

# Wagner-Peyser Workforce Investment Act, Title III

---

**The U.S. continues to experience the aftereffects of the recent recession, with unemployment rates remaining above 8 percent and long-term unemployment at historically high levels.**

The reemployment and labor exchange services offered under the Wagner-Peyser Act are critical in these challenging times, providing millions of unemployed and underemployed workers with assistance finding new jobs or accessing training and education to upgrade their skills.

## Background

Originally passed in 1933, the Wagner-Peyser Act established a nationwide system of public employment offices known as the Employment Service (ES). Administered by the U.S. Department of Labor's Employment and Training Administration (ETA), the Wagner-Peyser Act funds ES staff to provide employment-related labor exchange services, including job search assistance, job referral, and placement assistance for jobseekers; re-employment services for Unemployment Insurance (UI) claimants; and recruitment services for employers. The statute authorizes the development and operation of a nationwide employment statistics system, supporting formula grants to state workforce agencies to collect and analyze labor market information.<sup>1</sup> State agencies responsible for ES administration are often responsible for administration of state and federal UI programs, as well, though sometimes these programs are administered through separate agencies.

Wagner-Peyser was incorporated as Title III of the Workforce Investment Act (WIA) of 1998. Wagner-Peyser funded services are now part of the "one-stop" system established under Title I of WIA, although funding streams, administration, and performance reporting remain separate for WIA and ES programs.

## Current Legislative Status

The Wagner-Peyser Act technically does not require reauthorization; however, the program could be significantly impacted by any legislation to reauthorize WIA.

The current political focus on deficit reduction, and the concerns of some policymakers about the potential overlap between ES and other federal employment and training programs, has raised questions about the future of Wagner-Peyser. In each of Fiscal Years 2004-2009, the Department of Labor (DOL) proposed consolidating funds for the ES with state formula grants under Title I of WIA, arguing that the programs were duplicative. While Congress ultimately did not adopt these suggestions—and the Obama Administration has consistently recommended separate funding and authorization for the ES—there is renewed congressional interest in the consolidation of workforce programs. It seems likely that proposals to consolidate funding streams and administrative functions between WIA and the ES will gain greater traction in 2012, and may be tackled through the appropriations process even if WIA is not reauthorized.<sup>2</sup>

## Wagner-Peyser At-A-Glance

**Statute.** Title III, Workforce Investment Act of 1998 (Public Law 105-220).

**Administration.** U.S. Department of Labor, Employment and Training Administration.

**Reauthorization.** The Wagner-Peyser Act technically does not require reauthorization; however, since it was incorporated into the Workforce Investment Act in 1998, it is likely to be impacted by any legislation to reauthorize that law.

**Federal funding.** \$702.2 million in Fiscal Year 2011 for state Employment Services activities.

**Type of program.** State formula grants.

**Institutions providing services.** Local offices of state employment security agencies, which are generally co-located in one-stop career centers authorized under the Workforce Investment Act.

**Participants served.** Approximately 22.4 million individuals were served under Employment Service-funded programs in Program Year 2009.

### **Policy recommendations.**

- ▶ Increase the number of participants referred for Workforce Investment Act services, including training services, and ensure that performance measures under Wagner-Peyser and other workforce and employment programs are aligned to improve collaboration.
- ▶ Increase funding for the Employment Service to ensure states have the necessary resources to meet the needs of jobseekers and employers.
- ▶ Maintain a robust public workforce infrastructure by rejecting efforts to dismantle the Employment Service, or consolidate funding with other training and employment programs.

## Funded Activities

Activities funded under Wagner-Peyser include:

- ▶ Job search and placement assistance for job-seekers, including counseling, testing, occupational and labor market information, assessment, and referral to employers;
- ▶ Recruitment services and special technical services for employers, including assistance in analyzing hard-to-fill job orders, assisting with job restructuring, and assistance in dealing with layoffs;
- ▶ Reemployment services for UI claimants;
- ▶ Services for workers who have received notice of permanent or impending layoff;
- ▶ Development and provision of labor market and occupational information; and
- ▶ Administration of the work test site for the state unemployment compensation system.<sup>3</sup>

States can also use Wagner-Peyser funds to support program evaluation and the development of linkages with related services provided under other federal or state programs. Funded activities may be provided through self-service, facilitated self-help services, or staff-assisted services. Assessment of skills levels, career guidance, job search workshops, and referral to training may also be provided.

In Program Year (PY) 2009, of the approximately 22.4 million individuals served:<sup>4</sup>

- ▶ 63.3 percent received staff-assisted services;
- ▶ 34.4 percent performed job search activities;
- ▶ 25.9 percent were referred to employment; and
- ▶ 7.6 percent were referred for WIA services.

## Funding for Wagner-Peyser Activities

### Federal Funding Trends

The Wagner-Peyser program is funded through employer payroll taxes under the Federal Unemployment Tax Act (FUTA). Appropriations for state ES activities were roughly \$702.2 million in Fiscal Year (FY) 2011,<sup>5</sup> essentially level with FY 2010 funding but representing a decline of more than 45 percent (in inflation adjusted terms) since FY 2001.<sup>6</sup>

For FY 2012, the Obama Administration requested an increase of more than \$61 million for the ES. However, the Administration proposed repurposing the additional funds for the establishment of a new “Workforce Innovation Fund” (WIF) that would support competitive demonstration and replication grants administered by DOL and the Department of Education.<sup>7</sup> Congress authorized the WIF as part of the FY 2011 continuing resolution,<sup>8</sup> but did not increase the ES appropriation or use ES funds to support the WIF.

## Allocations of Funds to States

Funding for ES is allocated to the states by formula. Before state allocations are made:

- ▶ An estimated amount is set aside for postage;
- ▶ 3 percent is set aside as a reserve for the Secretary of Labor, which is then used to ensure that each state has a total allotment sufficient to provide staff and other resources necessary to carry out Wagner-Peyser activities and related administrative and support functions; and
- ▶ Funding for the territories of Guam and the Virgin Islands is set aside in amounts equal to 100 percent of their allotment the previous year.

After the set-asides are subtracted, the remaining funding is distributed by a formula based on the relative size of the state's civilian labor force and state unemployment rates. State allocations for PY 2011 ranged from \$1.97 million (Delaware) to just under \$84 million (California).<sup>9</sup>

To receive an allocation, the state must have an approved plan for how it intends to use Wagner-Peyser funds, submitted as part of its five-year state workforce investment plan required under WIA Title I. Governors are required to reserve 10 percent of state allocations to cover performance incentives, services to groups with special needs, and the extra costs of exemplary models for delivering services. The remaining 90 percent is distributed to support labor exchange activities through state ES offices.

## Re-Employment Services Funding

The Wagner-Peyser Act requires state ES offices to provide Reemployment Services (RES) for UI claimants who are referred to such services as a condition of receiving UI benefits.<sup>10</sup> Between FY 2001 and FY 2005, Congress appropriated additional funding—about \$35 million per year—to support Reemployment Services Grants to help states provide direct services to UI claimants to help them reenter the labor market more quickly. While funding for these grants was discontinued in FY 2006, the American Recovery and Reinvestment Act (P.L. 111-5) included a one-time appropriation of \$250 million to support reemployment services, distributed under the regular Wagner-Peyser formula.<sup>11</sup> The National Association of State Workforce Agencies estimates that at least 3.3 million UI claimants had received RES-funded services as of April 2010.<sup>12</sup>

## Eligibility for Services

All employers seeking workers and all individuals legally authorized to work in the United States and seeking work for any reason (regardless of current employment status) are eligible for services through the ES. Veterans receive priority of service, with disabled veterans given priority over other veterans. States may also provide specialized assistance to youth, women, older workers, people with disabilities, rural residents, and the economically disadvantaged.

## Populations Served Through Wagner-Peyser

Of individuals participating in Wagner-Peyser funded services in PY 2009:<sup>13</sup>

- ▶ 47.7 percent were UI-eligible claimants;
- ▶ 8.6 percent were dislocated workers;
- ▶ 7.5 percent were veterans; and
- ▶ 2.7 percent were individuals with disabilities.

## Institutions Providing Services

Wagner-Peyser services are offered through local offices of state employment security agencies, which are generally co-located in one-stop career centers authorized under WIA. Within these agencies, services must be provided by state merit-staff employees.<sup>14</sup>

## Relationship to Other Programs

### Workforce Investment Act (WIA)

Wagner-Peyser is one of the mandated partners under Title I of WIA, meaning that the state agency with jurisdiction over the Wagner-Peyser Act must:

- ▶ Be represented on the state Workforce Investment Board (WIB);
- ▶ Be represented on local WIBs; and
- ▶ Enter into Memoranda of Understanding (MOU) with local WIBs that describe the services to be provided, how Wagner-Peyser funds will contribute to the operating costs of the one-stop system, and how the Wagner-Peyser program will refer clients to the one-stop system.

WIA regulations generally prohibit local ES offices from existing outside of the one-stop delivery system. Under certain circumstances, Wagner-Peyser services may be offered at affiliated sites or through electronically or technologically linked access points as part of the system.

In their state WIA plans, states are required to describe how they will ensure coordination and avoid duplication between WIA Title I and Wagner-Peyser activities. In addition, a state's Wagner-Peyser plan is a required component of its WIA plan.

States may use Wagner-Peyser funds to supplement funding for any workforce activity carried out under WIA, as long as the following conditions are met:

- ▶ The activity meets the requirements of the Wagner-Peyser Act;
- ▶ The activity serves the same individuals as those served under the Wagner-Peyser Act;
- ▶ The activity provides services that are coordinated with services under the Wagner-Peyser Act; and
- ▶ The funds supplement, rather than supplant, funds provided from non-federal sources.<sup>15</sup>

## Unemployment Insurance

The Wagner-Peyser program also has a relationship to federal and state unemployment compensation programs. ES offices are responsible for providing reemployment services to certain UI claimants, and are also responsible for administering the state “work test” for UI eligibility purposes.<sup>16</sup>

In guidance implementing the Recovery Act, ETA encouraged states to integrate implementation of WIA Adult and Dislocated Worker services with reemployment services and UI programs to help ensure that individuals had access to all programs regardless of their point of entry into the workforce system.<sup>17</sup> In May 2009, DOL issued guidance encouraging states to notify UI beneficiaries of their potential eligibility for Pell Grants and other federal educational assistance, and to ensure that staff at WIA-funded one-stop centers are trained to assist UI recipients with financial aid applications.<sup>18</sup>

## Performance Accountability

Under Wagner-Peyser, the Secretary of Labor has broad authority for measuring program performance and the law does not prescribe specific measures. In 2006, ETA issued guidance requiring Wagner-Peyser to use DOL’s “common measures,” which are intended to standardize outcome measures across multiple federal job training and education programs.<sup>19</sup> Under this policy, states must report on three performance measures—entered employment, employment retention, and average earnings—for participants in the Wagner-Peyser program.<sup>20</sup> States negotiate annual performance levels with DOL, although there are no sanctions for failing to meet negotiated levels.

## Policy Recommendations

### Increase the Number of Participants Referred for Services, Including WIA Training Services

WIA mandates co-location of ES offices in one-stop career centers to help ensure that job seekers can access a broad range of complementary training and employment services. However, only 7.6 percent of individuals participating in Wagner-Peyser were referred for WIA services during PY 2009.<sup>21</sup> While not everyone who registers with ES will want or need training, increased referrals and improved access to WIA and other training programs would help jobseekers obtain the skills they need to get and keep jobs in today's economy. Congress should consider providing incentives to states and local areas to facilitate referrals to training, develop system-wide measures of cross-program referrals, and ensure that performance measures under Wagner-Peyser are aligned with WIA and other training services to support increased collaboration across programs.

### Increase Funding for the Employment Service

Despite rising demand for ES services—the number of participants in the system increased from 17.8 million in PY 2007 to 22.4 million in PY 2009<sup>22</sup>—state ES allotments declined by nearly 10 percent (in current dollars) between FY 2007 and FY 2011, and by nearly 45 percent since FY 2001. With unemployment expected to remain at unacceptably high levels for the foreseeable future, Congress should increase ES funding to ensure states have the necessary resources to meet the needs of jobseekers and employers.

### Maintain a Robust Public Workforce Infrastructure

In January 2011, the Government Accountability Office (GAO) issued a report on federal job training and employment programs that identified potential overlaps between ES, the WIA Adult program, and the Temporary Assistance for Needy Families (TANF) program.<sup>23</sup> Some policymakers have cited this report to argue for consolidation of ES and other workforce programs on the grounds that they are duplicative.<sup>24</sup> However, the GAO report found no evidence of actual duplication of services between these programs on the state or local level, and the relatively low rates of co-enrollment between ES, WIA, and TANF programs suggests that, if anything, many participants in federally-funded employment and training programs are not accessing the full range of services to upgrade their skills and find employment. Congress should reject efforts to dismantle the ES or consolidate funding with other training and employment programs, and instead encourage states and local areas to identify administrative efficiencies between programs that can help free up scarce resources for direct delivery of services.



To download the complete version of National Skills Coalition's Training Policy in Brief, visit [www.nationalskillscoalition.org/InBrief](http://www.nationalskillscoalition.org/InBrief).

## References

- 1 For further information on state workforce information grants, including Program Year 2011 funding levels, see DOLETA's guidance at <http://wdr.doleta.gov/directives/attach/TEGL/TEGL04-11.pdf>.
- 2 The Workforce Investment Improvement Act of 2011, introduced by Rep. Buck McKeon (R-CA), would repeal all provisions relating to the ES under Wagner-Peyser, authorizing only the national employment statistics system currently under sec. 15 of the law. While not expected to receive consideration, it is possible that this bill will serve as the framework for any WIA reauthorization measure on the House side.
- 3 See [http://www.doleta.gov/programs/w-pact\\_amended98.cfm](http://www.doleta.gov/programs/w-pact_amended98.cfm).
- 4 [http://www.doleta.gov/performance/results/Pdf/Wagner\\_Peyser\\_PY2009\\_091510.pdf](http://www.doleta.gov/performance/results/Pdf/Wagner_Peyser_PY2009_091510.pdf).
- 5 PL 112-10, total includes an across-the-board 0.2 percent rescission applied to all discretionary non-security programs.
- 6 Calculations by National Skills Coalition based on FY 2001 nominal appropriations of \$1,016,415,000.
- 7 <http://www.dol.gov/dol/budget/2012/PDF/CBJ-2012-V1-09.pdf>.
- 8 PL 112-10.
- 9 <http://wdr.doleta.gov/directives/attach/TEGL/TEGL26-10.pdf>.
- 10 29 U.S.C 49b(c)(3).
- 11 <http://wdr.doleta.gov/directives/attach/TEGL/TEGL14-08acc.pdf>.
- 12 <http://finance.senate.gov/imo/media/doc/041410ktest.pdf>.
- 13 [http://www.doleta.gov/performance/results/Pdf/Wagner\\_Peyser\\_PY2009\\_091510.pdf](http://www.doleta.gov/performance/results/Pdf/Wagner_Peyser_PY2009_091510.pdf).
- 14 Individuals employed through state civil service systems.
- 15 29 U.S.C. 49f(c).
- 16 29 U.S.C. 49f(a)(F). Generally, ES staff are responsible for ensuring that (1) UI claimants receive the full range of labor exchange services available under the Act that are necessary and appropriate to facilitate their earliest return to work; (2) UI claimants requiring assistance in seeking work receive the necessary guidance and counseling to ensure they make a meaningful and realistic work search; and (3) UI program staff receive information about UI claimants' ability or availability for work, or the suitability of work offered to them. See 20 CFR §652.210.
- 17 <http://wdr.doleta.gov/directives/attach/TEGL/TEGL14-08acc.pdf>.
- 18 <http://wdr.doleta.gov/directives/attach/TEGL/TEGL21-08acc.pdf>.
- 19 <http://wdr.doleta.gov/directives/attach/TEGL17-05.pdf>.
- 20 <http://wdr.doleta.gov/directives/attach/TEGL/TEGL23-09acc.pdf>.
- 21 [http://www.doleta.gov/performance/results/Pdf/Wagner\\_Peyser\\_PY2008\\_101409.pdf](http://www.doleta.gov/performance/results/Pdf/Wagner_Peyser_PY2008_101409.pdf). By contrast, the majority of individuals participating in WIA Title I programs are co-enrolled in Wagner-Peyser employment services—approximately 73 percent of WIA adult exiters and 67 percent of WIA Dislocated Worker exiters were co-enrolled in ES in PY 2009. See [http://www.doleta.gov/performance/results/pdf/PY\\_2008\\_WIASRD\\_Data\\_Book\\_FINAL\\_1192010.pdf](http://www.doleta.gov/performance/results/pdf/PY_2008_WIASRD_Data_Book_FINAL_1192010.pdf).
- 22 [http://www.doleta.gov/performance/results/wagner-peyser\\_act.cfm](http://www.doleta.gov/performance/results/wagner-peyser_act.cfm).
- 23 <http://www.gao.gov/new.items/d1192.pdf>.
- 24 <http://edworkforce.house.gov/News/DocumentSingle.aspx?DocumentID=234243>.