

SENATE BILL NO. 336

BY SENATORS RISER, CARTER AND WALSWORTH

1 AN ACT

2 To amend and reenact R.S. 23:1(A) and (C)(3), 153, 382(A) and (B), 390(C) and (D), the
3 introductory paragraph of 1203.1(A), (1) through (4) and (6), the introductory
4 paragraph of (B), (E), the introductory paragraph of (F), (1), the introductory
5 paragraph of (2), (3), and (5), (G)(2) and (3), (H), and (J), 1203.1.1(A), 1553(G),
6 R.S. 36:3(2), (4), (6) and (7), 8(E)(1), 301(C), 302, 303, the introductory paragraph
7 of 304(A), (8), (9)(b), the introductory paragraph of (B), (1)(a)(i) and (ii), 305
8 through 307, and R.S. 42:1266(C)(1)(e), to enact R.S. 49:191(10)(c), and to repeal
9 R.S. 36:8(E)(2)(j) and R.S. 49:191(8)(a), relative to the Louisiana Workforce
10 Commission; to provide for the re-creation of the Louisiana Workforce Commission
11 and the statutory entities made a part of the Louisiana Workforce Commission by
12 law; to provide for the effective termination date for all statutory authority for the
13 existence of such statutory entities; to provide for a change of title of the officers of
14 the commission; to provide for technical corrections; to provide for the
15 reauthorization of the incumbent worker training program with the Louisiana
16 Workforce Commission; and to provide for related matters.

17 Be it enacted by the Legislature of Louisiana:

18 Section 1. R.S. 23:1(A) and (C)(3), 153, 382(A) and (B), 390(C) and (D), the
19 introductory paragraph of 1203.1(A), (1) through (4) and (6), the introductory paragraph of
20 (B), (E), the introductory paragraph of (F), (1), the introductory paragraph of (2), (3), and
21 (5), (G)(2) and (3), (H), and (J), 1203.1.1(A), and 1553(G) are hereby amended and
22 reenacted to read as follows:

23 §1. Louisiana Workforce Commission established; purpose; definitions

1 nominated by state labor federations. The state official in charge of trade and
 2 industrial education shall, ex officio, be a member of the ~~said~~ council. Each member
 3 shall be appointed for a term of three years. Any member appointed to fill a vacancy
 4 occurring prior to the expiration of the term of his predecessor shall be appointed for
 5 the remainder of the ~~said~~ term. Each member of the council not otherwise
 6 compensated by public monies, shall be reimbursed for transportation and shall be
 7 paid thirty-five dollars per day for each day spent in attendance at meetings of the
 8 apprenticeship council.

9 B. The apprenticeship council shall meet at the call of the ~~executive director~~
 10 **secretary** or the director of apprenticeship and shall aid in formulating policies for
 11 the effective administration of this Chapter. Subject to the approval of the ~~executive~~
 12 ~~director~~ **secretary**, the apprenticeship council may recommend standards and
 13 procedures for registration and de-registration of apprenticeship programs in
 14 conformity with established programs approved by the United States Department of
 15 Labor, Office of Apprenticeship, and for approval of apprenticeship agreements
 16 which in no case shall be lower than those prescribed by this Chapter and by the
 17 United States Department of Labor, Office of Apprenticeship, or lower than
 18 approved national standards; shall issue such rules and regulations as may be
 19 necessary to carry out the intent and purposes thereof; and shall perform such other
 20 functions as the ~~executive director~~ **secretary** may direct. Not less than once a year
 21 the apprenticeship council shall make a report, through the ~~executive director~~
 22 **secretary**, of its activities and findings to the legislature and to the public.

23 * * *

24 §390. Settlement of controversies or complaints

25 * * *

26 C. Upon the complaint of any interested person or upon his own initiative,
 27 the director of apprenticeship may investigate to determine if there has been a
 28 violation of the terms of an apprenticeship agreement made under this Chapter and
 29 hold hearings, inquiries, and other proceedings necessary to such investigations and
 30 determination. The director **of apprenticeship** shall investigate programs only as

1 necessary to establish compliance, and then only upon proper notice. The parties to
 2 such agreement shall be given a fair and impartial hearing, after reasonable notice
 3 thereof. All hearings, investigations, and determinations shall be made under
 4 authority of reasonable rules and procedure prescribed by the apprenticeship council,
 5 subject to the approval of the ~~executive director~~ secretary.

6 D. The determination of the director of apprenticeship shall be filed with the
 7 ~~executive director~~ secretary. If no appeal therefrom is filed with the ~~executive~~
 8 ~~director~~ secretary within twenty days after the date thereof, such determination shall
 9 become the order of the ~~executive director~~ secretary. Any person aggrieved by any
 10 determination or action of the director **of apprenticeship** may appeal therefrom to
 11 the ~~executive director~~ secretary who shall hold a hearing thereon, after due notice
 12 to the interested parties. Orders and decisions of the ~~executive director~~ secretary
 13 shall be prima facie lawful and reasonable if supported by reasonable and competent
 14 evidence. Any party to an apprenticeship agreement aggrieved by an order or
 15 decision of the ~~executive director~~ secretary may appeal to the courts on questions
 16 of law. The decision of the ~~executive director~~ secretary shall be conclusive if no
 17 appeal therefrom is filed within thirty days after the date of the order or decision.

18 * * *

19 §1203.1. Definitions; medical treatment schedule; medical advisory council

20 A. For use in this Section, the following terms ~~shall~~ have the following
 21 meanings, unless clearly indicated otherwise by the context:

22 (1) **"Assistant secretary" means an assistant secretary of the Louisiana**
 23 **Workforce Commission responsible for the functions of the office of workers'**
 24 **compensation administration.**

25 (2) "Associate medical director" means a physician who is licensed to
 26 practice medicine in the state of Louisiana and has been chosen by the ~~director of the~~
 27 ~~office of workers' compensation administration~~ assistant secretary pursuant to R.S.
 28 23:1203.1.1.

29 (2)(3) "Council" means the medical advisory council appointed by the
 30 ~~director of the office of workers' compensation administration~~ assistant secretary.

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(3) The ~~director~~ **assistant secretary** may consider and appoint additional representatives in order to fulfill his duties as defined in this Section.

* * *

(5) The ~~director~~ **assistant secretary** shall have the authority to contract with a medical director and with consultants to assist the ~~director~~ **assistant secretary** and the medical advisory council in the establishment and promulgation of the schedule.

G. The medical advisory council shall:

* * *

(2) Provide recommendations to the ~~director~~ **assistant secretary** for the designation of guidelines to be established and promulgated as the medical treatment schedule by the office.

(3) Provide any additional advice and counsel to the ~~director~~ **assistant secretary** as may be reasonable and necessary, or as may be requested, relative to the effective and efficient delivery of quality medical services to injured workers.

H. The ~~director~~ **assistant secretary**, with the assistance of the medical advisory council, is authorized to review and update the medical treatment schedule no less often than once every two years. Such updates shall be made by rules promulgated in accordance with the Administrative Procedure Act, R.S. 49:950 et seq. In no event shall the schedule contain multiple guidelines covering the same aspects of the same medical condition which are simultaneously in force.

* * *

J.(1) After a medical provider has submitted to the payor the request for authorization and the information required by the Louisiana Administrative Code, Title 40, Chapter 27, the payor shall notify the medical provider of their action on the request within five business days of receipt of the request. If any dispute arises after January 1, 2011, as to whether the recommended care, services, or treatment is in accordance with the medical treatment schedule, or whether a variance from the medical treatment schedule is reasonably required as contemplated in Subsection I of this Section, any aggrieved party shall file, within fifteen calendar days, an appeal

1 with the office of workers' compensation administration medical director or associate
2 medical director on a form promulgated by the ~~director~~ **assistant secretary**. The
3 medical director or associate medical director shall render a decision as soon as is
4 practicable, but in no event, not more than thirty calendar days from the date of
5 filing.

6 (2) If either party, the medical director, or associate medical director believes
7 that a potential conflict of interest exists, he shall communicate in writing such
8 information to the ~~director~~ **assistant secretary**, who shall make a determination as
9 to whether a conflict exists within two business days. The ~~director~~ **assistant**
10 **secretary** shall notify in writing the patient, the physician, and, if applicable, the
11 attorney of his decision within two business days.

12 * * *

13 §1203.1.1. Medical director and associate medical director

14 A. The ~~director~~ **assistant secretary** shall hire a medical director and an
15 associate medical director to render decisions on disputed cases filed pursuant to R.S.
16 23:1203.1(J).

17 * * *

18 §1553. Noncharging of benefits; recoupment; social charge account; social charge
19 tax rate

20 * * *

21 G. The Incumbent Worker Training Program reauthorization shall be
22 expressly renewed by the legislature prior to ~~July 1, 2018~~ **July 1, 2022**, in order for
23 amounts to be charged and credited to the Incumbent Worker Training Account in
24 the following calendar year for use in funding the program.

25 Section 2. R.S. 36:3(2), (4), (6) and (7), 8(E)(1), 301(C), 302, 303, the introductory
26 paragraph of 304(A), (8), (9)(b), the introductory paragraph of (B), (1)(a)(i) and (ii), and 305
27 through 307 are hereby amended and reenacted to read as follows:

28 §3. Definitions

29 For the purposes of this Title the following terms shall have the following
30 meanings unless the context clearly indicates otherwise:

* * *

(2) "Assistant secretary" means the officer designated by law or by the secretary of each department to carry out the duties and functions of an office within certain departments, except an office of management and finance and the office of state police of the Department of Public Safety and Corrections. ~~For the Louisiana Workforce Commission, the "director" shall mean the officer designated by law or by the executive director to carry out the duties and functions of an office within the Louisiana Workforce Commission except the office of management and finance.~~

* * *

(4) "Deputy secretary" means the officer authorized to be appointed by the secretary to serve as his principal administrative assistant. For the Department of Public Safety and Corrections, the "deputy secretary for public safety services" and the "deputy secretary for corrections services" shall be the officers of the department appointed by the secretary to serve as the principal administrative assistants of the secretary and references in any provision of law to the deputy secretary, where reference is to a deputy secretary of the Department of Public Safety and Corrections, shall include these two officers. ~~For the Louisiana Workforce Commission, the "deputy executive director" shall mean the officer authorized by the executive director to serve as his principal administrative assistant.~~

* * *

(6) "Secretary" means the officer appointed by the governor as the executive head and chief administrative officer of certain departments created and provided for by this Title. ~~For the Louisiana Workforce Commission, the "executive director" shall mean the officer appointed by the governor as the executive head and chief administrative officer.~~

(7) "Undersecretary" means the officer designated to direct and be responsible for the functions of the office of management and finance of certain departments. ~~For the Louisiana Workforce Commission, the "chief financial officer" shall mean the officer designated to direct and be responsible for the functions of the office of management and finance.~~ For the Department of Children and Family

1 Services, "undersecretary" means the officer designated to direct and be responsible
2 for the functions of the division of management and finance within the office of
3 children and family services.

4 * * *

5 §8. Fiscal oversight and program evaluation

6 * * *

7 E. As used in this Section, the following words shall have the following
8 meanings unless the context clearly indicates otherwise:

9 (1) "Secretary" means the chief administrative officer of each department of
10 the executive branch of state government, except that with respect to agencies of the
11 Department of Education transferred under the provisions of R.S. 36:651(K),
12 "secretary" means the Louisiana Student Financial Assistance Commission, with
13 respect to the Department of Public Service, "secretary" means the Public Service
14 Commission, **and** with respect to the Department of State Civil Service, "secretary"
15 means the State Civil Service Commission, through the director of state civil service
16 and with respect to the Louisiana Workforce Commission, "secretary" means the
17 ~~executive director~~.

18 * * *

19 §301. Louisiana Workforce Commission; creation; domicile; composition; purposes
20 and functions

21 * * *

22 C.(1) The Louisiana Workforce Commission shall be composed of the
23 executive office of the ~~executive director~~ **secretary**, the office of management and
24 finance, the office of workforce development, the office of unemployment insurance
25 administration, the office of workers' compensation administration, the office of
26 occupational information services, and such other offices as shall be created by law.
27 The Louisiana Workforce Investment Council, as more specifically provided in R.S.
28 23:2042 et seq., shall be placed within the executive office of the ~~executive director~~
29 **secretary**.

30 (2) Whenever the ~~executive director~~ **secretary** determines that the

1 administration of the functions of the commission may be more efficiently performed
 2 by eliminating, merging, or consolidating existing offices or establishing new
 3 offices, he shall present a plan therefor to the legislature for its approval by statute.

4 §302. Officers of the commission; compensation for one office only

5 A. The officers of the commission shall be the ~~executive director, the chief~~
 6 ~~financial officer, the deputy executive director if a deputy executive director is~~
 7 ~~appointed, and directors, secretary, the undersecretary, the deputy secretary if~~
 8 ~~a deputy secretary is appointed, and assistant secretaries,~~ each of whom shall be
 9 selected and shall perform functions as provided in this Title.

10 B. No person serving as ~~executive director, chief financial officer, deputy~~
 11 ~~executive director, or director secretary, undersecretary, deputy secretary, or~~
 12 ~~assistant secretary~~ shall receive any additional salary from the state other than that
 13 salary which he receives by virtue of serving in any one of such offices. Any
 14 statewide elected official appointed to serve as ~~executive director, chief financial~~
 15 ~~officer, deputy executive director, or director, secretary, undersecretary, deputy~~
 16 ~~secretary, or assistant secretary~~ shall not receive any additional salary from the
 17 state other than that salary which he receives as a statewide elected official.

18 C. Notwithstanding any provision herein to the contrary, subject to approval
 19 of the governor, any person, including any statewide elected official, serving or
 20 appointed to serve as ~~executive director, chief financial officer, deputy executive~~
 21 ~~director or director, secretary, undersecretary, deputy secretary, or assistant~~
 22 ~~secretary~~ may receive additional compensation for part-time services rendered as
 23 an instructor in post-secondary educational institutions, or as a member of the
 24 National Guard.

25 §303. ~~Executive director~~ Secretary

26 There shall be ~~an executive director~~ a secretary, who shall be appointed by
 27 the governor with consent of the Senate and who shall serve at the pleasure of the
 28 governor at a salary fixed by the governor, which salary shall not exceed the amount
 29 approved for the position by the legislature while in session. The ~~executive director~~
 30 ~~secretary~~ secretary shall serve as the executive head and chief administrative officer of the

1 Louisiana Workforce Commission and shall have the responsibility for the policies
 2 of the commission, except as otherwise provided by this Title, and for the
 3 administration, control, and operation of the functions, programs, and affairs of the
 4 commission; provided that the ~~executive director~~ secretary shall perform his
 5 functions under the general control and supervision of the governor.

6 §304. Powers and duties of ~~executive director~~ secretary

7 A. In addition to the functions, powers, and duties otherwise vested in the
 8 ~~executive director~~ secretary by law, he shall:

9 * * *

10 (8) Provide for the ongoing merger and consolidation of the agencies and
 11 functions transferred to his commission and submit a report thereon to the governor
 12 and the legislature, which report shall accompany the budget request which he
 13 submits under provisions of R.S. 39:33. Such report shall include a statement of the
 14 goals of the commission and of the programs thereof and shall summarize the
 15 accomplishments of the commission in meeting such goals and implementing such
 16 programs. The report shall also contain a specific statement of the reorganization
 17 and consolidation plan for the commission for the next year and shall include a report
 18 on the implementation of such reorganization and consolidation plan for the previous
 19 year. The report concerning reorganization shall specifically detail the extent to
 20 which the commission has achieved goals stated the previous year with respect to
 21 merger and consolidation of functions, abolition of agencies, consolidation of
 22 offices, elimination of job positions, and efficiency and economy in delivery of
 23 services. The report shall contain any recommendations with respect to
 24 reorganization which may require legislative action under the provisions of this Title.
 25 A copy of the report and recommended legislation shall also be submitted by the
 26 ~~executive director~~ secretary to the presiding officer of both houses of the legislature.
 27 The presiding officer shall refer the report to the appropriate committee having
 28 jurisdiction of the subject matter as provided in the rules of the respective house.

29 (9)

30 * * *

1 (b) The ~~executive director~~ secretary may submit the annual report required
 2 by this Paragraph in electronic format and is further authorized, but is not required,
 3 to submit the report at the time of submission of the annual report required by
 4 Paragraph (7) of this Subsection.

5 B. The ~~executive director~~ secretary shall have authority to:

6 (1)(a) Except as otherwise specifically provided in R.S. 36:801 and R.S.
 7 36:803:

8 (i) Employ, appoint, remove, assign, and promote such personnel as is
 9 necessary for the efficient administration of the executive office of the ~~executive~~
 10 ~~director~~ secretary and the performance of its powers, duties, functions, and
 11 responsibilities and such other personnel, who are not assigned to an office, as may
 12 be necessary for the efficient administration of the commission and for the
 13 performance of the responsibilities, powers, duties, and functions of agencies
 14 transferred to it;

15 (ii) Employ, assign, and remove all personnel employed for the commission
 16 on a contractual basis, ~~and,~~

17 * * *

18 §305. Deputy ~~executive director~~ secretary

19 There may be a deputy ~~executive director~~ secretary of the commission, who
 20 shall be appointed by the ~~executive director~~ secretary with consent of the Senate and
 21 who shall serve at the pleasure of the ~~executive director~~ secretary at a salary fixed
 22 by the ~~executive director~~ secretary, which salary shall not exceed the amount
 23 approved for such position by the legislature while in session. The duties and
 24 functions of the deputy ~~executive director~~ secretary shall be determined and
 25 assigned by the ~~executive director~~ secretary. If appointed, he shall serve as acting
 26 ~~executive director~~ secretary in the absence of the ~~executive director~~ secretary.

27 §306. ~~Chief financial officer~~ Undersecretary; functions; office of management and
 28 finance

29 A. There shall be a ~~chief financial officer~~ an undersecretary of the
 30 Louisiana Workforce Commission, who shall be appointed by the governor with the

1 consent of the Senate and who shall serve at the pleasure of the governor at a salary
 2 fixed by the governor, which salary shall not exceed the amount approved for such
 3 position by the legislature while in session. The ~~chief financial officer~~
 4 undersecretary shall be directly responsible to and shall perform his functions under
 5 the supervision and control of the ~~executive director~~ secretary.

6 B. The ~~chief financial officer~~ undersecretary shall direct and be responsible
 7 for the functions of the office of management and finance within the Louisiana
 8 Workforce Commission. In such capacity he shall be responsible for accounting and
 9 budget control, procurement and contract management, management and program
 10 analysis, personnel management, and grants management for the commission and all
 11 of its offices, including all agencies transferred to the Louisiana Workforce
 12 Commission, except as otherwise specifically provided in this Title. He shall employ,
 13 appoint, remove, assign, and promote such personnel as is necessary for the efficient
 14 administration of the office of management and finance and the performance of its
 15 powers, duties, functions, and responsibilities, in accordance with applicable civil
 16 service laws, rules, and regulations, and with policies and rules of the commission,
 17 all subject to budgetary control and applicable laws. The ~~chief financial officer~~
 18 undersecretary shall exercise all powers and authority granted to him in this Title
 19 subject to the overall direction and control of the ~~executive director~~ secretary.

20 §307. ~~Directors~~ Assistant secretaries

21 A. Each office within the Louisiana Workforce Commission, except the
 22 office of management and finance, shall be under the immediate supervision and
 23 direction of a ~~director~~ an assistant secretary, who shall be appointed by the
 24 governor with consent of the Senate. Each shall serve at the pleasure of the governor
 25 and shall be paid a salary which shall be fixed by the governor, which salary shall
 26 not exceed the amount approved for such position by the legislature while in session.

27 B. Except as otherwise expressly provided in this Title, the duties and
 28 functions of each office and its ~~director~~ assistant secretary shall be determined by
 29 the ~~executive director~~ secretary, and all of such duties and functions shall be
 30 exercised under the direct supervision and control of the ~~executive director~~

1 secretary.

2 C. Except as otherwise provided in R.S. 36:801, each ~~director~~ assistant
3 secretary shall employ, appoint, remove, assign, and promote such personnel as ~~is~~
4 are necessary for the efficient administration of his office and its programs and the
5 performance of its powers, duties, functions, and responsibilities, in accordance with
6 applicable civil service laws, rules, and regulations, and with policies and rules of
7 the commission, all subject to budgetary control and applicable laws.

8 D. Each ~~director~~ assistant secretary shall exercise all powers and authority
9 granted to him in this Title subject to the overall direction and control of the
10 ~~executive director~~ secretary.

11 * * *

12 Section 3. R.S. 42:1266(C)(1)(e) is hereby amended and reenacted to read as
13 follows:

14 §1266. Required education; certain unclassified officials and employees

15 * * *

16 C.(1) This Section shall apply to each person serving in the state unclassified
17 service in one of the following positions:

18 * * *

19 (e) The ~~executive director, the chief financial officer, the deputy executive~~
20 ~~director, and each director,~~ secretary, undersecretary, deputy secretary, and each
21 assistant secretary, or an equivalent position of the Louisiana Workforce
22 Commission.

23 * * *

24 Section 4. Pursuant to R.S. 49:193, the Louisiana Workforce Commission and the
25 statutory entities made a part of the department by law shall be re-created effective June 30,
26 2018, and all statutory authority therefor is continued in accordance with the provisions of
27 Part XII of Chapter 1 of Title 49 of the Louisiana Revised Statutes of 1950.

28 Section 5. Notwithstanding any provision of any previous Act of the legislature, all
29 statutory authority for the existence of the Louisiana Workforce Commission and the
30 statutory entities made a part of the department, as re-created under the provisions of

1 Section 2 of this Act shall cease as of July 1, 2018, pursuant to R.S. 49:191. However, the
2 Louisiana Workforce Commission and its statutory entities may be re-created prior to such
3 date in accordance with the provisions of Part XII of Chapter 1 of Title 49 of the Louisiana
4 Revised Statutes of 1950.

5 Section 6. The provisions of R.S. 49:193 are hereby superseded to the extent that
6 those provisions are in conflict with the provisions of this Act.

7 Section 7. R.S. 49:191(10)(c) is hereby enacted to read as follows:

8 §191. Termination of legislative authority for existence of statutory entities;
9 phase-out period for statutory entities; table of dates

10 Notwithstanding any termination dates set by any previous Act of the
11 legislature, the statutory entities set forth in this Section shall begin to terminate their
12 operations on July first of each of the following years, and all legislative authority
13 for the existence of any statutory entity, as defined in R.S. 49:190, shall cease as of
14 July first of the following year, which shall be the termination date:

15 * * *

16 (10) July 1, 2022:

17 * * *

18 **(c) The Louisiana Workforce Commission and all statutory entities made**
19 **a part of the department by law.**

20 * * *

21 Section 8. R.S. 36:8(E)(2)(j) and R.S. 49:191(8)(a) are hereby repealed in their
22 entirety.

23 Section 9.(A)(1) The Louisiana State Law Institute is hereby directed to change all
24 references in the Louisiana Revised Statutes of 1950 to "executive director of the Louisiana
25 Workforce Commission" to "secretary of the Louisiana Workforce Commission".

26 (2) The Louisiana State Law Institute is hereby directed to change all references in
27 Title 23 of the Louisiana Revised Statutes of 1950 to "executive director" to "secretary".

28 (B) The Louisiana State Law Institute is hereby directed to change all references in
29 Title 23 of the Louisiana Revised Statutes of 1950 to "director" to "assistant secretary"
30 except as provided in R.S. 23:381 through 384, 387, 388, 390, 535, 1017.3, 1032, 1176, 1203

1 through 1203.1.1, 1307, 1314, 1404, 1406, 1538, 2196, and 2209.

2 Section 10. This Act shall become effective on June 30, 2018; if vetoed by the
3 governor and subsequently approved by the legislature, this Act shall become effective on
4 June 30, 2018, or on the day following such approval by the legislature, whichever is later.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____