

CHAPTER 357

LABOR AND INDUSTRY

HOUSE BILL 13-1004

BY REPRESENTATIVE(S) Duran and Melton, Buckner, Fischer, Garcia, Ginal, Hullinghorst, Mitsch Bush, Moreno, Peniston, Pettersen, Primavera, Rosenthal, Salazar, Singer, Tyler, Young, Ferrandino, Exum, Foote, Hamner, Kagan, Lebsock, Lee, Levy, May, Pabon, Ryden, Schafer, Williams;
also SENATOR(S) Kerr, Aguilar, Heath, Jones, Kefalas, Newell, Schwartz, Tochtrop, Todd, Ulibarri.

AN ACT

**CONCERNING THE COLORADO CAREERS ACT OF 2013, AND, IN CONNECTION THEREWITH,
ESTABLISHING A TRANSITIONAL JOBS PROGRAM AND MAKING AN APPROPRIATION.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** part 11 to article 2 of title 26 as follows:

26-2-1101. Legislative declaration. (1) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES:

(a) TRANSITIONAL JOBS HAVE PROVEN TO BE AN EFFECTIVE POLICY RESPONSE TO STUBBORNLY HIGH UNEMPLOYMENT RATES AND THE DIFFICULTIES THAT MANY SMALLER EMPLOYERS FACE IN FILLING JOB VACANCIES AND EXPANDING JOB OPPORTUNITIES. TRANSITIONAL JOBS HAVE HELPED TO:

- (I) STABILIZE INDIVIDUALS AND FAMILIES WITH EARNED INCOME;
- (II) STIMULATE LOCAL ECONOMIES THROUGH WAGES PAID;
- (III) CONTRIBUTE TO THE ECONOMIC HEALTH OF EMPLOYERS;
- (IV) PROVIDE UNEMPLOYED AND UNDEREMPLOYED ADULTS AN OPPORTUNITY TO EXPERIENTIALLY LEARN, MODEL, AND PRACTICE SUCCESSFUL WORKPLACE BEHAVIORS THAT WILL HELP THEM TO GET AND KEEP UNSUBSIDIZED EMPLOYMENT;
- (V) BUILD WORK HISTORIES AND REFERENCES FOR PARTICIPANTS TO MORE EASILY

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

MOVE INTO UNSUBSIDIZED AND STABLE EMPLOYMENT;

(VI) ADDRESS BARRIERS TO WORK THAT HAVE KEPT THE UNEMPLOYED AND UNDEREMPLOYED OUT OF THE REGULAR LABOR MARKET; AND

(VII) REDUCE RECIDIVISM AND PUBLIC COSTS.

(b) COLORADO HAS ALREADY DEMONSTRATED THE VALUE OF TRANSITIONAL JOBS THROUGH ITS SUCCESSFUL HIRE COLORADO INITIATIVE. OPERATED WITH FEDERAL FUNDS FROM OCTOBER 2009 THROUGH SEPTEMBER 2010, HIRE COLORADO PROVIDED TRANSITIONAL JOBS TO OVER ONE THOUSAND SEVEN HUNDRED UNEMPLOYED COLORADANS, ENABLING THEM TO DO PRODUCTIVE, WAGE-PAYING WORK FOR LOCAL GOVERNMENTS, NONPROFIT AGENCIES, AND FOR-PROFIT EMPLOYERS. ACCORDING TO DATA FROM THE COLORADO DEPARTMENT OF HUMAN SERVICES, HIRE COLORADO HELPED NEARLY SEVENTY-FIVE PERCENT OF ITS PARTICIPANTS TO MOVE INTO UNSUBSIDIZED EMPLOYMENT. IN STATES WHOSE TRANSITIONAL JOBS PROGRAMS FOCUSED ON THOSE WITH THE MOST ACUTE JOB SEARCH CHALLENGES, NEARLY FIFTY PERCENT, AN UNUSUALLY HIGH SUCCESS RATE FOR SUCH A POPULATION, MOVED INTO UNSUBSIDIZED WORK.

(c) WHILE NATIONALLY UNEMPLOYMENT IS FALLING SLOWLY AND ALTHOUGH COLORADO'S UNEMPLOYMENT RATE IS BETTER THAN THE NATIONAL AVERAGE, COLORADANS STILL FACE DIFFICULTY IN FINDING FULL-TIME JOBS. ACCORDING TO A RECENT ANALYSIS, NEARLY TWO HUNDRED THOUSAND COLORADANS ARE "OFFICIALLY" UNEMPLOYED, BUT THERE ARE FEWER THAN SEVENTY-FIVE THOUSAND JOB OPENINGS. AT THE SAME TIME THAT UNEMPLOYED AND UNDEREMPLOYED COLORADANS STRUGGLE TO FIND EMPLOYMENT IN THE FACE OF THIS JOB SHORTAGE, MANY EMPLOYERS HAVE FOUND IT DIFFICULT TO FILL THE JOB VACANCIES THEY DO HAVE. TRANSITIONAL JOBS ARE PART OF THE SOLUTION TO BOTH UNEMPLOYMENT AND UNFILLED JOB VACANCIES.

26-2-1102. Definitions. AS USED IN THIS PART 11, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "EMPLOYER OF RECORD" MEANS AN ORGANIZATION THAT HAS BEEN SELECTED BY THE STATE DEPARTMENT TO BE RESPONSIBLE FOR PROVIDING THE FOLLOWING EMPLOYER SERVICES, IN AN EFFECTIVE AND EFFICIENT MANNER AND AT THE LOWEST COST, WITH RESPECT TO TRANSITIONAL JOB WORKERS WHO PERFORM WORK FOR A HOST SITE EMPLOYER:

(a) PAYMENT OF WAGES TO A TRANSITIONAL JOB WORKER, UPON RECEIPT FROM THE HOST SITE EMPLOYER OF CERTIFICATION, IN THE MANNER PRESCRIBED BY THE STATE DEPARTMENT, THAT THE TRANSITIONAL JOB WORKER HAS WORKED A SPECIFIED NUMBER OF HOURS;

(b) WITHHOLDING AND PAYMENT OF PAYROLL TAXES, INCLUDING FICA, MEDICARE, AND, IF APPLICABLE, UNEMPLOYMENT INSURANCE TAXES, TO THE APPROPRIATE FEDERAL AND STATE AGENCIES;

(c) PROVISION, IF APPLICABLE, OF WORKER'S COMPENSATION COVERAGE;

(d) PREPARATION AND DISTRIBUTION OF FEDERAL AND STATE TAX FORMS, INCLUDING W-2 AND I-9 FORMS; AND

(e) PROVISION OF SUCH OTHER FORMAL EMPLOYER FUNCTIONS AS THE DEPARTMENT OF HUMAN SERVICES MAY PRESCRIBE.

(2) "HOST SITE EMPLOYER" MEANS THE EMPLOYER THAT AGREES WITH THE LOCAL AGENCY CONTRACTOR TO BE RESPONSIBLE FOR:

(a) SELECTING, TRAINING, AND SUPERVISING A TRANSITIONAL JOBS WORKER;

(b) CERTIFYING TO THE EMPLOYER OF RECORD, IN THE MANNER PRESCRIBED BY THE DEPARTMENT OF HUMAN SERVICES, THE NUMBER OF HOURS THAT THE TRANSITIONAL JOBS WORKER HAS WORKED FOR THE EMPLOYER; AND

(c) COOPERATING WITH THE LOCAL AGENCY CONTRACTOR IN FACILITATING THE MOVEMENT OF THE TRANSITIONAL JOBS WORKER INTO UNSUBSIDIZED EMPLOYMENT; EXCEPT THAT THE HOST SITE EMPLOYER SHALL NOT BE REQUIRED TO OFFER UNSUBSIDIZED EMPLOYMENT TO THE TRANSITIONAL JOBS WORKER.

(3) "LOCAL AGENCY CONTRACTOR" MEANS THE GOVERNMENTAL, NONPROFIT, OR FOR-PROFIT ORGANIZATIONS THAT THE STATE DEPARTMENT HAS CHOSEN, THROUGH A COMPETITIVE REQUEST FOR PROPOSALS AND CONTRACTING PROCESS, TO BE RESPONSIBLE FOR ADMINISTERING THE TRANSITIONAL JOBS PROGRAM AT THE LOCAL LEVEL, INCLUDING:

(a) OUTREACH TO PROSPECTIVE TRANSITIONAL JOBS WORKERS;

(b) RECRUITMENT OF POTENTIAL TRANSITIONAL JOBS WORKERS;

(c) ORIENTATION OF TRANSITIONAL JOBS WORKERS;

(d) PROVISION TO TRANSITIONAL JOBS WORKERS OF ACCESS TO CASE MANAGEMENT;

(e) PROVISION OF JOB COACHING TO TRANSITIONAL JOBS WORKERS, BOTH PRIOR TO AND FOLLOWING THEIR SELECTION BY HOST SITES EMPLOYERS;

(f) INTRODUCTION OF TRANSITIONAL JOBS WORKERS TO HOST SITES EMPLOYERS;

(g) ONGOING COMMUNICATION WITH HOST SITE EMPLOYERS CONCERNING WORKPLACE ISSUES WITH THE GOAL THAT EARLY IDENTIFICATION AND PROMPT RESOLUTION WILL HELP TRANSITIONAL JOBS WORKERS TO SUCCEED ON THE JOB AND MOVE INTO UNSUBSIDIZED EMPLOYMENT; AND

(h) COLLECTION OF DATA REQUIRED BY THE STATE DEPARTMENT, INCLUDING UTILIZATION OF THE COMMON STATEWIDE DATA COLLECTION SYSTEM IDENTIFIED BY THE STATE DEPARTMENT FOR DATA REPORTING AND DOCUMENTATION OF TRANSITIONAL JOBS PROGRAM OUTCOMES AND PERFORMANCE.

26-2-1103. Transitional jobs programs. (1) THE STATE DEPARTMENT SHALL

ADMINISTER A TRANSITIONAL JOBS PROGRAM. THE TRANSITIONAL JOBS PROGRAM MUST:

(a) SEEK TO OFFER THE OPPORTUNITY TO WORK IN TRANSITIONAL JOBS TO ELIGIBLE INDIVIDUALS FROM JULY 1, 2013, THROUGH DECEMBER 30, 2014;

(b) TO THE GREATEST EXTENT POSSIBLE, PROVIDE PRIORITY TRANSITIONAL JOB OFFERS TO THE FOLLOWING GROUPS OF ELIGIBLE INDIVIDUALS, WITH THE HIGHEST PRIORITY BEING GIVEN TO INDIVIDUALS MEETING ONE OR MORE OF THE FOLLOWING CATEGORIES:

(I) NON-CUSTODIAL PARENTS;

(II) VETERANS; OR

(III) DISPLACED WORKERS THAT ARE FIFTY YEARS OF AGE OR OLDER;

(c) PAY ELIGIBLE WORKERS AT LEAST THE APPLICABLE MINIMUM WAGE; AND

(d) PLACE TRANSITIONAL JOB WORKERS, TO THE GREATEST EXTENT FEASIBLE, WITH HOST SITE EMPLOYERS THAT ARE SMALL AND MEDIUM-SIZED FIRMS THAT HAVE NO MORE THAN FIFTY FULL-TIME-EQUIVALENT EMPLOYEES.

(2) TO BE ELIGIBLE FOR A TRANSITIONAL JOB, AN INDIVIDUAL MUST:

(a) BE A LEGAL UNITED STATES RESIDENT OR OTHERWISE LAWFULLY PRESENT AND ELIGIBLE FOR WORK IN THE UNITED STATES;

(b) BE A RESIDENT OF COLORADO;

(c) BE AT LEAST EIGHTEEN YEARS OF AGE;

(d) NOT BE INCARCERATED AND BE ABLE TO WORK;

(e) HAVE A FAMILY INCOME OF BELOW ONE HUNDRED FIFTY PERCENT OF THE FEDERAL POVERTY LEVEL, AS ADJUSTED FOR FAMILY SIZE;

(f) BE UNEMPLOYED OR UNDEREMPLOYED FOR NO MORE THAN TWENTY HOURS PER WEEK, FOR AT LEAST FOUR CONSECUTIVE WEEKS; AND

(g) DEMONSTRATE THAT HE OR SHE HAS ACTIVELY SOUGHT EMPLOYMENT UTILIZING THE PUBLIC WORKFORCE SYSTEM.

(3) AN INDIVIDUAL WHO IS ELIGIBLE FOR A TRANSITIONAL JOB UNDER SUBSECTION (2) OF THIS SECTION MAY BE OFFERED A TRANSITIONAL JOB, SUBJECT TO THE AVAILABILITY OF FUNDS, ON THE FOLLOWING TERMS:

(a) THE TRANSITIONAL JOB MAY NOT DISPLACE ANY EXISTING EMPLOYEE, OR RESULT IN FILLING A JOB FROM WHICH AN EMPLOYEE WAS RECENTLY TERMINATED, OR INVOLVE THE TRANSITIONAL JOB WORKER IN A LABOR DISPUTE;

(b) THE TRANSITIONAL JOB MUST PAY AT LEAST THE APPLICABLE MINIMUM WAGE, AND THE WAGE MAY BE INCREASED WITH FUNDS PROVIDED BY THE HOST SITE OR A THIRD PARTY;

(c) THE TRANSITIONAL JOB MUST PROVIDE NO FEWER THAN EIGHT HOURS OF WORK PER WEEK OF TRANSITIONAL JOB WORK AND MAY PROVIDE UP TO FORTY HOURS OF WORK PER WEEK OF TRANSITIONAL JOB WORK;

(d) EACH TRANSITIONAL JOB MAY PROVIDE UP TO THIRTY TOTAL WEEKS OF TRANSITIONAL JOB WORK, NOT TO EXCEED THREE PLACEMENTS AS A TRANSITIONAL JOB WORKER WITH UP TO THREE HOST SITES; EXCEPT THAT, SUBJECT TO GUIDELINES PROVIDED BY THE STATE DEPARTMENT, A LOCAL AGENCY CONTRACTOR MAY OFFER AND PROVIDE AN INDIVIDUAL WHO REMAINS ELIGIBLE FOR A TRANSITIONAL JOB ADDITIONAL WEEKS OF TRANSITIONAL JOB WORK; AND

(e) THE INDIVIDUAL EMPLOYED IN A TRANSITIONAL JOB MUST DEMONSTRATE THAT HE OR SHE IS ACTIVELY SEEKING EMPLOYMENT UTILIZING THE PUBLIC WORKFORCE SYSTEM.

(4) THE TRANSITIONAL JOBS PROGRAM MUST OPERATE THROUGHOUT COLORADO, BUT, BASED ON THE AVAILABILITY OF FUNDING, THE STATE DEPARTMENT MAY:

(a) PHASE IN THE TRANSITIONAL JOBS PROGRAM IN 2013 AND 2014 OR OVER A LONGER TIME PERIOD AS DETERMINED NECESSARY BY THE STATE DEPARTMENT; OR

(b) LIMIT THE TRANSITIONAL JOBS PROGRAMS TO URBAN AND RURAL COUNTIES DESIGNATED BY THE STATE DEPARTMENT BASED ON CRITERIA RELATING TO UNEMPLOYMENT, POVERTY, AND OTHER FACTORS THAT THE STATE DEPARTMENT IDENTIFIES.

(5) THE STATE DEPARTMENT SHALL:

(a) REQUIRE DATA REPORTING AND PERFORMANCE OUTCOMES;

(b) EVALUATE THE OUTCOMES OF THE TRANSITIONAL JOBS PROGRAM AND PRESENT THE RESULTS OF ITS EVALUATION IN A TIMELY AND STRUCTURED MANNER; AND

(c) RIGOROUSLY MONITOR ALL CONTRACTS AND ENSURE FULL COMPLIANCE BY ALL CONTRACTORS WITH THEIR CONTRACTUAL OBLIGATIONS.

(6) THE STATE DEPARTMENT SHALL USE A COMPETITIVE REQUEST FOR PROPOSAL PROCESS TO SELECT LOCAL AGENCY CONTRACTORS AND SHALL NEGOTIATE CONTRACTS WITH THE GOVERNMENT OR NONPROFIT OR FOR-PROFIT ORGANIZATIONS THAT SUBMIT THE STRONGEST PROPOSALS.

(7) THE STATE DEPARTMENT MAY OFFER INCENTIVES TO LOCAL AGENCY CONTRACTORS FOR HIGH PERFORMANCE.

(8) THE STATE DEPARTMENT SHALL:

(a) DETERMINE THE MOST EFFECTIVE AND EFFICIENT PROCESS AND MECHANISMS TO PROVIDE EMPLOYER OF RECORD SERVICES;

(b) ESTABLISH STANDARDS AND PROCEDURES FOR CONSIDERING AND APPROVING THE APPLICATIONS OF ORGANIZATIONS THAT APPLY TO FUNCTION AS EMPLOYERS OF RECORD; AND

(c) APPROVE THE APPLICATIONS OF THOSE ORGANIZATIONS THAT APPLY TO BE EMPLOYERS OF RECORD IF THE STATE DEPARTMENT DETERMINES THE ORGANIZATIONS WILL MEET ALL APPLICABLE STANDARDS IN THE MOST EFFECTIVE AND EFFICIENT MANNER AND AT THE LOWEST COST.

(9) AN ORGANIZATION MAY SUBMIT AN APPLICATION TO BE AN EMPLOYER OF RECORD, A LOCAL AGENCY CONTRACTOR, OR BOTH. THE STATE DEPARTMENT SHALL REVIEW AND MAKE DECISIONS ABOUT THE APPLICATION OF AN ORGANIZATION TO BE AN EMPLOYER OF RECORD IN THE SAME MANNER, AND USING THE SAME CRITERIA, REGARDLESS OF WHETHER THE ORGANIZATION PREVIOUSLY NEVER WAS, PREVIOUSLY WAS, CURRENTLY IS, PREVIOUSLY APPLIED TO BE, OR IS CURRENTLY APPLYING TO BE A LOCAL AGENCY CONTRACTOR. THE STATE DEPARTMENT SHALL REVIEW AND MAKE DECISIONS ABOUT THE APPLICATION OF AN ORGANIZATION TO BE A LOCAL AGENCY CONTRACTOR IN THE SAME MANNER, AND USING THE SAME CRITERIA, REGARDLESS OF WHETHER THE ORGANIZATION NEVER WAS, PREVIOUSLY WAS, CURRENTLY IS, PREVIOUSLY APPLIED TO BE, OR IS CURRENTLY APPLYING TO BE AN EMPLOYER OF RECORD. AN EMPLOYER OF RECORD OR A LOCAL AGENCY CONTRACTOR, CONSISTENT WITH CRITERIA THAT THE STATE DEPARTMENT MAY ESTABLISH, MAY ALSO SERVE AS A HOST SITE EMPLOYER.

(10) THE STATE DEPARTMENT SHALL UTILIZE ANY MONEYS FOR THE TRANSITIONAL JOBS PROGRAM IN THE FOLLOWING MANNER:

(a) TRANSITIONAL JOBS PROGRAM MONEYS MUST BE USED TO REIMBURSE THE EMPLOYER OF RECORD FOR THE FOLLOWING WAGE-RELATED COSTS FOR EACH INDIVIDUAL WHO WORKS IN A TRANSITIONAL JOB:

(I) WAGE COSTS EQUAL TO THE NUMBER OF HOURS OF TRANSITIONAL JOBS WORK PERFORMED FOR AND CERTIFIED BY A HOST SITE EMPLOYER TIMES THE AGREED UPON WAGE, WHICH WAGE MUST BE AT LEAST THE APPLICABLE MINIMUM WAGE BUT MAY BE DEFINED BY THE FUNDING SOURCE; AND

(II) ALL RESULTING PAYROLL TAXES, INCLUDING THE EMPLOYER OF RECORD'S SHARE OF FICA TAXES, MEDICARE TAXES, ANY APPLICABLE UNEMPLOYMENT INSURANCE TAXES, AND ANY APPLICABLE WORKER'S COMPENSATION COSTS.

(b) THE HOST SITE OR A THIRD PARTY MAY INCREASE THE WAGE PER HOUR OR OTHER COMPENSATION THAT AN INDIVIDUAL EMPLOYED IN A TRANSITIONAL JOB RECEIVES AND SHALL BE RESPONSIBLE FOR ALL WAGES, PAYROLL TAX, AND OTHER COSTS ASSOCIATED WITH THE INCREASE.

(c) TRANSITIONAL JOBS PROGRAM MONEYS ALSO SHALL BE USED TO PAY FOR:

(I) ADMINISTRATIVE COSTS INCURRED BY THE STATE DEPARTMENT, INCLUDING

PAYMENTS TO EMPLOYERS OF RECORD; AND

(II) PAYMENTS TO COMPETITIVELY SELECTED LOCAL CONTRACTING AGENCIES, PURSUANT TO THEIR CONTRACTS, FOR PROGRAM AND ADMINISTRATIVE COSTS ACTUALLY INCURRED.

26-2-1104. Repeal. THIS PART 11 IS REPEALED, EFFECTIVE JULY 1, 2017.

SECTION 2. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the governor - lieutenant governor - state planning and budgeting, for the fiscal year beginning July 1, 2013, the sum of \$1,500,000, or so much thereof as may be necessary, to be allocated to economic development programs for the Colorado first customized job training program related to the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of higher education, for the fiscal year beginning July 1, 2013, the sum of \$1,500,000, or so much thereof as may be necessary, for allocation to the division of occupational education, for the Colorado first customized job training program related to the implementation of this act. Said sum is from reappropriated funds received from the governor - lieutenant governor - state planning and budgeting out of the appropriation made in subsection (1) of this section.

SECTION 3. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of human services, for the fiscal year beginning July 1, 2013, the sum of \$2,400,000 and 2.0 FTE, or so much thereof as may be necessary, for the transitional jobs program related to the implementation of this act.

SECTION 4. Effective date. This act takes effect July 1, 2013.

SECTION 5. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 28, 2013