
34 under the customized training. The employer shall be entitled to
35 select the qualified employed, disadvantaged or displaced workers
36 who will participate in the customized training, except that if any
37 collective bargaining unit represents a qualified employed worker,
38 the selection shall be conducted in a manner acceptable to both the
39 employer and the collective bargaining unit. The commissioner
40 shall provide for the withholding, for a time period he deems
41 appropriate, of whatever portion he deems appropriate of program
42 funding as a final payment for customized training services,
43 contingent upon the hiring and retention of a program completer as
44 required pursuant to this section. If an employer receiving a grant
45 for customized training services pursuant to this section relocates or
46 outsources any or all of the jobs out of the State for which the
47 customized training services were provided under the grant within
48 three years following the end date of the customized contract, the

1 employer shall, if all of the jobs are relocated or outsourced, return
2 all of the moneys provided to the employer by the State for
3 customized training services, or, if only a portion of the jobs are
4 relocated or outsourced, return a part of the moneys, deemed by the
5 commissioner to be appropriate and proportional to the portion of
6 the jobs relocated or outsourced, and the returned amount shall be
7 deposited into the Workforce Development Partnership Fund.

8 f. The customized training services provided to an approved
9 applicant may include any combination of employment and training
10 services or any single employment and training service approved by
11 the commissioner, including remedial instruction provided to
12 upgrade workplace literacy. Each service may be provided by a
13 separate approved service provider. No training or employment
14 service shall be funded through a customized training grant, unless
15 the service is provided directly by an employer or is provided by an
16 approved service provider. An employer who directly provides
17 training and employment services to his own employees shall not be
18 regarded as a service provider and shall not be subject to any
19 requirement to obtain approval by the State as a service provider,
20 including the requirements of section 13 of P.L.2005, c.354
21 (C.34:15C-10.1) to be approved as a qualifying school or the
22 requirements of section 14 of P.L.2005, c.354 (C.34:15C-10.2) to
23 be included on the State Eligible Training Provider List.

24 g. Customized training services shall include any remedial
25 instruction determined necessary pursuant to section 7 of this act.
26 Applications for customized training services shall include
27 estimates of the total need for remedial instruction determined in a
28 manner deemed appropriate by the commissioner.

29 h. Any business seeking customized training services shall, in
30 the manner prescribed by the commissioner, participate in the
31 development of a plan to provide the services. Any business
32 seeking customized training services for workers represented by a
33 collective bargaining unit shall notify the collective bargaining unit
34 and permit it to participate in developing the plan. No customized
35 training services shall be provided to a business employing workers
36 represented by a collective bargaining unit without the written
37 consent of both the business and the collective bargaining unit.

38 i. Any business receiving customized training services shall be
39 responsible for providing workers' compensation coverage for any
40 worker participating in the customized training.

41 j. The commissioner shall establish an annual goal that 15% or
42 more of the jobs to be created or retained in connection with
43 training supported by grants from the office shall be jobs provided
44 to individuals who were recipients of benefits under the Work First
45 New Jersey program at any time during the 12 months prior to
46 being placed in the jobs. The means to attain the goal shall include
47 coordinated efforts between the office and One Stop Career Centers
48 to prepare recipients for employment and make them available to

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1 employers, but shall not include any policy which may penalize
2 employers or discourage employers from using customized training
3 service provided by the office.

4 (cf: P.L.2017, c.22, s.2)

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6 3. This act shall take effect immediately.