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SB-779 California Workforce Innovation Opportunity Act: earn and learn programs. (2021-2022)

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Date Published: 09/23/2021 02:00 PM

Senate Bill No. 779

CHAPTER 223

An act to amend Section 14005 of the Unemployment Insurance Code, relating to employment.

[Approved by Governor September 22, 2021. Filed with Secretary of State September 22, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

SB 779, Becker. California Workforce Innovation Opportunity Act: earn and learn programs.

Existing law establishes the California Workforce Development Board for purposes of assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system and the alignment of the education and workforce investment systems to the needs of the 21st century economy and workforce. Existing law requires, as part of the California Workforce Innovation and Opportunity Act, the board to, among other things, identify opportunities for "earn and learn" job training opportunities that meet the industry's workforce demands and that are in high road, high-demand jobs. Under existing law, "earn and learn" programs include, but are not limited to, transitional and subsidized employment particularly for individuals with barriers to employment.

Existing law also establishes the Breaking Barriers to Employment Initiative for purposes of providing supplemental funding and services to ensure the success of individuals either preparing to enter or already enrolled in workforce and education programs operating under the policy vision and state plan of the act. Existing law provides funding for the initiative upon appropriation by the Legislature and states that eligible activities for initiative and grant funds include, but are not limited to, earn and learn training. Existing law also establishes a prison to employment program to award grants for specified purposes, including to provide earn and learn opportunities for formerly incarcerated and other justice-involved individuals participating in the program.

This bill would amend the list of "earn and learn" programs by specifying that an "earn and learn" program includes transitional jobs, as described in the federal Workforce Innovation and Opportunity Act, and subsidized employment with an employer of record, which may include, but not be limited to, an employment social enterprise, as defined, or a worker cooperative, as defined, particularly for individuals with barriers to employment.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14005 of the Unemployment Insurance Code, as amended by Section 14 of Chapter 78 of the Statutes of 2021, is amended to read:

14005. For purposes of this division:

(a) "Board" means the California Workforce Development Board.

(b) "Agency" means the Labor and Workforce Development Agency.

(c) "Career pathways," "career ladders," or "career lattices" are an identified series of positions, work experiences, or educational benchmarks or credentials with multiple access points that offer occupational and financial advancement within a specified career field or related fields over time. "Career pathways," "career ladders," and "career lattices" offer combined programs of rigorous and high-quality education, training, and other services that do all of the following:

(1) Align with the skill needs of industries in the economy of the state or regional economy involved.

(2) Prepare an individual to be successful in any of a full range of secondary or postsecondary education options, including apprenticeships registered under the National Apprenticeship Act of 1937 (29 U.S.C. Sec. 50 et seq.), except as in Section 3226 of Title 29 of the United States Code.

(3) Include counseling to support an individual in achieving the individual's education and career goals.

(4) Include, as appropriate, education offered concurrently with and in the same context as workforce preparation activities and training for a specific occupation or occupational cluster.

(5) Organize education, training, and other services to meet the particular needs of an individual in a manner that accelerates the educational and career advancement of the individual to the extent practicable.

(6) Enable an individual to attain a secondary school diploma or its recognized equivalent, and at least one recognized postsecondary credential.

(7) Help an individual enter or advance within a specific occupation or occupational cluster.

(d) "Cluster-based sector strategies" mean methods of focusing workforce and economic development on those sectors that have demonstrated a capacity for economic growth and job creation in a particular geographic area.

(e) "Data driven" means a process of making decisions about investments and policies based on systematic analysis of data, which may include data pertaining to labor markets.

(f) "Economic security" means, with respect to a worker, earning a wage sufficient to support a family adequately, and, over time, to save for emergency expenses and adequate retirement income, based on factors such as household size, the cost of living in the worker's community, and other factors that may vary by region.

(g) "Evidence-based" means making use of policy research as a basis for determining best policy practices. Evidence-based policymakers adopt policies that research has shown to produce positive outcomes, in a variety of settings, for a variety of populations over time. Successful, evidence-based programs deliver quantifiable and sustainable results. Evidence-based practices differ from approaches that are based on tradition, belief, convention, or anecdotal evidence.

(h) "High-priority occupations" mean occupations that have a significant presence in a targeted industry sector or industry cluster, are in demand, or projected to be in demand, by employers, and pay or lead to payment of a wage that provides economic security.

(i) (1) "In-demand industry sector or occupation" means either of the following:

(A) An industry sector that has a substantial current or potential impact, including through jobs that lead to economic self-sufficiency and opportunities for advancement, on the state, regional, or local economy, as appropriate, and that contributes to the growth or stability of other supporting businesses, or the growth of other industry sectors.

(B) An occupation that currently has or is projected to have a number of positions, including positions that lead to economic self-sufficiency and opportunities for advancement, in an industry sector so as to have a significant impact on the state, regional, or local economy, as appropriate.

(2) The determination of whether an industry sector or occupation is "in-demand" under this subdivision shall be made by the board or local board, or through the regional planning process in which local boards participate under the Workforce Innovation and Opportunity Act, as appropriate, using state and regional business and labor market projections, including the use of labor market information.

(j) "Individual with employment barriers" means an individual with any characteristic that substantially limits an individual's ability to obtain employment, including indicators of poor work history, lack of work experience, or access to employment in nontraditional occupations, long-term unemployment, lack of educational or occupational skills attainment, dislocation from high-wage and high-benefit employment, low levels of literacy or English proficiency, disability status, or welfare dependency, including members of all of the following groups:

(1) Displaced homemakers.

(2) Low-income individuals.

(3) Indians, Alaska Natives, and Native Hawaiians, as those terms are defined in Section 3221 of Title 29 of the United States Code.

(4) Individuals with disabilities, including youths who are individuals with disabilities.

(5) Older individuals.

(6) Ex-offenders.

(7) Homeless individuals, as defined in Section 14043e-2(6) of Title 42 of the United States Code, or homeless children and youths, as defined in Section 11434a(2) of Title 42 of the United States Code.

(8) Youth who are in, or have aged out of, the foster care system.

(9) Individuals who are English language learners, individuals who have low levels of literacy, and individuals facing substantial cultural barriers.

(10) Eligible migrant and seasonal farmworkers, as defined in Section 3322(i) of Title 29 of the United States Code.

(11) Individuals within two years of exhausting lifetime eligibility under Part A of Title IV of the Social Security Act (42 U.S.C. Sec. 601 et seq.).

(12) Single parents, including single, pregnant women.

(13) Long-term unemployed individuals.

(14) Transgender and gender nonconforming individuals.

(15) Any other groups as the Governor determines to have barriers to employment.

(k) "Industry cluster" means a geographic concentration or emerging concentration of interdependent industries with direct service, supplier, and research relationships, or independent industries that share common resources in a given regional economy or labor market. An industry cluster is a group of employers closely linked by common product or services, workforce needs, similar technologies, and supply chains in a given regional economy or labor market.

(l) "Industry or sector partnership" means a workforce collaborative, convened or acting in partnership with the board or a local board, that does the following:

(1) Organizes key stakeholders in an industry cluster into a working group that focuses on the shared goals and human resources needs of the industry cluster and that includes, at the appropriate stages of development of the partnership:

(A) Representatives of multiple businesses or other employers in the industry cluster, including small and medium-sized employers when practicable.

(B) One or more representatives of a recognized state labor organization or central labor council, or another labor representative, as appropriate.

(C) One or more representatives of an institution of higher education with, or another provider of, education or training programs that support the industry cluster.

(2) The workforce collaborative may include representatives of any of the following:

(A) State or local government.

(B) State or local economic development agencies.

(C) State boards or local boards, as appropriate.

(D) A state workforce agency or entity providing employment services.

(E) Other state or local agencies.

(F) Business or trade associations.

(G) Economic development organizations.

(H) Nonprofit organizations, community-based organizations, or intermediaries.

(I) Philanthropic associations.

(J) Industry associations.

(K) Other organizations, as determined to be necessary by the members comprising the industry sector or partnership.

(m) "Industry sector" means those firms that produce similar products or provide similar services using somewhat similar business processes, and are closely linked by workforce needs, within a regional labor market.

(n) "Local labor federation" means a central labor council that is an organization of local unions affiliated with the California Labor Federation or a local building and construction trades council affiliated with the State Building and Construction Trades Council of California.

(o) "Sector strategies" means methods of prioritizing investments in competitive and emerging industry sectors and industry clusters on the basis of labor market and other economic data indicating strategic growth potential, especially with regard to jobs and income, and exhibit the following characteristics:

(1) Focus workforce investment in education and workforce training programs that are likely to lead to jobs providing economic security or to an entry-level job with a well-articulated career pathway into a job providing economic security.

(2) Effectively boost labor productivity or reduce business barriers to growth and expansion stemming from workforce supply problems, including skills gaps and occupational shortages by directing resources and making investments to plug skills gaps and provide education and training programs for high-priority occupations.

(3) May be implemented using articulated career pathways or lattices and a system of stackable credentials.

(4) May target underserved communities, disconnected youths, incumbent workers, and recently separated military veterans.

(5) Frequently are implemented using industry or sector partnerships.

(6) Typically are implemented at the regional level where sector firms, those employers described in subdivisions (j) and (l), often share a common labor market and supply chains. However, sector strategies may also be implemented at the state or local level depending on sector needs and labor market conditions.

(p) "Workforce Innovation and Opportunity Act of 2014" means the federal act enacted as Public Law 113-128.

(q) (1) "Earn and learn" includes, but is not limited to, a program that does either of the following:

(A) Combines applied learning in a workplace setting with compensation allowing workers or students to gain work experience and secure a wage as they develop skills and competencies directly relevant to the occupation or career for which they are preparing.

(B) Brings together classroom instruction with on-the-job training to combine both formal instruction and actual paid work experience.

(2) "Earn and learn" programs include, but are not limited to, all of the following:

(A) Apprenticeships.

(B) Preapprenticeships.

(C) Incumbent worker training.

(D) Transitional jobs, as described in paragraph (5) of subsection (d) of Section 3174 of Title 29 of the United States Code, as that section read on January 1, 2021, and subsidized employment with an employer of record, which may include, but not be limited to, an employment social enterprise or a worker cooperative, particularly for individuals with barriers to employment.

(E) Paid internships and externships.

(F) Project-based compensated learning.

(r) "High road" means a set of economic and workforce development strategies to achieve economic growth, economic equity, shared prosperity and a clean environment. The strategies include, but are not limited to, interventions that:

- (1) Improve job quality and job access, including for women and people from underserved and underrepresented populations.
- (2) Meet the skill and profitability needs of employers.
- (3) Meet the economic, social, and environmental needs of the community.

(s) "High road training partnership" means an initiative or project that models strategies for developing industry-based, worker-focused training partnerships, including labor-management partnerships. High Road Training partnerships operate via regional, industry- or sector-based training partnerships comprised of employers, workers, and their representatives including organized labor, community-based organizations, education, training, and social services providers, and labor market intermediaries. High Road Training partnerships demonstrate job quality standards and employment practices that include, but are not limited to, the following:

- (1) Provision of comparatively good wages and benefits, relative to the industry, occupation, and labor market in which participating workers are employed.
- (2) Payment of workers at or above local or regional living wage standards as well as payment at or above regional prevailing wage standards where such standards exist for the occupations in question.
- (3) A history of investment in employee training, growth, and development.
- (4) Provision of opportunities for career advancement and wage growth.
- (5) Safe and healthy working conditions.
- (6) Consistent compliance with workplace laws and regulations, including proactive efforts to remedy past problems.
- (7) Adoption of mechanisms to include worker voice and agency in the workplace.

(t) "High road construction careers" are high road training partnerships that invest in regional training partnerships comprised of local building trades councils, workforce, community, and education interests that connect to state-approved apprenticeship programs, that utilize the standard Multi-Craft Core preapprenticeship training curriculum and provide a range of supportive services and career placement assistance to women and people from underserved and underrepresented populations.

(u) "Career advancement" means demonstrated progression along a career ladder as evidenced by both wage growth and occupational advancement.

(v) "Employment social enterprise" means a nonprofit or for-profit organization that meets all of the following requirements:

- (1) Is organized as a social purpose corporation or a benefit corporation, or as an organization incorporated within a larger organization.
- (2) Demonstrates evidence of a mission to provide and to access employment and social supports with on-the-job and life skills training to a direct labor force comprised of individuals with a "barrier to employment," as that phrase is defined in Section 3102 of Title 29 of the United States Code, as that section read on January 1, 2021.
- (3) Is evidence-based and utilizes data-driven policies in implementing procedures and measuring outcomes.
- (4) Produces or assembles goods or provides services, or a combination of both.

(w) "Worker cooperative" has the same meaning as defined in Section 12253.5 of the Corporations Code.