

## **29 USC 491-2: Workforce and labor market information system**

Text contains those laws in effect on December 14, 2015

### **From Title 29-LABOR**

#### **CHAPTER 4B-FEDERAL EMPLOYMENT SERVICE**

### **§491-2. Workforce and labor market information system**

#### **(a) System content**

##### **(1) In general**

The Secretary, in accordance with the provisions of this section, shall oversee the development, maintenance, and continuous improvement of a nationwide workforce and labor market information system that includes-

(A) statistical data from cooperative statistical survey and projection programs and data from administrative reporting systems that, taken together, enumerate, estimate, and project employment opportunities and conditions at national, State, and local levels in a timely manner, including statistics on-

(i) employment and unemployment status of national, State, and local populations, including self-employed, part-time, and seasonal workers;

(ii) industrial distribution of occupations, as well as current and projected employment opportunities, wages, benefits (where data is available), and skill trends by occupation and industry, with particular attention paid to State and local conditions;

(iii) the incidence of, industrial and geographical location of, and number of workers displaced by, permanent layoffs and plant closings; and

(iv) employment and earnings information maintained in a longitudinal manner to be used for research and program evaluation;

(B) information on State and local employment opportunities, and other appropriate statistical data related to labor market dynamics, which-

(i) shall be current and comprehensive;

(ii) shall meet the needs identified through the consultations described in subparagraphs (A) and (B) of subsection (e)(2); and

(iii) shall meet the needs for the information identified in section 134(d); 1

(C) technical standards (which the Secretary shall publish annually) for data and information described in subparagraphs (A) and (B) that, at a minimum, meet the criteria of chapter 35 of title 44;

(D) procedures to ensure compatibility and additivity of the data and information described in subparagraphs (A) and (B) from national, State, and local levels;

(E) procedures to support standardization and aggregation of data from administrative reporting systems described in subparagraph (A) of employment-related programs;

(F) analysis of data and information described in subparagraphs (A) and (B) for uses such as-

(i) national, State, and local policymaking;

(ii) implementation of Federal policies (including allocation formulas);

(iii) program planning and evaluation; and

(iv) researching labor market dynamics;

(G) wide dissemination of such data, information, and analysis in a user-friendly manner and voluntary technical standards for dissemination mechanisms; and

(H) programs of-

(i) training for effective data dissemination;

(ii) research and demonstration; and

(iii) programs and technical assistance.

## **(2) Information to be confidential**

### **(A) In general**

No officer or employee of the Federal Government or agent of the Federal Government may-

(i) use any submission that is furnished for exclusively statistical purposes under the provisions of this section for any purpose other than the statistical purposes for which the submission is furnished;

(ii) make any publication or media transmittal of the data contained in the submission described in clause (i) that permits information concerning individual subjects to be reasonably inferred by either direct or indirect means; or

(iii) permit anyone other than a sworn officer, employee, or agent of any Federal department or agency, or a contractor (including an employee of a contractor) of such department or agency, to examine an individual submission described in clause (i);

without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission.

### **(B) Immunity from legal process**

Any submission (including any data derived from the submission) that is collected and retained by a Federal department or agency, or an officer, employee, agent, or contractor of such a department or agency, for exclusively statistical purposes under this section shall be immune from the legal process and shall not, without the consent of the individual, agency, or other person who is the subject of the submission or provides that submission, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding.

**(C) Rule of construction**

Nothing in this section shall be construed to provide immunity from the legal process for such submission (including any data derived from the submission) if the submission is in the possession of any person, agency, or entity other than the Federal Government or an officer, employee, agent, or contractor of the Federal Government, or if the submission is independently collected, retained, or produced for purposes other than the purposes of this chapter.

**(b) System responsibilities**

**(1) In general**

**(A) Structure**

The workforce and labor market information system described in subsection (a) shall be evaluated and improved by the Secretary, in consultation with the Workforce Information Advisory Council established in subsection (d).

**(B) Grants and responsibilities**

**(i) In general**

The Secretary shall carry out the provisions of this section in a timely manner, through grants to or agreements with States.

**(ii) Distribution of funds**

Using amounts appropriated under subsection (g), the Secretary shall provide funds through those grants and agreements. In distributing the funds (relating to workforce and labor market information funding) for fiscal years 2015 through 2020, the Secretary shall continue to distribute the funds to States in the manner in which the Secretary distributed funds to the States under this section for fiscal years 2004 through 2008.

**(2) Duties**

The Secretary, with respect to data collection, analysis, and dissemination of workforce and labor market information for the system, shall carry out the following duties:

(A) Assign responsibilities within the Department of Labor for elements of the workforce and labor market information system described in subsection (a) to ensure that the statistical and administrative data collected is consistent with appropriate Bureau of Labor Statistics standards and definitions, and that the information is accessible and understandable to users of such data.

(B) Actively seek the cooperation of heads of other Federal agencies to establish and maintain mechanisms for ensuring complementarity and nonduplication in the development and operation of statistical and administrative data collection activities.

(C) Solicit, receive, and evaluate the recommendations from the Workforce Information Advisory Council established in subsection (d) concerning the evaluation and improvement of the workforce and labor market information system described in subsection (a) and respond in writing to the Council regarding the recommendations.

(D) Eliminate gaps and duplication in statistical undertakings.

(E) Through the Bureau of Labor Statistics and the Employment and Training Administration, and in collaboration with States, develop and maintain the elements of the workforce and labor market information system described in subsection (a), including the development of consistent procedures and definitions for use by the States in collecting the data and information described in subparagraphs (A) and (B) of subsection (a)(1).

(F) Establish procedures for the system to ensure that-

(i) such data and information are timely; and

(ii) paperwork and reporting for the system are reduced to a minimum.

**(c) Two-year plan**

The Secretary, acting through the Commissioner of Labor Statistics and the Assistant Secretary for Employment and Training, and in consultation with the Workforce Information Advisory Council described in subsection (d) and heads of other appropriate Federal agencies, shall prepare a 2-year plan for the workforce and labor market information system. The plan shall be developed and implemented in a manner that takes into account the activities described in State plans submitted by States under section 3112 or 3113 of this title and shall be submitted to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate. The plan shall include-

(1) a description of how the Secretary will work with the States to manage the nationwide workforce and labor market information system described in subsection (a) and the statewide workforce and labor market information systems that comprise the nationwide system;

(2) a description of the steps to be taken in the following 2 years to carry out the duties described in subsection (b)(2);

(3) an evaluation of the performance of the system, with particular attention to the improvements needed at the State and local levels;

(4) a description of the involvement of States in the development of the plan, through consultation by the Secretary with the Workforce Information Advisory Council in accordance with subsection (d); and

(5) a description of the written recommendations received from the Workforce Information Advisory Council established under subsection (d), and the extent to which those recommendations were incorporated into the plan.

## **(d) Workforce Information Advisory Council**

### **(1) In general**

The Secretary, through the Commissioner of Labor Statistics and the Assistant Secretary for Employment and Training, shall formally consult at least twice annually with the Workforce Information Advisory Council established in accordance with paragraph (2). Such consultations shall address the evaluation and improvement of the nationwide workforce and labor market information system described in subsection (a) and the statewide workforce and labor market information systems that comprise the nationwide system and how the Department of Labor and the States will cooperate in the management of such systems. The Council shall provide written recommendations to the Secretary concerning the evaluation and improvement of the nationwide system, including any recommendations regarding the 2-year plan described in subsection (c).

### **(2) Establishment of Council**

#### **(A) Establishment**

The Secretary shall establish an advisory council that shall be known as the Workforce Information Advisory Council (referred to in this section as the "Council") to participate in the consultations and provide the recommendations described in paragraph (1).

#### **(B) Membership**

The Secretary shall appoint the members of the Council, which shall consist of-

- (i) 4 members who are representatives of lead State agencies with responsibility for workforce investment activities, or State agencies described in section 49c of this title, who have been nominated by such agencies or by a national organization that represents such agencies;
- (ii) 4 members who are representatives of the State workforce and labor market information directors affiliated with the State agencies that perform the duties described in subsection (e)(2), who have been nominated by the directors;
- (iii) 1 member who is a representative of providers of training services under section 3152 of this title;
- (iv) 1 member who is a representative of economic development entities;
- (v) 1 member who is a representative of businesses, who has been nominated by national business organizations or trade associations;
- (vi) 1 member who is a representative of labor organizations, who has been nominated by a national labor federation;
- (vii) 1 member who is a representative of local workforce development boards, who has been nominated by a national organization representing such boards; and
- (viii) 1 member who is a representative of research entities that utilize workforce and labor market information.

#### **(C) Geographic diversity**

The Secretary shall ensure that the membership of the Council is geographically diverse and that no 2 of the members appointed under clauses (i), (ii), and (vii) represent the same State.

**(D) Period of appointment; vacancies**

**(i) In general**

Each member of the Council shall be appointed for a term of 3 years, except that the initial terms for members may be 1, 2, or 3 years in order to establish a rotation in which one-third of the members are selected each year. Any such member may be appointed for not more than 2 consecutive terms.

**(ii) Vacancies**

Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of that term. A member may serve after the expiration of that member's term until a successor has taken office.

**(E) Travel expenses**

The members of the Council shall not receive compensation for the performance of services for the Council, but shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5 while away from their homes or regular places of business in the performance of services for the Council. Notwithstanding section 1342 of title 31, the Secretary may accept the voluntary and uncompensated services of members of the Council.

**(F) Permanent Council**

Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

**(e) State responsibilities**

**(1) Designation of State agency**

In order to receive Federal financial assistance under this section, the Governor of a State shall-

(A) designate a single State agency to be responsible for the management of the portions of the workforce and labor market information system described in subsection (a) that comprise a statewide workforce and labor market information system and for the State's participation in the development of the plan described in subsection (c); and

(B) establish a process for the oversight of such system.

**(2) Duties**

In order to receive Federal financial assistance under this section, the State agency shall-

(A) consult with State and local employers, participants, and local workforce investment boards about the labor market relevance of the data to be collected and disseminated through the statewide workforce and labor market information system;

(B) consult with State educational agencies and local educational agencies concerning the provision of workforce and labor market information in order to meet the needs of secondary school and postsecondary school students who seek such information;

(C) collect and disseminate for the system, on behalf of the State and localities in the State, the information and data described in subparagraphs (A) and (B) of subsection (a)(1);

(D) maintain and continuously improve the statewide workforce and labor market information system in accordance with this section;

(E) perform contract and grant responsibilities for data collection, analysis, and dissemination for such system;

(F) conduct such other data collection, analysis, and dissemination activities as will ensure an effective statewide workforce and labor market information system;

(G) actively seek the participation of other State and local agencies in data collection, analysis, and dissemination activities in order to ensure complementarity, compatibility, and usefulness of data; and

(H) utilize the quarterly records described in section 3141(i)(2) of this title to assist the State and other States in measuring State progress on State performance measures.

### **(3) Rule of construction**

Nothing in this section shall be construed as limiting the ability of a State agency to conduct additional data collection, analysis, and dissemination activities with State funds or with Federal funds from sources other than this section.

### **(f) Nonduplication requirement**

None of the functions and activities carried out pursuant to this section shall duplicate the functions and activities carried out under the Carl D. Perkins Career and Technical Education Act of 2006 (20 U.S.C. 2301 et seq.).

### **(g) Authorization of appropriations**

There are authorized to be appropriated to carry out this section \$60,153,000 for fiscal year 2015, \$64,799,000 for fiscal year 2016, \$66,144,000 for fiscal year 2017, \$67,611,000 for fiscal year 2018, \$69,200,000 for fiscal year 2019, and \$70,667,000 for fiscal year 2020.

### **(h) "Local area" defined**

In this section, the term "local area" means the smallest geographical area for which data can be produced with statistical reliability.

(June 6, 1933, ch. 49, §15, as added Pub. L. 105–220, title III, §309(2), Aug. 7, 1998, 112 Stat. 1082 ; amended Pub. L. 105–277, div. A, §101(f) [title VIII, §403(a)(1)], Oct. 21, 1998, 112 Stat. 2681–337 , 2681–416; Pub. L. 105–332, §5(b)(1), Oct. 31, 1998, 112 Stat. 3127 ; Pub. L. 109–270, §2(g), Aug. 12, 2006, 120 Stat. 747 ; Pub. L. 113–128, title III, §308, July 22, 2014, 128 Stat. 1627 .)

References in Text

Section 134(d), referred to in subsec. (a)(1)(B)(iii), probably means section 134(d) of the Workforce Investment Act of 1998, Pub. L. 105–220, which is classified to section 2864(d) of this title. The Wagner-Peyser Act, of which this section is a part, does not contain a section 134.

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (d)(2)(F), is section 14 of Pub. L. 92–463, which is set out in the Appendix to Title 5, Government Organization and Employees.

The Carl D. Perkins Career and Technical Education Act of 2006, referred to in subsec. (f), is Pub. L. 88–210, Dec. 18, 1963, 77 Stat. 403, as amended generally by Pub. L. 109–270, §1(b), Aug. 12, 2006, 120 Stat. 683, which is classified generally to chapter 44 (§2301 et seq.) of Title 20, Education. For complete classification of this Act to the Code, see Short Title note set out under section 2301 of Title 20 and Tables.

#### Prior Provisions

A prior section 15 of act of June 6, 1933, was renumbered section 16, and is set out as a Short Title note under section 49 of this title.

#### Amendments

**2014-Pub. L. 113–128, §308(a)**, substituted "Workforce and labor market information system" for "Employment statistics" in section catchline.

Subsec. (a)(1). Pub. L. 113–128, §308(b), substituted "workforce and labor market information system" for "employment statistics system of employment statistics" in introductory provisions.

Subsec. (b)(1). Pub. L. 113–128, §308(c)(1), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: "The employment statistics system described in subsection (a) shall be planned, administered, overseen, and evaluated through a cooperative governance structure involving the Federal Government and States."

Subsec. (b)(2). Pub. L. 113–128, §308(c)(2), added par. (2) and struck out former par. (2) which described duties to be carried out for the employment statistics system.

Subsec. (c). Pub. L. 113–128, §308(d), added subsec. (c) and struck out former subsec. (c) which related to preparation of an annual plan to achieve cooperative management of the nationwide and statewide employment statistics systems.

Subsec. (d). Pub. L. 113–128, §308(e), added subsec. (d) and struck out former subsec. (d) which required coordination with the States in the development of the annual plan.

Subsec. (e). Pub. L. 113–128, §308(f)(1), substituted "workforce and labor market information" for "employment statistics" wherever appearing.

Subsec. (e)(1)(A). Pub. L. 113–128, §308(f)(2), substituted "plan described in subsection (c)" for "annual plan".

Subsec. (e)(2)(G), (H). Pub. L. 113–128, §308(f)(3)(A), (B), (D), inserted "and" at end of subpar. (G), redesignated subpar. (I) as (H), and struck out former subpar. (H) which read as follows: "participate in the development of the annual plan described in subsection (c); and".

Subsec. (e)(2)(I). Pub. L. 113–128, §308(f)(3)(D), redesignated subpar. (I) as (H).

Pub. L. 113–128, §308(f)(3)(C), substituted "section 3141(i)(2) of this title" for "section 136(f)(2) of the Workforce Investment Act of 1998".

Subsec. (g). Pub. L. 113–128, §308(g), substituted "\$60,153,000 for fiscal year 2015, \$64,799,000 for fiscal year 2016, \$66,144,000 for fiscal year 2017, \$67,611,000 for fiscal year 2018, \$69,200,000 for fiscal year 2019, and \$70,667,000 for fiscal year 2020" for "such sums as may be necessary for each of the fiscal years 1999 through 2004".

**2006**-Subsec. (f). Pub. L. 109–270 substituted "Carl D. Perkins Career and Technical Education Act of 2006" for "Carl D. Perkins Vocational and Applied Technology Education Act".

**1998**-Subsec. (a)(2)(A)(i). Pub. L. 105–332, §5(b)(1)(A), substituted "under the provisions of this section for any purpose other than the statistical purposes for which" for "under the provisions of this section for any purpose other than the statistical purposes for which".

Pub. L. 105–277, §101(f) [title VIII, §403(a)(1)(A)], struck out "of this section" after "statistical purposes".

Subsec. (e)(2)(G). Pub. L. 105–277, §101(f) [title VIII, §403(a)(1)(B)], and Pub. L. 105–332, §5(b)(1)(B), amended subpar. (G) identically, substituting "complementarity" for "complementary".

#### Effective Date of 2014 Amendment

Amendment by Pub. L. 113–128 effective on the first day of the first full program year after July 22, 2014 (July 1, 2015), see section 506 of Pub. L. 113–128, set out as an Effective Date note under section 3101 of this title.

#### Effective Date of 1998 Amendments

Pub. L. 105–332, §5(b)(2), Oct. 31, 1998, 112 Stat. 3127 , provided that: "The amendments made by paragraph (1) [amending this section] take effect July 2, 1999."

Pub. L. 105–277, div. A, §101(f) [title VIII, §403(a)(2)], Oct. 21, 1998, 112 Stat. 2681–337 , 2681-416, provided that: "The amendments made by paragraph (1) [amending this section] take effect on July 2, 1999."

#### Effective Date

Section effective July 1, 1999, see section 311 of Pub. L. 105–220, formerly set out as an Effective Date of 1998 Amendment note under section 49a of this title.

1 See References in Text note below.