

CHAPTER 476

(House Bill 1526)

AN ACT concerning

Workforce Development – Maryland Workforce Corporation

FOR the purpose of establishing the Maryland Workforce Corporation; specifying the purpose, form, powers, and duties of the Corporation; prohibiting the Corporation from offering or providing certain training under certain circumstances; providing that a board of directors shall manage and carry out the corporate powers of the Corporation; specifying the composition, appointment, terms, powers, and duties of the board of directors; exempting the Corporation and the board of directors from certain laws; providing that certain laws apply to the Corporation and the board of directors; providing that the Attorney General is the legal adviser to the Corporation; exempting the Corporation from State and local taxes; requiring each board member to disclose certain information to the State Ethics Commission; providing for a president of the Corporation; providing for the term, salary, and duties of the president of the Corporation; authorizing the Secretary of Labor, Licensing, and Regulation to ~~advance money for the initial expenses of the Corporation; requiring the Corporation to repay any money advanced to it under this Act~~ allocate funds to the Corporation for the expenses of the Corporation as provided for in the budget; requiring certain audits of and financial reports about the Corporation to be undertaken and submitted; providing that the debts and obligations of the Corporation are not the debts or a pledge of credit of the State or any unit of the State; requiring units of the State government and local governments to work with the Corporation; providing that the officials and employees of the Corporation are covered by the Maryland Tort Claims Act; providing for the staggering of initial terms of the members of the board of directors of the Corporation; defining certain terms; making the provisions of this Act severable; and generally relating to the Maryland Workforce Corporation.

BY adding to

Article – Labor and Employment

Section 11–1001 through 11–1014 to be under the new subtitle “Subtitle 10.
Maryland Workforce Corporation”

Annotated Code of Maryland
(2008 Replacement Volume)

BY repealing and reenacting, with amendments,

Article – State Government

Section 12–101(a)(2)

Annotated Code of Maryland

(2004 Replacement Volume and 2008 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Labor and Employment

SUBTITLE 10. MARYLAND WORKFORCE CORPORATION.

11-1001.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “BOARD” MEANS THE BOARD OF DIRECTORS OF THE CORPORATION.

(C) “CORPORATION” MEANS THE MARYLAND WORKFORCE CORPORATION.

11-1002.

(A) THERE IS A MARYLAND WORKFORCE CORPORATION.

(B) THE CORPORATION IS A BODY POLITIC AND CORPORATE AND IS AN INSTRUMENTALITY OF THE STATE.

(C) THE PURPOSE OF THE CORPORATION IS TO:

(1) WORK IN COORDINATION WITH THE DEPARTMENT AND OTHER STATE AGENCIES TO ESTABLISH A PLAN AND FRAMEWORK FOR INNOVATIVE, DEMAND-DRIVEN PROGRAMS ACROSS THE STATE THAT WILL GIVE MARYLAND WORKERS THE OPPORTUNITY TO ACQUIRE AND DEVELOP THE EDUCATION AND SKILLS NEEDED TO PARTICIPATE FULLY IN THE WORKFORCE;

(2) SOLICIT, ACQUIRE, AND COORDINATE PRIVATE AND PUBLIC FUNDING TO ASSURE A RELIABLE FUNDING STREAM FOR THE PROGRAMS DEVELOPED UNDER THIS SUBTITLE;

(3) OBTAIN RESOURCES FOR THE STATEWIDE WORKFORCE PROGRAMS DEVELOPED UNDER THIS SUBTITLE FROM PRIVATE AND PUBLIC SOURCES INCLUDING:

(I) LOCAL WORKFORCE INVESTMENT BOARDS;

- (II) COMMUNITY COLLEGES;
- (III) ADULT LEARNING PROGRAMS;
- (IV) CORRECTIONAL EDUCATION AND VOCATIONAL PROGRAMS;
- (V) THE DEPARTMENT OF HUMAN RESOURCES;
- (VI) THE DEPARTMENT OF BUSINESS AND ECONOMIC DEVELOPMENT;
- (VII) THE HIGHER EDUCATION COMMISSION; AND
- (VIII) THE DEPARTMENT;

~~(3)~~ (4) ~~CONDUCT~~ ADMINISTER THE PROGRAMS DEVELOPED UNDER THIS SUBTITLE IN ACCORDANCE WITH THE PLAN DEVELOPED UNDER ITEM (1) OF THIS SUBSECTION;

~~(4)~~ (5) PROVIDE GRANTS, FUNDING, AND OTHER ASSISTANCE TO SUPPORT THE PROGRAMS DEVELOPED UNDER THIS SUBTITLE;

(6) CONTRACT WITH TRAINING PROVIDERS TO CONDUCT EDUCATION AND SKILLS TRAINING PROGRAMS;

~~(5)~~ (7) ACT AS A RESEARCH AND DEVELOPMENT RESOURCE IN FINDING SOLUTIONS FOR NEW AND EMERGING WORKFORCE ISSUES; AND

~~(6)~~ (8) EVALUATE THE EFFECTIVENESS OF THE PROGRAMS DEVELOPED UNDER THIS SUBTITLE.

11-1003.

- (A) (1) **THERE IS A BOARD OF DIRECTORS OF THE CORPORATION.**
- (2) **THE BOARD SHALL MANAGE THE CORPORATION AND EXERCISE ITS CORPORATE POWERS.**
- (3) **THE BOARD SHALL MEET AT LEAST FOUR TIMES A YEAR.**
- (B) **THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:**

(1) AS EX OFFICIO MEMBERS:

- (I) THE SECRETARY;**
- (II) THE SECRETARY OF BUSINESS AND ECONOMIC DEVELOPMENT;**
- (III) THE SECRETARY OF HIGHER EDUCATION;**
- (IV) THE SECRETARY OF HUMAN RESOURCES;**
- (V) THE SECRETARY OF JUVENILE SERVICES;**
- (VI) THE CHANCELLOR OF THE UNIVERSITY SYSTEM OF MARYLAND;**
- (VII) THE STATE SUPERINTENDENT OF SCHOOLS;**
- ~~(VIII)~~ (VIII) THE EXECUTIVE DIRECTOR OF THE MARYLAND ASSOCIATION OF COMMUNITY COLLEGES; AND**

~~(IX)~~ (IX) THE CHAIR OF THE GOVERNOR'S WORKFORCE INVESTMENT BOARD; AND

(2) ~~ELEVEN~~ FOURTEEN INDIVIDUALS APPOINTED BY THE GOVERNOR WITH THE ADVICE AND CONSENT OF THE SENATE WHO HAVE KNOWLEDGE AND EXPERIENCE IN BUSINESS AND INDUSTRY, SKILLS TRAINING, EDUCATION, INCLUDING ADULT BASIC EDUCATION, LABOR ORGANIZATIONS, AND MINORITY EMPLOYMENT.

(C) (1) ~~IN APPOINTING BOARD MEMBERS UNDER SUBSECTION (B)(2) OF THIS SECTION, THE GOVERNOR SHALL CONSIDER ALL OF THE GEOGRAPHIC REGIONS OF THE STATE~~ TO THE EXTENT PRACTICABLE, THE MEMBERS APPOINTED TO THE BOARD SHALL REFLECT THE GEOGRAPHIC, RACIAL, ETHNIC, CULTURAL, AND GENDER DIVERSITY OF THE STATE.

(2) A BOARD MEMBER MUST BE A RESIDENT OF THE STATE.

(3) A BOARD MEMBER:

(I) SERVES WITHOUT COMPENSATION; BUT

(II) IS ENTITLED TO REIMBURSEMENT FOR EXPENSES UNDER THE STANDARD STATE TRAVEL REGULATIONS, AS PROVIDED IN THE STATE BUDGET.

(4) THE GOVERNOR MAY REMOVE A BOARD MEMBER FOR INCOMPETENCE, MISCONDUCT, OR FAILURE TO PERFORM THE DUTIES OF THE POSITION.

(D) THE GOVERNOR SHALL DESIGNATE A MEMBER OF THE BOARD AS ITS CHAIR.

(E) (1) THE TERM OF A BOARD MEMBER APPOINTED UNDER SUBSECTION (B)(2) OF THIS SECTION IS 4 YEARS.

(2) THE TERMS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR THE MEMBERS ON JULY 1, 2009.

(3) AT THE END OF A TERM, AN APPOINTED MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(F) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A MEMBER MAY BE REAPPOINTED.

(2) A MEMBER WHO HAS SERVED TWO CONSECUTIVE 4-YEAR TERMS MAY NOT BE REAPPOINTED UNTIL AT LEAST 1 YEAR HAS ELAPSED AFTER THE END OF THE PREVIOUS TERM.

(3) A MEMBER WHO HAS SERVED LESS THAN A FULL 4-YEAR TERM MAY BE REAPPOINTED TO TWO FULL TERMS.

~~(G) (1) NINE MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM.~~

~~(2) THE AFFIRMATIVE VOTE OF NINE MEMBERS SHALL BE NECESSARY FOR ANY ACTION TO BE TAKEN BY THE BOARD.~~

~~(H)~~ (G) EACH MEMBER OF THE BOARD APPOINTED UNDER SUBSECTION (B)(2) OF THIS SECTION SHALL DISCLOSE TO THE STATE ETHICS COMMISSION WHETHER THE MEMBER IS EMPLOYED BY OR HAS A FINANCIAL

INTEREST IN AN ENTITY THAT MAY APPLY TO THE CORPORATION FOR FUNDING TO PROVIDE WORKFORCE EDUCATION AND SKILLS TRAINING.

11-1004.

(A) (1) THE BOARD SHALL APPOINT A PRESIDENT WITH EXPERIENCE AND QUALIFICATIONS RELEVANT TO THE ACTIVITIES AND PURPOSES OF THE CORPORATION.

(2) THE PRESIDENT SERVES AT THE PLEASURE OF THE BOARD.

(3) THE BOARD SHALL DETERMINE THE SALARY OF THE PRESIDENT.

(B) (1) THE PRESIDENT IS THE CHIEF ADMINISTRATIVE OFFICER OF THE CORPORATION.

(2) THE PRESIDENT SHALL MANAGE THE ADMINISTRATIVE AFFAIRS AND TECHNICAL ACTIVITIES OF THE CORPORATION IN ACCORDANCE WITH POLICIES AND PROCEDURES THAT THE BOARD ESTABLISHES.

(C) THE PRESIDENT, OR THE PRESIDENT'S DESIGNEE, SHALL:

(1) ATTEND ALL MEETINGS OF THE BOARD;

(2) ACT AS SECRETARY OF THE BOARD;

(3) KEEP MINUTES OF ALL PROCEEDINGS OF THE BOARD;

(4) APPROVE ALL SALARIES, PER DIEM PAYMENTS, AND ALLOWABLE EXPENSES OF THE CORPORATION, ITS EMPLOYEES, AND ITS CONSULTANTS;

(5) APPROVE ANY EXPENSES INCIDENTAL TO THE OPERATION OF THE CORPORATION; AND

(6) PERFORM THE OTHER DUTIES THAT THE BOARD DIRECTS IN CARRYING OUT THIS SUBTITLE.

11-1005.

(A) THE CORPORATION SHALL EMPLOY ANY ADDITIONAL PROFESSIONAL AND CLERICAL STAFF AS NECESSARY TO CARRY OUT THIS SUBTITLE.

(B) THE CORPORATION MAY RETAIN CONSULTANTS, AGENTS, AND ADVISERS AS NECESSARY.

(C) (1) THE ATTORNEY GENERAL IS THE LEGAL ADVISER TO THE CORPORATION.

(2) WITH THE APPROVAL OF THE ATTORNEY GENERAL, THE CORPORATION MAY RETAIN ANY NECESSARY LAWYERS.

11-1006.

(A) (1) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, IN EXERCISING ITS POWERS, THE CORPORATION:

(I) MAY CARRY OUT ITS CORPORATE PURPOSES WITHOUT THE CONSENT OF ANY STATE UNIT; AND

(II) IS NOT SUBJECT TO THE FOLLOWING PROVISIONS OF THE STATE FINANCE AND PROCUREMENT ARTICLE:

- 1. TITLE 2, SUBTITLE 2 (GIFTS AND GRANTS);**
- 2. TITLE 3 (BUDGET AND MANAGEMENT);**
- 3. TITLE 3A (DEPARTMENT OF INFORMATION TECHNOLOGY);**
- 4. TITLE 4 (DEPARTMENT OF GENERAL SERVICES);**
- 5. TITLE 6, SUBTITLE 1 (STUDIES AND ESTIMATES);**
- 6. TITLE 7, SUBTITLE 1 (STATE OPERATING BUDGET), SUBTITLE 2 (DISBURSEMENTS AND EXPENDITURES), AND SUBTITLE 3 (UNSPENT BALANCES); AND**
- 7. DIVISION II (GENERAL PROCUREMENT LAW).**

(2) THE CORPORATION IS SUBJECT TO THE PUBLIC INFORMATION ACT AND THE OPEN MEETINGS ACT.

~~**(3) THE CORPORATION IS EXEMPT FROM THE OPEN MEETINGS ACT.**~~

(B) (1) THE BOARD AND THE OFFICERS AND EMPLOYEES OF THE CORPORATION ARE SUBJECT TO THE PUBLIC ETHICS LAW.

(2) THE OFFICERS AND EMPLOYEES OF THE CORPORATION ARE NOT SUBJECT TO:

(I) DIVISION II OF THE STATE PERSONNEL AND PENSIONS ARTICLE; OR

(II) THE PROVISIONS OF DIVISION I OF THE STATE PERSONNEL AND PENSIONS ARTICLE THAT GOVERN THE STATE PERSONNEL MANAGEMENT SYSTEM.

(C) THE CORPORATION, ITS OFFICERS, AND ITS EMPLOYEES ARE SUBJECT TO TITLE 12, SUBTITLE 4 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

(D) THE CORPORATION IS EXEMPT FROM STATE AND LOCAL TAXES.

11-1007.

(A) THE CORPORATION SHALL ESTABLISH A SYSTEM OF FINANCIAL ACCOUNTING, CONTROLS, AUDITS, AND REPORTS.

(B) THE FISCAL YEAR OF THE CORPORATION BEGINS ON JULY 1 AND ENDS ON THE FOLLOWING JUNE 30.

11-1008.

(A) THE EXERCISE BY THE CORPORATION OF THE POWERS CONFERRED BY THIS SUBTITLE IS THE PERFORMANCE OF AN ESSENTIAL PUBLIC FUNCTION.

(B) THE CORPORATION MAY:

(1) ADOPT BYLAWS;

(2) ADOPT A SEAL;

(3) MAINTAIN OFFICES AT A PLACE IN THE STATE THAT THE CORPORATION DESIGNATES;

(4) APPLY FOR AND ACCEPT LOANS, GRANTS, OR ASSISTANCE IN ANY FORM FROM FEDERAL, STATE, OR LOCAL GOVERNMENTS, COLLEGES OR

UNIVERSITIES, OR FOUNDATIONS OR OTHER PRIVATE SOURCES TO SUPPORT WORKFORCE EDUCATION AND SKILLS TRAINING PROGRAMS;

(5) ~~CONDUCT~~ ADMINISTER PROGRAMS THAT FURTHER THE GOALS AND OBJECTIVES OF THE CORPORATION;

(6) PROVIDE GRANTS, FUNDING, AND OTHER ASSISTANCE TO STATE AND LOCAL AGENCIES, COLLEGES AND UNIVERSITIES, EMPLOYERS, ADMINISTRATORS OF LABOR/MANAGEMENT TRAINING AND UPGRADING FUNDS, AND NONPROFIT ORGANIZATIONS FOR ~~WORKFORCE~~ EDUCATION AND SKILLS TRAINING PROGRAMS;

(7) CONTRACT WITH TRAINING PROVIDERS TO CONDUCT EDUCATION AND SKILLS TRAINING PROGRAMS;

(8) ASSIST TRAINING PROVIDERS BY COORDINATING FUNDING FOR TRAINING PROGRAMS;

~~(7)~~ (9) MAKE, EXECUTE, AND ENTER INTO ANY CONTRACTS OR LEGAL INSTRUMENTS;

~~(8)~~ (10) SUE OR BE SUED;

(11) SEEK TAX EXEMPT STATUS FROM THE INTERNAL REVENUE SERVICE;

~~(9)~~ (12) EXERCISE A POWER USUALLY POSSESSED BY A PRIVATE CORPORATION IN PERFORMING SIMILAR FUNCTIONS UNLESS TO DO SO WOULD CONFLICT WITH THE LAWS OF THE STATE; AND

~~(10)~~ (13) DO ANYTHING NECESSARY OR CONVENIENT TO CARRY OUT THE POWERS GRANTED BY THIS SUBTITLE.

(C) THE CORPORATION MAY NOT OFFER OR PROVIDE EDUCATIONAL OR SKILLS TRAINING UNLESS THE CORPORATION DETERMINES THAT THERE ARE NO OTHER TRAINING PROVIDERS AVAILABLE.

11-1009.

THE SECRETARY MAY ALLOCATE FUNDS TO THE CORPORATION FOR ITS EXPENSES, AS PROVIDED FOR IN THE STATE BUDGET.

~~(A) THE SECRETARY MAY LOAN FUNDS TO THE CORPORATION FOR ITS INITIAL EXPENSES AS PROVIDED IN THE STATE BUDGET.~~

~~(B) THE LOAN SHALL BE REPAID OUT OF THE FIRST MONEY AVAILABLE TO THE CORPORATION.~~

~~(C) THE REPAYMENT SHALL BE MADE AT A MUTUALLY AGREED-ON RATE OF INTEREST.~~

11-1010.

(A) (1) AS SOON AS PRACTICABLE AFTER THE CLOSE OF THE FISCAL YEAR, AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT SHALL AUDIT THE FINANCIAL BOOKS, RECORDS, AND ACCOUNTS OF THE CORPORATION.

(2) THE CORPORATION SHALL SELECT AN ACCOUNTANT TO CONDUCT THE AUDIT WHO:

(I) IS LICENSED TO PRACTICE CERTIFIED PUBLIC ACCOUNTANCY IN THE STATE;

(II) IS EXPERIENCED AND QUALIFIED IN THE ACCOUNTING AND AUDITING OF PUBLIC ENTITIES; AND

(III) DOES NOT HAVE A DIRECT OR INDIRECT PERSONAL INTEREST IN THE FISCAL AFFAIRS OF THE CORPORATION.

(3) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, ON OR BEFORE NOVEMBER 1 AFTER EACH FISCAL YEAR, THE ACCOUNTANT SHALL REPORT THE RESULTS OF THE AUDIT, INCLUDING THE ACCOUNTANT'S OPINION, MADE WITHOUT RESERVATION, OF THE PRESENTATION OF THE FINANCIAL POSITION OF THE FUNDS OF THE CORPORATION, AND THE RESULTS OF THE FINANCIAL OPERATIONS OF THE CORPORATION.

(II) IF THE ACCOUNTANT CANNOT EXPRESS AN OPINION WITHOUT RESERVATION, THE ACCOUNTANT SHALL EXPLAIN IN DETAIL THE REASONS FOR THE QUALIFICATIONS AND DISCLAIMERS, INCLUDING RECOMMENDATIONS FOR CHANGES THAT COULD MAKE FUTURE OPINIONS WITHOUT RESERVATION POSSIBLE.

(B) THE STATE MAY AUDIT THE BOOKS, RECORDS, AND ACCOUNTS OF THE CORPORATION.

11-1011.

(A) WITHIN 90 DAYS AFTER THE START OF EACH FISCAL YEAR, THE CORPORATION SHALL REPORT ON ITS STATUS TO THE GOVERNOR AND, SUBJECT TO § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

(B) THE REPORT SHALL STATE THE COMPLETE OPERATING AND FINANCIAL STATEMENT COVERING THE CORPORATION'S OPERATIONS AND SUMMARIZE THE CORPORATION'S ACTIVITIES DURING THE PRECEDING FISCAL YEAR.

11-1012.

(A) EACH UNIT IN THE EXECUTIVE BRANCH OF STATE GOVERNMENT AND EACH INSTITUTION OF HIGHER EDUCATION IN THE STATE MAY WORK WITH THE CORPORATION ON MATTERS RELATING TO THE UNIT.

(B) EACH COUNTY, MUNICIPAL CORPORATION, AND LOCAL WORKFORCE INVESTMENT BOARD IN THE STATE MAY WORK WITH THE CORPORATION ON MATTERS RELATING TO THE POLITICAL SUBDIVISION OR ENTITY.

11-1013.

(A) ALL DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE CORPORATION, WHENEVER INCURRED, SHALL BE THE DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE CORPORATION ONLY AND NOT OF THE STATE, UNITS OF STATE GOVERNMENT, OTHER STATE INSTRUMENTALITIES, OR STATE OFFICERS OR EMPLOYEES.

(B) THE DEBTS, CLAIMS, OBLIGATIONS, AND LIABILITIES OF THE CORPORATION MAY NOT BE CONSIDERED A DEBT OF THE STATE OR A PLEDGE OF THE CREDIT OF THE STATE.

11-1014.

THIS SUBTITLE SHALL BE LIBERALLY CONSTRUED TO CARRY OUT ITS PURPOSES.

Article – State Government

12-101.

(a) In this subtitle, unless the context clearly requires otherwise, "State personnel" means:

- (2) an employee or official of the:
- (i) Maryland Transportation Authority;
 - (ii) Injured Workers' Insurance Fund;
 - (iii) Maryland Stadium Authority;
 - (iv) Maryland Environmental Service;
 - (v) overseas programs of the University College of the University System of Maryland;
 - (vi) Maryland Economic Development Corporation;
 - (vii) Maryland Technology Development Corporation;
 - (viii) Maryland African American Museum Corporation;
 - (ix) Maryland Automobile Insurance Fund;
 - (x) Maryland Health and Higher Educational Facilities Authority; [and]
 - (xi) Maryland Agricultural and Resource-Based Industry Development Corporation; **AND**

(XII) MARYLAND WORKFORCE CORPORATION;

SECTION 2. AND BE IT FURTHER ENACTED, That the initial terms of the members of the board of directors of the Maryland Workforce Corporation appointed under § 11-1003(b)(2) of the Labor and Employment Article, as enacted by Section 1 of this Act, expire as follows:

- (1) ~~three~~ four members in 2013;
- (2) ~~three~~ four members in 2012;
- (3) three members in 2011; and
- (4) ~~two~~ three members in 2010.

SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this Act or the application thereof to any person or circumstance is held invalid for any reason in a court of competent jurisdiction, the invalidity does not affect other

provisions or any other application of this Act which can be given effect without the invalid provision or application, and for this purpose the provisions of this Act are declared severable.

SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2009.

Approved by the Governor, May 7, 2009.