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3 SENATE EDUCATION COMMITTEE SUBSTITUTE FOR SB134
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8 SYNOPSIS: Currently, the responsibilities for
9 implementing federal and state workforce
10 development, education, and training programs and
11 services are assigned to several state agencies
12 including the Alabama Department of Economic and
13 Community Affairs, the Alabama Department of
14 Industrial Relations, the State Department of
15 Education, the Postsecondary Education Department,
16 and the Department of Human Resources.

17 This bill would transfer and consolidate
18 responsibility for administering the various
19 programs for workforce development, education, and
20 training to the Postsecondary Education Department.
21 This bill would transfer personnel and
22 appropriations for the workforce development
23 programs from the various agencies to the
24 Postsecondary Education Department.
25

26 A BILL
27 TO BE ENTITLED

AN ACT

To transfer the workforce education and development programs and services from various Alabama agencies to the Postsecondary Education Department; to provide for the transfer of personnel and the rights, due process, and benefits of all transferred and current employees; to provide that funding, duties, powers, and functions of the programs be transferred; to provide for the coordination of actions; and to provide an effective date.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Alabama Workforce Education and Development Act of 2003.

Section 2. The purpose of this act is to provide for a unified plan for workforce education and development for the State of Alabama. It is the intent of the Legislature to maximize state, federal, and private resources available for workforce education and development, to comply with provisions of federal law related to workforce investment and development, and to provide a central focal point for workforce education and development responsibility and accountability. It is further the intent of the Legislature to increase the employment, retention, and earnings of workforce development participants; to increase the occupational skill attainment of workforce development participants; and to improve the quality of the workforce, reduce welfare

1 dependency, and enhance the productivity and competitiveness
2 of the citizens of Alabama.

3 Section 3. On the effective date of this act, there
4 shall be transferred, as provided in Section 4, from the
5 agencies enumerated below to the Postsecondary Education
6 Department the workforce education and development programs
7 listed.

8 (1) Alabama Department of Economic and Community
9 Affairs:

10 a. Workforce Investment Act Program.

11 1. Governor's Set Aside Program.

12 2. Adult Programs.

13 3. Dislocated Workers Programs.

14 4. Youth Programs.

15 5. Rapid Response Activities.

16 6. Incumbent Worker Training.

17 7. Dislocated Worker National Reserve Grants.

18 It shall be the duty of the Chancellor of the
19 Postsecondary Education Department to provide staff support
20 for the state-level Alabama Workforce Investment Board and for
21 the Alabama Workforce Investment Area local boards.

22 b. Migrant and Seasonal Farm Worker Program.

23 c. Welfare-to-Work Program.

24 d. School-to-Work Program.

25 e. Alabama Career Information Network (ACIN).

26 f. Dislocated Workers - Toll Free Helpline.

27 g. Community Audit Demonstration Projects.

1 h. Alabama Customized Employment Programs.

2 (2) Alabama Department of Industrial Relations:

3 a. Trade Readjustment Assistance and North American
4 Free Trade Act Programs subject to the provisions of Section
5 4, subsection (f) of this act. Funds to be transferred under
6 the Trade Readjustment Assistance and North American Free
7 Trade Act programs shall include only those funds directly
8 related to job education and training and workforce
9 development.

10 (3) Alabama Department of Human Resources:

11 a. Food Stamp Employment and Training Program.

12 b. Job Readiness Programs pursuant to the federal
13 Temporary Assistance to Needy Families (TANF) block grant.

14 (4) The State Department of Education:

15 a. Carl D. Perkins Vocational and Technical
16 Education Act, 1998.

17 b. Any provision of this act to the contrary
18 notwithstanding, the State Department of Education shall
19 remain the fiscal agent to receive funds from the U.S.
20 Department of Education that are obligated to the Carl D.
21 Perkins Vocational and Technical Education Act, 1998. Through
22 a Memorandum of Understanding, funds that are obligated
23 through negotiations between the agency heads of the State
24 Department of Education and the Postsecondary Education
25 Department shall be distributed to the Postsecondary Education
26 Department by the State Department of Education. All
27 management of the federal grant entitled Carl D. Perkins

1 Vocational and Technical Education Act, 1998 or its subsequent
2 titles shall remain the responsibility of the State Department
3 of Education including powers, duties, responsibilities, and
4 functions, and all related records, property, and equipment,
5 and all rights, obligations, and unexpended balances of
6 appropriations, grants, and contracts, including federal and
7 other funds or allocations. All employees of the State
8 Department of Education who work under the Carl D. Perkins
9 Vocational and Technical Education Act, 1998 shall remain
10 within the State Department of Education with no change in
11 employment, status, merit system status, work location, or
12 chain of command. All indirect costs associated with the Carl
13 D. Perkins Vocational and Technical Education Act, 1998 shall
14 be accepted, budgeted, and managed by the State Department of
15 Education.

16 Section 4. (a) All powers, duties, responsibilities,
17 and functions of, and all related records, property, equipment
18 of, and all rights, obligations of, and unexpended balances of
19 appropriations, grants, and contracts, including federal and
20 other funds or allocations for the fiscal year ending
21 September 30, 2003, of the workforce development program of
22 the various agencies shall be transferred to the Postsecondary
23 Education Department.

24 (b) All funds, including federal and other funds,
25 appropriated, granted, or contracted to the various agencies
26 for the fiscal year ending September 30, 2003, and any fiscal
27 year thereafter, for workforce development programs and the

1 components of those programs shall be transferred to the
2 Postsecondary Education Department for its use during that
3 fiscal year under the same terms and conditions as specified
4 for those funds in any appropriation act, grant, or contract,
5 or as otherwise specified by law. All state and federal funds
6 appropriated to and administered by the Postsecondary
7 Education Department shall be retained for appropriate use
8 annually and in succeeding years to ensure the continuation of
9 workforce training programs and the orderly operation of the
10 Postsecondary Education Department without disruption,
11 notwithstanding any act to the contrary.

12 (c) All probationary and non-probationary employees
13 of those programs and other necessary support personnel and
14 the components of programs shall be transferred to the
15 Postsecondary Education Department on the effective date of
16 this act to a probationary or non-probationary employee
17 classification commensurate with the level of each respective
18 employee's classification on the date prior to the transfer.
19 Said employee shall maintain his or her merit system status
20 after such transfer. The State Personnel Department shall
21 maintain all positions currently existing so as to allow the
22 promotion and to preserve the career path of employees
23 transferred to the Postsecondary Education Department. An
24 employee who is promoted shall not lose or otherwise forfeit
25 his or her rights or privileges under the state merit system.
26 All personnel actions shall be conducted in accordance with
27 the rules and regulations of the State Personnel Department as

1 set out by the Merit System Act, including, but not limited
2 to, hearings before the State Personnel Board. Said employee
3 shall retain their annual and sick leave and shall be allowed
4 to earn such annual and sick leave as provided under the Merit
5 System Act. Said employees shall remain covered by the State
6 Employee's Insurance Board and shall remain as participants in
7 the Employee's Retirement System.

8 The Director of State Personnel shall promulgate and
9 provide to the Chancellor of Postsecondary Education registers
10 so as to provide promotions where appropriate. Should a court
11 of competent jurisdiction declare any part of this section
12 unconstitutional, said employees shall be entitled to the due
13 process rights provided under the Fair Dismissal Act, Code of
14 Alabama 1975, Sections 36-26-100, et seq.

15 No employee shall be demoted or have his or her
16 salary, position, status or career path adversely affected due
17 to his or her transfer or any provisions of this act,
18 provided, however, any employee currently serving on the board
19 of the Employee's Retirement System or is currently
20 participating in the Drop Program, Sections 36-27-170 et seq.,
21 Code of Alabama 1975, shall be allowed to continue to serve
22 and seek reelection in the Employee's Retirement System and
23 shall be allowed to continue in that retirement option.

24 (d) All current postsecondary employees shall be
25 entitled to the due process rights provided under the Fair
26 Dismissal Act, Sections 36-26-100 et seq., Code of Alabama
27 1975, and also to all other rights and benefits to which they

1 were entitled before the passage of this act. Including, but
2 not limited to the right to accumulate leave, participate in
3 sick leave banks as provided for in Section 16-22-9, Code of
4 Alabama 1975, and consideration for salary increases.

5 (e) Upon the vacating of any of the employee
6 classifications designated under subsection (c) by any such
7 incumbents, such classifications may cease at the discretion
8 of the Chancellor of the Postsecondary Education Department.
9 Any new employee will have the same rights, benefits, terms,
10 conditions and due process to which other employees of the
11 Postsecondary Education Department are entitled.

12 (f) The Governor and the State Board of Education
13 shall coordinate the transfer. The director of each specified
14 agency shall assist the Chancellor and the Postsecondary
15 Education Department with the highest degree of cooperation to
16 carry out the intent and purpose of this act and to achieve an
17 orderly transition. This act does not preclude the
18 Postsecondary Education Department from the formation and
19 continuation of contractual agreements in implementing the
20 programs specified herein.

21 Section 5. The Chancellor of the Postsecondary
22 Education Department, after the transfer, shall direct all
23 matters involving workforce education and development programs
24 in Alabama in conformance with state and federal law and the
25 policies of the State Board of Education. All responsibilities
26 related to education and training for workforce development,
27 including, but not limited to, that previously vested with the

1 Alabama Department of Economic and Community Affairs, the
2 Alabama Department of Industrial Relations, the State
3 Department of Education, or the Alabama Department of Human
4 Resources shall be vested with the Chancellor of the
5 Postsecondary Education Department.

6 Section 6. The State Board of Education shall
7 promulgate rules and regulations governing the operation of
8 workforce education and development programs in Alabama. The
9 authority and responsibility for operation and management of
10 the programs shall be vested with the Chancellor of the
11 Postsecondary Education Department, subject to the approval of
12 the board. The Chancellor shall comply with all federal
13 requirements for qualifying for and receiving federal funds
14 for workforce education and development programs including the
15 Workforce Investment Act of 1998, Trade Acts, and any other
16 current and future federal programs related to workforce
17 education and development.

18 Section 7. This act shall ensure the authority of
19 the Governor, under the federal Workforce Investment Act of
20 1998 and the state plan approved by the United States
21 Department of Labor under the provisions of that act, to
22 direct and oversee all funds and all policy related to the
23 goals of the Workforce Investment Act and the Workforce
24 Investment System in the state. The Chancellor of the
25 Postsecondary Education Department shall work in consultation
26 with the State Workforce Investment Board in developing a
27 single state plan that outlines the strategy for the statewide

1 workforce development system (WIA Title I Section 111 and
2 112). The Chancellor will work with the local board of the
3 Alabama Workforce Investment Area (WIA Title I Section 117) to
4 establish policy for the local area and the development of an
5 annual budget for the delivery of workforce development
6 services in the local workforce area. Following submission and
7 approval of this budget to the State Board of Education, the
8 Governor may approve, amend or veto the budget plan submitted
9 by the Chancellor.

10 Section 8. The Governor, the state Comptroller, the
11 directors of the affected agencies, and the State Board of
12 Education shall take all administrative action, including the
13 transfer of funds, appropriate and necessary to carry out the
14 intent and purpose of this act.

15 Section 9. The Chancellor shall ensure that the
16 federal requirement of awarding veterans priority in the
17 delivery of federally funded employment and training programs
18 is followed as provided for in the U.S. Code, as amended in
19 Title 38, Section 4215.

20 Section 10. The provisions of this act are
21 severable. If any part of this act is declared invalid or
22 unconstitutional, that declaration shall not affect the part
23 which remains.

24 Section 11. All laws or parts of laws which conflict
25 with this act are repealed.

1 Section 12. This act shall become effective
2 immediately upon its passage and approval by the Governor, or
3 its otherwise becoming law.