Senate Bill No. 293

CHAPTER 630

An act to add Chapter 2 (commencing with Section 14005), Chapter 3 (commencing with Section 14010), Chapter 4 (commencing with Section 14200), and Chapter 5 (commencing with Section 14500) to Division 7 of, to repeal Division 8 (commencing with Section 15000) of, and to repeal and add Section 14000 of, the Unemployment Insurance Code, relating to job training.

[Approved by Governor September 29, 2006. Filed with Secretary of State September 29, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 293, Ducheny. Workforce Training Act: education, training, and investment.

The federal Workforce Investment Act of 1998 provides for workforce investment activities, including activities in which states may participate. Existing law contains various programs for job training and employment investment, including work incentive programs, as specified.

This bill would restructure and revise those provisions relating to the state administration of, and educational services under, the federal Workforce Investment Act of 1998 by a California Workforce Investment Board.

This bill would restructure those provisions relating to state workforce investment boards and local workforce investment boards, with respect to various local workforce investment programs. This bill would provide certain job security protections for state employees affected by the reorganization of workforce development programs, as specified.

Existing law requires various local job training plans to be prepared by local educational agencies and counties with respect to welfare-to-work programs, as specified.

This bill would authorize a unified local plan prepared by the local workforce investment board to be submitted instead of the individual local plans. This bill, by imposing duties on local government with respect to the implementation of these local programs, would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 14000 of the Unemployment Insurance Code is repealed.

SEC. 2. Section 14000 is added to the Unemployment Insurance Code, to read:

14000. (a) The Legislature finds and declares that, in order for California to remain prosperous and globally competitive, it needs to have a highly skilled workforce.

(b) The Legislature recognizes all of the following:

(1) California must transform its current job training, job placement, and vocational education programs into an integrated, accessible, and accountable workforce investment system that can effectively serve job seekers, students, and employers.

(2) California's workforce investment system must provide lifelong learning for all Californians, promote self-sufficiency, link education and training to economic development, and prepare California to successfully compete in the global economy.

(3) The programs described in paragraphs (1) and (2) must be accessible to all Californians, including persons with economic, physical, or other barriers to employment.

SEC. 3. Chapter 2 (commencing with Section 14005) is added to Division 7 of the Unemployment Insurance Code, to read:

CHAPTER 2. DEFINITIONS AND SEVERABILITY

14005. For purposes of this division:

(a) "Board" shall mean the California Workforce Investment Board.

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

(c) "Workforce Investment Act of 1998" means the federal act enacted as Public Law 105-220.

14006. The provisions of this division are severable. If any provision of this division or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

14007. Each provision of this division shall remain in effect unless the United States Secretary of Labor determines that any provision of this division or its application is not in conformity with the requirements of federal law, at which time only those provisions of this division that are not in conformity with federal law shall be repealed.

SEC. 4. Chapter 3 (commencing with Section 14010) is added to Division 7 of the Unemployment Insurance Code, to read:

CHAPTER 3. STATE RESPONSIBILITIES

Article 1. California Workforce Investment Board

14010. The California Workforce Investment Board is the body responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system.

14011. The board shall report, through its executive director, to the Secretary of the Labor and Workforce Development Agency.

14012. The board shall be appointed by the Governor to assist in the development of the State Workforce Investment Plan and to carry out other functions, as described in Section 14103. The board shall be comprised of the Governor and representatives from the following categories:

(a) Two members of each house of the Legislature, appointed by the appropriate presiding officer of each house.

(b) (1) A majority of board members shall be representatives of business who:

(A) Are owners of small and large businesses, chief executives or operating officers of small and large businesses, and other small and large business executives or employers with optimum policymaking or hiring authority, including members of local workforce investment boards.

(B) Represent businesses with employment opportunities that reflect the employment opportunities of the state.

(C) Are appointed from a group of individuals nominated by state business organizations and business trade associations.

(2) At least one representative shall be a private sector member of the California Economic Strategy Panel, created pursuant to Section 15570 of the Government Code.

(c) Chief elected officials representing both cities and counties, where appropriate.

(d) Representatives of labor organizations that are appointed to the board by the Governor shall have been nominated by state labor federations. At least 15 percent of board members shall be representatives of labor organizations.

(e) Representatives of individuals and organizations that have experience with regard to youth activities.

(f) Representatives of individuals and organizations that have experience and expertise in the delivery of workforce investment activities, including the Chancellor of the California Community Colleges, representatives of school districts, and representatives of community-based organizations within the state.

(g) The lead state agency officials with responsibility for the programs, services, or activities that are mandatory participants in the one-stop system, or, where there are no lead state agency officials responsible for

those programs, services, or activities, a representative with expertise relating to those programs, services, or activities.

(h) Any other representatives and state agency officials as the Governor may designate, such as the state agency officials responsible for economic development and juvenile justice programs in the state.

(i) Members of the board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within those organizations, agencies, or entities.

(j) In making appointments to the board, the Governor shall consider the ethnic, race, gender, and geographic distribution of the state's population, and members of the board shall represent diverse regions of the state, including urban, rural, and suburban areas.

(k) The Governor may appoint a single member to the board to represent multiple constituencies on the board.

(*l*) The Governor shall select a chairperson for the board from the business representatives.

14013. The board shall assist the Governor in the following:

(a) Promoting the development of a well-educated and highly skilled workforce.

(b) Developing the State Workforce Investment Plan.

(c) Developing guidelines for the continuous improvement and operation of the workforce investment system, including:

(1) Developing policies to guide the one-stop system.

(2) Providing technical assistance for the continuous improvement of the one-stop system.

(3) Recommending state investments in the one-stop system.

(d) Developing and continuously improving the statewide workforce investment system as delivered via the one-stop delivery system, including:

(1) Developing linkages in order to assure coordination and nonduplication among workforce programs and activities.

(2) Reviewing local workforce investment plans.

(e) Commenting, at least once annually, on the measures taken pursuant to the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 (P.L. 101-392; 20 U.S.C. Sec. 2301 and following).

(f) Designating local workforce investment areas within the state based on information derived from all of the following:

(1) Consultations with the board.

(2) Consultations with the chief local elected officials.

(3) Consideration of comments received through the public comment process, as described in Section 112(b)(9) of the Workforce Investment Act of 1998.

(g) Developing and modifying allocation formulas, as necessary, for the distribution of funds for adult employment and training activities, for youth activities to local workforce investment areas, and dislocated worker employment and training activities, as permitted by federal law.

(h) Coordinating the development and continuous improvement of comprehensive state performance measures, including state adjusted levels of performance, to assess the effectiveness of the workforce investment activities in the state.

(i) Preparing the annual report to the United States Secretary of Labor.

(j) Recommending policy for the development of the statewide employment statistics system, including workforce and economic data, as described in Section 15 of Title 29 of the United States Code, and using, to the fullest extent possible, the Employment Development Department's existing labor market information systems.

(k) Recommending strategies to the Governor for strategic training investments of the Governor's 15-percent discretionary funds.

(*l*) Developing and recommending waivers, in conjunction with local workforce investment boards, to the Governor as provided for in the Workforce Investment Act of 1998.

(m) Recommending policy to the Governor for the use of the 25-percent rapid response funds, as authorized under the Workforce Investment Act of 1998.

(n) Developing an application to the United States Department of Labor for an incentive grant under Section 9273 of Title 20 of the United States Code.

14015. Members of the board may receive up to one hundred dollars ($100) for each day's actual attendance at meetings and other official business of the board, not to exceed three hundred dollars ($300) per month, and shall receive their necessary and actual expenses incurred in the performance of their official duties.

Article 2. State Planning

14020. The California Workforce Investment Board, in collaboration with state and local partners, including the Chancellor of the California Community Colleges, the State Department of Education, other appropriate state agencies, and local workforce investment boards, shall develop a strategic workforce plan to serve as a framework for the development of public policy, fiscal investment, and operation of all state labor exchange, workforce education, and training programs. The strategic workforce plan shall also serve as the framework for the single state plan required by the Workforce Investment Act of 1998. The plan shall be updated at least every five years.

SEC. 5. Chapter 4 (commencing with Section 14200) is added to Division 7 of the Unemployment Insurance Code, to read:

CHAPTER 4. LOCAL SERVICE DELIVERY

Article 1. Local Workforce Investment Board

14200. (a) The local chief elected officials in a local workforce development area shall form, pursuant to guidelines established by the Governor and the board, a local workforce investment board to plan and oversee the workforce investment system.

(b) The Governor shall certify one local board for each local area in the state once every two years, following the requirements of the Workforce Investment Act of 1998.

14201. Local workforce investment boards shall be established in each local workforce investment area of the state to assist the local chief elected official in planning, oversight, and evaluation of local workforce investment. The local board shall promote effective outcomes consistent with statewide goals, objectives, and negotiated local performance standards.

14202. Membership of the local board shall be appointed by the local chief elected official using criteria established by the Governor and the board, and shall include:

(a) Representatives of business in the local area appointed from among individuals nominated by local business organizations and business trade associations and that reflect employment opportunities of the local area. Business representatives shall be owners of businesses, chief executives, or operating officers of businesses or other business executives, including human resources executives, or employers with optimum policymaking or hiring authority.

(b) Representatives of local educational entities, including representatives of local educational agencies, local school boards, entities providing adult education and literacy activities, public and private postsecondary educational institutions, including representatives of community colleges, selected from among individuals nominated by regional or local educational agencies, institutions, or organizations representing local educational entities.

(c) Representatives of labor organizations nominated by local labor federations, including a representative of an apprenticeship program. At least 15 percent of local board members shall be representatives of labor organizations unless the local labor federation fails to nominate enough members. If this occurs, then at least 10 percent of the local board members shall be representatives of labor organizations.

(d) Representatives of local community-based organizations, including organizations representing individuals with disabilities and veterans, and organizations that serve populations with barriers to employment, such as the economically disadvantaged, youth, farmworkers, homeless, and immigrants.

(e) Representatives of economic development agencies, including private sector economic development entities.

(f) Representatives of each of the one-stop partners.

(g) Members of the local board that represent organizations, agencies, or other entities shall be individuals with optimum policymaking authority within those organizations, agencies, or entities.

14203. Membership of local boards may include other individuals or representatives of entities as the local elected official in the local area may determine to be appropriate. A single member of the local board may be appointed to represent multiple constituencies on the local board.

14204. A majority of the members of the local board shall be representatives of businesses in the local area.

14205. The local board shall elect a chairperson for the local board from among the business representatives.

14206. It shall be the duty of the local board to do all of the following:

(a) Coordinate workforce investment activities in the local area with economic development strategies.

(b) Promote participation of private sector employers in the local workforce investment system.

(c) Develop and submit a local workforce investment plan to the Governor.

(d) Select one-stop operators, with the agreement of the local chief elected official, annually review their operations, and terminate for cause the eligibility of such operators.

(e) Award grants or contracts to eligible providers of youth activities in the local area on a competitive basis, consistent with the Workforce Investment Act of 1998, based upon the recommendations of the youth council.

(f) Identify, consistent with the Workforce Investment Act of 1998, eligible providers of training services.

(g) Identify eligible providers of intensive services and, when the one-stop operator does not provide intensive services to the local area, award contracts to those providers.

(h) Develop local policy on the amount and duration of individual training accounts based upon the market rate for local training programs.

(i) Conduct program oversight over workforce investment activities in the local area.

(j) Negotiate with the local chief elected official in the local area and the Governor on local performance measures for the local area.

(k) Assist in the development of a statewide employment statistics system, which shall be developed in conjunction with and shall utilize to the fullest extent possible, the Employment Development Department's labor market information system.

14207. The local board, in order to carry out its functions:

(a) Shall prepare a budget for the purpose of carrying out the duties of the local board as specified under this section, subject to the approval of the local chief elected official.

(b) Shall direct the activities of the local board's executive director.

(c) May employ additional staff to carry out the activities as described in the local board's strategic plan.

(d) May solicit and accept contributions and grant funds from other sources.

(e) Shall not provide training services unless the Governor grants a written waiver of this provision.

(f) Shall not provide other workforce investment services or be designated as a one-stop operator without the agreement of the local chief elected official and the Governor.

14208. A youth council shall be established as a subgroup within each local board, appointed by the local board in cooperation with the local chief elected official. Youth council membership shall conform with the requirements of the Workforce Investment Act of 1998.

14209. It is the intent of the Legislature that when appointing members to the youth council, the local workforce investment board and the local chief elected official appoint:

(a) Representatives of youth who are enrolled in school, and out of school youth.

(b) Representatives from the private sector.

(c) Representatives of local educational agencies serving youth.

(d) Representatives of private nonprofit agencies serving youth.

(e) Representatives of apprenticeship training programs serving youth.

14210. The youth council shall do all of the following:

(a) Develop the portions of the local plan relating to youth.

(b) Make recommendations of eligible providers of youth activities for the award of grants or contracts on a competitive basis by the local board to carry out youth activities.

(c) Leverage other youth program funds in the local area for the purpose of improving the effectiveness of local youth programs through collaborative planning, funding, and service delivery.

(d) Conduct oversight of eligible youth activities in the local area.

(e) Make recommendations to the local board for connecting youth program activities, including those provided by local educational entities to the one-stop delivery system.

(f) Make recommendations to the local board for including training in nontraditional occupations for women and girls and preapprenticeship training in youth program activities.

Article 2. Local Workforce Investment Plan

14220. Each local board shall develop and submit to the Governor a comprehensive five-year local plan in partnership with the appropriate chief local elected official. The plan shall be consistent with the state workforce investment plan.

14221. The local plan shall include all of the following:

(a) A local labor market assessment which contains an identification of local and regional workforce investment needs of businesses, jobseekers, and workers in the local area, the current and projected employment opportunities and the job skills necessary to obtain that employment.

(b) A description of the local one-stop delivery system, including all of the following:

(1) A description of how the local board will achieve system integration that will improve services to local employers and jobseekers, and a description of local funding sources.

(2) A copy of each memorandum of understanding between the local board and each of the one-stop partners concerning the operation of the one-stop delivery system in the local area.

(c) A description of the local levels of performance negotiated with the Governor and chief local elected official to be used to measure the performance of the local area and the performance of the local fiscal agent, eligible providers, and the one-stop delivery system in the local area. Performance standards shall not create disincentives for serving clients for whom it is more difficult to provide service.

(d) A description and assessment of the type and availability of adult and dislocated worker employment and training activities in the local area.

(e) A description of how the local board will provide services to the business community.

(f) A description of how the local board will coordinate workforce investment activities carried out in the local area with statewide rapid response activities, as appropriate.

(g) A description and assessment of the type and availability of youth activities in the local area, including an identification of successful providers of those activities.

(h) A description of the process used by the local board, consistent with Section 14223, to provide an opportunity for public comment, including comment by representatives of businesses, labor organizations, and community-based organizations, and input into the development of the local plan, prior to submission of the plan.

(i) An identification of the entity, as prescribed in the Workforce Investment Act of 1998, responsible for the disbursal of funds under the Workforce Investment Act of 1998.

(j) A description of the competitive process to be used to award the grants and contracts in the local area for activities carried out under the Workforce Investment Act of 1998.

14222. The local board may submit a local unified plan that includes or integrates the local workforce investment and other local workforce plans such as:

(a) An instructional and job training plan required by Section 10200 of the Education Code.

(b) A plan for community college curriculum development or redesign required pursuant to Section 79202 of the Education Code.

(c) A county plan for CalWORKs required by Section 10531 of the Welfare and Institutions Code.

(d) A local welfare-to-work plan required by Section 5063, to the extent permitted under federal law.

14223. The local board shall make available copies of a proposed local plan, allow members of the local board and members of the public to submit comments on the proposed local plan to the local board not later than the end of the 30-day period beginning on the date on which the proposed local plan is made available and submit the plan to the Governor along with any comments that were in disagreement with the plan.

Article 3. One-Stop Career Center System

14230. (a) It is the intent of the Legislature that:

(1) California deliver comprehensive workforce services to jobseekers, students, and employers through a system of one-stop career centers.

(2) Universal access to core services shall be available to adult residents regardless of income, education, employment barriers, or other eligibility requirements. Core services shall include, but not be limited to:

(A) Outreach, intake, and orientation to services available through the one-stop delivery system.

(B) Initial assessment of skill levels, aptitudes, abilities, and supportive service needs.

(C) Job search and placement assistance.

(D) Career counseling, where appropriate.

(E) Provision of labor market information.

(F) Provision of program performance and cost information on eligible providers of training services and local area performance measures.

(G) Provision of information on supportive services in the local area.

(H) Provision of information on the filing of claims for unemployment compensation benefits and unemployment compensation disability benefits.

(I) Assistance in establishing eligibility for welfare-to-work activities pursuant to Section 11325.8 of the Welfare and Institutions Code, and financial aid assistance.

(3) State and federally funded workforce education, training, and employment programs shall be integrated in the one-stop delivery system to achieve universal access to the core services described in paragraph (2).

(4) Intensive services shall be available to individuals who have completed at least one core service, have been unable to obtain employment, and who have been determined, by the one-stop operator, as being in need of more intensive services, or who are employed but in need of intensive services to obtain or retain employment to achieve self-sufficiency. Intensive services may include comprehensive and specialized assessments of skill levels and service needs, including learning disability screening, the development of individual employment

plans, counseling, career planning, and short-term prevocational services to prepare an individual for training and employment.

(5) Training services shall be made available to individuals who have met the requirements for intensive services, have been unable to obtain or retain employment through these services, and who, after an interview, evaluation, or assessment, are determined to be in need of training, and have selected a program of services directly linked to occupations in demand in the local or regional area. Training services may include:

(A) Occupational skill training including training for nontraditional employment.

(B) On-the-job training.

(C) Programs that combine workplace training with related instruction.

(D) Training programs operated by the private sector.

(E) Skill upgrading and retraining.

(F) Entrepreneurial training.

(G) Job readiness training.

(H) Adult education and literacy activities, including vocational English as a second language, provided in combination with subparagraphs (A) through (G), inclusive.

(I) Business services, including, but not limited to, recruitment and staffing services, training and development, information and resources, outplacement services, and business retention.

(6) As prescribed in the Workforce Investment Act of 1998, when funds are limited, priority for intensive services and training services shall be given to adult recipients of public assistance and other low-income adults, such as CalWORKs participants.

(b) Each local workforce investment board shall establish at least one full service one-stop career center in the local workforce investment area. Each full service one-stop career center shall have all entities specified in Section 14231 as partners and shall provide jobseekers with integrated employment, education, training, and job search services. Additionally, employers will be provided with access to comprehensive career and labor market information, job placement, economic development information, performance and program information on service providers, and other such services as the businesses in the community may require.

(c) Local boards may also establish affiliated and specialized centers, as defined in the Workforce Investment Act of 1998, which shall act as portals into the larger local one-stop system, but are not required to have all of the partners specified for full service one-stop centers.

(d) Each local board shall develop a policy for identifying individuals who, because of their skills or experience, should be referred immediately to training services. This policy, along with the methods for referral of individuals between the one-stop operators and the one-stop partners for appropriate services and activities, shall be contained in the memorandum of understanding between the local board and the one-stop partners.

(e) In light of California's diverse population, each one-stop career center should have the capacity to provide the appropriate services to the

full range of languages and cultures represented in the community served by the one-stop career center.

14231. (a) The local providers of the following programs or activities shall be required partners in the local one-stop system:

(1) Programs authorized under Title I of the Workforce Investment Act of 1998.

(2) Programs authorized under the Wagner-Peyser Act (29 U.S.C. Sec. 49 et seq.).

(3) Adult education and literacy activities authorized under Title II of the Workforce Investment Act of 1998.

(4) Programs authorized under Title I of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 720 et seq.).

(5) Programs authorized under Section 403(a)(5) of the Social Security Act (42 U.S.C. Sec. 603(a)(5) as added by Section 5001 of the Balanced Budget Act of 1997).

(6) Activities authorized under Title V of the Older Americans Act of 1965 (42 U.S.C. Sec. 3056 et seq.).

(7) Postsecondary vocational education activities authorized under the Carl D. Perkins Vocational and Applied Technology Education Act (20 U.S.C. Sec. 2301 et seq.), including community colleges and regional occupational centers and programs.

(8) Activities authorized under Chapter 2 of Title II of the Trade Act of 1974 (19 U.S.C. Sec. 2271 et seq.).

(9) Activities authorized under Chapter 41 (commencing with Section 4100) of Title 38 of the United States Code.

(10) Employment and training activities carried out under the Community Services Block Grant Act (42 U.S.C. Sec. 9901 et seq.).

(11) Employment and training activities carried out by the Department of Housing and Urban Development.

(12) Programs authorized by this code, in accordance with applicable federal law.

(13) Small business development centers, as defined in Section 15382 of the Government Code, where they exist.

(b) Community-based organizations that provide intensive services as described in paragraph (4) of subdivision (a) of Section 14230, shall be encouraged to be one-stop partners.

14232. The local board, with the agreement of the chief local elected official for the local area, shall develop and enter into a memorandum of understanding with the local one-stop partners, designate or certify one-stop operators, and conduct oversight over the local one-stop delivery system.

14233. One-stop career center operators shall recognize and comply with applicable labor agreements affecting employees of one-stop career centers, including the right to access by labor representatives pursuant to the Ralph C. Dills Act (Chapter 10.3 (commencing with Section 3512) of Division 4 of Title 1 of the Government Code).

14234. In order to avoid a conflict of interest, operators of one-stop career centers that issue vouchers shall not be the recipient of vouchers issued by their center without the approval of the chief local elected official and the state board in instances when there are no other potential one-stop partners in the local area.

14235. To the full extent permitted by federal law, the Employment Development Department shall utilize its Wagner-Peyser funded activities and programs to support local one-stop career centers.

SEC. 6. Chapter 5 (commencing with Section 14500) is added to Division 7 of the Unemployment Insurance Code, to read:

CHAPTER 5. EDUCATIONAL SERVICES

14500. Notwithstanding any other provision of law, when a person using his or her Workforce Investment Act individual training account enrolls in an adult education program, a noncredit curricula program at a community college, or a regional occupational center or program, for which state funds are allocated, all of the following shall apply:

(a) The entities administering the program may use Workforce Investment Act individual training account funds only to increase the number of hours of services provided above their adult block entitlement pursuant to Section 52616 of the Education Code and funding limit for regional occupational center programs for the purpose of enhancing services already supported with state funds. Any state funds provided to these entities above their adult block entitlements and funding limit for regional occupational center programs shall be subject to an appropriation in the annual Budget Act.

(b) Any state funds allocated to the entity administering the program shall not be offset with the Workforce Investment Act individual training account funds.

(c) The entity administering the program shall use the Workforce Investment Act individual training account funds received for the program.

14510. To the extent permitted by federal law, school districts and county offices of education are eligible to apply to local youth councils to provide basic skills training and skills necessary for attaining a secondary school diploma.

14530. To the extent permissible under federal law, the Governor may set aside a portion of the youth funding specifically for programs to improve the academic skills of low-achieving youth, including those at risk of not passing the high school exit examination required by Section 60850 of the Education Code, and for dropout prevention activities.

SEC. 7. Division 8 (commencing with Section 15000) of the Unemployment Insurance Code is repealed.

SEC. 8. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act implements a federal law or regulation and results only in costs mandated

by the federal government, within the meaning of Section 17556 of the Government Code.

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