

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 538

Short Title: NCWorks/Enhance Workforce Development. (Public)

Sponsors: Senators Barefoot (Primary Sponsor); Clark, D. Davis, and Waddell.

Referred to: Rules and Operations of the Senate.

March 30, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NCWORKS COMMISSION TO ENHANCE WORKFORCE
3 DEVELOPMENT IN NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 143B-438.10 reads as rewritten:

6 "**§ 143B-438.10. ~~Commission on Workforce Development.~~NCWorks Commission.**

7 (a) Creation and Duties. – There is created within the Department of Commerce the
8 ~~North Carolina Commission on Workforce Development.~~NCWorks Commission. The
9 Commission shall have the following powers and duties:

- 10 (1) To develop strategies to produce a skilled, competitive workforce that meets
11 the needs of the State's changing economy.
- 12 (2) To advise the Governor, the General Assembly, State and local agencies, and
13 the business sector regarding policies and programs to enhance the State's
14 workforce by submitting annually a comprehensive report on workforce
15 development initiatives in the State.
- 16 (3) To coordinate and develop strategies for cooperation between the academic,
17 governmental, and business sectors.
- 18 (4) To establish, develop, and provide ongoing oversight of the "One-Stop
19 Delivery System" for employment and training services in the State.
- 20 (5) To develop a unified State plan for workforce training and development.
- 21 (6) To review and evaluate the plans and programs of agencies, boards, and
22 organizations operating federally funded or State-funded workforce
23 development programs for effectiveness, duplication, fiscal accountability,
24 and coordination.
- 25 (7) To develop and continuously improve performance measures to assess the
26 effectiveness of workforce training and employment in the State. The
27 Commission shall assess and report on the performance of workforce
28 development programs administered by the Department of Commerce, the
29 Department of Health and Human Services, the Community Colleges
30 System Office, the Department of Administration, and the Department of
31 Public Instruction in a manner that addresses at least all of the following:
- 32 a. Actual performance and costs of State and local workforce
33 development programs.
- 34 b. Expected performance levels for State and local workforce
35 development programs based on attainment of program goals and
36 objectives.



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- 1 c. Program outcomes, levels of employer participation, and satisfaction
2 with employment and training services.
- 3 d. Information already tracked through the common follow-up
4 information management system created pursuant to G.S. 96-32,
5 such as demographics, program enrollment, and program completion.
- 6 (7a) To issue annual reports that, at a minimum, include the information listed in
7 sub-subdivisions a. through d. of subdivision (7) of this section on the
8 performance of workforce development programs administered by the
9 entities listed in that subdivision. The first annual report shall be delivered to
10 the General Assembly by January 15, 2014.
- 11 (8) To submit to the Governor and to the General Assembly by April 1, 2000,
12 and biennially thereafter, a comprehensive Workforce Development Plan
13 that shall include at least the following:
- 14 a. Goals and objectives for the biennium.
- 15 b. An assessment of current workforce programs and policies.
- 16 c. An assessment of the delivery of employment and training services to
17 special populations, such as youth and dislocated workers.
- 18 d. Recommendations for policy, program, or funding changes.
- 19 (9) To serve as the State's Workforce Investment Board for purposes of the
20 federal ~~Workforce Investment Act of 1998.~~ Workforce Innovation and
21 Opportunity Act of 2014.
- 22 (10) To take the lead role in developing the memorandum of understanding for
23 workforce development programs with the Department of Commerce, the
24 Department of Health and Human Services, the Community Colleges
25 System Office, and the Department of Administration. The memorandum of
26 understanding must be reviewed at least every five years.
- 27 (11) To coordinate the activities of workforce development work groups formed
28 under this Part.
- 29 (12) To collaborate with the Department of Commerce on the common follow-up
30 information management system.
- 31 (13) To develop performance accountability measures for local workforce
32 development boards consistent with the requirements of Section 116 of the
33 Workforce Innovation and Opportunity Act of 2014, and to recommend to
34 the Governor sanctions against local workforce development boards that fail
35 to meet such performance accountability measures.
- 36 (14) To develop fiscal control and fund accounting procedures for local
37 workforce development boards consistent with the requirements of Section
38 184 of the Workforce Innovation and Opportunity Act of 2014, and to
39 recommend to the Governor sanctions against local workforce development
40 boards that fail to meet such fiscal control and fund accounting procedures.
- 41 (b) ~~Membership; Terms. — Effective January 1, 2013, the~~ Membership. — The
42 ~~Commission on Workforce Development shall consist of 25–29 members appointed as follows:~~
43 (1) By virtue of their offices, the following ~~department and agency heads or~~
44 ~~their respective designees~~ individual shall serve on the Commission: ~~the~~
45 ~~Secretary of the Department of Administration, the Secretary of the~~
46 ~~Department of Health and Human Services, the Superintendent of Public~~
47 ~~Instruction, the President of the Community Colleges System Office, the~~
48 ~~Commissioner of the Department of Labor, and the Secretary of the~~
49 ~~Department of Commerce.~~
- 50 a. The Governor.
- 51 b. The Secretary of the Department of Administration.

- 1 c. The Secretary of the Department of Commerce.
2 d. The Secretary of the Department of Health and Human Services.
3 e. The Superintendent of Public Instruction.
4 f. The President of the Community Colleges System Office.
5 g. The President of The University of North Carolina.

6 (2) ~~The~~ In accordance with Section 101 of the Workforce Innovation and
7 Opportunity Act of 2014, the Governor shall appoint 22 members, including
8 16 members representing business and industry and six members
9 representing labor and the workforce. 19 members as follows:

- 10 a. ~~Two members representing public, postsecondary, and vocational~~
11 ~~education.~~
12 b. ~~One member representing community-based organizations.~~
13 c. ~~Three members representing labor.~~
14 d. ~~Thirteen members representing business and industry.~~

15 (3) ~~The terms of the members appointed by the Governor shall be for four years.~~

16 (b1) Terms. – The members shall serve staggered terms of office of four years. At the
17 expiration of each member's term, the appointing authority shall reappoint or replace the
18 member with a new member of like qualification as specified in subsection (b) of this section.

19 (b2) Vacancies. – In the event of a vacancy arising otherwise than by expiration of term,
20 the appointing authority shall appoint a successor of like qualification as specified in subsection
21 (b) of this section who shall then serve the remainder of the vacating's member's term.

22 (c) Appointment of Chair; Meetings. – The Governor shall appoint the Chair of the
23 Commission from among the business and industry members, and that person shall serve at the
24 pleasure of the Governor. The Commission shall meet at least quarterly upon the call of the
25 Chair.

26 (d) Staff; Funding. – The clerical and professional staff to the Commission shall be
27 provided by the Department of Commerce. Funding for the Commission shall derive from State
28 and federal resources as allowable and from the partner agencies to the Commission. Members
29 of the Commission shall receive necessary travel and subsistence in accordance with State law.

30 (e) Agency Cooperation; Reporting. – Each State agency, department, institution, local
31 political subdivision of the State, and any other State-supported entity identified by or subject
32 to review by the Commission in carrying out its duties under subdivision (6) of subsection (a)
33 of this section must participate fully in the development of performance measures for
34 workforce development programs and shall provide to the Commission all data and information
35 available to or within the agency or entity's possession that is requested by the Commission for
36 its review. Further, each agency or entity required to report information and data to the
37 Commission under this section shall maintain true and accurate records of the information and
38 data requested by the Commission. The records shall be open to the Commission's inspection
39 and copying at reasonable times and as often as necessary.

40 (f) Confidentiality. – At the request of the Commission, each agency or entity subject
41 to this section shall provide it with sworn or unsworn reports with respect to persons employed
42 or trained by the agency or entity, as deemed necessary by the Commission to carry out its
43 duties pursuant to this section. The information obtained from an agency or entity pursuant to
44 this subsection (i) is not a public record subject to the provisions of Chapter 132 of the General
45 Statutes and (ii) shall be held by the Commission as confidential, unless it is released in a
46 manner that protects the identity and privacy of individual persons and employers referenced in
47 the information.

48 (g) Advisory Work Group. – The Commission shall appoint an Advisory Work Group
49 composed of representatives from the State and local entities engaged in workforce
50 development activities to assist the Commission with the development of performance
51 measures."

1 **SECTION 2.** Transition of Membership of the Commission. – (a) Except as
2 otherwise provided in this section, the terms of all members of the Commission shall expire
3 when this act becomes law. A new Commission of 33 members shall be appointed in the
4 manner provided by G.S. 143B-438.10(b), as enacted by Section 1 of this act and this section.
5 Members appointed in the manner provided by G.S. 143B-438.10(b), as enacted by Section 1
6 of this act, shall be appointed no later than June 30, 2015.

7 (b) Six of the members of the Commission whose qualifications are described
8 by sub-subdivision (2)a. of G.S. 143B-438.10(b), and two of the members of the Commission
9 whose qualifications are described by sub-subdivision (2)b. of G.S. 143B-438.10(b), as enacted
10 by Section 1 of this act, shall be appointed for an initial term of one year and subsequent
11 appointments shall be for four-year terms thereafter. Six of the members of the Commission
12 whose qualifications are described by sub-subdivision (2)a. of G.S. 143B-438.10(b), and two of
13 the members of the Commission whose qualifications are described by sub-subdivision (2)b. of
14 G.S. 143B-438.10(b), as enacted by Section 1 of this act, shall be appointed for an initial term
15 of two years and subsequent appointments shall be for four-year terms thereafter. Five of the
16 members of the Commission whose qualifications are described by sub-subdivision (2)a. of
17 G.S. 143B-438.10(b), and three of the members of the Commission whose qualifications are
18 described by sub-subdivision (2)b. of G.S. 143B-438.10(b), as enacted by Section 1 of this act,
19 shall be appointed for an initial term of one year and subsequent appointments shall be for
20 four-year terms thereafter. Members of the Commission whose qualifications are described by
21 subdivision (1) of G.S. 143B-438.10(b), as enacted by Section 1 of this act, shall be appointed
22 for initial terms of four years. Initial terms shall expire on June 30 of the year of expiration.

23 **SECTION 3.** G.S. 143B-438.11 reads as rewritten:

24 "**§ 143B-438.11. Local Workforce Development Boards.**

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

- 27 (1) To develop policy and act as the governing body for local workforce
28 development.
- 29 (2) To provide planning, oversight, and evaluation of local workforce
30 development programs, including the local One-Stop Delivery System.
- 31 (3) To provide advice regarding workforce policy and programs to local elected
32 officials, employers, education and employment training agencies, and
33 citizens.
- 34 (4) To develop a local plan in coordination with the appropriate community
35 partners to address the workforce development needs of the service area.
- 36 (5) To develop linkages with economic development efforts and activities in the
37 service area and promote cooperation and coordination among public
38 organizations, education agencies, and private businesses.
- 39 (6) To review local agency plans and grant applications for workforce
40 development programs for coordination and achievement of local goals and
41 needs.
- 42 (7) To serve as the Workforce Investment Board for the designated substate area
43 for the purpose of the federal ~~Workforce Investment Act of 1998.~~ Workforce
44 Innovation and Opportunity Act of 2014.
- 45 (7a) To designate through a competitive selection process, by no later than July 1,
46 2014, the providers of adult and dislocated worker services authorized in the
47 ~~Workforce Investment Act of 1998.~~ Workforce Innovation and Opportunity
48 Act of 2014.
- 49 (8) To provide the appropriate guidance and information to ~~Workforce~~
50 ~~Investment Act~~ Workforce Innovation and Opportunity Act consumers to
51 ensure that they are prepared and positioned to make informed choices in

1 selecting a training provider. Each local Workforce Development Board
2 shall ensure that consumer choice is properly maintained in the one-stop
3 centers and that consumers are provided the full array of public and private
4 training provider information.

5 (9) To provide coordinated regional workforce development planning and labor
6 market data sharing.

7 (10) To comply with the performance accountability measures established by the
8 NCWorks Commission in accordance with Section 116 of the Workforce
9 Innovation and Opportunity Act of 2014.

10 (11) To comply with the fiscal control and fund accounting procedures
11 established by the NCWorks Commission in accordance with Section 184 of
12 the Workforce Innovation and Opportunity Act of 2014.

13 (b) Members. – Members of local Workforce Development Boards shall be appointed
14 by local elected officials in accordance with criteria established by the Governor and with
15 provisions of the federal ~~Workforce Investment Act.~~ Workforce Innovation and Opportunity
16 Act. The local Workforce Development Boards shall have a majority of business members and
17 shall also include representation of workforce and education providers, labor organizations,
18 community-based organizations, and economic development boards as determined by local
19 elected officials. The Chairs of the local Workforce Development Boards shall be selected from
20 among the business members.

21 (c) Assistance. – The North Carolina Commission on Workforce Development and the
22 Department of Commerce shall provide programmatic, technical, and other assistance to any
23 local Workforce Development Board that realigns its service area with the boundaries of a local
24 regional council of governments established pursuant to G.S. 160A-470."

25 **SECTION 4.** G.S. 143B-438.12 reads as rewritten:

26 **"§ 143B-438.12. Federal Program Administration.**

27 (a) Federal ~~Workforce Investment Act.~~ Workforce Innovation and Opportunity Act. –
28 In accordance with the federal ~~Workforce Investment Act,~~ Workforce Innovation and
29 Opportunity Act, the Commission on Workforce Development shall develop a Five-Year
30 Strategic Plan to be submitted to the U.S. Secretary of Labor. The Strategic Plan shall describe
31 the workforce development activities to be undertaken in the State to implement the federal
32 ~~Workforce Investment Act~~ Workforce Innovation and Opportunity Act and how special
33 populations shall be served.

34 (b) Other Workforce Grant Applications. – The Commission on Workforce
35 Development may submit grant applications for workforce development initiatives and may
36 manage the initiatives and demonstration projects."

37 **SECTION 5.** G.S. 143B-438.13 reads as rewritten:

38 **"§ 143B-438.13. Employment and Training Grant Program.**

39 (a) Employment and Training Grant Program. – There is established in the Department
40 of Commerce, Division of ~~Employment and Training,~~ Workforce Solutions, an Employment
41 and Training Grant Program. Grant funds shall be allocated to local Workforce Development
42 Boards for the purposes of enabling recipient agencies to implement local employment and
43 training programs in accordance with existing resources, local needs, local goals, and selected
44 training occupations. The State program of workforce performance standards shall be used to
45 measure grant program outcomes.

46 (b) Use of Grant Funds. – Local agencies may use funds received under this section for
47 the purpose of providing services, such as training, education, placement, and supportive
48 services. Local agencies may use grant funds to provide services only to individuals who are (i)
49 18 years of age or older and meet the federal ~~Workforce Investment Act,~~ Workforce Innovation
50 and Opportunity Act, title I adult eligibility definitions, or meet the federal ~~Workforce~~
51 ~~Investment Act,~~ Workforce Innovation and Opportunity Act, title I dislocated worker eligibility

1 definitions, or (ii) incumbent workers with annual family incomes at or below two hundred
2 percent (200%) of poverty guidelines established by the federal Department of Health and
3 Human Services.

4 (c) Allocation of Grants. – The Department of Commerce may reserve and allocate up
5 to ten percent (10%) of the funds available to the Employment and Training Grant Program for
6 State and local administrative costs to implement the Program. The Division of ~~Employment~~
7 ~~and Training~~ Workforce Solutions shall allocate employment and training grant funds to local
8 Workforce Development Boards serving federal ~~Workforce Investment Act~~ Workforce
9 Innovation and Opportunity Act local workforce investment areas based on the following
10 formula:

- 11 (1) One-half of the funds shall be allocated on the basis of the relative share of
12 the local workforce investment area's share of federal ~~Workforce Investment~~
13 ~~Act~~, Workforce Innovation and Opportunity Act, title I adult funds as
14 compared to the total of all local areas adult shares under the federal
15 Workforce Investment Act, title I.
- 16 (2) One-half of the funds shall be allocated on the basis of the relative share of
17 the local workforce investment area's share of federal ~~Workforce Investment~~
18 ~~Act~~, Workforce Innovation and Opportunity Act, title I dislocated worker
19 funds as compared to the total of all local areas dislocated worker shares
20 under the federal Workforce Investment Act, title I.
- 21 (3) Local workforce investment area adult and dislocated shares shall be
22 calculated using the current year's allocations to local areas under the federal
23 Workforce Investment Act, title I.

24 (d) Repealed by Session Laws 2009-451, s. 14.5(d), effective July 1, 2009.

25 (e) Nonreverting Funds. – Funds appropriated to the Department of Commerce for the
26 Employment and Training Grant Program that are not expended at the end of the fiscal year
27 shall not revert to the General Fund, but shall remain available to the Department for the
28 purposes established in this section."

29 **SECTION 6.** Modification of References. – The Revisor of Statutes shall delete
30 any references in the General Statutes to the "North Carolina Commission on Workforce
31 Development" (or any derivatives thereof) and substitute references to the "NCWorks
32 Commission" (or the appropriate derivative thereof) to effectuate the renaming set forth in this
33 section wherever conforming changes are necessary.

34 **SECTION 7.** G.S. 115C-64.15 is repealed.

35 **SECTION 8.** G.S. 115C-64.16 is repealed.

36 **SECTION 9.** Part 3B of Article 10 of Chapter 143B of the General Statutes is
37 amended by adding a new section to read:

38 **"§ 143B-438.13A. NCWorks Innovation Program.**

39 (a) Program Establishment. – There is established the NCWorks Innovation Program
40 (Program) to foster innovation in education that will lead to more students graduating career-
41 and college-ready. Funds appropriated to the Program shall be used to award competitive grants
42 to an individual school, a local school administrative unit, or a regional partnership of more
43 than one local school administrative unit to advance comprehensive, high-quality education that
44 equips teachers with the knowledge and skill required to succeed with all students. Before
45 receiving a grant, applicants must meet all of the following conditions:

- 46 (1) Form a partnership, for the purposes of the grant, with either a public or
47 private university or a community college.
- 48 (2) Form a partnership, for the purposes of the grant, with regional businesses
49 and business leaders.
- 50 (3) Demonstrate the ability to sustain innovation once grant funding ends.

51 (b) Applicant Categories and Specific Requirements. –

- 1 (1) Individual schools. – Individual public schools must demonstrate all of the
2 following in their applications:
3 a. Partnerships with business and industry to determine the skills and
4 competencies needed for students' transition into growth sectors of
5 the regional economy.
6 b. Aligned pathways to employment, including students' acquisition of
7 college credit or industry-recognized credentials.
8 c. Development of systems, infrastructure, capacity, and culture to
9 enable teachers and school leaders to continuously focus on
10 improving individual student achievement.
11 (2) Local school administrative units. – Local school administrative units must
12 demonstrate all of the following in their applications:
13 a. Implementation of comprehensive reform and innovation.
14 b. Appointment of a senior leader to manage and sustain the change
15 process with a specific focus on providing parents with a portfolio of
16 meaningful options among schools.
17 (3) Regional partnerships of two or more local school administrative units. –
18 Partnerships of two or more local school administrative units must
19 demonstrate all of the following in their applications:
20 a. Implementation of resources of partnered local school administrative
21 units in creating a tailored workforce development system for the
22 regional economy and fostering innovation in each of the partnered
23 local school administrative units.
24 b. Promotion of the development of knowledge and skills in career
25 clusters of critical importance to the region.
26 c. Benefits of the shared strengths of local businesses and higher
27 education.
28 d. Usage of technology to deliver instruction over large geographic
29 regions and build networks with industry.
30 e. Implementation of comprehensive reform and innovation that can be
31 replicated in other local school administrative units.
32 (c) Consideration of Factors in Awarding of Grants. – All applications must include
33 information on at least the following in order to be considered for a grant:
34 (1) Describe the aligned pathways from school to high-growth careers in
35 regional economies.
36 (2) Leverage technology to efficiently and effectively drive teacher and
37 principal development, connect students and teachers to online courses and
38 resources, and foster virtual learning communities among faculty, higher
39 education partners, and business partners.
40 (3) Establish a comprehensive approach to enhancing the knowledge and skills
41 of teachers and administrators to successfully implement the proposed
42 innovative program and to graduate all students ready for work and college.
43 (4) Link to a proven provider of professional development services for teachers
44 and administrators capable of providing evidence-based training and tools
45 aligned with the goals of the proposed innovative program.
46 (5) Form explicit partnerships with businesses and industry, which may include
47 business advisory councils, internship programs, and other customized
48 projects aligned with relevant workforce skills.
49 (6) Partner with community colleges or public or private universities to enable
50 communities to challenge every student to graduate with workplace
51 credentials or college credit.

- 1 (7) Align K-12 and postsecondary instruction and performance expectations to
2 reduce the need for college remediation courses.
- 3 (8) Secure input from parents to foster broad ownership for school choice
4 options and to foster greater understanding of the need for continued
5 education beyond high school.
- 6 (9) Provide a description of the funds that will be used and a proposed budget
7 for five years.
- 8 (10) Describe the source of matching funds required in subsection (d) of this
9 section.
- 10 (11) Establish a strategy to achieve meaningful analysis of program outcomes due
11 to the receipt of grant funds under this section.

12 (d) Matching Private and Local Funds. – All grant applicants must match fifty percent
13 (50%) of all State dollars. Matching funds shall not include other State funds. Matching funds
14 may include in-kind contributions.

15 (e) Grants. – Any grants awarded by the Commission may be spent over a five-year
16 period from the initial award. Grants may be awarded for new or existing projects.

17 (f) Reporting Requirements. – No later than September 1 of each year, a grant recipient
18 shall submit to the Commission an annual report for the preceding grant year that describes the
19 academic progress made by the students and the implementation of program initiatives.

20 (g) Nonreverting Funds. – Funds appropriated to the Department of Commerce for the
21 NCWorks Innovation Program that are not expended at the end of the fiscal year shall not
22 revert to the General Fund, but shall remain available to the Department for the purposes
23 established in this section."

24 **SECTION 10.** Modification of References. – The Revisor of Statutes shall delete
25 any references in the General Statutes to the "Education and Workforce Innovation Program"
26 (or any derivatives thereof) and substitute references to the "NCWorks Innovation Program" (or
27 the appropriate derivative thereof) to effectuate the renaming set forth in this section wherever
28 conforming changes are necessary.

29 **SECTION 11.** Funds appropriated to the Office of the Governor in Section
30 15.20(a) of S.L. 2014-100 for the 2014-2015 fiscal year that are unexpended and
31 unencumbered as of June 30, 2015, shall not revert to the General Fund on June 30, 2015, but
32 shall remain available for use consistent with the purposes of that fund. The Office of State
33 Budget and Management, in conjunction with the Office of the State Controller and the Office
34 of the Governor, shall transfer the unencumbered cash balance of the Education and Workforce
35 Innovation Program funds budget code to the NCWorks Innovation Program fund budget code.

36 **SECTION 12.** The funds appropriated to the Office of the Governor for the
37 2015-2016 fiscal year and the 2016-2017 fiscal year for the Education and Workforce
38 Innovation Program shall be transferred to the NCWorks Innovation Program established in
39 G.S. 143B-438.13A for use consistent with the purposes of that fund. The Office of State
40 Budget and Management, in conjunction with the Office of the State Controller and the Office
41 of the Governor, shall transfer the unencumbered cash balance of the Education and Workforce
42 Innovation Program fund budget code to the NCWorks Innovation Program fund budget code.

43 **SECTION 13.** This act becomes effective July 1, 2015.