



LAWS OF ALASKA

1989

Source

CSHB 169(Fin)

Chapter No.

61

AN ACT

Establishing the business incentive training program.

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

THE ACT FOLLOWS ON PAGE 1, LINE 9

Approved by the Governor: May 30, 1989
Actual Effective Date: August 28, 1989

AN ACT

Establishing the business incentive training program.

* Section 1. AS 44.47 is amended by adding new sections to read:

ARTICLE 12A. BUSINESS INCENTIVE TRAINING PROGRAM.

Sec. 44.47.750. BUSINESS INCENTIVE TRAINING PROGRAM ESTABLISHED.

(a) There is established in the department the business incentive training program. The incentive program shall be administered as a supplement to the Job Training Partnership Act (P.L. No. 97-300).

(b) The purpose of the incentive program is to encourage private industry to provide new job opportunities by offering assistance in training the new workforce and in retraining existing employees to implement new technologies.

Sec. 44.47.752. ADMINISTRATION. (a) The state Job Training Coordinating Council established under 29 U.S.C. 1532 shall oversee the incentive program. The service delivery areas established under 29 U.S.C. 1511 and subject to redesignation under 29 U.S.C. 1515 shall be used in the administration of the incentive program. The private industry councils appointed under 29 U.S.C. 1512 and subject to reconstitution under 29 U.S.C. 1515 shall serve as the private industry councils for the incentive program.

(b) The coordinating council shall divide appropriations for the incentive program equally among the private industry councils. If a private industry council lacks sufficient money to fund a proposal,

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1 the private industry council may apply to the coordinating council for
2 additional funding. The coordinating council may approve reallocation
3 of money from one service delivery area to another to fund a parti-
4 cular proposal if it finds that the reallocation will best serve the
5 purposes of the program.

6 (c) The coordinating council shall adopt regulations under the
7 Administrative Procedure Act (AS 44.62) to implement AS 44.47.750 -
8 44.47.772.

9 Sec. 44.47.754. BUSINESS INCENTIVE TRAINING PLAN. (a) A pri-
10 vate industry council shall adopt a business incentive training plan
11 for the service delivery area. The plan must extend for two years to
12 coincide with the term for the Job Training Partnership Act (P.L.
13 97-300) and must contain

14 (1) identification of the entity or entities that will
15 administer the incentive program and be the grant recipient for grants
16 from the state;

17 (2) a description of the services to be provided, including
18 the estimated duration of service and the estimated training cost per
19 participant;

20 (3) procedures for identifying and selecting participants;

21 (4) performance goals established in accordance with stan-
22 dards under AS 44.47.766;

23 (5) procedures for awarding grants to businesses; and

24 (6) the budget for two program years and any proposed
25 expenditures for the succeeding two program years, in as much detail
26 as required by the grant administrator designated under AS 44.47.758.

27 (b) If changes in labor market conditions, funding, or other
28 factors require substantial deviation from an approved business incen-
29 tive training plan, the private industry council and the appropriate

1 elected municipal official or officials shall submit a modification of
2 the plan and the budget for review under AS 44.47.756.

3 Sec. 44.47.756. REVIEW AND APPROVAL OF BUSINESS INCENTIVE TRAIN-
4 ING PLAN. The business incentive training plan shall be published and
5 made available for review and comment as an attachment to the job
6 training plan as set out in 29 U.S.C. 1515. The business incentive
7 training plan is subject to review and approval by the governor.

8 Sec. 44.47.758. BUSINESS INCENTIVE TRAINING GRANTS. (a) Each
9 private industry council shall designate an administrative entity to
0 be the grant recipient and administrator for the region. An employer
1 may apply to the grant administrator for a business incentive grant if
2 the employer is a private for-profit or nonprofit corporation, part-
3 nership or sole proprietor business. The grant administrator shall
4 review applications and award grants.

5 (b) Each grant administrator is responsible for the allocation
6 of funds and the eligibility of those enrolled in its programs. The
7 grant administrator is responsible for taking action against its
8 subcontractors, subgrantees, and other recipients to eliminate abuses
9 in the programs they are carrying out, and to prevent misuse of funds.
0 If the arrangement is included in an approved job training plan, a
1 grant administrator may delegate the responsibility for determining
2 eligibility under reasonable safeguards, including provisions for
3 reimbursement of costs incurred because of erroneous determinations
4 made with insufficient care.

5 (c) A business incentive training grant shall be used to recruit
6 and train eligible employees for newly created permanent or permanent
7 seasonal positions or to enable existing employees to acquire the
8 skills necessary to qualify the employee to implement new technolo-
9 gies. A business incentive training grant may be used for occupations

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1 for which there is a demand in the area served or in another area to
2 which the participant is willing to relocate and for emerging tech-
3 nologies in the state. In selecting recruiting and training programs,
4 the private industry councils and the grant administrators may con-
5 sider whether the occupation in which recruiting or training is sought
6 is in a sector of the economy that has a high potential for sustained
7 demand or growth.

8 (d) Only individuals eligible under the business incentive
9 training plan and residing in the service delivery area may be partic-
10 ipants in employment and training activities funded under the business
11 incentive training program. To be eligible for training or education
12 services under AS 44.47.750 - 44.47.772, immediately before beginning
13 training or education under the program a person shall

14 (1) have been unemployed and

15 (A) receiving unemployment insurance benefits; or

16 (B) have exhausted the right to unemployment insurance
17 benefits within the past three years;

18 (2) be liable to be displaced from work within the next six
19 months because of

20 (A) reductions in overall employment within the busi-
21 ness;

22 (B) elimination of the person's current job; or

23 (C) a change in the conditions of the employee's job
24 requiring that, to remain employed, the employee must have sub-
25 stantially different skills that the employee does not now pos-
26 sess; or

27 (3) have worked in a position covered by AS 23.20 at any
28 time during the last three years and be ineligible for unemployment
29 insurance benefits because the person

(A) was working in a seasonal, temporary, part-time, or other marginal employment;

(B) has insufficient qualifying wages because of limited job opportunities; or

(C) is employed, but, because the person is underemployed, the person needs employment assistance and training to obtain full employment.

(e) Payments to employers for on-the-job training of participants who experience multiple barriers to employment or are eligible under the Job Training Partnership Act (P.L. 97-300) may not average more than 80 percent of the wages paid by the employer to the participant. Payments to employers for on-the-job training of other participants may not average more than 50 percent of the wages paid by the employer to participants. The payments shall be considered to be in compensation for the extraordinary costs associated with training employees for new positions and the lower productivity of the participants.

(f) A grant made under the business incentive training program may not be used to duplicate facilities or services available in the area from federal, state, or local sources unless the business incentive training plan establishes that services or facilities under the program would be more effective or more likely to achieve performance goals.

(g) A fee may not be charged for placing an individual in or referring an individual to a training program under AS 44.47.750 - 44.47.772.

(h) A business incentive training grant may not be awarded to a program that involves political activities.

(i) An employer at whose request a participant is offered

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1 training shall fulfill the obligation to offer a successful partici-
2 pant in the business incentive training program a position or pro-
3 motion, as applicable. A participant is considered successful if the
4 participant satisfactorily completes the training program in which the
5 participant was enrolled.

6 Sec. 44.47.760. COMPENSATION FOR PARTICIPANTS. (a) A trainee
7 may not receive a payment for training activities in which the trainee
8 fails to participate.

9 (b) An individual in on-the-job training shall be compensated by
10 the employer at the same rates, including periodic increases, as
11 similarly situated employees or trainees and in accordance with appli-
12 cable law. However, an individual may not be paid less than the state
13 minimum wage under AS 23.10.065 whether or not the individual is
14 exempt under AS 23.10.055 or 23.10.070.

15 (c) An individual employed in activities authorized under the
16 business incentive training program other than on-the-job training
17 shall be paid wages that are not less than the highest of

18 (1) the state minimum wage under AS 23.10.065;

19 (2) the prevailing rate of pay for individuals employed in
20 similar occupations by the same employer; or

21 (3) the prevailing rate of wages under AS 36.05 or 40
22 U.S.C. 276a - 276a-5, if applicable.

23 (d) Allowances, earnings, and payments to individuals partici-
24 pating in programs under the business incentive training program may
25 not be considered as income in determining eligibility for and the
26 amount of income transfer and in-kind aid furnished under a state
27 program based on need, other than programs under the Social Security
28 Act.

29 (e) Conditions of employment and training must be appropriate

and reasonable in light of factors including the type of work, geographical region, and proficiency of the participant.

(f) An individual employed in a subsidized job under the business incentive training program shall be provided benefits and working conditions at the same level and to the same extent as other employees working a similar length of time and doing the same type of work.

(g) Money from a grant under the business incentive training program may not be used for contributions on behalf of a participant to retirement systems or plans.

Sec. 44.47.762. REPORTING AND RECORDKEEPING. (a) A grant administrator shall maintain records of each participant's enrollment in a business incentive training program in sufficient detail to demonstrate compliance with AS 44.47.750 - 44.47.772.

(b) The coordinating council shall adopt regulations concerning retention of records.

(c) The coordinating council shall report annually to the legislature concerning the incentive program no later than February 1.

Sec. 44.47.764. ALLOWABLE COSTS. (a) To be allowable, a cost must be necessary and reasonable for proper and efficient administration of the program. The following costs are not allowable:

- (1) costs resulting from violations of or failure to comply with federal, state, or local laws and regulations;
- (2) entertainment costs; and
- (3) insurance policies offering protection against debts established by the federal government.

(b) Personal liability insurance for members of the private industry council is an allowable cost.

Sec. 44.47.766. PERFORMANCE STANDARDS. (a) The basic measure of performance for training programs under AS 44.47.750 - 44.47.772 is

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1 the increase in jobs in the area and in employment and earnings for
2 participants resulting from participation in the program. In order to
3 determine whether these standards are achieved, the governor shall
4 adopt standards based on appropriate factors.

5 (b) The governor shall provide technical assistance to programs
6 that do not meet performance criteria. If a program fails to meet
7 performance standards for two consecutive years, the governor shall
8 withdraw unencumbered funds from the program.

9 (c) An interested party who is harmed by a change made under
10 this section is entitled to a hearing under the Administrative Procedure
11 Act (AS 44.62).

12 Sec. 44.47.768. LIMITATION ON CERTAIN COSTS. No more than 15
13 percent of the money available to a service delivery area for a fiscal
14 year may be expended for the cost of administration. For purposes of
15 this section, costs of program support, including counseling, that are
16 directly related to the provision of education or training to partici-
17 pants may not be counted as part of the cost of administration.

18 Sec. 44.47.770. SELECTION OF SERVICE PROVIDERS. (a) The pri-
19 mary consideration in selecting agencies or organizations to deliver
20 services within a service delivery area is the effectiveness of the
21 agency or organization in delivering comparable or related services
22 based on demonstrated performance, in terms of the likelihood of
23 meeting performance goals, cost, quality of training, and characteris-
24 tics of participants. In complying with this subsection, proper
25 consideration shall be given to community-based organizations as
26 service providers.

27 (b) Appropriate education agencies in the service delivery area
28 shall be given the opportunity to provide educational services, unless
29 the grant administrator determines that alternative agencies or

organizations would be more effective or would have greater potential to enhance the participants' continued occupational and career growth.

(c) The grant administrator may not fund an occupational skills training program unless the level of skills provided in the program is in accordance with guidelines established by the private industry council.

Sec. 44.47.772. DEFINITIONS. In AS 44.47.750 - 44.47.772

(1) "coordinating council" means the state Job Training Coordinating Council established under 29 U.S.C. 1532;

(2) "incentive program" means the business incentive training program established under AS 44.47.750;

(3) "participant" means an individual receiving education or training, including on-the-job training, under an incentive program grant.