

HOUSE BILL 1526

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By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: March 9, 2009

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Workforce Development – Maryland Workforce Corporation**

3 FOR the purpose of establishing the Maryland Workforce Corporation; specifying the
4 purpose, form, powers, and duties of the Corporation; providing that a board of
5 directors shall manage and carry out the corporate powers of the Corporation;
6 specifying the composition, appointment, terms, powers, and duties of the board
7 of directors; exempting the Corporation and the board of directors from certain
8 laws; providing that certain laws apply to the Corporation and the board of
9 directors; providing that the Attorney General is the legal adviser to the
10 Corporation; exempting the Corporation from State and local taxes; requiring
11 each board member to disclose certain information to the State Ethics
12 Commission; providing for a president of the Corporation; providing for the
13 term, salary, and duties of the president of the Corporation; authorizing the
14 Secretary of Labor, Licensing, and Regulation to advance money for the initial
15 expenses of the Corporation; requiring the Corporation to repay any money
16 advanced to it under this Act; requiring certain audits of and financial reports
17 about the Corporation to be undertaken and submitted; providing that the debts
18 and obligations of the Corporation are not the debts or a pledge of credit of the
19 State or any unit of the State; requiring units of the State government and local
20 governments to work with the Corporation; providing that the officials and
21 employees of the Corporation are covered by the Maryland Tort Claims Act;
22 providing for the staggering of initial terms of the members of the board of
23 directors of the Corporation; defining certain terms; making the provisions of
24 this Act severable; and generally relating to the Maryland Workforce
25 Corporation.

26 BY adding to

27 Article – Labor and Employment

28 Section 11–1001 through 11–1014 to be under the new subtitle “Subtitle 10.

29 Maryland Workforce Corporation”

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Annotated Code of Maryland
2 (2008 Replacement Volume)

3 BY repealing and reenacting, with amendments,
4 Article – State Government
5 Section 12–101(a)(2)
6 Annotated Code of Maryland
7 (2004 Replacement Volume and 2008 Supplement)

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

10 **Article – Labor and Employment**

11 **SUBTITLE 10. MARYLAND WORKFORCE CORPORATION.**

12 **11-1001.**

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

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

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

19 **11-1002.**

20 (A) THERE IS A MARYLAND WORKFORCE CORPORATION.

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

23 (C) THE PURPOSE OF THE CORPORATION IS TO:

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

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

1 **(3) CONDUCT THE PROGRAMS DEVELOPED UNDER THIS SUBTITLE**
2 **IN ACCORDANCE WITH THE PLAN DEVELOPED UNDER ITEM (1) OF THIS**
3 **SUBSECTION;**

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

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

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

10 **11-1003.**

11 **(A) (1) THERE IS A BOARD OF DIRECTORS OF THE CORPORATION.**

12 **(2) THE BOARD SHALL MANAGE THE CORPORATION AND**
13 **EXERCISE ITS CORPORATE POWERS.**

14 **(3) THE BOARD SHALL MEET AT LEAST FOUR TIMES A YEAR.**

15 **(B) THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:**

16 **(1) AS EX OFFICIO MEMBERS:**

17 **(I) THE SECRETARY;**

18 **(II) THE SECRETARY OF BUSINESS AND ECONOMIC**
19 **DEVELOPMENT;**

20 **(III) THE SECRETARY OF HIGHER EDUCATION;**

21 **(IV) THE SECRETARY OF HUMAN RESOURCES;**

22 **(V) THE EXECUTIVE DIRECTOR OF THE MARYLAND**
23 **ASSOCIATION OF COMMUNITY COLLEGES; AND**

24 **(VI) THE CHAIR OF THE GOVERNOR'S WORKFORCE**
25 **INVESTMENT BOARD; AND**

26 **(2) ELEVEN INDIVIDUALS APPOINTED BY THE GOVERNOR WITH**
27 **THE ADVICE AND CONSENT OF THE SENATE WHO HAVE KNOWLEDGE AND**

1 EXPERIENCE IN BUSINESS AND INDUSTRY, SKILLS TRAINING, EDUCATION,
2 LABOR ORGANIZATIONS, AND MINORITY EMPLOYMENT.

3 (C) (1) IN APPOINTING BOARD MEMBERS UNDER SUBSECTION (B)(2)
4 OF THIS SECTION, THE GOVERNOR SHALL CONSIDER ALL OF THE GEOGRAPHIC
5 REGIONS OF THE STATE.

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

7 (3) A BOARD MEMBER:

8 (I) SERVES WITHOUT COMPENSATION; BUT

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

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

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

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

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

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

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

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

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

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

3 **(G) (1) NINE MEMBERS OF THE BOARD SHALL CONSTITUTE A**
4 **QUORUM.**

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

7 **(H) EACH MEMBER OF THE BOARD APPOINTED UNDER SUBSECTION**
8 **(B)(2) OF THIS SECTION SHALL DISCLOSE TO THE STATE ETHICS COMMISSION**
9 **WHETHER THE MEMBER IS EMPLOYED BY OR HAS A FINANCIAL INTEREST IN AN**
10 **ENTITY THAT MAY APPLY TO THE CORPORATION FOR FUNDING TO PROVIDE**
11 **WORKFORCE EDUCATION AND SKILLS TRAINING.**

12 **11-1004.**

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

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

17 **(3) THE BOARD SHALL DETERMINE THE SALARY OF THE**
18 **PRESIDENT.**

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

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

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

25 **(1) ATTEND ALL MEETINGS OF THE BOARD;**

26 **(2) ACT AS SECRETARY OF THE BOARD;**

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

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

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

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

5 **11-1005.**

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

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

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

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

15 **11-1006.**

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

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

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

- 22 **1. TITLE 2, SUBTITLE 2 (GIFTS AND GRANTS);**
- 23 **2. TITLE 3 (BUDGET AND MANAGEMENT);**
- 24 **3. TITLE 3A (DEPARTMENT OF INFORMATION**
25 **TECHNOLOGY);**
- 26 **4. TITLE 4 (DEPARTMENT OF GENERAL SERVICES);**
- 27 **5. TITLE 6, SUBTITLE 1 (STUDIES AND ESTIMATES);**

1 **6. TITLE 7, SUBTITLE 1 (STATE OPERATING**
2 **BUDGET), SUBTITLE 2 (DISBURSEMENTS AND EXPENDITURES), AND SUBTITLE**
3 **3 (UNSPENT BALANCES); AND**

4 **7. DIVISION II (GENERAL PROCUREMENT LAW).**

5 **(2) THE CORPORATION IS SUBJECT TO THE PUBLIC**
6 **INFORMATION ACT.**

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

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

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

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

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

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

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

22 **11-1007.**

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

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

27 **11-1008.**

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

1 **(B) THE CORPORATION MAY:**

2 **(1) ADOPT BYLAWS;**

3 **(2) ADOPT A SEAL;**

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

6 **(4) APPLY FOR AND ACCEPT LOANS, GRANTS, OR ASSISTANCE IN**
7 **ANY FORM FROM FEDERAL, STATE, OR LOCAL GOVERNMENTS, COLLEGES OR**
8 **UNIVERSITIES, OR FOUNDATIONS OR OTHER PRIVATE SOURCES TO SUPPORT**
9 **WORKFORCE EDUCATION AND SKILLS TRAINING PROGRAMS;**

10 **(5) CONDUCT PROGRAMS THAT FURTHER THE GOALS AND**
11 **OBJECTIVES OF THE CORPORATION;**

12 **(6) PROVIDE GRANTS, FUNDING, AND OTHER ASSISTANCE TO**
13 **STATE AND LOCAL AGENCIES, COLLEGES AND UNIVERSITIES, EMPLOYERS, AND**
14 **NONPROFIT ORGANIZATIONS FOR WORKFORCE EDUCATION AND SKILLS**
15 **TRAINING PROGRAMS;**

16 **(7) MAKE, EXECUTE, AND ENTER INTO ANY CONTRACTS OR LEGAL**
17 **INSTRUMENTS;**

18 **(8) SUE OR BE SUED;**

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

22 **(10) DO ANYTHING NECESSARY OR CONVENIENT TO CARRY OUT**
23 **THE POWERS GRANTED BY THIS SUBTITLE.**

24 **11-1009.**

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

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

29 **(C) THE REPAYMENT SHALL BE MADE AT A MUTUALLY AGREED ON**
30 **RATE OF INTEREST.**

1 **11-1010.**

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

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

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

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

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

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

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

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

27 **11-1011.**

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

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

5 **11-1012.**

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

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

12 **11-1013.**

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

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

21 **11-1014.**

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

24 **Article – State Government**

25 12-101.

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

28 (2) an employee or official of the:

29 (i) Maryland Transportation Authority;

30 (ii) Injured Workers' Insurance Fund;

- 1 (iii) Maryland Stadium Authority;
- 2 (iv) Maryland Environmental Service;
- 3 (v) overseas programs of the University College of the
4 University System of Maryland;
- 5 (vi) Maryland Economic Development Corporation;
- 6 (vii) Maryland Technology Development Corporation;
- 7 (viii) Maryland African American Museum Corporation;
- 8 (ix) Maryland Automobile Insurance Fund;
- 9 (x) Maryland Health and Higher Educational Facilities
10 Authority; [and]
- 11 (xi) Maryland Agricultural and Resource-Based Industry
12 Development Corporation; AND

13 **(XII) MARYLAND WORKFORCE CORPORATION;**

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

- 18 (1) three members in 2013;
- 19 (2) three members in 2012;
- 20 (3) three members in 2011; and
- 21 (4) two members in 2010.

22 SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this
23 Act or the application thereof to any person or circumstance is held invalid for any
24 reason in a court of competent jurisdiction, the invalidity does not affect other
25 provisions or any other application of this Act which can be given effect without the
26 invalid provision or application, and for this purpose the provisions of this Act are
27 declared severable.

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