

Jeremiah W. (Jay) Nixon
Governor

Mike Downing, CECD
Director



Amy Sublett, Director
Division of Workforce Development

Mark Bauer, Exec. Director
Missouri Workforce Development Board

William J. Skains Jr., Chair
Missouri Workforce Development Board

Missouri Workforce Development Board

May 28, 2015

10:00 a.m.

Conference Call Meeting

Members Present: William “Bill” Skains (Chairman), Matt Aubuchon, Garland Barton, Michael Brewer (DHSS), Don Cook Sr., Mike Downing (DED), Wayne Feuerborn, John Gaal, Julie Gibson (DSS), Ron Lankford (DESE), Roberta (Birdie) Legrand, Hugh McVey (DOLIR), Neil Nuttall, Mike Pantleo, Jeanette Prenger, Jeremy Knee, Josh Tennison, Cheryl Thruston, Anthony Wilson

Members or Representatives Absent: Cara Canon, Herb Dankert, Mike Deggendorf, Sen. Tom Dempsey, Rep. Lyndall Fraker, Jason Hall, Reggie Hoskins, Rep., Sen. Will Kraus, LeRoy Stromberg, Len Toenjes, Ray Tubaugh, Kelly Walters

MoWIB Staff: Mark Bauer, Glenda Terrill

DWD Attendees: Melissa Woltkamp, Clinton Flowers, Steve Reznicek,

A. **Call to Order, Welcome:**

Chairman Bill Skains called the meeting to order at 10:04a.m. After welcoming everyone he reminded the Board that this would be a limited-scope meeting for the purpose of obtaining a yes or no vote concerning the modification to local workforce board compositions and guidance for chief elected officials to following in implementing WIOA. Mr. Skains called for a roll call which will be followed by today’s presentation by Clinton Flowers.

B. **Roll Call and Meeting Quorum**

Ms. Glenda Terrill completed a roll call and confirmed a Board quorum.

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C. Local Workforce Board Membership—Clinton Flowers (DWD)

Mr. Flowers referred the Board to the copy of the Draft Issuance.

- Page 1, Sections 1 and 2 provide the purpose and background. It would be excellent to have the boards in place by July however, we have until September 30th of 2015, based on regulations, to finish seating the local boards.
- On page 2 we begin to look at the requirements for a local board member composition. Generally we're talking about representatives of business. Business members must represent at least 51% of the total membership. The second bullet talks about chief executives, operating officers, executives or employers with optimum policy-making authority. The third bullet defines optimum policy-making authority which the ACT and regulations define as someone who can reasonably be expected to speak affirmatively on behalf of the entity he or she represents and to commit that entity to a chosen course of action. DWD is required to be responsible for inquiring, if necessary, about the optimum policymaking authority. The State of MO is taking that position that who represents optimum policymaking authority can be delegated by the business.
- Page 2, the second bullet talks about including small businesses with employment opportunities, at a minimum, that provide high-quality, work-relevant training and development in an in-demand industry sector. Again, reflecting the sector strategy emphasis and very important for WIOA with the need to engage in collaborative implementation.
- At a minimum at least two business members must represent small business as defined by the U.S. Small Business Administration. How those businesses are defined is highly dependent upon the economy and the actual industries and occupations in each region. More information can be located at: sizestandards@sba.gov.
- Members must be registered and in good standing with the Secretary of State's office and must have a minimum of three full-time employees.
- Businesses must provide a FEIN of the business being represented by the nominee on the Local Board Membership Certification or Recertification Form. This is not unusual to require and we're in line with the vetting process used for customized training programs, that every business should be verifiable through the Secretary of State and FEIN. This concept has been vetted with officials at the USDOL, representatives from national professional organizations, national workforce development consultants and recently with the states of Connecticut and Michigan. Local boards are intended to represent dynamic employment hiring needs of active businesses.
- DWD policy for representatives of state agencies as Local Board members is as follows: For a local agency of state government, an individual with optimum policy making authority shall be the person representing the agency which has been delegated by the state level agency to possess optimal policy making authority relevant to WIOA. Optimum

policy making authority in this capacity can exist only by delegation from the state level agency. Evidence such as a letter, e-mail, or other type of written record showing that an individual representing a local agency of state government has been delegated optimum policy making authority by the state government agency must be available for the purpose of program compliance audit, monitoring, or upon request by DWD.

- Retired individuals will be eligible for local board membership as an ex officio, non-voting member. Part-time employees/businesses will also be eligible for local board membership as an ex officio, non-voting member. Ex officio members cannot be counted as members when calculating the 51% or 20% membership category limitations cited.
- Special Rule. The Special Rule is a citation in the law that states when there are multiple entities of AEL or higher education in a local region that the nomination is made by the chief elected official, but it must come from individuals who are selected from among those entities representing AEL and higher education. The Special Rule is applicable to independently operated public institutions of higher education. However the Special Rule is not applicable to providers of Title II, known as AEL since optimum policy making authority cannot exist without delegation from the state level agency of such authority. The state level agency of the AEL shall nominate AEL members to all local boards.

There are six state agency seated board members: DESE/AEL/Title II, Public Institutions of Higher Education (includes community colleges, two-year and four-year institutions that provide training programs), Wagner Peyser (represent labor exchange services seated by DWD will nominate in consultation with the local board), Vocational Rehabilitation/Title I, and Title IV of the Social Security Act (TANF). WIOA required of all states that their implementation process allow the governor to opt out of including TANF programs as a required partner on a local board. In Missouri, the governor is not going to opt out of having TANF as a required partner, and therefore is making a case within the certification issuance that they become a core program and a required partner at the local level.

- 20% Requirement. WIOA requires that not less than 20 percent of the members of each local board shall be representatives of the workforce within the local area. This includes at least two members of labor organizations and a third member of an apprenticeship or training program available in the area. If any of those are not available in the area, which is highly unlikely, you may attest that there needs to be representatives of the workforce to represent the rest of the 20 percent. To attain the 20 percent membership category a local board will need to have a minimum of five (5) members in this category. The Local Board may include representatives of community-based organizations that have demonstrated experience and expertise in addressing the employment needs of individuals with barriers to employment, including organizations that serve veterans or that provide or support competitive integrated employment for individuals with disabilities; and may include representatives of organizations that have demonstrated experience and expertise in addressing the employment, training, or education needs of eligible youth, including representatives of organizations that serve out-of-school youth.

- Other optional members. In addition, the Local Board may, at its own discretion, add other representatives to its Local Board membership, as stated in WIOA, as long as the 51 percent business majority and 20 percent labor/workforce requirements are maintained. Other possible Local Board members listed in the WIOA may include representation from: Rehabilitation Services for the Blind (RSB), Community-Based Organizations, Youth Organization such as serving out of school youth, local education agencies and community-based working with individuals with barriers to employment, representatives administering programs related to transportation, housing, and public assistance and philanthropic organizations serving the local area.

- Other considerations for local board membership:
 - WIOA proposed regulations (Sec. 679.320(h)) allows “double hatting.” “An individual may be appointed as a representative of more than one entity if the individual meets all the criteria for representation in both categories.”
 - A director or staff of a local chamber of commerce may be a Local Board member.
 - For compliance with Sec. 679.320(h), a private business representative may concurrently represent economic development, if nominated by a 501(c)(3) not-for-profit organization and attested as representing an economic development interest.
 - Section 679.320(i) of the WIOA proposed implementing regulations provides that all *required* Local Board members must have voting privileges.
 - Other individuals or representatives of entities as the CEO(s) may determine to be appropriate.
 - The Governor may require the consideration of sector appropriateness, significant number of employees, or appropriate category of membership to be determined on a case-by-case basis.

- Compliance with WIOA Local Board membership criteria, including the policies stated herein, is subject to compliance audits by DWD, and evidence of Local Board members’ eligibility to fulfill the required Local Board composition may be requested at any time to ensure there is no subrogation of the intent of the partnership and variety of memberships required by law.

- The State of Missouri’s procedures for certification or recertification:
 - Certification or Recertification shall be based on criteria established in WIOA Sec. 107(b) for membership requirements.
 - The Local Board Membership Certification or Recertification Form should be used for the following reasons:
 - A change in the Local Board membership; or
 - Recertification of the entire Local Board’s membership, which is required every two (2) years (duplicate or adjust the form as needed).

The form should be completed, signed, and dated by the CEO or the CEO Consortium Chair, as applicable.

Nomination letters are required for all members, but some membership categories must have specific sources of these letters as listed below:

- Business Category – Nominated by local business organizations or business trade associations.
- Labor Category – Nominated by local labor federations or other representatives of employees (if no employees are represented by a labor federation, determination must be made at the local level of membership nominations from such labor organizations as: labor federations, local labor councils, local unions, building trades council, union district councils, or union apprenticeship programs as viable Local Board member nominees).

All other member categories require only a letter from the potential member's agency/organization.

- The nomination letter of a potential member should be sent to the appropriate CEO for consideration. If the CEO agrees with the nomination, a letter stating support shall be submitted to the Director of the DWD, who reviews the nomination and certifies it on behalf of the Governor, as authorized in WIA 107(a) and 107(c)(2).

Please refer to the handout with attachments for information required to submit your board membership and the required documentation. Local Boards shall seat their Local Boards through the nomination submission process no later than close-of-business September 30, 2015, in order to avoid status of non-compliance with WIOA. The Issuance, if approved, will be effective July 1, 2015.

Mr. Skains asked if the state has determined that this policy recommended is in compliance with WIOA in order to implement our responsibilities for guidance to the local workforce boards and the local elected officials? Mr. Flowers responded that it did. Ms. Sublett added that the document presented has been vetted with our legal counsel.

Dr. Gaal said the draft seems great when it comes to a composition issue or board makeup but does it go further requiring that at least 51 percent of the quorum at a meeting be business representatives in order to conduct official business? Mr. Flowers said this policy does not do that, however in explicit discussions with DOL they highly recommend that requirement be in all board bylaws. Mr. Flowers continued, from our perspective we generally don't exert policy in that area, we simply entertain copies of the bylaws and make suggestions and comments as needed. Dr. Gaal added that if business is the drive of the Boards then it doesn't make sense in the meetings if we don't have the hiring makeup the majority of the participants at those meetings were decisions are made. Are we not going to highly recommend that boards have a 51% business majority representation at meetings going forward? Mr. Skains asked Ms. Sublett if she would address the issue.

Ms. Sublett said this issue was discussed but the scope of this particular issuance is specific to composition. However, if the State Board wants us to look at this issue we certainly can, but the scope of this particular issuance has to do with composition. Dr. Gaal said he understands that but if we're going require this at the State Board level then we're setting the example for the locals, basically leading by example.

Mr. Flowers said it's important to consider not only the bylaws but other kind of administrative and operative issues that the state could develop into another issuance. As important as the issue is it's not that relevant to the composition. Dr. Gaal added that there has to be some relevance because DOL did not arbitrarily pick 51 percent of the boards to represent business and I think we should fully embrace the letter and spirit of the law.

Ms. Gibson added that she thinks Clinton's suggestion of doing another issuance specifically on business involvement would elevate the issue significantly more than just including in the current issuance. If it's a stand-alone it would garner more attention and make the point more

clear. She agrees that the issue is relevant and thinks we might want to think about elevating the relevance by getting this issuance out in front very quickly with more detail and substance around the business involvement piece. Mr. Bauer said it might be appropriate to give consideration for a subcommittee of the state board to discuss the details further that might need to be in that issuance. Mr. Skains agreed with Dr. Gaal that we need to strengthen the position and it seems to be a greater way to focus with a separate issuance to effect the change. Dr. Gaal said he would be good with that and appreciates the consideration.

Ms. Cheryl Thurston asked of Clinton Flowers about labor representation on the local boards. There are seven retired reps currently serving on the boards, will they be able to continue but not vote or do I need to identify new people to serve? How will that work? Mr. Flowers said WIOA is silent about the specific status of individuals representing labor so this issuance is intended to be silent on whether they're retired or not. Ms. Thurston asked if that meant that labor reps can be retired and continues to serve on the boards? If the local boards have questions about a labor rep are they to call John or I to get a different labor rep if they don't want a retired person? Ms. Thurston added that in reading the issuance it looks like the chief local elected officials are going to nominate the labor reps so are we being bypassed? Mr. Flowers said the law states that the CLEO makes the appointments but the nominations come from the labor organizations.

Ms. Gibson said the issuance says "local labor federation" but is that the right terminology or should it be local labor council? John (Gaal) and Cheryl (Thurston), you're our labor reps on the Board. Are you okay with retirees serving that role or do you want to be working with your local labor councils to perhaps encourage a different approach than retirees? That's something I think you need to discuss with your leadership and decide which direction you want to go. But Clinton (Flowers) is right on the law being silent but those nominations should be coming from some local labor council.

Ms. Thurston agreed with Ms. Gibson, adding that it's hard to find people, especially for the outstate areas to take off work for these meetings which is why we had retirees. But she also agreed that it would be better to have working reps on the boards. Can the local boards arbitrarily be calling labor people to serve? Ms. Gibson replied that the local boards may not know and may need contact information on the appropriate labor council to reach out to. Ms. Thurston said the local boards could call her or John Gaal and we will make contact with the labor person, otherwise we're not going to be able to keep track of who's serving where. Dr. Gaal suggested that he thinks he and Ms. Thurston develop a draft letter to send out to the 14 workforce boards and give them a perspective of what the process is, if and when this document gets approved. Ms. Thurston agreed with this suggestion. Dr. Gaal said he's had two or three Board Directors call asking for a recommendation for labor but it would be helpful to put a common document together for everyone.

Mr. Flowers clarified that the law is silent as to the status of the labor reps but not about where they come from. The law states that they're nominated by the local labor federation which is the wording in the law. Dr. Gaal said he and Ms. Thurston would work on a common letter and asked for Clinton and Amy to jointly edit the draft, to which Ms. Sublett agreed.

Mr. Skains said that now that we have agreements from everyone we need to move forward with a motion to vote for approval. The policy being presented is for local workforce board membership requirements and certification/recertification procedures under the Workforce Innovation and Opportunity Act, WIOA or Act. The motion presented is as follows: “I make a motion that the State Workforce Development Board recommend to the Governor approval of the stated policy issuance, and by the provisions of Section 107 of WIOA, recommend the issuance be confirmed as the criteria by which local elected officials make appointment of members of the local workforce development boards.” Dr. Gaal made the motion, Mr. Matt Aubuchon seconded. The motion passed unanimously.

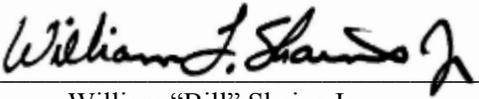
D. Old Business/Questions/Comments

Hearing no further comments Mr. Skains thanked everyone for today’s participation and reminded them of our next meeting scheduled for July 10th in Jefferson City, additional information will follow.

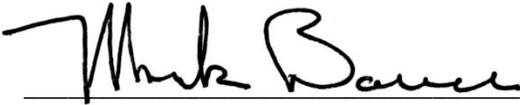
E. Adjourn

Mr. Skains adjourned the meeting at 10:45am.

Approved:



William “Bill” Skains Jr.
Board Chairman



Mark Bauer
Executive Director