

# SENATE BILL 93

P1, K3, J2

6lr0030

(PRE-FILED)

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

Requested: October 9, 2015

Introduced and read first time: January 13, 2016

Assigned to: Finance

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Committee Report: Favorable

Senate action: Adopted

Read second time: January 26, 2016

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Workforce Corporation and Health Care Personnel Training Fund –**  
3 **Repeal**

4 FOR the purpose of repealing the Maryland Workforce Corporation and the Health Care  
5 Personnel Training Fund; repealing certain provisions of law related to the board of  
6 directors, officers, and employees of the Corporation; repealing certain provisions of  
7 law related to the authority and duties of the Corporation; requiring that all net  
8 assets of the Corporation revert to the State for a public purpose; requiring the  
9 Department of Labor, Licensing, and Regulation to receive and dispose of the assets  
10 on behalf of the State; and generally relating to the Maryland Workforce Corporation  
11 and the Health Care Personnel Training Fund.

12 BY repealing

13 Article – Labor and Employment

14 Section 11–1001 through 11–1015 and the subtitle “Subtitle 10. Maryland Workforce  
15 Corporation”

16 Annotated Code of Maryland

17 (2008 Replacement Volume and 2015 Supplement)

18 BY repealing

19 Article – State Government

20 Section 12–101(a)(2)(xii)

21 Annotated Code of Maryland

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



(2014 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,  
Article – State Government  
Section 12–101(a)(2)(xiii) and (xiv)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2015 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;

- 1 (iii) adult learning programs;
- 2 (iv) correctional education and vocational programs;
- 3 (v) the Department of Human Resources;
- 4 (vi) the Department of Economic Competitiveness and Commerce;
- 5 (vii) the Higher Education Commission; and
- 6 (viii) the Department;

7 (4) administer the programs developed under this subtitle in accordance  
8 with the plan developed under item (1) of this subsection;

9 (5) provide grants, funding, and other assistance to support the programs  
10 developed under this subtitle;

11 (6) contract with training providers to conduct education and skills  
12 training programs;

13 (7) act as a research and development resource in finding solutions for new  
14 and emerging workforce issues; and

15 (8) evaluate the effectiveness of the programs developed under this  
16 subtitle.]

17 [11-1003.

18 (a) (1) There is a board of directors of the Corporation.

19 (2) The board shall manage the Corporation and exercise its corporate  
20 powers.

21 (3) The board shall meet at least four times a year.

22 (b) The board consists of the following members:

23 (1) as ex officio members:

24 (i) the Secretary;

25 (ii) the Secretary of Commerce;

26 (iii) the Secretary of Higher Education;

27 (iv) the Secretary of Human Resources;

1 (v) the Secretary of Juvenile Services;

2 (vi) the Chancellor of the University System of Maryland;

3 (vii) the State Superintendent of Schools;

4 (viii) the Executive Director of the Maryland Association of  
5 Community Colleges; and

6 (ix) the Chair of the Governor's Workforce Investment Board; and

7 (2) fourteen individuals appointed by the Governor with the advice and  
8 consent of the Senate who have knowledge and experience in business and industry, skills  
9 training, education, including adult basic education, labor organizations, and minority  
10 employment.

11 (c) (1) To the extent practicable, the members appointed to the board shall  
12 reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

13 (2) A board member must be a resident of the State.

14 (3) A board member:

15 (i) serves without compensation; but

16 (ii) is entitled to reimbursement for expenses under the Standard  
17 State Travel Regulations, as provided in the State budget.

18 (4) The Governor may remove a board member for incompetence,  
19 misconduct, or failure to perform the duties of the position.

20 (d) The Governor shall designate a member of the board as its chair.

21 (e) (1) The term of a board member appointed under subsection (b)(2) of this  
22 section is 4 years.

23 (2) The terms are staggered as required by the terms provided for the  
24 members on July 1, 2009.

25 (3) At the end of a term, an appointed member continues to serve until a  
26 successor is appointed and qualifies.

27 (4) A member who is appointed after a term has begun serves only for the  
28 rest of the term and until a successor is appointed and qualifies.

1 (f) (1) Except as provided in paragraph (2) of this subsection, a member may  
2 be reappointed.

3 (2) A member who has served two consecutive 4-year terms may not be  
4 reappointed until at least 1 year has elapsed after the end of the previous term.

5 (3) A member who has served less than a full 4-year term may be  
6 reappointed to two full terms.

7 (g) Each member of the board appointed under subsection (b)(2) of this section  
8 shall disclose to the State Ethics Commission whether the member is employed by or has a  
9 financial interest in an entity that may apply to the Corporation for funding to provide  
10 workforce education and skills training.]

11 [11-1004.

12 (a) (1) The board shall appoint a president with experience and qualifications  
13 relevant to the activities and purposes of the Corporation.

14 (2) The president serves at the pleasure of the board.

15 (3) The board shall determine the salary of the president.

16 (b) (1) The president is the chief administrative officer of the Corporation.

17 (2) The president shall manage the administrative affairs and technical  
18 activities of the Corporation in accordance with policies and procedures that the board  
19 establishes.

20 (c) The president, or the president's designee, shall:

21 (1) attend all meetings of the board;

22 (2) act as secretary of the board;

23 (3) keep minutes of all proceedings of the board;

24 (4) approve all salaries, per diem payments, and allowable expenses of the  
25 Corporation, its employees, and its consultants;

26 (5) approve any expenses incidental to the operation of the Corporation;  
27 and

28 (6) perform the other duties that the board directs in carrying out this  
29 subtitle.]

30 [11-1005.

1 (a) The Corporation shall employ any additional professional and clerical staff as  
2 necessary to carry out this subtitle.

3 (b) The Corporation may retain consultants, agents, and advisers as necessary.

4 (c) (1) The Attorney General is the legal adviser to the Corporation.

5 (2) With the approval of the Attorney General, the Corporation may retain  
6 any necessary lawyers.]

7 [11-1006.

8 (a) (1) Except as otherwise provided in this section, in exercising its powers,  
9 the Corporation:

10 (i) may carry out its corporate purposes without the consent of any  
11 State unit; and

12 (ii) is not subject to the following provisions of the State Finance and  
13 Procurement Article:

14 1. Title 2, Subtitle 2 (Gifts and Grants);

15 2. Title 3 (Budget and Management);

16 3. Title 3A (Department of Information Technology);

17 4. Title 4 (Department of General Services);

18 5. Title 6, Subtitle 1 (Studies and Estimates);

19 6. Title 7, Subtitle 1 (State Operating Budget), Subtitle 2  
20 (Disbursements and Expenditures), and Subtitle 3 (Unspent Balances); and

21 7. Division II (General Procurement Law).

22 (2) The Corporation is subject to the Public Information Act and the Open  
23 Meetings Act.

24 (b) (1) The board and the officers and employees of the Corporation are subject  
25 to the Public Ethics Law.

26 (2) The officers and employees of the Corporation are not subject to:

27 (i) Division II of the State Personnel and Pensions Article; or

1 (ii) the provisions of Division I of the State Personnel and Pensions  
2 Article that govern the State Personnel Management System.

3 (c) The Corporation, its officers, and its employees are subject to Title 12, Subtitle  
4 4 of the State Finance and Procurement Article.

5 (d) The Corporation is exempt from State and local taxes.]

6 [11-1007.

7 (a) The Corporation shall establish a system of financial accounting, controls,  
8 audits, and reports.

9 (b) The fiscal year of the Corporation begins on July 1 and ends on the following  
10 June 30.]

11 [11-1008.

12 (a) The exercise by the Corporation of the powers conferred by this subtitle is the  
13 performance of an essential public function.

14 (b) The Corporation may:

15 (1) adopt bylaws;

16 (2) adopt a seal;

17 (3) maintain offices at a place in the State that the Corporation designates;

18 (4) apply for and accept loans, grants, or assistance in any form from  
19 federal, State, or local governments, colleges or universities, or foundations or other private  
20 sources to support workforce education and skills training programs;

21 (5) administer programs that further the goals and objectives of the  
22 Corporation;

23 (6) provide grants, funding, and other assistance to State and local  
24 agencies, colleges and universities, employers, administrators of labor/management  
25 training and upgrading funds, and nonprofit organizations for education and skills training  
26 programs;

27 (7) contract with training providers to conduct education and skills  
28 training programs;

29 (8) assist training providers by coordinating funding for training programs;

30 (9) make, execute, and enter into any contracts or legal instruments;

1 (10) sue or be sued;

2 (11) seek tax exempt status from the Internal Revenue Service;

3 (12) exercise a power usually possessed by a private corporation in  
4 performing similar functions unless to do so would conflict with the laws of the State; and

5 (13) do anything necessary or convenient to carry out the powers granted by  
6 this subtitle.

7 (c) The Corporation may not offer or provide educational or skills training unless  
8 the Corporation determines that there are no other training providers available.]

9 [11-1009.

10 The Secretary may allocate funds to the Corporation for its expenses, as provided for  
11 in the State budget.]

12 [11-1010.

13 (a) (1) As soon as practicable after the close of the fiscal year, an independent  
14 certified public accountant shall audit the financial books, records, and accounts of the  
15 Corporation.

16 (2) The Corporation shall select an accountant to conduct the audit who:

17 (i) is licensed to practice certified public accountancy in the State;

18 (ii) is experienced and qualified in the accounting and auditing of  
19 public entities; and

20 (iii) does not have a direct or indirect personal interest in the fiscal  
21 affairs of the Corporation.

22 (3) (i) Except as provided in subparagraph (ii) of this paragraph, on or  
23 before November 1 after each fiscal year, the accountant shall report the results of the  
24 audit, including the accountant's opinion, made without reservation, of the presentation of  
25 the financial position of the funds of the Corporation, and the results of the financial  
26 operations of the Corporation.

27 (ii) If the accountant cannot express an opinion without reservation,  
28 the accountant shall explain in detail the reasons for the qualifications and disclaimers,  
29 including recommendations for changes that could make future opinions without  
30 reservation possible.

31 (b) The State may audit the books, records, and accounts of the Corporation.]



1 [11-1011.

2 (a) Within 90 days after the start of each fiscal year, the Corporation shall report  
3 on its status to the Governor and, subject to § 2-1246 of the State Government Article, the  
4 General Assembly.

5 (b) The report shall state the complete operating and financial statement covering  
6 the Corporation's operations and summarize the Corporation's activities during the  
7 preceding fiscal year.]

8 [11-1012.

9 (a) Each unit in the Executive Branch of State government and each institution  
10 of higher education in the State may work with the Corporation on matters relating to the  
11 unit.

12 (b) Each county, municipal corporation, and local workforce investment board in  
13 the State may work with the Corporation on matters relating to the political subdivision or  
14 entity.]

15 [11-1013.

16 (a) All debts, claims, obligations, and liabilities of the Corporation, whenever  
17 incurred, shall be the debts, claims, obligations, and liabilities of the Corporation only and  
18 not of the State, units of State government, other State instrumentalities, or State officers  
19 or employees.

20 (b) The debts, claims, obligations, and liabilities of the Corporation may not be  
21 considered a debt of the State or a pledge of the credit of the State.]

22 [11-1014.

23 This subtitle shall be liberally construed to carry out its purposes.]

24 [11-1015.

25 (a) In this section, "Fund" means the Health Care Personnel Training Fund.

26 (b) There is a Health Care Personnel Training Fund.

27 (c) The purpose of the Fund is to provide grants to training consortiums that  
28 involve labor-management partnerships that train and upgrade the qualifications of health  
29 care personnel.

30 (d) The Department shall administer the Fund.

1 (e) (1) The Fund is a special, nonlapsing fund that is not subject to § 7–302 of  
2 the State Finance and Procurement Article.

3 (2) The State Treasurer shall hold the Fund separately, and the  
4 Comptroller shall account for the Fund.

5 (f) The Fund shall consist solely of:

6 (1) money received from the federal government; and

7 (2) investment earnings of the Fund.

8 (g) The Fund may be used only to provide grants to training consortiums that  
9 involve labor–management partnerships that train and upgrade the qualifications of health  
10 care personnel.

11 (h) (1) The State Treasurer shall invest the money of the Fund in the same  
12 manner as other State money may be invested.

13 (2) Any investment earnings of the Fund shall be credited to the Fund.

14 (i) Expenditures from the Fund:

15 (1) may be made only in accordance with the State budget; and

16 (2) shall be made in consultation with the Governor’s Workforce  
17 Investment Board.]

## 18 Article – State Government

19 12–101.

20 (a) In this subtitle, unless the context clearly requires otherwise, “State  
21 personnel” means:

22 (2) an employee or official of the:

23 [(xii) Maryland Workforce Corporation;]

24 [(xiii)] (XII) Maryland Underground Facilities Damage Prevention  
25 Authority; and

26 [(xiv)] (XIII) Maryland Clean Energy Center;

27 SECTION 2. AND BE IT FURTHER ENACTED, That, pursuant to the bylaws of the  
28 corporation, all net assets of the Maryland Workforce Corporation shall revert to the State

1 for a public purpose. The Department of Labor, Licensing, and Regulation shall receive and  
2 dispose of the assets, if any, on behalf of the State.

3 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
4 1, 2016.

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.