



AN ACT CLARIFYING THE PRIMARY SECTOR BUSINESS WORKFORCE TRAINING ACT BY REVISING TERMS; PROVIDING RULEMAKING AUTHORITY; AMENDING SECTIONS 39-11-103 AND 39-11-202, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-11-103, MCA, is amended to read:

"39-11-103. Definitions. As used in this chapter, the following definitions apply:

~~(1)~~ "Average weekly wage" has the meaning provided in 39-71-116.

~~(2)~~(1) "Department" means the department of commerce established in 2-15-1801.

~~(3)~~(2) "Eligible training provider" means:

(a) a unit of the university system, as defined in 20-25-201;

(b) a community college district, as defined in 20-15-101;

(c) an accredited, tribally controlled community college located in the state of Montana; or

(d) an entity approved to provide workforce training that is included on the eligible training provider list.

~~(4)~~(3) "Eligible training provider list" means the list maintained by the department of labor and industry of those eligible training providers who may be used to provide workforce training under a grant authorized in 39-11-202.

~~(5)~~(4) "Employee" means the individual employed in a new job.

~~(6)~~(5) "Employer" means the individual, corporation, partnership, or association providing new jobs and entering into a grant contract.

~~(7)~~(6) "Full-time job" means a predominantly year-round position requiring an average of at least 35 hours of work each week.

~~(8)~~(7) (a) "New job" means a newly created full-time or part-time job in an eligible a primary sector business.

(b) The term does not include:

(i) jobs for recalled employees returning to positions held previously, for replacement employees, or for employees newly hired as a result of a labor dispute, ~~part-time jobs or~~ seasonal jobs, or other jobs that previously existed within the employment of the employer in the state; or

(ii) jobs created by an employer as the result of an acquisition of a Montana company or entity if those jobs previously existed in the state of Montana in the acquired company or entity unless it is demonstrated that the jobs:

- (A) are substantially different as a result of the acquisition; and
- (B) will require new training for the employee to meet new job requirements.

~~(9)~~(8) "Part-time job" means a predominantly year-round position requiring an average of 25 to 34 hours of work each week.

~~(10)~~(9) "Primary sector business" means an employer engaged in establishing or expanding operations within Montana that through the employment of knowledge or labor add value to a product, process, or export service that results in the creation of new wealth and at least one of the following conditions applies:

- (a) ~~for which~~ at least 50% of the sales of the employer occur outside of Montana;
- (b) the employer is a manufacturing company with at least 50% of its sales to other Montana companies that have 50% of their sales occurring outside of Montana; or
- (c) the employer is a new business that provides, as determined by the department, a product or a service that is not available in Montana or a substantially similar product or service that is not available in Montana, which results in state residents leaving the state to purchase the product or service.

~~(11)~~(10) "Primary sector business training program" or "program" means the grant provided to employers for the purpose of working with eligible training providers to provide employees with education and training required for jobs in new or expanding primary sector businesses in the state.

- ~~(12)~~(11) (a) "Program costs" means all necessary and incidental costs of providing program services.
- (b) The term does not include the cost of equipment to be owned or used by the eligible training provider.

~~(13)~~(12) "Program services" means training and education specifically directed to the new jobs, including:

- (a) all direct training costs, such as:
 - (i) program promotion;
 - (ii) instructor wages, per diem, and travel;
 - (iii) curriculum development and training materials;

- (iv) lease of training equipment and training space;
- (v) miscellaneous direct training costs;
- (vi) administrative costs; and
- (vii) assessment and testing;
- (b) in-house or on-the-job training; and
- (c) subcontracted services with eligible training providers."

Section 2. Section 39-11-202, MCA, is amended to read:

"39-11-202. Primary sector business workforce training grants -- eligibility. (1) Subject to appropriation by the legislature, the department may award workforce training grants to primary sector businesses that provide education or skills-based training, through eligible training providers ~~from the eligible training provider list~~, for employees in new jobs.

(2) To be eligible for a grant, an applicant shall demonstrate that ~~at least 50% of the applicant's sales will be from outside of Montana or that the applicant is a manufacturing company with 50% of its sales from companies that have 50% of their sales outside of Montana and must meet~~ the applicant is a primary sector business and meets at least one of the following criteria:

- (a) ~~be is~~ is a value-adding business as defined by the Montana board of investments;
- (b) ~~demonstrate~~ has a significant positive economic impact to the region and state beyond the job creation involved;
- (c) ~~provide~~ provides a service or function that is essential to the locality or the state; or
- (d) ~~be is~~ is a for-profit or a nonprofit hospital or medical center providing a variety of medical services for the community or region.

(3) An applicant shall also provide a match of at least \$1 for every \$3 requested. The match:

- (a) must be from new, unexpended funds available at the time of application;
- (b) may include new loans and investments and expenditures for direct project-related costs such as new equipment and buildings. The department may consider recent purchases of fixed assets directly related to the proposal on a case-by-case basis. A purchase of fixed assets directly related to the proposed training activities that have been made within 90 days after submission of the application may be considered eligible by the department.

(4) (a) Except as provided in subsection (4)(c), a grant provided under this section may not exceed \$5,000 for each full-time position and \$2,500 for each part-time position for which an employee is being trained. A grant may be provided only for a new job that has an average weekly wage that meets or exceeds the lesser of 170% of Montana's current minimum wage or the current average weekly wage of the county in which the employees are to be principally employed, provided minimum wage requirements are met.

(b) The department may consider the value of employee benefits in calculating the expected annual wage.

(c) The department may, in exceptional circumstances, consider a higher grant ceiling for jobs that will pay high wages and benefits if the need for higher training costs is documented in the application.

(d) A grant provided under this section must be proportional to the number of jobs provided, the expected average annual wage of all jobs provided, and the underlying economic indicators of the region where the majority of the jobs will be created.

(5) Funding ceilings must be determined by the availability of funding, the cost for each job, the quality of the primary sector business proposal, and whether training will be provided in Montana.

(6) The grant application, at a minimum, must contain:

(a) a business plan containing information that is sufficient for the department to obtain an adequate understanding of the business to be assisted, including the products or services offered, estimated market potential, management experience of principals, current financial position, and details of the proposed venture. In lieu of a business plan, the department may consider a copy of the current loan application to entities such as the Montana board of investments, the federal business and industry guarantee program, or the small business administration.

(b) financial statements and projections for the 2 most recent years of operation and projections for each of the 2 years following the grant, including but not limited to balance sheets, profit and loss statements, and cash flow statements. A business operating for less than 2 years shall provide all available financial statements.

(c) a hiring and training plan, which must include:

(i) a breakdown of the jobs to be created or retained, including the number and type of jobs that are full-time, part-time, skilled, semiskilled, or unskilled positions;

(ii) a timetable for creating the positions and the total number of employees to be hired;

(iii) an assurance that the business will comply with the equal opportunity and nondiscrimination laws;

(iv) procedures for outreach, recruitment, screening, training, and placement of employees;
(v) a description of the training curriculum and resources;
(vi) written commitments from any agency or organization participating in the implementation of the hiring plan; and

(vii) a description of the type and method of training to be provided to employees, the starting wage and wage to be paid after training for each position, the job benefits to be paid or provided, and any payment to eligible training providers.

(7) If the department determines that an applicant meets the criteria established in this section and has complied with the applicable procedures and review processes established by the department, the department may award a primary sector business workforce development grant to the employer and authorize the disbursement of funds under contract to the primary sector business.

(8) The department shall provide employers assistance in accessing workforce and education services outside the scope of this chapter for which employees may be eligible. These additional services may not be used to replace a grant provided under this section once the contract has been finalized.

(9) (a) A contract with a grant recipient must contain provisions:

(i) certifying that the amount of the grant already expended will be reimbursed in the event that the primary sector business ceases operation in the state of Montana within the grant contract period, which may be up to 2 years;

(ii) specifying that the employer may receive grant funds over the contract period only upon documenting the creation of eligible jobs, the hiring of employees for the jobs, or the incurring of eligible training expenses; and

(iii) providing the department with annual reports and a final closeout report that documents the wages paid to an employee upon completion of the training.

(b) The contract must be signed by the person in the primary sector business who is assigned the duties and responsibilities for training and the overall success of the program and by the primary sector business's chief executive.

(10) The department may adopt rules to implement this section."

Section 3. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,
SB 0029, originated in the Senate.

Secretary of the Senate

President of the Senate

Signed this _____ day
of _____, 2013.

Speaker of the House

Signed this _____ day
of _____, 2013.

SENATE BILL NO. 29
INTRODUCED BY E. BUTTREY
BY REQUEST OF THE DEPARTMENT OF COMMERCE

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