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ARTICLE 11

RELATING TO WORKFORCE DEVELOPMENT

SECTION 1. Sections 28-14-19 and 28-14-19.1 and of the General Laws in Chapter 28-14 entitled "Payment of Wages" are hereby amended to read as follows:

28-14-19. Enforcement powers and duties of director of labor and training.

(a) It shall be the duty of the director to insure compliance with the provisions of this chapter 28-14 and 28-12. The director or his or her designee may investigate any violations thereof, institute or cause to be instituted actions for the collection of wages and institute action for penalties or other relief as provided for within and pursuant to those chapters. The director or his or her authorized representatives are empowered to hold hearings and he or she shall cooperate with any employee in the enforcement of a claim against his or her employer in any case whenever, in his or her opinion, the claim is just and valid.

(b) Upon receipt of a complaint or conducting an inspection under applicable law, the director or his or her appropriate departmental designee is authorized to investigate to determine compliance with the chapters 28-12 and/or 28-14.

(c) With respect to all complaints deemed just and valid, the director or his or her designee shall order a hearing thereon at a time and place to be specified, and shall give notice thereof, together with a copy of the complaint or the purpose thereof, or a statement of the facts disclosed upon investigation, which notice shall be served personally or by mail on any person, business, corporation, or entity of any kind affected thereby. The hearing shall be scheduled within thirty (30) days of service of a formal complaint as provided herein. The person, business, corporation, or entity shall have an opportunity to be heard in respect to the matters complained of at the time and place specified in the notice. The hearing shall be conducted by the director or his or her designee. The hearing officer in the hearing shall be deemed to be acting in a judicial capacity, and shall have the right to issue subpoenas, administer oaths, and examine witnesses. The enforcement of a subpoena issued under this section shall be regulated by Rhode Island civil practice law and rules. The hearing shall be expeditiously conducted and upon such hearing the hearing officer shall determine the issues raised thereon and shall make a determination and enter an order within thirty (30) days of the close of the hearing, and forthwith serve a copy of the order, with a notice of the filing thereof, upon the parties to the proceeding, personally or by mail. The order shall dismiss the

1 complaint or direct payment of any wages and/or benefits found to be due and/or award such other
2 appropriate relief or penalties authorized under chapter 28-12 and/or 28-14, and the order may
3 direct payment of reasonable attorneys' fees and costs to the complaining party. Interest at the rate
4 of twelve percent (12%) per annum shall be awarded in the order from the date of the nonpayment
5 to the date of payment.

6 (d) The order shall also require payment of a further sum as a civil penalty in an amount
7 up to two (2) times the total wages and/or benefits found to be due, exclusive of interest, which
8 shall be shared equally between the department and the aggrieved party. In determining the amount
9 of any penalty to impose, the director or his or her designee shall consider the size of the employer's
10 business, the good faith of the employer, the gravity of the violation, the previous violations and
11 whether or not the violation was an innocent mistake or willful.

12 (e) The director may institute any action to recover unpaid wages or other compensation or
13 obtain relief as provided under this section with or without the consent of the employee or
14 employees affected.

15 (f) No agreement between the employee and employer to work for less than the applicable
16 wage and/or benefit rate or to otherwise work under and/or conditions in violation of applicable
17 law is a defense to an action brought pursuant to this section.

18 (g) The director shall notify the contractors' registration board of any order issued or any
19 determination hereunder that an employer has violated chapters 28-12, 28-14 and/or 37-13. The
20 director shall notify the tax administrator of any determination hereunder that may affect liability
21 for an employer's payment of wages and/or payroll taxes.

22 (h) There is hereby established a restricted receipt account within the department of labor
23 and training, which shall be entitled the "misclassification task force and workplace fraud unit."
24 Revenues collected under this section for the department and under § 28-14-19.1 shall be deposited
25 into the misclassification task force and workplace fraud unit account. Any additional revenues,
26 after expenses for the misclassification task force and workplace fraud unit, shall be paid into the
27 state's general fund annually on the last business day of the fiscal year.

28 **28-14-19.1. Misclassification of employees.**

29 (a) The misclassification of a worker whether performing work as a natural person,
30 business, corporation, or entity of any kind, as an independent contractor when the worker should
31 be considered and paid as an employee shall be considered a violation of this chapter.

32 (b) In addition to any other relief to which any department or an aggrieved party may be
33 entitled for such a violation, the employer shall be liable for a civil penalty in an amount not less
34 than one thousand five hundred dollars (\$1,500) and not greater than three thousand dollars

1 (\$3,000) for each misclassified employee for a first offense and up to five thousand dollars (\$5,000)
2 for each misclassified employee for any subsequent offense, which shall be shared equally between
3 the department and the aggrieved party.

4 (c) In determining the amount of any penalty imposed under this section, the director or his
5 or her designee shall consider the size of the employer's business; the good faith of the employer;
6 the gravity of the violation; the history of previous violations; and whether or not the violation was
7 an innocent mistake or willful.

8 (d) A violation of this section may be adjudicated under § 28-14-19 and consolidated with
9 any labor standards violation or under §§ 37-13-14.1 and 37-13-15 and consolidated with any
10 prevailing wage violation.

11 (e) A violation of this section may be brought or adjudicated by any division of the
12 department of labor and training.

13 (f) The department shall notify the contractor's registration board and the tax administrator
14 of any violation of this section.

15 (g) Revenues generated from this section shall be deposited into the misclassification task
16 force and workplace fraud unit fund restricted receipt account established by § 28-14-19(h) to cover
17 the expenses of the misclassification task force and workplace fraud unit. Any additional revenues,
18 after expenses for the misclassification task force and workplace fraud unit, shall be paid into the
19 state's general fund annually on the last business day of the fiscal year..

20 SECTION 2. Section 28-42-84 of the General Laws in Chapter 28-42 entitled
21 "Employment Security – General Provisions" is hereby amended to read as follows:

22 **28-42-84. Job development fund – Disbursements – Unexpended balance.**

23 (a) The moneys in the job development fund shall be used for the following purposes:

24 (1) To reimburse the department of labor and training for the loss of any federal funds
25 resulting from the collection and maintenance of the fund by the department;

26 (2) To make refunds of contributions erroneously collected and deposited in the fund;

27 (3) To pay any administrative expenses incurred by the department of labor and training
28 associated with the collection of the contributions for employers paid pursuant to § 28-43-8.5, and
29 any other administrative expenses associated with the maintenance of the fund, including the
30 payment of all premiums upon bonds required pursuant to § 28-42-85;

31 (4) To provide for job training, counseling and assessment services, and other related
32 activities and services. Services will include, but are not limited to, research, development,
33 coordination, and training activities to promote workforce development and business development
34 as established by the governor's workforce board Rhode Island (workforce board);

1 (5) To support the state's job training for economic development;

2 (6) Beginning January 1, 2001, two-hundredths of one percent (0.02%) out of the job
3 development assessment paid pursuant to § 28-43-8.5 shall be used to support necessary, core
4 services in the unemployment insurance and employment services programs operated by the
5 department of labor and training; ~~and~~

6 (7) Beginning January 1, 2011, and ending in tax year 2014, three tenths of one percent
7 (0.3%) out of the fifty-one hundredths of one percent (0.51%) job development assessment paid
8 pursuant to § 28-43-8.5 shall be deposited into a restricted receipt account to be used solely to pay
9 the principal and/or interest due on Title XII advances received from the federal government in
10 accordance with the provisions of Section 1201 of the Social Security Act [42 U.S.C. § 1321];
11 provided, however, that if the federal Title XII loans are repaid through a state revenue bond or
12 other financing mechanism, then these funds may also be used to pay the principal and/or interest
13 that accrues on that debt. Any remaining funds in the restricted receipt account, after the
14 outstanding principal and interest due has been paid, shall be transferred to the employment security
15 fund for the payment of benefits; and

16 (8) Beginning January 1, 2019, the amount of the job development assessment paid
17 pursuant to § 28-43-8.5, nineteen-hundredths of one percent (0.19%) shall be used to support
18 necessary, core services in the unemployment insurance and employment services programs
19 operated by the department of labor and training.

20 (b) The general treasurer shall pay all vouchers duly drawn by the workforce board upon
21 the fund, in any amounts and in any manner that the workforce board may prescribe. Vouchers so
22 drawn upon the fund shall be referred to the controller within the department of administration.
23 Upon receipt of those vouchers, the controller shall immediately record and sign them and shall
24 promptly transfer those signed vouchers to the general treasurer. Those expenditures shall be used
25 solely for the purposes specified in this section and its balance shall not lapse at any time but shall
26 remain continuously available for expenditures consistent with this section. The general assembly
27 shall annually appropriate the funds contained in the fund for the use of the workforce board and,
28 in addition, for the use of the department of labor and training effective July 1, 2000, and for the
29 payment of the principal and interest due on federal Title XII loans beginning July 1, 2011;
30 provided, however, that if the federal Title XII loans are repaid through a state revenue bond or
31 other financing mechanism, then the funds may also be used to pay the principal and/or interest
32 that accrues on that debt.

33 SECTION 3. Section 28-43-8.5 of the General Laws in Chapter 28-43 entitled
34 “Employment Security – Contributions” is hereby amended to read as follows:

1 **28-43-8.5. Job development assessment.**

2 (a) For the tax years 2011 through 2014, each employer subject to this chapter shall be
3 required to pay a job development assessment of fifty-one hundredths of one percent (0.51%) of
4 that employer's taxable payroll, in addition to any other payment which that employer is required
5 to make under any other provision of this chapter; provided, that the assessment shall not be
6 considered as part of the individual employer's contribution rate for the purpose of determining the
7 individual employer's balancing charge pursuant to § 28-43-9; provided, further, upon full
8 repayment of any outstanding principal and/or interest due on Title XII advances received from the
9 federal government in accordance with the provisions of section 1201 of the Social Security Act
10 [42 U.S.C. § 1321], including any principal and/or interest that accrues on debt from a state revenue
11 bond or other financing mechanism used to repay the Title XII advances, then the job development
12 assessment shall be reduced to twenty-one hundredths of one percent (0.21%) beginning the tax
13 quarter after the full repayment occurs. The tax rate for all employer's subject to the contribution
14 provisions of chapters 42 – 44 of this title shall be reduced by twenty-one hundredths of one percent
15 (0.21%). For tax year 2015 ~~and subsequent years~~ through 2018, each employer subject to this
16 chapter shall be required to pay a job development assessment of twenty-one hundredths of one
17 percent (0.21%) of that employer's taxable payroll, in addition to any other payment which that
18 employer is required to make under any other provision of this chapter; provided, that the
19 assessment shall not be considered as part of the individual employer's contribution rate for the
20 purpose of determining the individual employer's balancing charge pursuant to § 28-43-9. The tax
21 rate for all employers subject to contribution provisions of chapters 42 – 44 of this title shall be
22 reduced by twenty-one hundredths of one percent (0.21%). For tax year 2019 and subsequent years,
23 each employer subject to this chapter shall be required to pay a base job development assessment
24 of twenty-one hundredths of one percent (0.21%) of that employer's taxable payroll, plus a job
25 development assessment add-on as computed annually pursuant to subsection (b) of this section, in
26 addition to any other payment which that employer is required to make under any other provision
27 of this chapter; provided, that the assessment shall not be considered as part of the individual
28 employer's contribution rate for the purpose of determining the individual employer's balancing
29 charge pursuant to § 28-43-9.

30 (b) On September 30, 2018, and each September 30 thereafter, the job development
31 assessment add-on shall be computed by dividing the amount of interest earned by the employment
32 security fund in the prior calendar year by one hundred and ten percent (110%) of the taxable wages
33 in the prior calendar year. The result shall be rounded down to the nearest one hundredth of a
34 percent (.01%). This amount shall be in effect during the next ensuing calendar year provided,

1 however, that no job development assessment add-on shall apply if:

2 (1) tax schedule I is scheduled to be in effect for the ensuing calendar year; or

3 (2) the employment security fund did not earn interest during the prior calendar year.

4 (c) The tax rate for all employers subject to contribution provisions of chapters 42 – 44 of
5 this title shall be reduced by the total job development assessment as determined under subsection
6 (b) of this section.

7 SECTION 4. Chapter 42-64.6 of the General Laws entitled “Jobs Training Tax Credit Act”
8 is hereby amended by adding thereto the following section:

9 **42-64.6-9. Sunset.**

10 No credits authorized under this chapter shall be awarded for tax years beginning on or
11 after January 1, 2018.

12 SECTION 5. Section 42-102-11 of the General Laws in Chapter 42-102 entitled
13 “Governor’s Workforce Board Rhode Island” is hereby amended to read as follows:

14 **42-102-11. State Work Immersion Program.**

15 (a)(1) The workforce board (“board”) shall develop a state work immersion program and a
16 non-trade, apprenticeship program. For the purposes of this section work immersion shall mean a
17 temporary, paid, work experience that provides a meaningful learning opportunity and increases
18 the employability of the participant. The programs shall be designed in order to provide ~~post-~~
19 ~~secondary school students, recent college graduates, and unemployed adults~~ Rhode Island residents
20 and/or students attending secondary schools, post-secondary schools or training programs with a
21 meaningful work experience, and to assist employers by training individuals for potential
22 employment.

23 (2) Funding for the work immersion program will be allocated from the job development
24 fund account and/or from funds appropriated in the annual appropriations act. Appropriated funds
25 will match investments made by employers in providing meaningful work immersion positions and
26 non-trade apprenticeships.

27 ~~(b) For each participant in the work immersion program, the program shall reimburse~~
28 ~~eligible employers up to fifty percent (50%) of the cost of not more than four hundred (400)~~
29 ~~hours of work experience and during a period of ten (10) weeks. If an eligible employer hires a~~
30 ~~program participant at the completion of such a program, the state may provide reimbursement for~~
31 ~~a total of seventy five percent (75%) of the cost of the work immersion position.~~ Employers
32 participating in the work immersion program may be eligible to receive a reimbursement of up to
33 seventy-five percent (75%) of the approved program participant’s wages paid during their work
34 experience.

1 (c) The board shall create a non-trade apprenticeship program and annually award
2 funding on a competitive basis to at least one (1) new initiative ~~proposed and operated by~~
3 ~~the~~
4 ~~Governor's Workforce Board Industry Partnerships~~. This program shall meet the standards
5 of apprenticeship programs defined pursuant to § 28-45-9 of the general laws. The board shall
6 present the program to the state apprenticeship council, established pursuant to chapter 28-45 of
7 the general laws, for review and consideration.

8 (d) An eligible participant in programs established in subsections (b) and (c) ~~must be at~~
9 ~~least eighteen (18) years of age and~~ must be a Rhode Island resident. Provided, however,
10 any
11 non-Rhode Island resident, who is enrolled in a college or university, located in Rhode
12 Island, is eligible to participate while enrolled at the college or university.

13 (e) In order to fully implement the provisions of this section, the board is authorized to
14 promulgate rules and regulations. The rules and regulations shall define eligible employers that can
15 participate in the programs created by this section.

16 SECTION 6. Chapter 42-102 of the General Laws entitled "Governor's Workforce Board
17 Rhode Island" is hereby amended by adding thereto the following sections:

18 **42-102-14. Real Jobs Rhode Island program established.**

19 (a) There is hereby established within the governor's workforce board Rhode Island, the
20 "Real Jobs Rhode Island program" to serve as the primary program by which the state creates,
21 coordinates, supports and holds accountable industry-led partnerships to help place new employees
22 into immediate job openings, and up-skill existing employees to remain competitive and create
23 pipelines of talent for future workforce needs; and by this means provide Rhode Island companies
24 with the talent necessary to thrive in a competitive, global economy, and provide Rhode Island
25 residents with opportunity to participate in shared prosperity by securing meaningful employment.

26 **42-102-14.1. Definitions.**

27 (a) As used in this chapter, the following terms are defined as follows:

28 (1) "Credential" means a recognized:

29 (i) Educational diploma;

30 (ii) Certificate or degree;

31 (iii) Occupational license;

32 (iv) Apprenticeship certificate;

33 (v) Industry recognized certification; or

34 (vi) Certificate or award issued for skills attainment and/or completion of an approved

1 training program.

2 (2) “Department” means the department of labor and training.

3 (3) “Real Jobs Rhode Island program” means the Real Jobs Rhode Island program as
4 established under this chapter.

5 (4) “Real Jobs Rhode Island partnership” means an industry or sector collaboration that
6 brings together a group that may include employers, institutions of higher education, local
7 government, trade associations, non-profit or community based agencies, or other relevant partners
8 to:

9 (i) Identify common workforce needs within an industry or sector of the state’s economy;

10 and

11 (ii) Develop and implement industry strategies to meet identified workforce needs.

12 **42-102-14.2. Administration of Real Jobs Rhode Island.**

13 (a) The Real Jobs Rhode Island program shall be administered by the governor’s workforce
14 board Rhode Island as part of the department.

15 (b) The Real Jobs Rhode Island program, shall:

16 (1) Provide grants on a competitive basis for:

17 (i) An approved sector partnership for the development of a strategy consistent with the
18 purpose of the Real Jobs Rhode Island program; and

19 (ii) Workforce training programs and other qualified programs that lead to placement in a
20 job, or provide industry recognized skills training to individuals that result in a credential or
21 attainment of an identifiable skill consistent with an approved Real Jobs Rhode Island partnership
22 strategy.

23 (2) An application for a Real Jobs Rhode Island grant shall include:

24 (i) A description of a specific action plan to be carried out by the partnership, including a
25 description of the workforce need the plan seeks to address; and

26 (ii) A collaborative approach demonstrated by participation from groups with varied
27 backgrounds, which may include, but is not limited to: employers, industry associations, training
28 providers, institutes of higher education and community based or non-profit institutions.

29 (3) Evidence of proactive engagement of Rhode Island’s employer community to ascertain
30 real-time workforce needs and identifiable skills gaps commonly presented by applicants;

31 (4) Develop performance goals and metrics for each approved Real Jobs Rhode Island
32 partnership and review such goals and metrics with each partnership continuously to ascertain any
33 areas where the partnership or the program should adjust to meet desired outcomes or address issues
34 to better serve employers, their workforce and program participants alike;

1 (c) The governor’s workforce board may revoke grant funding from a Real Jobs Rhode
2 Island partnership for cause, as determined by the department, with an administrative appeal to the
3 governor’s workforce board.

4 **42-102-14.3. Regulations.**

5 (a) The department may promulgate appropriate guidelines or regulations regarding the
6 implementation of the Real Jobs Rhode Island program and any terms and conditions required to
7 participate in the program.

8 **42-102-14.4. Public education and outreach.**

9 (a) The governor’s workforce board shall inform employers, employees, industry
10 associations, educational institutions, community based groups, non-profit institutions and the
11 public about the program, its benefits and opportunities.

12 SECTION 7. This Article shall take effect upon passage.