Workforce Development & Tourism Subcommittee

Tuesday, February 4, 2020
9:00 AM – 11:00 AM
12 HOB

Meeting Packet

Jose Oliva
Speaker

Rene Plasencia
Chair

The Florida House of Representatives

Commerce Committee

Workforce Development & Tourism Subcommittee

Jose R. Oliva
Speaker

Rene Plasencia
Chair

Meeting Agenda

Tuesday, February 4, 2020
9:00 am – 11:00 am
12 HOB

I. Call to Order

II. Roll Call

III. Welcome and Opening Remarks

IV. Consideration of the following bill(s):

HB 1139 Regional Rural Development Grants by Clemons, Polsky

HB 1253 Employer Contributions by McClure

HB 1297 Drug-free Workplaces by Robinson

Consideration of the following proposed committee substitute(s):

PCS for HB 1271 -- State Economic Development Entities

V. Closing Remarks

VI. Adjournment

317 House Office Building, 402 South Monroe Street, Tallahassee, FL 32399-1300
(850) 717-4870

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1139 Regional Rural Development Grants
SPONSOR(S): Clemons and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 426

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Workforce Development & Tourism Subcommittee		Willson MW	Barry MJB
2) Transportation & Tourism Appropriations Subcommittee			
3) Commerce Committee			

SUMMARY ANALYSIS

Florida has enacted a number of economic development programs for rural areas. Two such programs are the Regional Rural Development Grants Program and the Rural Infrastructure Fund. The Regional Rural Development Grants Program is a state matching grant program established to provide funding to build the professional capacity of regional economic development organizations. The Rural Infrastructure Fund assists units of local government with the planning, preparing, and financing of infrastructure projects that encourage job creation and capital investment. Both programs are administered by the Department of Economic Opportunity (DEO).

The bill amends the Regional Rural Development Grants Program to clarify how regional economic development organizations may build their professional capacity and expand grant use for technical assistance. It also defines a "regional economic development organization" to mean an economic development organization located in or contracted to serve a rural area of opportunity (RAO).

The bill increases the total annual grant award available to the three regional economic development organizations recognized by the DEO as serving an entire RAO, decreases the annual grant award available to other organizations located in or contracted to serve an RAO, and eliminates grant eligibility for organizations representing rural counties or communities that are not located in a RAO. The bill reduces the percentage of grant funds that must be matched with non-state funds from 100 percent to 25 percent of the state's contribution. The bill increases the maximum amount of funds that DEO may expend for the program, from $750,000 to $1 million annually.

The bill amends the Rural Infrastructure Fund by increasing the percentage of total infrastructure costs that may be funded by a grant award, expanding eligible projects and uses to include broadband internet service, and requiring a review of the grant program and procedures by September 1, 2021.

In addition, the bill requires contracts or agreements for both the Regional Rural Development Grants Program and the Rural Infrastructure Fund to contain certain specific provisions and be posted online at least 14 days before execution.

The bill has no fiscal impact on state funds. The expenditure authority for the Regional Rural Development Grant program is increased from $750,000 to $1 million per fiscal year. However, the appropriation for the Rural Community Development Revolving Loan Fund, which funds the grant program, is unchanged.

The effective date of the bill is July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Regional Economic Development Organizations

Three regional economic development organizations operate in Florida. Each coincides respectively with one of the state's three Rural Areas of Opportunity (RAO). A RAO is a rural community, or a region comprised of rural communities, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster, or that presents a unique economic development opportunity of regional impact.[1] The Governor may designate up to three RAOs, establishing each region as a priority assignment for Rural Economic Development Initiative agencies. The Governor can waive the criteria, requirements, or similar provisions of any economic development incentive for projects in a RAO.[2]

The three designated RAOs are:[3]

- Northwest RAO: Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the City of Freeport in Walton County.
- South Central RAO: DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the cities of Pahokee, Belle Glade, and South Bay (Palm Beach County), and Immokalee (Collier County).
- North Central RAO: Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.

Coinciding with the RAOs are three regional economic development organizations which are public/private 501(c)(6) organizations that provide economic development support to the local governments represented in the RAOs. Opportunity Florida serves the Northwest RAO; Florida's Heartland Regional Economic Development Initiative, Inc. serves the South Central RAO; and North Florida Economic Development Partnership serves the North Central RAO.

Regional Rural Development Grants Program

The Regional Rural Development Grants Program is a state matching grant program established to provide funding to build the professional capacity of regional economic development organizations.[4] Additionally, grants may be used by an economic development organization to provide technical assistance to businesses within the rural counties and communities that it serves.[5]

Applications submitted to DEO must provide proof:

- of official commitments of support from each local government represented by the regional organization;
- that each local government has made a financial or in-kind commitment to the regional organization;
- that the private sector has made financial or in-kind commitments to the regional organization;
- that the regional organization is in existence and actively involved in economic development activities serving the region; and

[1] S. 288.0656(2)(d), F.S.
[2] S. 288.0656(7)(a), F.S.
[3] Department of Economic Opportunity, *Rural Areas of Opportunity*, http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity (last visited Jan. 27, 2020).
[4] S. 288.018, F.S.
[5] S. 288.018(1), F.S.

- the manner in which the regional organization coordinates its efforts with those of other local and state organizations.[6]

An organization may receive up to $50,000 a year or $150,000 if located in a RAO.[7] Grants must be matched by an equivalent amount of non-state resources.[8] DEO is authorized to spend up to $750,000 each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund to carry out this program.[9]

Rural Infrastructure Fund

The Rural Infrastructure Fund is a grant program created to facilitate the planning, preparing, and financing of infrastructure projects in rural communities.[10] The program provides access to federal and state infrastructure funding programs, including, but not limited to, those offered by the U.S. Departments of Agriculture, and Commerce.[11] The program funds total infrastructure project grants, infrastructure feasibility grants, and preclearance review grants.

DEO may award grants for up to 30 percent of the total infrastructure project cost. If an application is for a catalyst site,[12] up to 40 percent of the total infrastructure project cost may be awarded.[13] Projects must be related to specific job-creation or job-retention opportunities. Additionally, projects may include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth or reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities.[14]

Eligible uses of funds include improvements to public infrastructure for industrial or commercial sites and upgrades to or development of public tourism infrastructure.[15] Infrastructure can include public or public-private partnership facilities, like storm water systems, telecommunication, broadband, roads, and nature-based tourism.[16]

The infrastructure feasibility grant provides awards of up to 30 percent of the total project costs for infrastructure feasibility studies, design and engineering activities, or other infrastructure planning and preparation activities.[17] Maximum awards are dependent on the number of jobs that a business commits to create and may be up to $300,000 if the project is located in a RAO. The total project participation grant may be used in conjunction with the infrastructure feasibility grant.

The preclearance review grant provides awards to help a local government participate in expedited permitting processes through technical assistance in preparing permit applications and local comprehensive plan amendments.[18] Grants may be used for surveys, feasibility studies, and other activities related to the identification and preclearance review of land use modifications. Grants are

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[6] S. 288.018(2), F.S.
[7] S. 288.018(1), F.S.
[8] *Id.*
[9] S. 288.018(4), F.S.
[10] *See* s. 288.0655, F.S.
[11] S. 288.0655(2)(b), F.S.
[12] S. 288.0656(2)(b), F.S., defines "catalyst site" as a parcel or parcels of land within a rural area of opportunity that has been prioritized as a geographic site for economic development through partnerships with state, regional, and local organizations. The site must be reviewed by the rural economic development initiative and approved by DEO for the purposes of locating a catalyst project.
[13] S. 288.0655(2)(b), F.S.
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] S. 288.0655(2)(c), F.S.
[18] S. 288.0655(2)(e), F.S. Expedited permitting is pursuant to s. 403.9739(18), F.S.

limited to $75,000 and must be matched 50 percent with local funds. However, projects in a RAO may receive up to $300,000 and must be matched 33 percent with local funds.[19]

Grant applications are reviewed and certified by DEO in consultation with: Enterprise Florida, Inc., VISIT Florida, the Department of Environmental Protection, and the Florida Fish and Wildlife Conservation Commission. Reviews include an evaluation of the economic benefit of the projects and their long-term viability.[20]

Effect of Proposed Changes

Regional Rural Development Grants Program

The bill amends the Regional Rural Development Grants Program to clarify how regional economic development organizations may build their professional capacity, expand grant use for technical assistance, increase the annual grant awards for regional economic development organizations, and reduce match requirements. It also defines a "regional economic development organization" to mean an economic development organization that is located in, or contracted to serve, a RAO.

One authorized use of the matching grant program is to build the professional capacity of regional economic development organizations. The bill specifies that efforts to build professional capacity hiring professional staff to develop, deliver, and provide needed economic development professional services, including technical assistance, education and leadership development, marketing, and project recruitment.

Regional economic development organizations may currently use grant funds to provide technical assistance to businesses within rural counties and communities it serves. The bill expands this by allowing technical assistance to local governments, local economic development organizations, and existing and prospective businesses.

The bill increases the maximum annual grant award from $150,000 to $250,000 for any three regional economic development organizations recognized by DEO as serving an entire region of a RAO. These organizations are: Opportunity Florida, Florida's Heartland Regional Economic Development Initiative, Inc., and North Florida Economic Development Partnership.

For organizations located in or contracted to serve a RAO, but not recognized as serving the entire RAO, the bill reduces the maximum annual grant amount from $150,000 to $50,000.

Under the bill, any organizations that represent rural counties and communities, but are not located in or serve a RAO, would not meet the definition of "regional economic development organizations" and therefore would no longer be eligible to receive any grant funds.

The bill reduces the required match for a grant under this program to a 25% match of the state contribution, instead of the current one-to-one match requirement.

The bill increases the amount that DEO may expend on the program each fiscal year, from $750,000 to $1 million. These funds are from the funds appropriated to the Rural Community Development Revolving Loan Fund.

Rural Infrastructure Fund

[19] S. 288.0655(2)(e), F.S.
[20] S. 288.0655(3), F.S.

The bill amends the Rural Infrastructure Fund by revising grant award percentages, expanding eligible projects and uses to include broadband internet service, and requiring a review of the grant program and procedures by a specific date.

Currently, grants awarded under the Rural Infrastructure Fund program are limited to 30 percent of the total infrastructure project cost, or up to 40 percent if funding is for a catalyst site. The bill increases the percentage for all grants awarded, including catalyst sites, to 50 percent of the total infrastructure project cost.

The bill specifies that eligible projects may include improving certain inadequate infrastructure that reduces costs to community users of proposed infrastructure improvements that exceeds costs in comparable communities, *and improving access to and the availability of broadband Internet service.* Further, eligible uses are expanded to include improvements to broadband Internet service and access in unserved or underserved rural communities. These projects must be conducted through a partnership or partnerships with one or more dealers of communications services[21], established by a publicly noticed and competitive selected process.

The bill requires DEO to reevaluate the Rural Infrastructure Fund application guidelines and criteria by September 1, 2021. The review is to be done in consultation with Enterprise Florida, Inc., VISIT Florida, the Department of Environmental Protection, and the Florida Fish and Wildlife Conservation Commission and must include specific factors such as:

- the project's potential for enhanced job creation or increased capital investment;
- the demonstration and level of local public and private commitment;
- whether the project is located in a community development corporation service area or in an urban high-crime area;
- the unemployment rate of the county the project would be located; and
- the poverty rate of the community.

Contracts or Agreements - Regional Rural Development Grants Program and Rural Infrastructure Fund

The bill amends both the Regional Rural Development Grant Program and the Rural Infrastructure Fund to include the same requirements for contracts or agreements that expend grant funds.

A contract or agreement that involves the expenditure of grant funds must include:

- The purpose of the contract or agreement.
- Specific performance standards and responsibilities for each entity under the agreement.
- A detailed project or contract budget, if applicable.
- The value of any services provided.
- The projected travel expenses for employees and board members, if applicable.

These required contract provisions apply to any contract or agreement that expends grant funds, including any contract or agreement between another entity and a regional economic development organization, a unit of local government, or an economic development organization substantially underwritten by a unit of local government.

All contracts and agreements are required to be posted on the contracting regional economic development organization's website at least 14 days before execution. However, specific contracts or agreements that exceed $35,000 must be posted in "plain-language." This applies to a contract or agreement with a private entity, a municipality, or a vendor of services, supplies, or programs, including marketing, or for the purchase or lease or use of lands, facilities, or properties.

[21] S. 202.11(2), F.S., defines a "dealer" as a person registered with the Florida Department of Revenue as a provider of communications services in this state.

Additionally, the bill repeals obsolete language relating to enterprise zones and an appropriation for the 2019-20 fiscal year.

B. SECTION DIRECTORY:

Section 1: Amends subsections (1), (3), and (4) of s. 288.018, F.S., relating to the Regional Rural Development Grants Program.

Section 2: Amends s. 288.0655, F.S., relating to the Rural Infrastructure Fund.

Section 3: Provides an effective date of July 1, 2020.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The expenditure authority of the Regional Rural Development Grant program is increased from $750,000 to $1 million per fiscal year. However, the appropriation for the Rural Community Development Revolving Loan Fund, which funds the grant program, is unchanged.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill reduces the required match under the Regional Rural Development Grant program to a 25 percent match of the state contribution, instead of the current one-to-one match requirement.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

This bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to regional rural development grants; amending s. 288.018, F.S.; defining the term "regional economic development organization"; specifying the duties of a regional economic development organization; specifying authorized uses of matching grants; increasing the maximum amount of annual grant funding that specified economic development organizations may receive; revising the required amount of nonstate matching funds; requiring certain information to be included in contracts or agreements involving grant funds; specifying the information that must be posted on a regional economic development organizations website before execution of certain contracts or agreements; deleting an obsolete provision; increasing the amount of funds the Department of Economic Opportunity may expend each fiscal year from the Rural Community Development Revolving Loan Fund for certain purposes; amending s. 288.0655, F.S.; increasing the maximum percent of total infrastructure project costs for which the department may award a grant; repealing a provision addressing increased certain maximum percentages; specifying that improving availability of broadband Internet services is an eligible project for certain

grant funds; providing that grants for improvements to broadband Internet service and access must be conducted through certain partnerships; extending the date by which the department is required to reevaluate certain guidelines; requiring certain information to be included in contracts or agreements involving grant funds; specifying the information that must be posted on a regional economic development organizations website before execution of certain contracts or agreements; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (1), (3), and (4) of section 288.018, Florida Statutes, are amended to read:

288.018 Regional Rural Development Grants Program.—

(1)(a) For the purposes of this section, the term "regional economic development organization" means an economic development organization located in or contracted to serve a rural area of opportunity, as defined in s. 288.0656(2)(d).

(b) The department shall establish a matching grant program to provide funding to regional ~~regionally based~~ economic development organizations ~~representing rural counties and communities~~ for the purpose of building the professional capacity of those ~~their~~ organizations. Building the professional

capacity of a regional economic development organization includes hiring professional staff to develop, deliver, and provide needed economic development professional services, including technical assistance, education and leadership development, marketing, and project recruitment. ~~Such~~ Matching grants may also be used by a regional ~~an~~ economic development organization to provide technical assistance to local governments, local economic development organizations, and existing and prospective businesses ~~within the rural counties and communities that it serves~~.

(c) A regional economic development organization may apply annually to the department for a matching grant. The department is authorized to approve, on an annual basis, grants to such regional ~~regionally based~~ economic development organizations. The maximum amount an organization may receive in any year will be $50,000, or $250,000 for any three regional economic development organizations that serve an entire region of a rural area of opportunity designated pursuant to s. 288.0656(7) if they are recognized by the department as serving such a region.

(d) Grant funds received by a regional economic development organization ~~$150,000 in a rural area of opportunity recommended by the Rural Economic Development Initiative and designated by the Governor, and~~ must be matched each year by ~~an equivalent amount of~~ nonstate resources in an amount equal to 25 percent of the state contribution.

(3)(a) A contract or agreement that involves the expenditure of grant funds provided under this section, including a contract or agreement entered into between another entity and a regional economic development organization, a unit of local government, or an economic development organization substantially underwritten by a unit of local government, must include:

1. The purpose of the contract or agreement.

2. Specific performance standards and responsibilities for each entity under the contract or agreement.

3. A detailed project or contract budget, if applicable.

4. The value of any services provided.

5. The projected travel expenses for employees and board members, if applicable.

(b) At least 14 days before executing a contract or agreement, the contracting regional economic development organization shall post on its website:

1. Any contract or agreement that involves the expenditure of grant funds provided under this section.

2. A plain-language version of any contract or agreement that is estimated to exceed $35,000 with a private entity, a municipality, or a vendor of services, supplies, or programs, including marketing, or for the purchase or lease or use of lands, facilities, or properties which involves the expenditure of grant funds provided under this section and which is

estimated to exceed $35,000 ~~The department may also contract for the development of an enterprise zone web portal or websites for each enterprise zone which will be used to market the program for job creation in disadvantaged urban and rural enterprise zones. Each enterprise zone web page should include downloadable links to state forms and information, as well as local message boards that help businesses and residents receive information concerning zone boundaries, job openings, zone programs, and neighborhood improvement activities~~.

(4) The department may expend up to $1 million ~~$750,000~~ each fiscal year from funds appropriated to the Rural Community Development Revolving Loan Fund for the purposes outlined in this section. The department may contract with Enterprise Florida, Inc., for the administration of the purposes specified in this section. Funds released to Enterprise Florida, Inc., for this purpose shall be released quarterly and shall be calculated based on the applications in process.

Section 2. Subsection (5) of section 288.0655, Florida Statutes, is renumbered as subsection (6), paragraph (b) of subsection (2), subsection (4), and present subsection (6) are amended, and a new subsection (5) is added to that section, to read:

288.0655 Rural Infrastructure Fund.—

(2)

(b) To facilitate access of rural communities and rural

areas of opportunity as defined by the Rural Economic Development Initiative to infrastructure funding programs of the Federal Government, such as those offered by the United States Department of Agriculture and the United States Department of Commerce, and state programs, including those offered by Rural Economic Development Initiative agencies, and to facilitate local government or private infrastructure funding efforts, the department may award grants for up to 50 ~~30~~ percent of the total infrastructure project cost. ~~If an application for funding is for a catalyst site, as defined in s. 288.0656, the department may award grants for up to 40 percent of the total infrastructure project cost.~~ Eligible projects must be related to specific job-creation or job-retention opportunities. Eligible projects may also include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth, ~~or~~ reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities, and improving access to and the availability of broadband Internet service. Eligible uses of funds shall include improvements to public infrastructure for industrial or commercial sites, upgrades to or development of public tourism infrastructure, and improvements to broadband Internet service and access in unserved or underserved rural communities. Improvements to broadband Internet service and access must be conducted through

a partnership or partnerships with one or more dealers of communications services, as defined in s. 202.11(2), and the partnership or partnerships must be established by a publicly noticed and competitively selected process ~~and upgrades to or development of public tourism infrastructure~~. Authorized infrastructure may include the following public or public-private partnership facilities: storm water systems; telecommunications facilities; broadband facilities; roads or other remedies to transportation impediments; nature-based tourism facilities; or other physical requirements necessary to facilitate tourism, trade, and economic development activities in the community. Authorized infrastructure may also include publicly or privately owned self-powered nature-based tourism facilities, publicly owned telecommunications facilities, and broadband facilities, and additions to the distribution facilities of the existing natural gas utility as defined in s. 366.04(3)(c), the existing electric utility as defined in s. 366.02, or the existing water or wastewater utility as defined in s. 367.021(12), or any other existing water or wastewater facility, which owns a gas or electric distribution system or a water or wastewater system in this state where:

1. A contribution-in-aid of construction is required to serve public or public-private partnership facilities under the tariffs of any natural gas, electric, water, or wastewater utility as defined herein; and

2. Such utilities as defined herein are willing and able to provide such service.

(4) By September 1, 2021 ~~2012~~, the department shall, in consultation with the organizations listed in subsection (3), and other organizations, reevaluate existing guidelines and criteria governing submission of applications for funding, review and evaluation of such applications, and approval of funding under this section. The department shall consider factors including, but not limited to, the project's potential for enhanced job creation or increased capital investment, the demonstration and level of local public and private commitment, whether the project is located ~~in an enterprise zone,~~ in a community development corporation service area, or in an urban high-crime area as designated under s. 212.097, the unemployment rate of the county in which the project would be located, and the poverty rate of the community.

(5)(a) A contract or agreement that involves the expenditure of grant funds provided under this section, including a contract or agreement entered into between another entity and a regional economic development organization, a unit of local government, or an economic development organization substantially underwritten by a unit of local government, must include:

1. The purpose of the contract or agreement.

2. Specific performance standards and responsibilities for

each entity.

3. A detailed project or contract budget, if applicable.

4. The value of any services provided.

5. The projected travel expenses for employees and board members, if applicable.

(b) At least 14 days before execution, the contracting regional economic development organization shall post on its website:

1. Any contract or agreement that involves the expenditure of grant funds provided under this section.

2. A plain-language version of a contract or agreement that is estimated to exceed $35,000 with a private entity, a municipality, or a vendor of services, supplies, or programs, including marketing, or for the purchase or lease or use of lands, facilities, or properties which involves the expenditure of grant funds provided under this section.

~~(6) For the 2019-2020 fiscal year, the funds appropriated for the grant program for Florida Panhandle counties shall be distributed pursuant to and for the purposes described in the proviso language associated with Specific Appropriation 2314 of the 2019-2020 General Appropriations Act. This subsection expires July 1, 2020.~~

Section 3. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1253 Employer Contributions
SPONSOR(S): McClure
TIED BILLS: **IDEN./SIM. BILLS:** SB 1356

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Workforce Development & Tourism Subcommittee		Willson MW	Barry MJB
2) Ways & Means Committee			
3) Commerce Committee			

SUMMARY ANALYSIS

Florida's reemployment assistance program offers temporary, partial wage replacement to qualified individuals who lose their jobs through no fault of their own. Employers fund the state's reemployment assistance program through taxes on their businesses. Tax rates are impacted by the employment record of the individual business and amount of money available in the fund, among other factors.

An employer's contributions are equal to a percentage of its wages paid for employment. The standard rate of contributions payable is 5.4%, which is also the maximum allowable tax rate under current law. New employers are liable to pay an initial contribution of 2.7%, which remains in effect until the employer has made contributions for at least eight consecutive quarters.

An employer with record of at least eight quarters of contributions may be eligible to receive a variable tax rate. Variable tax rates are adjusted annually and are based on the employer's benefit experience, the balance of the Trust Fund, and other adjustment factors. The variable rates range from 5.4% to the minimum allowable tax rate, which varies annually but can never be less than 0.1%.

Under current law, a negative adjustment factor is required if the balance of the Trust Fund is greater than 5% of the taxable payrolls. A negative adjustment factor remains in effect until the balance of the Trust Fund is less than 5%, but more than 4%, of the total taxable payroll for the previous year. A positive adjustment factor is required if the balance of the Trust Fund is less than 5% of the taxable payrolls. A positive adjustment factor remains in effect until the trust fund balance equals or exceeds 4% of the total taxable payroll for the previous year.

The bill reduces the initial rate for unemployment contributions, from 2.7% to 1.0%, for tax rates effective on or after January 1, 2021, so long as the balance in the Unemployment Compensation Trust Fund does not require the computation of a positive adjustment factor for that year.

See *Fiscal Analysis* section for an estimate of the fiscal impact of the bill.

The bill has an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Reemployment Assistance Program

The federal Unemployment Insurance Program provides unemployment benefits to eligible workers who are unemployed through no fault of their own and who meet the requirements of state law. The program is administered as a partnership of the federal government and the states. The individual states collect unemployment compensation payroll taxes on a quarterly basis, which are used to pay benefits. Subject to the approval of the United States Department of Labor (USDOL), each state also sets tax rates, benefit levels, and trust fund balances based on the state's needs.[1]

The Internal Revenue Service collects an annual federal payroll tax under the Federal Unemployment Tax Act (FUTA),[2] used to provide grants to the states to fund costs associated with program administration and job service programs.[3] In addition to FUTA, Florida employers are required to pay a state tax on the first $7,000 of each employee's annual income, which is deposited into Florida's Unemployment Compensation Trust Fund (Trust Fund), an account used to pay unemployment compensation benefits.

Florida's unemployment insurance program was created by the Legislature in 1937,[4] and was rebranded as the "Reemployment Assistance Program" in 2012.[5] The Department of Economic Opportunity (DEO) is responsible for administering the program and determining the calculation and payment of reemployment assistance (RA) benefits to eligible claimants. The Reemployment Assistance Program supports reemployment services through local One-Stop Career Centers located throughout the state. Department of Revenue (DOR) provides tax collection services on behalf of DEO and deposits the taxes into the state's Trust Fund.[6] The Trust Fund is used solely for the purpose of paying benefits to eligible claimants.[7]

State Reemployment Tax

Florida employers are required to pay the state reemployment tax as a cost of doing business. Workers do not pay any part of the Florida reemployment tax and employers must not make payroll deductions for this purpose. Employers with stable employment records receive credit in reduced tax rates after a qualifying period. Employers must file quarterly reports and pay taxes within one month following after the close of each quarter. New businesses are required to report initial employment information in the month following the calendar quarter in which employment begins. DOR reviews the reports and makes a determination of whether the business is liable to pay reemployment taxes.[8]

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1 USDOL, Employment and Training Administration, *State Unemployment Insurance Benefits,* http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp (last visited Jan. 28, 2020).

2 26 U.S.C. 3301-3311.

3 FUTA also pays one-half the cost of extended unemployment benefits (during periods of high unemployment) and provides for a fund from which states may borrow, if necessary, to pay benefits. *See* USDOL, Employment and Training Administration, *Unemployment Insurance Tax Topic, available at* http://workforcesecurity.doleta.gov/unemploy/uitaxtopic.asp (last visited Jan. 29, 2020).

4 Ch. 18402, Laws of Fla.

5 Ch. 2012-30, Laws of Fla.

6 S. 443.1316, F.S.

7 Ss. 443.131 and 443.191, F.S.

8 DOR, *Employer Guide to Reemployment Tax, available at* http://floridarevenue.com/Forms_library/current/rt800002.pdf (last visited Jan. 29, 2020).

Generally, a business is liable to pay state reemployment tax if in the current or preceding calendar year, the employer:

- Paid more than $1,500 in quarterly wages in a calendar year;
- Had at least one employee for any portion of a day during any 20 weeks in a calendar year; or
- Is liable under the FUTA as a result of employment in another state.[9]

Florida law also specifies separate liability requirements for agricultural and domestic employers, nonprofit organizations, governmental agencies, and Indian tribes.[10] Businesses that are otherwise not subject to reemployment taxation may opt to voluntarily pay into the Trust Fund for coverage for their employees.[11]

An employer's contributions are equal to a percentage of its wages paid for employment.[12] The standard rate of contributions payable is 5.4%,[13] which is also the maximum allowable tax rate under current law.[14] New employers are liable to pay an initial contribution of 2.7%, which remains in effect until the employer has made contributions for at least eight consecutive quarters.[15]

An employer with record of at least eight quarters of contributions may be eligible to receive a variable tax rate. Variable tax rates are adjusted annually and are based on the employer's benefit experience, the balance of the Trust Fund, and other adjustment factors. The variable rates range from 5.4% to the minimum allowable tax rate, which varies annually but can never be less than 0.1%.[16]

An employer's benefit experience rating is based on a comparison of the previous 12 consecutive quarters of the employer's employment records in relation to the records of all other employers.[17] The benefit ratio divides the benefits charged during the previous three years by the taxable wages during the same timeframe. The purpose of using the experience rating to determine reemployment tax rates is to stabilize the Trust Fund at a percentage of the taxable payrolls reported by all employers and to ensure employers are required to pay a fair share. When an eligible claimant collects RA benefits, an employer is "charged" and the employer will likely see an increased tax rate. Additionally, any employer who has been billed for an outstanding tax debt for one year or longer is assigned a penalty tax rate of 5.4%.

Florida Unemployment Compensation Trust Fund

Economic conditions resulting in abnormally high unemployment accompanied by high benefit charges can cause a severe drain on the Trust Fund. This effect triggers the positive fund balance adjustment factor, which consequently increases tax rates for all employers. Conversely, when unemployment and benefit charges are low, the negative fund balance adjustment factor triggers, and tax rates for employers are reduced accordingly.[18]

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[9] S. 443.1215, F.S.

[10] *See generally* ch. 443, F.S.

[11] If an employer voluntarily provides coverage, the employer must report wages and pay reemployment taxes for a minimum of one calendar year. S. 443.121(3), F.S.

[12] Employers are required to pay taxes on the first $7,000 of each employee's wages. S. 443.1217(2), F.S.

[13] S. 443.131(2)(c), F.S.

[14] *See* s. 443.131(2)(e), F.S

[15] S. 443.131(2)(a), F.S.

[16] The final adjustment factor spreads costs not included in the variable adjustment factor to all employers whose rates are not at the initial or maximum rate. The final adjustment factor determines the minimum tax rate for the year.

[17] Employers that paid the initial tax rate for at least eight consecutive quarters may also be assigned a benefit ratio, which requires a separate calculation to be computed by DOR.

[18] During the years of 2010-2014, the Legislature made efforts to temporarily increased the tax wage base from $7,000 to $8,500, increased the trigger for the positive adjustment factor from 3.7% to 4%, and reduced the trigger for the negative adjustment factor from 4.7% to 5%. The Legislature also reduced the tax wage base and the adjustment factor triggers as the economy stabilized. *See* Ch. 2009-99, Laws of Fla., Ch. 2010-1, Laws of Fla., Ch. 2011-235, Laws of Fla., and Ch. 2012-30, Laws of Fla.

Under current law, a negative adjustment factor is required if the balance of the Trust Fund is greater than 5% of the taxable payrolls. A negative adjustment factor remains in effect until the balance of the Trust Fund is less than 5%, but more than 4%, of the total taxable payroll for the previous year.[19] A positive adjustment factor is required if the balance of the Trust Fund is less than 5% of the taxable payrolls. A positive adjustment factor remains in effect until the trust fund balance equals or exceeds 4% of the total taxable payroll for the previous year.[20] Florida's Unemployment Compensation Trust Fund held a balance greater than $4.08 billion at the close of the third quarter in 2019.[21]

Employee Leasing Companies

Employee Leasing Companies (ELC) are regulated by part XI of ch. 468, F.S., and the Board of Employee Leasing Companies under Florida Department of Business and Professional Regulation (DBPR). Generally, 'employee leasing' means an arrangement whereby a leasing company assigns its employees to a client and allocates the direction of and control over the leased employees between the leasing company and the client, with exceptions.

A newly licensed ELC has 30 days from the date of licensure by the Florida Department of Business and Professional Regulation (DBPR) to make an election with DOR to report and pay reemployment tax using the tax rate for each client. This is called the client method. The tax rate used will be based upon the wage and benefit history the client has earned under the ELC. If the client has no wage and benefit history under the ELC, the client will have the initial rate of 0.0270 (2.7%). A separate reemployment tax account number will be assigned by DOR under the Federal Employer Identification Number (FEIN) of the ELC for each client company.[22]

This one-time election by an ELC is binding on all current and future clients. A newly licensed ELC that does not timely notify DOR in writing of its election to use the client method must report all leased and internal employees under its own reemployment tax account number and tax rate.[23]

Effect of the Bill

The bill amends s. 443.1216(1)(a)2.a.(II)(C), F.S., reducing the initial rate at which an ELC must pay unemployment contributions for a client company under the client method, from 2.7% to 1.0%. The bill applies only to tax rates effective on or after January 1, 2021, so long as the balance in the Unemployment Compensation Trust Fund does not require the computation of a positive adjustment factor for that year.

The bill amends s. 443.131(2)(a), F.S., reducing the initial rate at which an employer must pay unemployment contributions from 2.7% to 1.0%. The bill applies only to tax rates effective on or after January 1, 2021, so long as the balance in the Unemployment Compensation Trust Fund does not require the computation of a positive adjustment factor for that year.

The bill provides for an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1 Amends s. 443.1216, F.S., reducing the initial rate that certain client companies of employee leasing companies must pay under specified circumstances.

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[19] S. 443.131(3)(e), F.S.

[20] *See* s. 443.131(3)(e), F.S.

[21] U.S. Dept. of Labor, *Financial Information by State for CYQ - 2019.3* https://oui.doleta.gov/unemploy/data_summary/SummaryTables.pdf (last visited Jan. 29, 2020).

[22] DOR, *Reemployment Tax for Professional Employer Organizations*, https://floridarevenue.com/taxes/taxesfees/Pages/rt_elc.aspx (last visited Jan. 29, 2020).

[23] *Id.*

Section 2 Amends s. 443.131, F.S.; requiring the tax collection service provider to adjust the initial employer contribution rate under certain circumstances.

Section 3 Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See *Fiscal Comments*, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to DEO, a reduction of the initial tax rate from 2.7% to 1.0% would result in a total savings for new contributory employers of $66.3 million annually, or $119 per employee per year.[24]

D. FISCAL COMMENTS:

The Revenue Estimating Conference scored CS/SB 1356 on January 31, 2020,[25] and provided the following: Florida employers paid $498.2 million of Reemployment Assistance into the RA trust fund in FY 2018-19. Currently, due to the size of the trust fund, there are negative adjustment factors calculated to the rates employers pay. The Department of Revenue provided historical data for RA taxes paid by employers subject to the current 2.7% initial rate (with fewer than eight chargeable quarters). Based on the data, new employers (with fewer than eight chargeable quarters), subject to the 2.7% initial rate, paid $184.8 million in FY 2018-19. If these employers are charged the proposed 1% initial rate, they would have paid $68.9 million for the same period, a savings of $117 million to those employers. This amounts to 0.2% of taxable wages. There are approximately 150,000 employers that paid the 2.7% rate in FY 2018-19. As a result, RA tax collections and the trust fund balance would have decreased by that amount. Rates to all other employers (earned rate employers) would have remained the same in the first year. This will be the impact in the first year of implementation.

In future years, the decrease in the fund balance may feed through into the calculation of earned rates for employers and earned rates for the remaining employers may potentially increase, all else being equal.

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[24] Email from J.P. Bell, Legislative and Cabinet Affairs Coordinator, Dept. of Economic Opportunity, DEO one pagers (Jan. 21, 2020).

[25] Revenue Estimating Impact Conference, *1/31/20 Revenue Impact Results*, pp. 337-340, http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2020/_pdf/Impact0131.pdf (last visited Jan. 31, 2020).

Section 5: Consensus Estimate (Adopted: 01/31/2020): The Conference adopted the proposed impact with an adjustment for a feedback affect, reaching the full feedback affect impact in FY 2022-23.

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2020-21	0.0	0.0	(117.0)	(87.8)	0.0	0.0	(117.0)	(87.8)
2021-22	0.0	0.0	(96.4)	(87.8)	0.0	0.0	(96.4)	(87.8)
2022-23	0.0	0.0	(87.8)	(87.8)	0.0	0.0	(87.8)	(87.8)
2023-24	0.0	0.0	(87.8)	(87.8)	0.0	0.0	(87.8)	(87.8)
2024-25	0.0	0.0	(87.8)	(87.8)	0.0	0.0	(87.8)	(87.8)

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to employer contributions; amending s. 443.1216, F.S.; reducing the initial rate that certain client companies of employee leasing companies must pay under specified circumstances; amending s. 443.131, F.S.; requiring the tax collection service provider to adjust the initial employer contribution rate under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (1) of section 443.1216, Florida Statutes, is amended to read:

443.1216 Employment.—Employment, as defined in s. 443.036, is subject to this chapter under the following conditions:

(1)(a) The employment subject to this chapter includes a service performed, including a service performed in interstate commerce, by:

1. An officer of a corporation.

2. An individual who, under the usual common-law rules applicable in determining the employer-employee relationship, is an employee. However, whenever a client, as defined in s. 443.036(18), which would otherwise be designated as an employing unit has contracted with an employee leasing company to supply

it with workers, those workers are considered employees of the employee leasing company. An employee leasing company may lease corporate officers of the client to the client and other workers to the client, except as prohibited by regulations of the Internal Revenue Service. Employees of an employee leasing company must be reported under the employee leasing company's tax identification number and contribution rate for work performed for the employee leasing company.

a. However, except for the internal employees of an employee leasing company, each employee leasing company may make a separate one-time election to report and pay contributions under the tax identification number and contribution rate for each client of the employee leasing company. Under the client method, an employee leasing company choosing this option must assign leased employees to the client company that is leasing the employees. The client method is solely a method to report and pay unemployment contributions, and, whichever method is chosen, such election may not impact any other aspect of state law. An employee leasing company that elects the client method must pay contributions at the rates assigned to each client company.

(I) The election applies to all of the employee leasing company's current and future clients.

(II) The employee leasing company must notify the Department of Revenue of its election by July 1, 2012, and such

election applies to reports and contributions for the first quarter of the following calendar year. The notification must include:

(A) A list of each client company and the unemployment account number or, if one has not yet been issued, the federal employment identification number, as established by the employee leasing company upon the election to file by client method;

(B) A list of each client company's current and previous employees and their respective social security numbers for the prior 3 state fiscal years or, if the client company has not been a client for the prior 3 state fiscal years, such portion of the prior 3 state fiscal years that the client company has been a client must be supplied;

(C) The wage data and benefit charges associated with each client company for the prior 3 state fiscal years or, if the client company has not been a client for the prior 3 state fiscal years, such portion of the prior 3 state fiscal years that the client company has been a client must be supplied. If the client company's employment record is chargeable with benefits for less than 8 calendar quarters while being a client of the employee leasing company, the client company must pay contributions at the initial rate of 2.7 percent. For tax rates effective on or after January 1, 2021, if the client company's employment record is chargeable with benefits for less than 8 calendar quarters while being a client of the employee leasing

company, the client company must pay contributions at the initial rate of 1.0 percent. However, the tax collection service provider may not adjust the initial rate for any year in which the balance in the Unemployment Compensation Trust Fund requires the computation of a positive adjustment factor under s. 443.131(3)(e)2.a.(III); and

(D) The wage data and benefit charges for the prior 3 state fiscal years that cannot be associated with a client company must be reported and charged to the employee leasing company.

(III) Subsequent to choosing the client method, the employee leasing company may not change its reporting method.

(IV) The employee leasing company shall file a Florida Department of Revenue Employer's Quarterly Report for each client company by approved electronic means, and pay all contributions by approved electronic means.

(V) For the purposes of calculating experience rates when the client method is chosen, each client's own benefit charges and wage data experience while with the employee leasing company determines each client's tax rate where the client has been a client of the employee leasing company for at least 8 calendar quarters before the election. The client company shall continue to report the nonleased employees under its tax rate.

(VI) The election is binding on each client of the employee leasing company for as long as a written agreement is

in effect between the client and the employee leasing company pursuant to s. 468.525(3)(a). If the relationship between the employee leasing company and the client terminates, the client retains the wage and benefit history experienced under the employee leasing company.

(VII) Notwithstanding which election method the employee leasing company chooses, the applicable client company is an employing unit for purposes of s. 443.071. The employee leasing company or any of its officers or agents are liable for any violation of s. 443.071 engaged in by such persons or entities. The applicable client company or any of its officers or agents are liable for any violation of s. 443.071 engaged in by such persons or entities. The employee leasing company or its applicable client company is not liable for any violation of s. 443.071 engaged in by the other party or by the other party's officers or agents.

(VIII) If an employee leasing company fails to select the client method of reporting not later than July 1, 2012, the entity is required to report under the employee leasing company's tax identification number and contribution rate.

(IX) After an employee leasing company is licensed pursuant to part XI of chapter 468, each newly licensed entity has 30 days after the date the license is granted to notify the tax collection service provider in writing of their selection of the client method. A newly licensed employee leasing company

that fails to timely select reporting pursuant to the client method of reporting must report under the employee leasing company's tax identification number and contribution rate.

(X) Irrespective of the election, each transfer of trade or business, including workforce, or a portion thereof, between employee leasing companies is subject to the provisions of s. 443.131(3)(g) if, at the time of the transfer, there is common ownership, management, or control between the entities.

b. In addition to any other report required to be filed by law, an employee leasing company shall submit a report to the Labor Market Statistics Center within the Department of Economic Opportunity which includes each client establishment and each establishment of the leasing company, or as otherwise directed by the department. The report must include the following information for each establishment:

(I) The trade or establishment name;

(II) The former reemployment assistance account number, if available;

(III) The former federal employer's identification number, if available;

(IV) The industry code recognized and published by the United States Office of Management and Budget, if available;

(V) A description of the client's primary business activity in order to verify or assign an industry code;

(VI) The address of the physical location;

(VII) The number of full-time and part-time employees who worked during, or received pay that was subject to reemployment assistance taxes for, the pay period including the 12th of the month for each month of the quarter;

(VIII) The total wages subject to reemployment assistance taxes paid during the calendar quarter;

(IX) An internal identification code to uniquely identify each establishment of each client;

(X) The month and year that the client entered into the contract for services; and

(XI) The month and year that the client terminated the contract for services.

c. The report must be submitted electronically or in a manner otherwise prescribed by the Department of Economic Opportunity in the format specified by the Bureau of Labor Statistics of the United States Department of Labor for its Multiple Worksite Report for Professional Employer Organizations. The report must be provided quarterly to the Labor Market Statistics Center within the department, or as otherwise directed by the department, and must be filed by the last day of the month immediately after the end of the calendar quarter. The information required in sub-sub-subparagraphs b.(X) and (XI) need be provided only in the quarter in which the contract to which it relates was entered into or terminated. The sum of the employment data and the sum of the wage data in this

report must match the employment and wages reported in the reemployment assistance quarterly tax and wage report.

d. The department shall adopt rules as necessary to administer this subparagraph, and may administer, collect, enforce, and waive the penalty imposed by s. 443.141(1)(b) for the report required by this subparagraph.

e. For the purposes of this subparagraph, the term "establishment" means any location where business is conducted or where services or industrial operations are performed.

3. An individual other than an individual who is an employee under subparagraph 1. or subparagraph 2., who performs services for remuneration for any person:

a. As an agent-driver or commission-driver engaged in distributing meat products, vegetable products, fruit products, bakery products, beverages other than milk, or laundry or drycleaning services for his or her principal.

b. As a traveling or city salesperson engaged on a full-time basis in the solicitation on behalf of, and the transmission to, his or her principal of orders from wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments for merchandise for resale or supplies for use in the business operations. This sub-subparagraph does not apply to an agent-driver or a commission-driver and does not apply to sideline sales activities performed on behalf of a person other than the salesperson's principal.

4. The services described in subparagraph 3. are employment subject to this chapter only if:

a. The contract of service contemplates that substantially all of the services are to be performed personally by the individual;

b. The individual does not have a substantial investment in facilities used in connection with the services, other than facilities used for transportation; and

c. The services are not in the nature of a single transaction that is not part of a continuing relationship with the person for whom the services are performed.

Section 2. Paragraph (a) of subsection (2) of section 443.131, Florida Statutes, is amended to read:

443.131 Contributions.—

(2) CONTRIBUTION RATES.—Each employer must pay contributions equal to the following percentages of wages paid by him or her for employment:

(a) *Initial rate.*—Each employer whose employment record is chargeable with benefits for less than 8 calendar quarters shall pay contributions at the initial rate of 2.7 percent. For tax rates effective on or after January 1, 2021, the tax collection service provider shall adjust the initial rate to 1.0 percent for each employer whose employment record is chargeable with benefits for less than 8 calendar quarters. However, the tax collection service provider may not adjust the initial rate for

any year in which the balance in the Unemployment Compensation Trust Fund requires the computation of a positive adjustment factor under sub-sub-subparagraph (3)(e)2.a.(III).

Section 3. This act shall take effect July 1, 2020.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1297 Drug-free Workplaces
SPONSOR(S): Robinson
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Workforce Development & Tourism Subcommittee		Willson MW	Barry MJB
2) Appropriations Committee			
3) Commerce Committee			

SUMMARY ANALYSIS

Currently, an employer subject to the Workers' Compensation Law who implements a drug-free workforce program pursuant to s. 440.102, F.S., is eligible for a workers' compensation insurance discount of up to 5 percent. If an employee in such a program tests positive for drugs or alcohol, the employee may be terminated, and forfeits his or her eligibility for medical and indemnity benefits.

The bill makes a number of changes to the drug-free workplace program, including:

- Amends the definition of "drug" to include substances named in state and federal law;
- Adds additional certification requirements for drug tests and specimens;
- Removes a requirement that an employee be provided a form on which to note medications, which must be taken into account in interpreting drug tests;
- Replaces a list of professions qualified to collect specimens with a requirement that such persons meet qualification standards set by specified federal agencies;
- Requires specimens from positive tests to be preserved for one year after the confirmation test was conducted, instead of 210 days after result was mailed;
- Shortens from 180 to 60 days after notification of a positive result the period during which an employee may have a specimen retested;
- Requires that drug-screening tests meet specified standards;
- Increases the required frequency of followup drug testing from at least once a year for a two-year period to at least six times in the first year and up to two times in the second year.

The bill appears to have no fiscal impact on state or local government.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Drug-Free Workplace Program for Workers' Compensation Employers

The Workers' Compensation Law in ch. 440, F.S., includes provisions that incentivize drug-free workplaces, and sets out the notice, educational, and procedural requirements that an employer must follow to implement the employee and applicant drug testing that is a component of such workplaces.[1]

If an employer implements a drug-free workplace program that conforms to applicable law and rules, the employer is eligible for workers' compensation and employer's liability insurance discounts[2] of up to five percent,[3] and the employer may require an employee to submit to a test for the presence of drugs or alcohol. If an employee in a drug-free workplace program tests positive for drugs or alcohol, the employee may be terminated, and forfeits his or her eligibility for medical and indemnity benefits.[4]

For the purposes of the drug-free workplace program under s. 440.102, F.S.:

- "Drug" means alcohol, including a distilled spirit, wine, a malt beverage, or an intoxicating liquor; an amphetamine; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug; or a metabolite of any of the substances listed in this paragraph.
- "Drug test" or "test" means any chemical, biological, or physical instrumental analysis administered, by a laboratory certified by the U.S. Department of Health and Human Services or licensed by the Agency for Health Care Administration (AHCA), for the purpose of determining the presence or absence of a drug or its metabolites.
- "Employer" means a person or entity that employs a person and that is covered by the Workers' Compensation Law.
- "Specimen" means tissue, hair, or a product of the human body capable of revealing the presence of drugs or their metabolites, as approved by the U.S. Food and Drug Administration or the AHCA.[5]

Prior to testing, an employer must give all employees and applicants for employment a written policy statement that contains certain information, including:

- The employer's policy on employee drug use,
- The consequences of refusing to submit to a drug test, and
- A list of all drugs for which the employer will test, described by brand, common and chemical name.

An employer must include notice of drug testing on vacancy announcements for positions for which drug testing is required.[6]

An employer is required to conduct job applicant, reasonable-suspicion, and routine fitness-for-duty drug testing. If an employee in the course of employment enters an employee assistance program for

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[1] *See* ss. 440.101 and 440.102, F.S.
[2] S. 440.102(2), F.S. See s. 627.0915, F.S., providing that the Office of Insurance Regulation must approve rating plans for workers' compensation and employers' liability insurance that give specific identifiable consideration in the setting of rates to employers that implement a drug-free workplace program pursuant to s. 440.102 F.S., and attendant rules.
[3] R. 69L-5.220, F.A.C.
[4] S. 440.101(2), F.S.
[5] S. 440.102(1), F.S.
[6] S. 440.102(3)(c), F.S.

drug-related problems, or a drug rehabilitation program, the employer must require the employee to submit to a drug test as a follow-up to such program, unless the employee voluntarily entered the program. If follow-up testing is required, it must be conducted at least once a year for a 2-year period after completion of the program.[7]

Specimen collection and testing for drugs pursuant to s. 440.102, F.S., must be performed in accordance with the procedures set forth in the statute.

An employee or job applicant whose drug test result is confirmed as positive in accordance with s. 440.102, F.S., must not, by virtue of the result alone, be deemed to have a "handicap" or "disability" as defined under federal, state, or local handicap and disability discrimination laws.

An employer who discharges or disciplines an employee or refuses to hire a job applicant in compliance with this section is considered to have discharged, disciplined, or refused to hire for cause.

Effect of the Bill

The bill makes numerous changes to the definitions, requirements, and procedures relating to drug-free workplaces for Workers' Compensation Law employers under s. 440.102, F.S. Specifically, the bill:

- Amends the definition of "drug" to include any form of alcohol, including ethanol, methanol, propanol, and isopropanol; any controlled substance identified under Schedules I, II, III, IV, or Schedule V of s. 893.03, F.S.;[8] and any controlled substance identified under Schedules I, II, III, IV, or V of the Controlled Substances Act, 21 U.S.C. § 812(c).
- Amends the definition of "drug test," to provide that when testing for alcohol, the drug test must be conducted in accordance with the United States Department of Transportation alcohol testing procedures authorized under 49 C.F.R. part 40, subparts J through M.[9]
- Adds the U.S. Department of Health and Human Services (HHS) and U.S. Department of Transportation (USDOT) to the definition of "specimen".
- Changes the written policy statement that employers are required to give to all employees and applicants prior to testing by removing from the procedures the requirement that employees and job applicants could confidentially report to a medical review officer their use of medications *both before and after being tested.* The bill also removes the requirement that the policy contain the brand name of drugs being tested for.
- Increases the required frequency of mandatory followup drug testing for certain employees from at least once a year for a two-year period to at least six times in the first year and up to two times in the second year.
- Provides that a specimen container for saliva or breath testing is not required when the specimen is not being transported to a laboratory for analysis.
- Removes a requirement that a form must be provided upon which an employee may provide information considered by the employee to be relevant to the test, including the use of medication, and deletes the requirement that such information be taken into account in interpreting positive confirmed test results.

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[7] S. 440.102(4), F.S.

[8] Section 893.03, F.S., classifies controlled substances into five categories, known as schedules. These schedules regulate the manufacture, distribution, preparation, and dispensing of the substances listed in the schedules. The most important factors in determining the schedule classification of a substance are the "potential for abuse" of the substance and whether there is a currently accepted medical use for the substance in the United States.

[9] This rule describes required procedures for conducting workplace drug and alcohol testing for the federally regulated transportation industry. *See* USDOT, *Overview of 49 CFR Part 40*, https://www.transportation.gov/odapc/part40 (last visited January 27, 2020).

- Replaces a requirement that a drug test specimen may be taken or collected by a physician, physician assistant, registered professional nurse, licensed practical nurse, nurse practitioner, certified paramedic at scene of accident, or qualified lab employee with a requirement that a specimen may be collected by a person who meets the qualification standards for urine or oral fluid specimen collection as specified by the HHS or the USDOT. For alcohol testing, a person must meet the USDOT for a screening test technician or a breath alcohol technician. A hair specimen may be collected and packaged by a person who has been trained and certified by a drug testing laboratory. A person who directly supervises an employee subject to testing may not serve as the specimen collector for that employee unless there is no other qualified specimen collector available.
- Clarifies that a specimen amount should be sufficient for two independent drug tests - one to screen the specimen and one to confirm the screening results.
- Extends the amount of time that a positive, confirmed test must be preserved, from "210 days after the result of the test was mailed or otherwise delivered to the medical review officer" to one year after the confirmation test was conducted.
- Shortens from 180 days to 60 days the period after a positive test during which an employee or applicant may have the sample retested.
- Provides that a second lab must test the specimen at the limit of detection for the drug or analyte confirmed by the original, and if the drug or analyte is detected by the second laboratory, the result must be reported as reconfirmed positive.
- Removes a requirement that an applicant or employee's explanation or challenge of a positive test must be provided to the applicant or employee.
- Removes the requirement that an employee must verify a positive test result with a confirmation test prior to taking adverse action against an employee or job applicant, and creates an exception when a confirmed positive breath alcohol test was conducted in accordance with U.S. Department of Transportation alcohol testing procedures.
- Allows an employer that performs drug testing or specimen collection to follow chain-of-custody procedures established by HHS or USDOT.
- Removes a provision specifying that, if an initial drug test is negative, the employer may in its sole discretion seek a confirmation test, and removes a provision that only licensed or certified laboratories may conduct confirmation drug tests.
- Provides that all laboratory positive initial tests on a urine, oral fluid, blood, or hair specimen must be confirmed using gas chromatography/mass spectrometry or an equivalent or more accurate scientifically accepted method approved by the HHS or the USDOT, and removes a provision that the tests can be confirmed by methods approved by the AHCA or the U.S. Food and Drug Administration.
- Provides that for a breath alcohol test, an initial positive result must be confirmed by a second breath specimen taken and tested using an evidential breath testing device listed on the conforming products list issued by the National Highway Traffic Safety Administration and conducted in accordance with USDOT alcohol testing procedures.
- Removes a requirement that lab reports of drug tests must include any correlation between medication reported by the employee or applicant and the test result.

The bill provides an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1 Amends s. 440.102, F.S., revising definitions; revising the contents of an employer policy statement with respect to employee drug use; revising the frequency of followup testing; revising specimen collection, verification, and documentation procedures; revising

requirements for confirmation testing; conforming provisions to changes made by the act; revising minimum requirements for laboratory reports of a drug test result.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. If the amended testing standards in the bill reduce the number of drug-testing facilities that can comply, those drug-testing facilities that can comply should see an increase in the number of tests they perform.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to drug-free workplaces; amending s. 440.102, F.S.; revising definitions; revising the contents of an employer policy statement with respect to employee drug use; revising the frequency of followup testing; revising specimen collection, verification, and documentation procedures; revising requirements for confirmation testing; conforming provisions to changes made by the act; revising minimum requirements for laboratory reports of a drug test result; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraphs (c), (e), and (q) of subsection (1), paragraph (a) of subsection (3), paragraph (a) of subsection (4), paragraphs (b), (c), (e), (f), (g), (h), (j), (k), and (l) of subsection (5), subsection (6), paragraph (a) of subsection (7), and paragraph (c) of subsection (9) of section 440.102, Florida Statutes, are amended to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) DEFINITIONS.—Except where the context otherwise

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

requires, as used in this act:

(c) "Drug" means any form of alcohol, as defined in s. 322.01(2), including a distilled spirit, wine, a malt beverage, or an intoxicating preparation; any controlled substance identified under Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V of s. 893.03; any controlled substance identified under Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s. 812(c) ~~liquor; an amphetamine; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug~~; or a metabolite of any of the substances listed in this paragraph. An employer may test an individual for any or all of such drugs.

(e) "Drug test" or "test" means any chemical, biological, or physical instrumental analysis administered~~,~~ by a laboratory certified by the United States Department of Health and Human Services or licensed by the Agency for Health Care Administration~~,~~ for the purpose of determining the presence or absence of a drug or its metabolites. In the case of testing for the presence of alcohol, the test shall be conducted in accordance with United States Department of Transportation alcohol testing procedures authorized under 49 C.F.R. part 40, subparts J through M.

(q) "Specimen" means tissue, hair, or a product of the

human body capable of revealing the presence of drugs or their metabolites, as approved by the United States Food and Drug Administration, ~~or~~ the Agency for Health Care Administration, the United States Department of Health and Human Services, or the United States Department of Transportation.

(3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.—

(a) One time only, before ~~prior to~~ testing, an employer shall give all employees and job applicants for employment a written policy statement that ~~which~~ contains:

1. A general statement of the employer's policy on employee drug use, which must identify:

a. The types of drug testing an employee or job applicant may be required to submit to, including reasonable-suspicion drug testing or drug testing conducted on any other basis.

b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

2. A statement advising the employee or job applicant of the existence of this section.

3. A general statement concerning confidentiality.

4. Procedures for employees and job applicants to confidentially report to a medical review officer the use of prescription or nonprescription medications ~~to a medical review officer both before and after being tested~~.

5. A list of the most common medications, by brand name or

common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications as developed by the Agency for Health Care Administration shall be available to employers through the department.

6. The consequences of refusing to submit to a drug test.

7. A representative sampling of names, addresses, and telephone numbers of employee assistance programs and local drug rehabilitation programs.

8. A statement that an employee or job applicant who receives a positive confirmed test result may contest or explain the result to the medical review officer within 5 working days after receiving written notification of the test result; that if an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the employer; and that a person may contest the drug test result pursuant to law or to rules adopted by the Agency for Health Care Administration.

9. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil action brought pursuant to this section.

10. A list of all drugs for which the employer will test, described by ~~brand name or~~ common name~~, as applicable,~~ as well as by chemical name.

11. A statement regarding any applicable collective

bargaining agreement or contract and the right to appeal to the Public Employees Relations Commission or applicable court.

12. A statement notifying employees and job applicants of their right to consult with a medical review officer for technical information regarding prescription or nonprescription medication.

(4) TYPES OF TESTING.—

(a) An employer is required to conduct the following types of drug tests:

1. Job applicant drug testing.—An employer must require job applicants to submit to a drug test and may use a refusal to submit to a drug test or a positive confirmed drug test as a basis for refusing to hire a job applicant.

2. Reasonable-suspicion drug testing.—An employer must require an employee to submit to reasonable-suspicion drug testing.

3. Routine fitness-for-duty drug testing.—An employer must require an employee to submit to a drug test if the test is conducted as part of a routinely scheduled employee fitness-for-duty medical examination that is part of the employer's established policy or that is scheduled routinely for all members of an employment classification or group.

4. Followup drug testing.—If the employee in the course of employment enters an employee assistance program for drug-related problems, or a drug rehabilitation program, the employer

must require the employee to submit to a drug test as a followup to such program, unless the employee voluntarily entered the program. In those cases, the employer has the option to not require followup testing. If followup testing is required, it must be conducted at least six times in the first year, and may be conducted twice for 1 additional year ~~once a year for a 2-year period~~ after completion of the program. Advance notice of a followup testing date must not be given to the employee to be tested.

(5) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen collection and testing for drugs under this section shall be performed in accordance with the following procedures:

(b) Specimen collection must be documented, and the documentation procedures shall include the~~:~~

~~1.~~ labeling of specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results. For saliva or breath alcohol testing, a specimen container is not required if the specimen is not being transported to a laboratory for analysis.

~~2. A form for the employee or job applicant to provide any information he or she considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical information. The form must provide notice of the most common medications by brand name or common name, as applicable, as well~~

~~as by chemical name, which may alter or affect a drug test. The providing of information shall not preclude the administration of the drug test, but shall be taken into account in interpreting any positive confirmed test result.~~

(c) Specimen collection, storage, and transportation to a laboratory ~~the testing site~~ shall be performed in a manner that reasonably precludes contamination or adulteration of specimens.

(e) A specimen for a drug test may be taken or collected by any person who meets the qualification standards for urine or oral fluid specimen collection as specified by the United States Department of Health and Human Services or the United States Department of Transportation. For alcohol testing, a person must meet the United States Department of Transportation standards for a screening test technician or a breath alcohol technician. A hair specimen may be collected and packaged by a person who has been trained and certified by a drug testing laboratory. A person who directly supervises an employee subject to testing may not serve as the specimen collector for that employee unless there is no other qualified specimen collector available. ~~of the following persons:~~

~~1. A physician, a physician assistant, a registered professional nurse, a licensed practical nurse, or a nurse practitioner or a certified paramedic who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment.~~

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~~2. A qualified person employed by a licensed or certified laboratory as described in subsection (9).~~

(f) A person who collects or takes a specimen for a drug test shall collect an amount sufficient for two independent drug tests, one to screen the specimen and one for confirmation of the screening results, at a laboratory as determined by the Agency for Health Care Administration.

(g) Every specimen that produces a positive, confirmed test result shall be preserved by the licensed or certified laboratory that conducted the confirmation test for a period of at least 1 year after the confirmation test was conducted ~~210 days after the result of the test was mailed or otherwise delivered to the medical review officer~~. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or job applicant shall notify the laboratory and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 60-day ~~180-day~~ period after written notification of a positive test result, the employee or job applicant who has provided the specimen shall be permitted by the employer to have a portion of the specimen retested, at the employee's or job applicant's expense, at another laboratory, licensed and approved by the Agency for Health Care Administration, chosen by the employee or job applicant. The second laboratory must test the specimen at the limit of detection for the drug or analyte

confirmed by the original ~~at equal or greater sensitivity for the drug in question as the first~~ laboratory. If the drug or analyte is detected by the second laboratory, the result shall be reported as reconfirmed positive. The first laboratory that performed the test for the employer is responsible for the transfer of the portion of the specimen to be retested, and for the integrity of the chain of custody during such transfer.

(h) Within 5 working days after receipt of a positive verified ~~confirmed~~ test result from the medical review officer, an employer shall inform an employee or job applicant in writing of such positive test result, the consequences of such results, and the options available to the employee or job applicant. The employer shall provide to the employee or job applicant, upon request, a copy of the test results.

(j) ~~The employee's or job applicant's explanation or challenge of the positive test result is unsatisfactory to the employer, a written explanation as to why the employee's or job applicant's explanation is unsatisfactory, along with the report of positive result, shall be provided by the employer to the employee or job applicant; and~~ All ~~such~~ documentation of a positive test shall be kept confidential by the employer pursuant to subsection (8) and shall be retained by the employer for at least 1 year.

(k) An employer may not discharge, discipline, refuse to hire, discriminate against, or request or require rehabilitation

of an employee or job applicant on the sole basis of a positive test result that has not been reviewed and verified by ~~a confirmation test and by~~ a medical review officer, except when a confirmed positive breath alcohol test was conducted in accordance with United States Department of Transportation alcohol testing procedures.

(l) An employer that performs drug testing or specimen collection shall use chain-of-custody procedures established by the Agency for Health Care Administration, the United States Department of Health and Human Services, or the United States Department of Transportation to ensure proper recordkeeping, handling, labeling, and identification of all specimens tested.

(6) CONFIRMATION TESTING.—

~~(a) If an initial drug test is negative, the employer may in its sole discretion seek a confirmation test.~~

~~(b) Only licensed or certified laboratories as described in subsection (9) may conduct confirmation drug tests.~~

(a) ~~(c)~~ All laboratory positive initial tests on a urine, oral fluid, blood, or hair specimen shall be confirmed using gas chromatography/mass spectrometry (GC/MS) or an equivalent or more accurate scientifically accepted method approved by the United States Department of Health and Human Services or the United States Department of Transportation ~~Agency for Health Care Administration or the United States Food and Drug Administration as such technology becomes available in a cost-~~

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~~effective form~~.

(b)~~(d)~~ If a ~~an initial~~ drug test of an employee or job applicant is confirmed by the laboratory as positive, the employer's medical review officer shall provide technical assistance to the employer and to the employee or job applicant for the purpose of interpreting the test result to determine whether the result could have been caused by prescription or nonprescription medication taken by the employee or job applicant.

(c) For a breath alcohol test, an initial positive result shall be confirmed by a second breath specimen taken and tested using an evidential breath testing device listed on the conforming products list issued by the National Highway Traffic Safety Administration and conducted in accordance with United States Department of Transportation alcohol testing procedures authorized under 49 C.F.R. part 40, subparts J through M.

(7) EMPLOYER PROTECTION.—

(a) An employee or job applicant whose drug test result is confirmed or verified as positive in accordance with this section shall not, by virtue of the result alone, be deemed to have a "handicap" or "disability" as defined under federal, state, or local handicap and disability discrimination laws.

(9) DRUG-TESTING STANDARDS FOR LABORATORIES.—

(c) A laboratory shall disclose to the medical review officer a written positive confirmed test result report within 7

working days after receipt of the sample. All laboratory reports of a drug test result must, at a minimum, state:

1. The name and address of the laboratory that performed the test and the positive identification of the person tested.

2. Positive results on confirmation tests only, or negative results, as applicable.

3. A list of the drugs for which the drug analyses were conducted.

4. The type of tests conducted for both initial tests and confirmation tests and the minimum cutoff levels of the tests.

~~5. Any correlation between medication reported by the employee or job applicant pursuant to subparagraph (5)(b)2. and a positive confirmed drug test result.~~

A report must not disclose the presence or absence of any drug other than a specific drug and its metabolites listed pursuant to this section.

Section 2. This act shall take effect July 1, 2020.

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WORKFORCE DEVELOPMENT AND TOURISM SUBCOMMITTEE

HB 1297 by Rep. Robinson
Drug-free Workplaces

AMENDMENT SUMMARY
February 4, 2020

Amendment 1 by Rep. Robinson (Strike-All):

The amendment makes the following changes to the bill:

- Adds provisions that require urine sample validity testing for employees participating in the State Drug-Free Workplace Program under chapter 112, F.S., and the Drug-Free Workplace Program under chapter 440, F.S.
- Adds a statement of legislative intent regarding such urine sample validity testing.
- Removes a provision of the bill that increases the frequency of required follow-up drug testing for certain employees with a history of drug-related problems.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Workforce Development & Tourism Subcommittee

Representative Robinson offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Present subsections (13) through (17) of section 112.0455, Florida Statutes, are redesignated as subsections (14) through (18), respectively, a new subsection (13) is added to that section, and paragraph (b) of subsection (6) and paragraph (a) of present subsection (15) are amended, to read:

112.0455 Drug-Free Workplace Act.—

(6) NOTICE TO EMPLOYEES.—

(b) Prior to testing, all employees and job applicants for employment shall be given a written policy statement from the employer which contains:

1. A general statement of the employer's policy on employee drug use, which shall identify:

a. The types of testing an employee or job applicant may be required to submit to, including reasonable suspicion or other basis; and

b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

2. A statement advising the employee or job applicant of the existence of this section.

3. A general statement concerning confidentiality.

4. Procedures for employees and job applicants to confidentially report the use of prescription or nonprescription medications both before and after being tested. Additionally, employees and job applicants shall receive notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications shall be developed by the Agency for Health Care Administration.

5. The consequences of refusing to submit to a drug test.

6. Names, addresses, and telephone numbers of employee assistance programs and local alcohol and drug rehabilitation programs.

7. A statement that an employee or job applicant who receives a positive confirmed drug test result may contest or

explain the result to the employer within 5 working days after written notification of the positive test result. If an employee or job applicant's explanation or challenge is unsatisfactory to the employer, the person may contest the drug test result as provided by subsections (15) ~~(14)~~ and (16) ~~(15)~~.

8. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil actions brought pursuant to this section.

9. A list of all drugs for which the employer will test, described by brand names or common names, as applicable, as well as by chemical names.

10. A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the Public Employees Relations Commission.

11. A statement notifying employees and job applicants of their right to consult the testing laboratory for technical information regarding prescription and nonprescription medication.

(13) DRUG-TESTING STANDARDS; SAMPLE VALIDITY PRESCREENING.—Before a drug-testing facility licensed under part II of chapter 408 may perform any drug-screening test on a urine specimen collected in this state, prescreening tests must be performed to determine the validity of the specimen. The prescreening tests must be capable of detecting, or detecting

and defeating, novel or emerging urine drug-testing subversion technologies as described in this subsection.

(a) The drug-testing facility shall use urine sample validity screening tests that meet all of the following criteria:

1. A urine sample validity screening test for creatinine must use a 20 mg/dL cutoff concentration and must have minimal interferences from bilirubin and blood in the urine. The urine sample validity screening test must be able to discriminate between a creatinine level from an unadulterated urine sample and a creatinine level arising from overhydration or creatine or protein loading.

2. A urine sample validity screening test for oxidants must be able to detect the presence or effects of oxidant adulterants up to 6 days after sample collection, under the sample storage conditions outlined in the laboratory standards guideline adopted by rule by the Agency for Health Care Administration, and after any sample transport that is routinely involved.

3. Urine sample validity screening tests must be able to detect synthetic or freeze-dried urine substituted for the donor's urine for drug testing.

4. Urine sample validity screening tests must be validated for the detection of all of the additional adulterant classes represented by glutaraldehyde, salt, heavy metals, cationic

92 detergents, protease, strong alkaline buffers, and strong acidic
93 buffers. The detection limits of these classes must be at a
94 sufficient level to detect a nonphysiologic sample or
95 interference with enzyme immunoassay drug screening tests.
96 (b) The drug-testing facility may use only urine sample
97 validity screening tests that have undergone validation studies
98 conducted by the manufacturer to document the product's
99 conformance to the requirements of this subsection.
100 (c) A drug-testing facility may rely on urine sample
101 validity screening tests to determine if confirmation testing is
102 required for any urine sample that has been deemed invalid for
103 drug screening.
104 (d) Urine specimens collected in this state may not be
105 sent for drug screening tests to a drug-testing facility located
106 outside of this state unless such drug-testing facility complies
107 with all requirements of this subsection.
108 (e) The Agency for Health Care Administration shall adopt
109 rules necessary for the implementation and enforcement of this
110 subsection.
111 (16) ~~(15)~~ NONDISCIPLINE REMEDIES.—
112 (a) Any person alleging a violation of ~~the provisions of~~
113 this section, that is not remediable by the commission or an
114 arbitrator pursuant to subsection (15) ~~(14)~~, must institute a
115 civil action for injunctive relief or damages, or both, in a
116 court of competent jurisdiction within 180 days of the alleged

violation, or be barred from obtaining the following relief. Relief is limited to:

1. An order restraining the continued violation of this section.

2. An award of the costs of litigation, expert witness fees, reasonable attorney ~~attorney's~~ fees, and noneconomic damages provided that damages shall be limited to the recovery of damages directly resulting from injury or loss caused by each violation of this section.

Section 2. Present subsections (9) through (15) of section 440.102, Florida Statutes, are redesignated as subsections (10) through (16), respectively, a new subsection (9) is added to that section, and paragraphs (c), (e), and (q) of subsection (1), paragraph (a) of subsection (3), paragraphs (b) through (h), (j), (k), and (l) of subsection (5), subsection (6), paragraph (a) of subsection (7), and paragraphs (b) and (c) of present subsection (9) of that section are amended, to read:

440.102 Drug-free workplace program requirements.—The following provisions apply to a drug-free workplace program implemented pursuant to law or to rules adopted by the Agency for Health Care Administration:

(1) DEFINITIONS.—Except where the context otherwise requires, as used in this act:

(c) "Drug" means any form of alcohol, as defined in s. 322.01(2), including a distilled spirit, wine, a malt beverage,

or an intoxicating preparation; any controlled substance identified under Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V of s. 893.03; any controlled substance identified under Schedule I, Schedule II, Schedule III, Schedule IV, or Schedule V of the Controlled Substances Act, 21 U.S.C. s. 812(c) ~~liquor; an amphetamine; a cannabinoid; cocaine; phencyclidine (PCP); a hallucinogen; methaqualone; an opiate; a barbiturate; a benzodiazepine; a synthetic narcotic; a designer drug~~; or a metabolite of any of the substances listed in this paragraph. An employer may test an individual for any or all ~~of~~ such drugs.

(e) "Drug test" or "test" means any chemical, biological, or physical instrumental analysis administered~~,~~ by a laboratory certified by the United States Department of Health and Human Services or licensed by the Agency for Health Care Administration~~,~~ for the purpose of determining the presence or absence of a drug or its metabolites. In the case of testing for the presence of alcohol, the test must be conducted in accordance with the United States Department of Transportation alcohol testing procedures authorized under 49 C.F.R. part 40, subparts J through M.

(q) "Specimen" means tissue, hair, or a product of the human body capable of revealing the presence of drugs or their metabolites, as approved by the United States Food and Drug Administration, ~~or~~ the Agency for Health Care Administration,

the United States Department of Health and Human Services, or the United States Department of Transportation.

(3) NOTICE TO EMPLOYEES AND JOB APPLICANTS.—

(a) One time only, before ~~prior to~~ testing, an employer shall give all employees and job applicants for employment a written policy statement that ~~which~~ contains:

1. A general statement of the employer's policy on employee drug use, which must identify:

a. The types of drug testing an employee or job applicant may be required to submit to, including reasonable-suspicion drug testing or drug testing conducted on any other basis.

b. The actions the employer may take against an employee or job applicant on the basis of a positive confirmed drug test result.

2. A statement advising the employee or job applicant of the existence of this section.

3. A general statement concerning confidentiality.

4. Procedures for employees and job applicants to confidentially report to a medical review officer the use of prescription or nonprescription medications ~~to a medical review officer both before and after being tested~~.

5. A list of the most common medications, by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. A list of such medications as

developed by the Agency for Health Care Administration shall be available to employers through the department.

6. The consequences of refusing to submit to a drug test.

7. A representative sampling of names, addresses, and telephone numbers of employee assistance programs and local drug rehabilitation programs.

8. A statement that an employee or job applicant who receives a positive confirmed test result may contest or explain the result to the medical review officer within 5 working days after receiving written notification of the test result; that if an employee's or job applicant's explanation or challenge is unsatisfactory to the medical review officer, the medical review officer shall report a positive test result back to the employer; and that a person may contest the drug test result pursuant to law or to rules adopted by the Agency for Health Care Administration.

9. A statement informing the employee or job applicant of his or her responsibility to notify the laboratory of any administrative or civil action brought pursuant to this section.

10. A list of all drugs for which the employer will test, described by ~~brand name or~~ common name, as applicable, as well as by chemical name.

11. A statement regarding any applicable collective bargaining agreement or contract and the right to appeal to the Public Employees Relations Commission or applicable court.

12. A statement notifying employees and job applicants of their right to consult with a medical review officer for technical information regarding prescription or nonprescription medication.

(5) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen collection and testing for drugs under this section shall be performed in accordance with the following procedures:

(b) Specimen collection must be documented, and the documentation procedures shall include the:

~~1.~~ labeling of specimen containers so as to reasonably preclude the likelihood of erroneous identification of test results. For saliva or breath alcohol testing, a specimen container is not required if the specimen is not being transported to a laboratory for analysis

~~2. A form for the employee or job applicant to provide any information he or she considers relevant to the test, including identification of currently or recently used prescription or nonprescription medication or other relevant medical information. The form must provide notice of the most common medications by brand name or common name, as applicable, as well as by chemical name, which may alter or affect a drug test. The providing of information shall not preclude the administration of the drug test, but shall be taken into account in interpreting any positive confirmed test result~~.

(c) Specimen collection, storage, and transportation to a laboratory ~~the testing site~~ shall be performed in a manner that reasonably precludes contamination or adulteration of specimens.

(d) Each confirmation test conducted under this section, not including the taking or collecting of a specimen to be tested, shall be conducted by a licensed or certified laboratory as described in subsection (10) ~~(9)~~.

(e) A specimen for a drug test may be taken or collected by any person who meets the qualification standards for urine or oral fluid specimen collection as specified by the United States Department of Health and Human Services or the United States Department of Transportation. For alcohol testing, a person must meet the United States Department of Transportation standards for a screening test technician or a breath alcohol technician. A hair specimen may be collected and packaged by a person who has been trained and certified by a drug-testing laboratory. A person who directly supervises an employee subject to testing may not serve as the specimen collector for that employee unless there is no other qualified specimen collector available ~~of the following persons:~~

~~1. A physician, a physician assistant, a registered professional nurse, a licensed practical nurse, or a nurse practitioner or a certified paramedic who is present at the scene of an accident for the purpose of rendering emergency medical service or treatment.~~

~~2. A qualified person employed by a licensed or certified laboratory as described in subsection (9).~~

(f) A person who collects or takes a specimen for a drug test shall collect an amount sufficient for two independent drug tests, one to screen the specimen and one for confirmation of the screening test results, at a laboratory as determined by the Agency for Health Care Administration.

(g) Every specimen that produces a positive, confirmed test result shall be preserved by the licensed or certified laboratory that conducted the confirmation test for a period of at least 1 year after the confirmation test was conducted ~~210 days after the result of the test was mailed or otherwise delivered to the medical review officer~~. However, if an employee or job applicant undertakes an administrative or legal challenge to the test result, the employee or job applicant shall notify the laboratory and the sample shall be retained by the laboratory until the case or administrative appeal is settled. During the 60-day ~~180-day~~ period after written notification of a positive test result, the employee or job applicant who has provided the specimen shall be permitted by the employer to have a portion of the specimen retested, at the employee's or job applicant's expense, at another laboratory, licensed and approved by the Agency for Health Care Administration, chosen by the employee or job applicant. The second laboratory must test the specimen at the limit of detection for the drug or analyte

confirmed by the original ~~at equal or greater sensitivity for the drug in question as the first~~ laboratory. If the drug or analyte is detected by the second laboratory, the result must be reported as reconfirmed positive. The first laboratory that performed the test for the employer is responsible for the transfer of the portion of the specimen to be retested, and for the integrity of the chain of custody during such transfer.

(h) Within 5 working days after receipt of a positive verified ~~confirmed~~ test result from the medical review officer, an employer shall inform an employee or job applicant in writing of such positive test result, the consequences of such result ~~results~~, and the options available to the employee or job applicant. The employer shall provide to the employee or job applicant, upon request, a copy of the test results.

(j) ~~The employee's or job applicant's explanation or challenge of the positive test result is unsatisfactory to the employer, a written explanation as to why the employee's or job applicant's explanation is unsatisfactory, along with the report of positive result, shall be provided by the employer to the employee or job applicant; and~~ All ~~such~~ documentation of a positive test shall be kept confidential by the employer pursuant to subsection (8) and shall be retained by the employer for at least 1 year.

(k) An employer may not discharge, discipline, refuse to hire, discriminate against, or request or require rehabilitation

of an employee or job applicant on the sole basis of a positive test result that has not been reviewed and verified by ~~a confirmation test and by~~ a medical review officer, except when a confirmed positive breath alcohol test was conducted in accordance with United States Department of Transportation alcohol testing procedures.

(l) An employer that performs drug testing or specimen collection shall use chain-of-custody procedures established by the Agency for Health Care Administration, the United States Department of Health and Human Services, or the United States Department of Transportation to ensure proper recordkeeping, handling, labeling, and identification of all specimens tested.

(6) CONFIRMATION TESTING.—

(a) ~~If an initial drug test is negative, the employer may in its sole discretion seek a confirmation test.~~

~~(b) Only licensed or certified laboratories as described in subsection (9) may conduct confirmation drug tests.~~

~~(c)~~ All laboratory positive initial tests on a urine, oral fluid, blood, or hair specimen shall be confirmed using gas chromatography/mass spectrometry (GC/MS) or an equivalent or more accurate scientifically accepted method approved by the United States Department of Health and Human Services or the United States Department of Transportation ~~Agency for Health Care Administration or the United States Food and Drug~~

~~Administration as such technology becomes available in a cost-effective form~~.

(b) ~~(d)~~ If a ~~an initial~~ drug test of an employee or job applicant is confirmed by the laboratory as positive, the employer's medical review officer shall provide technical assistance to the employer and to the employee or job applicant for the purpose of interpreting the test result to determine whether the result could have been caused by prescription or nonprescription medication taken by the employee or job applicant.

(c) For a breath alcohol test, an initial positive result must be confirmed by a second breath specimen taken and tested using an evidential breath testing device listed on the conforming products list issued by the National Highway Traffic Safety Administration and conducted in accordance with United States Department of Transportation alcohol testing procedures authorized under 49 C.F.R. part 40, subparts J through M.

(7) EMPLOYER PROTECTION.—

(a) An employee or job applicant whose drug test result is confirmed or verified as positive in accordance with this section shall not, by virtue of the result alone, be deemed to have a "handicap" or "disability" as defined under federal, state, or local handicap and disability discrimination laws.

(9) DRUG-TESTING STANDARDS; SAMPLE VALIDITY PRESCREENING.—Before a drug-testing facility licensed under part II of chapter

408 may perform any drug screening test on a urine specimen collected in this state, prescreening tests must be performed to determine the validity of the specimen. The prescreening tests must be capable of detecting, or detecting and defeating, novel or emerging urine drug-testing subversion technologies as described in this subsection.

(a) The drug-testing facility shall use urine sample validity screening tests that meet all of the following criteria:

1. A urine sample validity screening test for creatinine must use a 20 mg/dL cutoff concentration and must have minimal interferences from bilirubin and blood in the urine. The urine sample validity screening test must be able to discriminate between a creatinine level from an unadulterated urine sample and a creatinine level arising from overhydration or creatine or protein loading.

2. A urine sample validity screening test for oxidants must be able to detect the presence or effects of oxidant adulterants up to 6 days after sample collection, under the sample storage conditions outlined in the laboratory standards guideline adopted by rule by the Agency for Health Care Administration, and after any sample transport that is routinely involved.

3. Urine sample validity screening tests must be able to detect synthetic or freeze-dried urine substituted for the donor's urine for drug testing.

4. Urine sample validity screening tests must be validated for the detection of all of the additional adulterant classes represented by glutaraldehyde, salt, heavy metals, cationic detergents, protease, strong alkaline buffers, and strong acidic buffers. The detection limits of these classes must be at a sufficient level to detect a nonphysiologic sample or interference with enzyme immunoassay drug-screening tests.

(b) The drug-testing facility may use only urine sample validity screening tests that have undergone validation studies conducted by the manufacturer to document the product's conformance to the requirements of this subsection.

(c) A drug-testing facility may rely on urine sample validity screening tests to determine if confirmation testing is required for any urine sample that has been deemed invalid for drug screening.

(d) Urine specimens collected in this state may not be sent for drug-screening tests to a drug-testing facility located outside of this state unless such drug-testing facility complies with all requirements of this subsection.

(e) The Agency for Health Care Administration shall adopt rules necessary for the implementation and enforcement of this subsection.

(10)~~(9)~~ DRUG-TESTING STANDARDS FOR LABORATORIES.—

(b) A laboratory may analyze initial or confirmation test specimens only if:

1. The laboratory obtains a license under part II of chapter 408 and s. 112.0455(18) ~~s. 112.0455(17)~~. Each applicant for licensure and each licensee must comply with all requirements of this section, part II of chapter 408, and applicable rules.

2. The laboratory has written procedures to ensure the chain of custody.

3. The laboratory follows proper quality control procedures, including, but not limited to:

a. The use of internal quality controls, including the use of samples of known concentrations which are used to check the performance and calibration of testing equipment, and periodic use of blind samples for overall accuracy.

b. An internal review and certification process for drug test results, conducted by a person qualified to perform that function in the testing laboratory.

c. Security measures implemented by the testing laboratory to preclude adulteration of specimens and drug test results.

d. Other necessary and proper actions taken to ensure reliable and accurate drug test results.

(c) A laboratory shall disclose to the medical review officer a written positive confirmed test result report within 7

working days after receipt of the sample. All laboratory reports of a drug test result must, at a minimum, state:

1. The name and address of the laboratory that performed the test and the positive identification of the person tested.

2. Positive results on confirmation tests only, or negative results, as applicable.

3. A list of the drugs for which the drug analyses were conducted.

4. The type of tests conducted for both initial tests and confirmation tests and the minimum cutoff levels of the tests.

~~5. Any correlation between medication reported by the employee or job applicant pursuant to subparagraph (5)(b)2. and a positive confirmed drug test result.~~

A report must not disclose the presence or absence of any drug other than a specific drug and its metabolites listed pursuant to this section.

Section 3. Paragraph (b) of subsection (11) of section 443.101, Florida Statutes, is amended to read:

443.101 Disqualification for benefits.—An individual shall be disqualified for benefits:

(11) If an individual is discharged from employment for drug use as evidenced by a positive, confirmed drug test as provided in paragraph (1)(d), or is rejected for offered employment because of a positive, confirmed drug test as

provided in paragraph (2)(c), test results and chain of custody documentation provided to the employer by a licensed and approved drug-testing laboratory is self-authenticating and admissible in reemployment assistance hearings, and such evidence creates a rebuttable presumption that the individual used, or was using, controlled substances, subject to the following conditions:

(b) Only laboratories licensed and approved as provided in s. 440.102(10) ~~s. 440.102(9),~~ or as provided by equivalent or more stringent licensing requirements established by federal law or regulation may perform the drug tests.

Section 4. This act shall take effect July 1, 2020.

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to drug-free workplaces; amending s. 112.0455, F.S.; requiring licensed drug-testing facilities to perform prescreening tests on urine specimens to determine the specimens' validity; specifying requirements for such tests; authorizing such facilities to rely on such tests to determine if confirmation testing is required; providing that urine specimens may not be sent to an out-of-state facility

unless the facility complies with certain requirements; authorizing the Agency for Health Care Administration to adopt rules; conforming cross-references; amending s. 440.102, F.S.; revising definitions; revising information required in a written policy statement provided to employees and job applicants before drug testing; revising procedures for specimen collection, testing, and preservation; revising qualifications for persons who may take or collect specimens for a drug test; revising requirements and procedures for retesting specimens; deleting and revising confidentiality requirements for employers relating to certain information; revising circumstances under which an employer may take certain actions as to an employee or a job applicant on the sole basis of certain positive test results; revising standards for chain-of-custody procedures; revising requirements and authorized actions relating to confirmation testing; requiring licensed drug-testing facilities to perform prescreening tests on urine specimens to determine the specimens' validity; specifying requirements for such tests; authorizing such facilities to rely on such tests to determine if confirmation testing is required; providing that urine specimens may not be sent to an out-of-state facility

unless the facility complies with certain requirements; authorizing the agency to adopt rules; conforming provisions to changes made by the act; amending s. 443.101, F.S.; conforming a cross-reference; providing an effective date.

WHEREAS, the State of Florida has a profound interest in the health and welfare of its citizens, and

WHEREAS, new and emerging drug-testing subversion technologies represent a significant threat to the ability to properly identify those suffering from addiction and drug abuse, and

WHEREAS, the Legislature, therefore, seeks to require urine sample validity testing, such that those persons being tested can be properly and promptly identified for referral to drug treatment programs and other health care services, NOW, THEREFORE,

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1271 State Economic Development Entities
SPONSOR(S): Workforce Development & Tourism Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Workforce Development & Tourism Subcommittee		Willson MW	Barry MJB

SUMMARY ANALYSIS

CareerSource is a not-for-profit corporation that serves as Florida's state-level workforce investment board. CareerSource is responsible for developing and implementing a 5-year plan for the statewide workforce system in collaboration with the Department of Economic Opportunity (DEO), the local workforce development boards, and one-stop career centers to ensure that workforce services provided are consistent with state and local plans. CareerSource also provides state-level policy, planning, performance evaluation, and oversight of the delivery of workforce services. Current law specifies that CareerSource is administratively housed within DEO but that it is not subject to control, supervision, or direction by DEO in any manner.

The bill replaces CareerSource with a "state board" for the purpose of workforce development and administration in Florida. The bill provides for the state board to serve as the board of directors for CareerSource, and requires CareerSource to support and work at the direction of the state board, in consultation with DEO. The bill repeals the provision stating that CareerSource is not subject to the control, supervision, or direction of DEO, and specifies that CareerSource must operate under agreement with DEO. The bill reassigns many of CareerSource's powers, duties and responsibilities to DEO or the state board, or a combination of the two. The bill also makes a number of conforming changes to reflect this adjustment in the relationship between DEO, CareerSource Florida, and the state board.

The Florida Development Finance Corporation (FDFC) is a statewide development financing authority created by the Legislature in 1993. The FDFC operates as a conduit bond issuer that issues bonds on behalf of borrowers. FDFC is governed by a five-member board of directors who are appointed by the Governor and confirmed by the Senate for four-year terms.

The bill requires DEO to establish annual performance standards and develop a detailed report of the performance of FDFC each year, which will be included in DEO's annual report to the Governor, President and Speaker.

The bill increases the membership of the FDFC board from five to seven, adding the executive director of DEO (to serve as chair of the board) and the director of the Division of Bond Finance.

The bill provides that s. 288.9604, F.S., the statute creating and authorizing the FDFC, stands repealed October 1, 2022, and every fourth year thereafter, unless reviewed and saved from repeal by the Legislature.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida's Workforce Development System

The federal Workforce Investment Act of 1998 (WIA) was passed by Congress in an effort to improve the quality of the nation's workforce through implementation of a comprehensive workforce investment system.[1] WIA required each state to establish an investment board at the state level and to also establish workforce investment boards to represent local service areas.[2] WIA also called for the delivery of workforce development services through a system of "one-stop" centers in local communities.[3] Some key principles of WIA were to better integrate workforce services, empower individuals, provide universal access to participants, increase accountability, and improve youth programs.[4]

In response to WIA, Florida established a workforce development system under the Workforce Investment Act of 2000.[5] The act aimed to better connect the state's economic development strategies with its workforce development system and to implement the principles of the federal WIA.[6]

Federal Workforce Innovation and Opportunity Act of 2014

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which superseded the Workforce Investment Act of 1998.[7] WIOA requires each state to develop a single, unified plan for aligning workforce services through the identification and evaluation of core workforce programs.[8] In general, WIOA maintains the one-stop framework of WIA, and encompasses provisions aimed at streamlining services, easing reporting requirements, and reducing administrative barriers.[9] WIOA officially became effective on July 1, 2015, the first full program year after enactment.

Core Programs

WIOA identifies four core programs that must coordinate and complement each other in a manner that ensures job seekers have access to needed resources.[10] The core programs are:

- Adult, Dislocated Worker and Youth Programs;
- Employment Services under the Wagner-Peyser Employment Act;
- Vocational Rehabilitation Services; and
- Adult Education and Literacy Activities.

Performance Measures

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[1] Workforce Investment Act of 1998, 29 U.S.C. § 2801 (1998), *repealed by* Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, H.R. 803, 113th Cong. (July 22, 2014)(codified at 29 U.S.C. § 3101, et seq.).
[2] *See* 29 U.S.C. § 2821 and 29 U.S.C. § 2832 (1998).
[3] *See* 29 U.S.C. § 2841 (1998).
[4] *See* 29 U.S.C. § 2811 (1998).
[5] Ch. 2000-165, Laws of Fla.
[6] *See* s. 445.003, F.S.
[7] Workforce Innovation and Opportunity Act, 29 U.S.C. § 3101 et seq. (2014).
[8] *See* 29 U.S.C. § 3112(a).
[9] *See* 29 U.S.C. § 3111.
[10] *See* 29 U.S.C. § 3102(13).

In an effort to promote transparency and accountability, WIOA created a single set of common measures for the evaluation of core programs.[11] WIOA requires performance reports to be provided at the state, local, and trainer provider levels. The performance measures that now apply across all core programs are:

- The percentage of participants in unsubsidized employment during second quarter after exit;
- The percentage of participants in unsubsidized employment during fourth quarter after exit;
- The median earnings of participants during second quarter after exit;
- The percentage of participants who obtain a postsecondary credential or secondary school diploma within 1 year after exit;
- The achievement of measureable skill gains toward credentials or employment; and
- The effectiveness in serving employers.

State Workforce Development Plan

Using the common performance measures for core programs, WIOA requires each state to develop and submit a unified state plan based on a 4-year strategy for workforce development.[12] The state plan must describe an overall strategy for the core programs and how the strategy will meet needs for workers, job seekers, and employers.[13] WIOA also provides an option for states to submit a combined plan that outlines plans for the core programs along with additional workforce programs.[14]

Regional Planning and Local Workforce Development Boards

WIOA requires states to identify regional planning areas for workforce development strategies.[15] Within each area, a local workforce development board must be established.[16] Each local workforce development board is required to coordinate planning and service delivery strategies within their area.[17] Formulated strategies are then used by the local workforce development board to develop and submit a local plan for the delivery of workforce services.[18]

One-Stop Delivery System

WIOA aims to strengthen the one-stop delivery system by requiring each local area to have at least one comprehensive one-stop delivery provider.[19] A comprehensive one-stop delivery provider supplies physical access to services provided by core partners, as well as other mandatory partners.[20] WIOA mandates that each partner shares in the funding of services and infrastructure costs of the one-stop delivery system.[21]

Florida's Implementation of WIOA

In 2016, Florida made changes to the workforce development system to conform to the new federal guidelines established by WIOA.[22] Under the current workforce development system, DEO,

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[11] *See* 29 U.S.C. § 3141.
[12] *See* 29 U.S.C. § 3112(a).
[13] *See* 29 U.S.C. § 3112(b).
[14] *See* 29 U.S.C. § 3113.
[15] *See* 29 U.S.C. § 3121.
[16] *Id.*
[17] *See* 29 U.S.C. § 3122.
[18] *See* 29 U.S.C. § 3123.
[19] *See* 29 U.S.C. § 3151.
[20] Other mandatory partners may include programs under the Older Americans Act, Department of Housing and Urban Development, Social Security Act, Perkins Career and Technical Education Act, the Community Service Block Grant Act, and certain adult education and literacy activities. 29 U.S.C. § 3151(b).
[21] *See* 29 U.S.C. § 3151(2).
[22] Ch. 2016-216, Laws of Fla.

CareerSource, and 24 local workforce development boards act as partners in administering Florida's comprehensive system for the delivery of workforce strategies, services, and programs.

Department of Economic Opportunity (DEO)

DEO serves as Florida's lead workforce agency.[23] DEO is responsible for the fiscal and administrative affairs of the workforce development system.[24] DEO receives and distributes federal funds for employment-related programs to the local workforce development boards.[25] Additionally, under the direction of CareerSource, DEO must annually meet with each local workforce development board to review the board's performance and to certify that the board is in compliance with applicable state and federal law.[26]

CareerSource Florida, Inc. (CareerSource)

CareerSource Florida, Inc., a not-for-profit corporation, serves as Florida's state-level workforce development board.[27] CareerSource is responsible for the development of a 4-year plan that is consistent with the requirements of WIOA[28] and collaborates with DEO, the local workforce development boards, and one-stop service providers to ensure workforce services are consistent with state and local plans.[29] CareerSource also provides state-level policy direction, planning, and performance evaluation of the delivery of workforce services.[30]

Local Workforce Development Boards

Twenty-four local workforce development boards deliver Florida's workforce development services through over 100 one-stop service providers.[31] The one-stop service providers give Floridians access to available workforce services, including job placement, career counseling, and skills training.[32] Collectively, the local workforce development boards operate under a charter approved by CareerSource.[33] Each local workforce development board formulates a local budget and oversees the one-stop delivery system within its local area.[34]

Review of CareerSource Tampa Bay and CareerSource Pinellas

In response to a series of articles by the *Tampa Bay Times,*[35] reporting on questionable practices, violations and malfeasance by CareerSource Tampa Bay and CareerSource Pinellas, the US Department of Labor conducted a review of the two local workforce development boards. The review found "fake" job placements, falsified records, and a number of other violations of WIA and WIOA, resulting in over $17 million in questionable costs.[36]

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[23] Primarily through the Division of Workforce Services. *See* s. 20.60, F.S.
[24] S. 445.009(3)(c), F.S.
[25] *See* s. 445.003, F.S.
[26] *See* s. 445.007(3), F.S.
[27] S. 445.004(5)(a), F.S. Prior to 2014, CareerSource was known as Workforce Florida, Inc.
[28] S. 445.003(2), F.S.
[29] *See* s. 445.004, F.S.
[30] *Id.*
[31] DEO, *CareerSource Florida Network Directory*, http://lcd.floridajobs.org/ (last visited Jan. 17, 2020).
[32] *See* s. 445.009, F.S.
[33] *See* s. 445.004, F.S.
[34] S. 445.007(12), F.S.
[35] Puente and Sampson, *CareerSource: Read the entire investigation,* TAMPA BAY TIMES (Dec. 21, 2018), https://www.tampabay.com/investigations/2018/12/20/careersource-read-the-entire-investigation/ (last visited Jan. 22, 2020).
[36] U.S. Dept. of Labor, *Compliance Review of CareerSource Tampa Bay and CareerSource Pinellas* (May 15, 2019), http://floridajobs.org/docs/default-source/lwdb-resources/program-monitoring-and-reports/2019-usdol-compliance-review-and-deo-response/final-florida-compliance-review---cstb-csp-workforce-areas---16-may-2019.pdf?sfvrsn=2 (last visited Jan. 22, 2020)

In summary, the US Department of Labor reported that "The improper administration of Federal employment and training funds by the two local workforce boards lead to blatant non-compliance with WIOA requirements. This was further compounded by the lack of fiduciary oversight which fostered an environment vulnerable to mismanagement, waste, fraud, and abuse to occur undetected."[37] The report detailed 17 findings of non-compliance and 3 areas of concern.

Florida Development Finance Corporation

The Florida Development Finance Corporation (FDFC) is a statewide development financing authority created by the Legislature in 1993.[38] The original purpose of the FDFC was to foster the growth of manufacturing and other strong job-creating businesses in Florida by brokering private-activity bond financing through inter-local agreements with counties, municipalities, and other local political subdivisions.[39]

The FDFC is governed by a five-member board of directors who are appointed by the Governor and confirmed by the Senate for four-year terms.[40] At least three of the FDFC's directors must be bankers selected from a list of candidates nominated by the Enterprise Florida, Inc. (EFI), and one must be an economic development specialist.[41] The directors are vested with the FDFC's powers, and may take action on behalf of the corporation by a vote of a majority of the directors present at a meeting, unless otherwise required by the FDFC's bylaws.[42] The directors do not receive compensation for their service, but are entitled to necessary expenses, including travel expenses.[43] Lastly, the board is empowered to employ a staff to facilitate the FDFC's functions.[44]

The FDFC must provide an annual report to the Governor, the Legislature, the Auditor General, and the governing body of each public entity with which it has an interlocal agreement, which details:

- The FDFC's activities, operations, and accomplishments, including the specific number of businesses that the FDFC assisted;
- The FDFC's assets, liabilities, income, and operating expenses, including a description of all outstanding revenue bonds; and
- Any findings made by the Auditor General in an audit conducted pursuant to s. 11.45, F.S.

In the 2010 legislative session, the FDFC's responsibilities were broadened to allow it to participate in a federal Department of Energy guaranteed loan program for the development of renewable energy infrastructure projects, and related energy projects that may be eligible under federal law.[45] The FDFC has the power to function within the corporate limits of any public agency including local governments with which it enters into an inter-local agreement.[46]

Pursuant to s. 288.9605, F.S., the FDFC operates as a conduit bond issuer that issues bonds on behalf of borrowers.[47] While the FDFC functions as a mechanism to help borrowers access capital markets, it

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[37] *Id.*
[38] Ch. 288, part X, F.S. The corporation was created as a "public body corporate and politic" meaning that it is a legal entity or corporation with a public function. Ch. 93-187, ss. 24-45, Laws of Fla.
[39] S. 288.9602, F.S., generally expresses the legislative intent of the FDFC.
[40] S. 288.9604(2), F.S.
[41] S. 288.9604(2), F.S.
[42] S. 288.9604(3), F.S.
[43] S. 288.9604(3)(a)1., F.S.
[44] S. 288.9604(3)(c), F.S.
[45] Ch. 2010-139, ss. 2-10, Laws of Fla.
[46] S. 288.9605(2)(e), F.S.
[47] "[The] FDFC facilitated the issuance of debt obligations...[t]hese bonds do not constitute a general debt, liability or obligation of FDFC, the state, or any local government." Florida Development Finance Corporation, *Financial Statements for the Year Ended June 30, 2019*, 12 (on file with the Senate Committee on Commerce and Tourism). *See also*, FDFC, *Bond Financing*, https://www.fdfcbonds.com/traditional-bonds (last visited Jan. 21, 2020).

does not take on responsibility of debt repayment, even when a borrower fails to repay.[48] Conversely, the FDFC does not guarantee the bonds it issues but certain borrowers may opt in to the guaranty fund established by the FDFC pursuant to s. 288.9607, F.S., which guarantees that the bonds issued will be repaid. This guaranty fund consists of premiums paid by businesses that wish to participate in the fund and by a property interest in the infrastructure built with the insured bond's proceeds.[49]

A majority of the FDFC's financial assistance results from the issuance of municipal bonds, of which it may issue either a taxable revenue bond or a tax-exempt bond.[50] The bonds issued can provide financing for projects that further public purposes and are issued on behalf of a range of organizations.

Tax exempt bonds, known also as Private Activity Bonds, require additional borrower qualification processes, including approval pursuant to the Tax Equity and Fiscal Responsibility Act of 1986 (TEFRA) and allocation from the Florida State Board of Administration's Division of Bond Finance. These bonds are more lucrative financing options because they tend to have a lower interest rate than bank loans or taxable fixed-income securities, and investors benefit by not paying income taxes on interest payments.[51] The FDFC helps its borrowers pursue Private Activity Bonds by assisting them with the additional qualification processes.[52] In the fiscal year ending June 30, 2019, the FDFC facilitated the issuance of $2,885,710,000 in eight new money bonds.

The FDFC also administers the Property Assessed Clean Energy (PACE) program, for which it also may issue bonds and other financial assistance that supports energy conservation.[53] The PACE Program was launched June 29, 2017, and allows a property owner to use equity accrued from the original purchase as the basis for an extension of credit.[54] The PACE Program facilitated $19,353,886 in five taxable residential bonds for the 2018-19 fiscal year.[55]

FDFC's revenues are generated exclusively by fees it charges for the issuance of bonds.[56] The fees assessed are a $1,500 application fee and a tiered issuance fee due at the time of closing (sale of bonds). The tiered issuance fee is based on the face value of the bond issued: bonds valued from $0 - $2.5 million pay 75 basis points (0.75%); bonds valued from $2.5-$32.5 million pay 25 basis points (0.25%); and bonds valued over $32.5 million pay 10 basis points (0.10%).[57]

Division of Bond Finance

The Division of Bond Finance (Division) was created by the Legislature in 1969 to issue bonds on behalf of local governments and agencies of the State of Florida. It assumed the powers of its predecessor, the Florida Development Commission. The Division has been administratively housed within the State Board of Administration since 1992, and operates under the control of a governing board which consists of the Governor and Cabinet.[58] The Division has the power to:

- Sue and be sued;

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[48] *Id.*

[49] The guaranty may not exceed 5% of the aggregate principal amount of bonds or other indebtedness relating to any capital project. S. 288.9607, F.S.

[50] FDFC, *About Us*, https://www.fdfcbonds.com/copy-of-about-us (last visited Jan. 21, 2020).

[51] Steven Maguire and Joseph Hughes, Congressional Research Service, *Private Activity Bonds: An Introduction* (July 13, 2018), https://fas.org/sgp/crs/misc/RL31457.pdf (last visited Jan. 21, 2020).

[52] FDFC, *Bond Financing, supra.*

[53] FDFC, *Property Assessed Clean Energy "PACE"- Commercial PACE*, https://www.fdfcbonds.com/pace-commerical (last visited Jan. 21, 2020). *See also*, s. 288.9606(7), F.S.

[54] *Id.*

[55] FDFC, *Financial Statements for the Year Ended June 30, 2019, supra,* at 3.

[56] *Id.* at 6.

[57] FDFC, *Conduit Issuance Policy*, 6-7 (Feb. 26, 2019), https://ca5cce56-0e6c-4988-82a7-74892bf1d07e.filesusr.com/ugd/b1b27e_0b227d45ff2b4e139bb36f2846f70b4b.pdf (last visited Jan. 21, 2020).

[58] Division of Bond Finance, *About the Division of Bond Finance,* https://www.sbafla.com/bond/Home/About-the-Division-of-Bond-Finance (last visited January 21, 2020).

- Issue any bonds of the state, and to issue bonds on behalf of any state agency;
- Exercise all of the powers relating to the issuance of bonds of any state agency;
- Employ a director of the division to be designated by the Governor;
- Employ or retain persons, firms, or corporations;
- Prepare resolutions and other necessary proceedings relating to the issuance and sale of bonds;
- Sell all state bonds authorized by law;
- Request assistance related to bond issuance from any state agency;
- Exercise the power of eminent domain;
- Remit the proceeds of any bonds sold for any state agency;
- Exercise control over the state's arbitrage compliance program; and
- Undertake investigations.[59]

The Division also determines the allocations for private activity bonds permitted to be issued in Florida under the Internal Revenue Code.[60]

Effect of the Bill

Florida's Workforce Development System

The bill defines the term "state board" to mean the state workforce development board established pursuant to the Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, Title I, s. 101. The bill provides that the state board will be supported by CareerSource, which works at the direction of the state board in consultation with DEO.

The bill reassigns many of CareerSource powers, duties and responsibilities to DEO, the state board, or the state board in consultation with DEO and makes a number of conforming changes to reflect this adjustment in the relationship between DEO, CareerSource, and the state board.

The bill specifies that CareerSource must operate under an agreement with DEO and repeals the provision in current law which states that CareerSource is not subject to the control, supervision, or direction of DEO.

The bill provides for the state board to serve as the board of directors of CareerSource. The bill also provides for the state board to hire an executive director for CareerSource, who will serve as the president, the chief executive officer, and an employee of CareerSource.

The bill directs CareerSource to:
- operate at the direction of the state board;
- provide support, including administrative support, to the state board;
- work at the direction of the state board in consultation with DEO when appropriate; and
- implement the policy directives of the state board and administer state workforce development programs as authorized by law, in accordance with its agreement with DEO.

The bill authorizes the state board to hire a director and staff to assist in carrying out the functions and spending the funds made available through WIOA. The bill also directs the state board to authorize the director and staff to work with the department in carrying out the functions of WIOA.

The bill requires that the state board notify the Governor and DEO of statewide or local workforce development and training needs that may require policy changes or an update to the state plan

[59] S. 215.64, F.S.
[60] S. 159.804, F.S. *See also*, Division of Bond Finance, *Tax Equity and Fiscal Responsibility Act (TEFRA) Approval*, https://www.sbafla.com/bondfinance/Other-Functions/TEFRA (last visited Jan. 21, 2020).

required under s. 445.003, F.S. The bill also requires CareerSource to report all donations and grants they receive to the state board and DEO.

The bill authorizes the chief elected official of a local workforce development board to remove, for cause, a member of the local board, the executive director of the local board, or the designated person responsible for the operational and administrative functions of the local board.

The bill defines the term "for cause" to include, but not limited to, engaging in fraud or other criminal acts, incapacity, unfitness, neglect of duty, official incompetence and irresponsibility, misfeasance, malfeasance, nonfeasance, or lack of performance.

The bill also deletes a number of obsolete provisions.

Florida Development Finance Corporation

Relating to the board of directors of the Florida Development Finance Corporation, the bill:

- Increases the board of directors from five to seven members.
- Provides that the executive director of DEO, or his or her designee, serve as the chair of the board.
- Provides that the director of the Division of Bond Finance, or his or her designee, serve on the board.
- Specifies that the Governor will appoint the remaining five members, subject to confirmation by the Senate. Of the five appointed members:
    - Three or more must be bankers or persons with experience in finance.
    - One must be an economic development specialist.
- Specifies that the board may remove appointed directors under certain circumstances.

The bill requires DEO to develop a detailed report concerning the performance of FDFC each year, and to include the report, along with an existing summary report of FDFC, in its annual report to the Governor, President and Speaker. The bill also requires DEO to establish annual performance standards for FDFC and to annually report on how such performance measures are being met.

The bill provides that s. 288.9604, F.S., the statute creating and authorizing the FDFC, stands repealed October 1, 2022, and every fourth year thereafter, unless reviewed and saved from repeal by the Legislature.

The bill specifies that an FDFC contract or interlocal agreement in existence before July 1, 2020, will remain in effect and be binding on successors.

The bill provides for an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1 Amends s. 445.002, F.S., defining the terms "for cause" and "state board".

Section 2 Amends s. 445.003, F.S., replacing CareerSource Florida, Inc., with the state board or the Department of Economic Opportunity in provisions relating to the implementation of the federal Workforce Innovation and Opportunity Act; authorizing, rather than requiring, certain funds to be reserved for the Incumbent Worker Training Program; conforming provisions to changes made by the act; authorizing the state board to hire a director and staff; requiring the state board to authorize the director and staff to work with the department for specified reasons.

Section 3 Amends s. 445.004, F.S., revising provisions relating to the operation of CareerSource Florida, Inc.; revising the purpose of CareerSource Florida, Inc.; providing purpose for

the state board; revising the organizational structure of CareerSource Florida, Inc.; providing requirements for the organizational structure of the state board; providing the state board with powers and authority previously held by CareerSource Florida, Inc.; revising the requirements related to such powers and authority; requiring the state board, rather than CareerSource Florida, Inc., to submit an annual report to the Governor and the Legislature; authorizing the Auditor General to conduct an audit of the state board and programs or entities created by the state board; requiring the state board, rather than CareerSource Florida, Inc., to establish certain uniform performance accountability measures; requiring the state board, in consultation with the department, to design the workforce development strategy for the state; requiring that the strategy be approved by the Governor; revising requirements relating to the workforce development system; authorizing the department to consult with the state board to issue certain technical assistance letters.

Section 4 Amends s. 445.006, F.S., requiring that the state board, rather than CareerSource Florida, Inc., take certain actions relating to the state plan for workforce development.

Section 5 Amends s. 445.007, F.S., replacing CareerSource Florida, Inc., with the state board or the department in provisions relating to local workforce development boards; deleting the definition of the term "cause"; authorizing a chief elected official for a local workforce development board to remove certain persons from the board for cause; requiring the department to provide certain guidance to specified entities; deleting an obsolete provision; making technical changes.

Section 6 Amends s. 445.0071, F.S., replacing CareerSource Florida, Inc., with the state board or the department in provisions relating to the Florida Youth Summer Jobs Pilot Program.

Section 7 Amends s. 445.008, F.S., revising authority relating to the Workforce Training Institute; requiring that certain donations and grants be reported to the state board and the department.

Section 8 Amends s. 445.009, F.S., replacing CareerSource Florida, Inc., with the state board or the department in provisions relating to one-stop delivery systems; deleting an obsolete provision.

Section 9 Amends s. 445.011, F.S., replacing CareerSource Florida, Inc., with the department in provisions relating to workforce information systems; requiring the department to consult with the state board in implementing certain automated information systems; deleting a provision requiring CareerSource Florida, Inc., to take certain actions when procuring workforce information systems.

Sections 10-32 Conforms provisions to changes made by the act.

Section 33 Amends s. 20.60, F.S., requiring the executive director of the Department of Economic Opportunity to serve as the chair of the board of directors of the Florida Development Finance Corporation; requiring the department to include specified information in its annual report and develop annual performance standards for the corporation; conforming provisions to changes made by the act.

Section 34 Amends s. 288.9604, F.S., revising the membership of the board of directors of the Florida Development Finance Corporation; conforming provisions to changes made by the act; providing for future repeals; requiring the current chair and vice chair of the board of directors of the Florida Development Finance Corporation to serve as appointed directors after a specified date.

Section 35 Provides construction.

Section 36 Amends s. s. 288.9610, F.S., requiring the Florida Development Finance Corporation to submit an annual report containing specified information to the Department of Economic Opportunity.

Section 37 Provides that certain contracts and interlocal agreements remain in effect and binding under certain circumstances.

Section 38 Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to state economic development entities; amending s. 445.002, F.S.; defining the terms "for cause" and "state board"; amending s. 445.003, F.S.; replacing CareerSource Florida, Inc., with the state board or the Department of Economic Opportunity in provisions relating to the implementation of the federal Workforce Innovation and Opportunity Act; authorizing, rather than requiring, certain funds to be reserved for the Incumbent Worker Training Program; conforming provisions to changes made by the act; authorizing the state board to hire a director and staff; requiring the state board to authorize the director and staff to work with the department for specified reasons; amending s. 445.004, F.S.; revising provisions relating to the operation of CareerSource Florida, Inc.; revising the purpose of CareerSource Florida, Inc.; providing purpose for the state board; revising the organizational structure of CareerSource Florida, Inc.; providing requirements for the organizational structure of the state board; providing the state board with powers and authority previously held by CareerSource Florida, Inc.; revising the requirements related to such powers and authority; requiring the state board, rather than CareerSource Florida, Inc., to submit an annual report

to the Governor and the Legislature; authorizing the Auditor General to conduct an audit of the state board and programs or entities created by the state board; requiring the state board, rather than CareerSource Florida, Inc., to establish certain uniform performance accountability measures; requiring the state board, in consultation with the department, to design the workforce development strategy for the state; requiring that the strategy be approved by the Governor; revising requirements relating to the workforce development system; authorizing the department to consult with the state board to issue certain technical assistance letters; amending s. 445.006, F.S.; requiring that the state board, rather than CareerSource Florida, Inc., take certain actions relating to the state plan for workforce development; amending s. 445.007, F.S.; replacing CareerSource Florida, Inc., with the state board or the department in provisions relating to local workforce development boards; deleting the definition of the term "cause"; authorizing a chief elected official for a local workforce development board to remove certain persons from the board for cause; requiring the department to provide certain guidance to specified entities; deleting an obsolete provision; making technical changes; amending s. 445.0071, F.S.; replacing

CareerSource Florida, Inc., with the state board or the department in provisions relating to the Florida Youth Summer Jobs Pilot Program; amending s. 445.008, F.S.; revising authority relating to the Workforce Training Institute; requiring that certain donations and grants be reported to the state board and the department; amending s. 445.009, F.S.; replacing CareerSource Florida, Inc., with the state board or the department in provisions relating to one-stop delivery systems; deleting an obsolete provision; amending s. 445.011, F.S.; replacing CareerSource Florida, Inc., with the department in provisions relating to workforce information systems; requiring the department to consult with the state board in implementing certain automated information systems; deleting a provision requiring CareerSource Florida, Inc., to take certain actions when procuring workforce information systems; amending s. 445.014, F.S.; replacing CareerSource Florida, Inc., with the state board in provisions relating to the establishment of one-stop delivery systems; amending s. 445.021, F.S.; replacing CareerSource Florida, Inc., with the state board in provisions relating to the relocation assistance program; amending s. 445.022, F.S.; replacing CareerSource Florida, Inc., with the state board in provisions relating to Retention Incentive

Training Accounts; amending s. 445.024, F.S.; replacing CareerSource Florida, Inc., with the state board in provisions relating to certain contract exceptions; amending s. 445.026, F.S.; replacing CareerSource Florida, Inc., with the state board in provisions relating to cash assistance severance benefits; amending s. 445.028, F.S.; replacing CareerSource Florida, Inc., with the department in provisions relating to transitional benefits and services; amending s. 445.030, F.S.; replacing CareerSource Florida, Inc., with the state board in provisions relating to transitional education and training; amending s. 445.033, F.S.; replacing CareerSource Florida, Inc., with the state board in provisions relating to evaluations of TANF-funding programs; amending s. 445.035, F.S.; replacing CareerSource Florida, Inc., with the state board in provisions relating to data collection and reporting; amending s. 445.048, F.S.; replacing CareerSource Florida, Inc., with the state board in provisions relating to the Passport to Economic Progress program; amending s. 445.051, F.S.; replacing CareerSource Florida, Inc., with the state board in provisions relating to individual development accounts; amending s. 445.055, F.S.; replacing CareerSource Florida, Inc., with the state board in provisions relating to

the establishment of an employment advocacy and assistance program targeting a certain group; amending ss. 11.45, 288.901, 331.369, 413.405, 414.045, 420.622, 443.171, 443.181, 446.71, 1011.80, and 1011.801, F.S.; conforming provisions to changes made by the act; amending s. 20.60, F.S.; requiring the executive director of the department to serve as the chair of the board of directors of the Florida Development Finance Corporation; requiring the department to include specified information in its annual report and develop annual performance standards for the corporation; conforming provisions to changes made by the act; amending s. 288.9604, F.S.; revising the membership of the board of directors of the corporation; conforming provisions to changes made by the act; providing for future repeals; requiring the current chair and vice chair of the board of directors of the corporation to serve as appointed directors after a specified date; providing construction; amending s. 288.9610, F.S.; requiring the corporation to submit an annual report containing specified information to the department; providing that certain contracts and interlocal agreements remain in effect and binding under certain circumstances; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2) and (3) of section 445.002, Florida Statutes, are renumbered as subsections (3) and (5), respectively, and new subsections (2) and (4) are added to that section to read:

445.002 Definitions.—As used in this chapter, the term:

(2) "For cause" includes, but is not limited to, engaging in fraud or other criminal acts, incapacity, unfitness, neglect of duty, official incompetence and irresponsibility, misfeasance, malfeasance, nonfeasance, or lack of performance.

(4) "State board" means the state workforce development board established pursuant to the Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, Title I, s. 101. The state board shall be supported by CareerSource Florida, Inc., which works at the direction of the state board in consultation with the department as required by this chapter.

Section 2. Subsections (2), (3), (4), and (5) of section 445.003, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

445.003 Implementation of the federal Workforce Innovation and Opportunity Act.—

(2) FOUR-YEAR PLAN.—The state board ~~CareerSource Florida, Inc.,~~ shall prepare and submit a 4-year plan, consistent with the requirements of the Workforce Innovation and Opportunity Act. Mandatory and optional federal partners shall be fully

involved in designing the plan's one-stop delivery system strategy. The plan must clearly define each program's statewide duties and role relating to the system. The plan must detail a process that would fully integrate all federally mandated and optional partners.

(3) FUNDING.—

(a) Title I, Workforce Innovation and Opportunity Act funds; Wagner-Peyser funds; and NAFTA/Trade Act funds will be expended based on the 4-year plan of the state board ~~CareerSource Florida, Inc~~. The plan must outline and direct the method used to administer and coordinate various funds and programs that are operated by various agencies. The following provisions apply to these funds:

1. At least 50 percent of the Title I funds for Adults and Dislocated Workers which are passed through to local workforce development boards shall be allocated to and expended on Individual Training Accounts unless a local workforce development board obtains a waiver from the state board ~~CareerSource Florida, Inc~~. Tuition, books, and fees of training providers and other training services prescribed and authorized by the Workforce Innovation and Opportunity Act qualify as Individual Training Account expenditures.

2. Fifteen percent of Title I funding shall be retained at the state level and dedicated to state administration and shall be used to design, develop, induce, and fund innovative Individual Training Account pilots, demonstrations, and

programs. Of such funds retained at the state level, $2 million may ~~shall~~ be reserved for the Incumbent Worker Training Program created under subparagraph 3. Eligible state administration costs include the costs of funding for the state board and state board staff ~~of CareerSource Florida, Inc.~~; operating fiscal, compliance, and management accountability systems through the department ~~CareerSource Florida, Inc.~~; conducting evaluation and research on workforce development activities; and providing technical and capacity building assistance to local workforce development areas at the direction of the state board ~~CareerSource Florida, Inc~~. Notwithstanding s. 445.004, such administrative costs may not exceed 25 percent of these funds. An amount not to exceed 75 percent of these funds shall be allocated to Individual Training Accounts and other workforce development strategies for other training designed and tailored by the department in consultation with the state board ~~CareerSource Florida, Inc.~~, including, but not limited to, programs for incumbent workers, nontraditional employment, and enterprise zones. The department, in consultation with the state board ~~CareerSource Florida, Inc.~~, shall design, adopt, and fund Individual Training Accounts for distressed urban and rural communities.

3. The Incumbent Worker Training Program is created for the purpose of providing grant funding for continuing education and training of incumbent employees at existing Florida businesses. The program will provide reimbursement grants to

businesses that pay for preapproved, direct, training-related costs.

a. The Incumbent Worker Training Program will be administered by CareerSource Florida, Inc., which may, at its discretion, contract with a private business organization to serve as grant administrator.

b. The program shall be administered pursuant to s. 134(d)(4) of the Workforce Innovation and Opportunity Act. Priority for funding shall be given to businesses with 25 employees or fewer, businesses in rural areas, businesses in distressed inner-city areas, businesses in a qualified targeted industry, businesses whose grant proposals represent a significant upgrade in employee skills, or businesses whose grant proposals represent a significant layoff avoidance strategy.

c. All costs reimbursed by the program must be preapproved by CareerSource Florida, Inc., or the grant administrator. The program may not reimburse businesses for trainee wages, the purchase of capital equipment, or the purchase of any item or service that may possibly be used outside the training project. A business approved for a grant may be reimbursed for preapproved, direct, training-related costs including tuition, fees, books and training materials, and overhead or indirect costs not to exceed 5 percent of the grant amount.

d. A business that is selected to receive grant funding must provide a matching contribution to the training project,

including, but not limited to, wages paid to trainees or the purchase of capital equipment used in the training project; must sign an agreement with CareerSource Florida, Inc., or the grant administrator to complete the training project as proposed in the application; must keep accurate records of the project's implementation process; and must submit monthly or quarterly reimbursement requests with required documentation.

e. All Incumbent Worker Training Program grant projects shall be performance-based with specific measurable performance outcomes, including completion of the training project and job retention. CareerSource Florida, Inc., or the grant administrator shall withhold the final payment to the grantee until a final grant report is submitted and all performance criteria specified in the grant contract have been achieved.

f. The state board ~~CareerSource Florida, Inc.,~~ may establish guidelines necessary to implement the Incumbent Worker Training Program.

g. No more than 10 percent of the Incumbent Worker Training Program's total appropriation may be used for overhead or indirect purposes.

4. At least 50 percent of Rapid Response funding shall be dedicated to Intensive Services Accounts and Individual Training Accounts for dislocated workers and incumbent workers who are at risk of dislocation. The department ~~CareerSource Florida, Inc.,~~ shall also maintain an Emergency Preparedness Fund from Rapid Response funds, which will immediately issue Intensive Service

Accounts, Individual Training Accounts, and other federally authorized assistance to eligible victims of natural or other disasters. At the direction of the Governor, these Rapid Response funds shall be released to local workforce development boards for immediate use after events that qualify under federal law. Funding shall also be dedicated to maintain a unit at the state level to respond to Rapid Response emergencies and to work with state emergency management officials and local workforce development boards. All Rapid Response funds must be expended based on a plan developed by the state board in consultation with the department ~~CareerSource Florida, Inc.,~~ and approved by the Governor.

(b) The administrative entity for Title I, Workforce Innovation and Opportunity Act funds, and Rapid Response activities is the department ~~of Economic Opportunity~~, which shall provide direction to local workforce development boards regarding Title I programs and Rapid Response activities ~~pursuant to the direction of CareerSource Florida, Inc~~.

(4) FEDERAL REQUIREMENTS, EXCEPTIONS AND REQUIRED MODIFICATIONS.—

(a) The state board ~~CareerSource Florida, Inc.,~~ may provide indemnification from audit liabilities to local workforce development boards that act in full compliance with state law and board policy.

(b) The state board, in consultation with the department ~~CareerSource Florida, Inc.~~, may make modifications to the

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state's plan, policies, and procedures to comply with federally mandated requirements that in its judgment must be complied with to maintain funding provided pursuant to Pub. L. No. 113-128. The state board shall provide written notice to the Governor, the President of the Senate, and the Speaker of the House of Representatives within 30 days after any such changes or modifications.

(c) The state board ~~CareerSource Florida, Inc.,~~ shall enter into a memorandum of understanding with the Florida Department of Education to ensure that federally mandated requirements of Pub. L. No. 113-128 are met and are in compliance with the state plan for workforce development.

(5) LONG-TERM CONSOLIDATION OF WORKFORCE DEVELOPMENT.—The state board ~~CareerSource Florida, Inc.,~~ may recommend workforce-related divisions, bureaus, units, programs, duties, commissions, boards, and councils for elimination, consolidation, or privatization.

(6) AUTHORITY TO HIRE DIRECTOR AND STAFF.—The state board may hire a director and staff to assist in carrying out the functions of the Workforce Innovation and Opportunity Act and in using funds made available through the act. The state board shall authorize the director and staff to work with the department in carrying out the functions of the Workforce Innovation and Opportunity Act.

Section 3. Section 445.004, Florida Statutes, is amended to read:

445.004 CareerSource Florida, Inc., and the state board; creation; purpose; membership; duties and powers.—

(1) CareerSource Florida, Inc., is created as a not-for-profit corporation, which shall be registered, incorporated, organized, and operated in compliance with chapter 617 and shall operate at the direction of the state board. CareerSource Florida, Inc., is not a unit or entity of state government and is exempt from chapters 120 and 287. CareerSource Florida, Inc., shall apply the procurement and expenditure procedures required by federal law for the expenditure of federal funds. CareerSource Florida, Inc., shall be administratively housed within the department and shall operate under agreement with ~~of Economic Opportunity; however, CareerSource Florida, Inc., is not subject to control, supervision, or direction by~~ the department ~~in any manner~~. The Legislature finds that public policy dictates that CareerSource Florida, Inc., operate in the most open and accessible manner consistent with its public purpose. To this end, the Legislature specifically declares that CareerSource Florida, Inc., its board, councils, and any advisory committees or similar groups created by CareerSource Florida, Inc., are subject to the provisions of chapter 119 relating to public records, and those provisions of chapter 286 relating to public meetings.

(2) CareerSource Florida, Inc., provides administrative support for the state board, ~~is~~ the principal workforce policy organization for the state. The purpose of the state board

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V

~~CareerSource Florida, Inc.,~~ is to design and implement strategies that help Floridians enter, remain in, and advance in the workplace, so that they may become more highly skilled and successful, which benefits these Floridians, Florida businesses, and the entire state, and fosters the development of the state's business climate. CareerSource Florida, Inc., shall, consistent with its agreement with the department, implement the policy directives of the state board and administer state workforce development programs as authorized by law.

(3)(a) ~~CareerSource Florida, Inc., shall be governed by a board of directors, whose membership and appointment must be consistent with Pub. L. No. 113-128, Title I, s. 101(b).~~ Members of the state board described in Pub. L. No. 113-128, Title I, s. 101(b)(1)(C)(iii)(I)(aa) are ~~shall be~~ nonvoting members. The number of members is ~~directors shall be~~ determined by the Governor, who shall consider the importance of minority, gender, and geographic representation in making appointments to the state board. When the Governor is in attendance, he or she shall preside at all meetings of the state board ~~of directors~~.

(b) The state board ~~of directors of CareerSource Florida, Inc.,~~ shall be chaired by a ~~board~~ member designated by the Governor pursuant to Pub. L. No. 113-128. A member may not serve more than two terms.

(c) Members appointed by the Governor may serve no more than two terms and must be appointed for 3-year terms. However, in order to establish staggered terms for board members, the

Governor shall appoint or reappoint one-third of the board members for 1-year terms, one-third of the board members for 2-year terms, and one-third of the board members for 3-year terms beginning July 1, 2016. Subsequent appointments or reappointments shall be for 3-year terms, except that a member appointed to fill a vacancy on the board shall be appointed to serve only the remainder of the term of the member whom he or she is replacing, and may be appointed for a subsequent 3-year term. Private sector representatives of businesses, appointed by the Governor pursuant to Pub. L. No. 113-128, shall constitute a majority of the membership of the board. Private sector representatives shall be appointed from nominations received by the Governor, including, but not limited to, those nominations made by the President of the Senate and the Speaker of the House of Representatives. Private sector appointments to the state board must be representative of the business community of this state; no fewer than one-half of the appointments must be representative of small businesses, and at least five members must have economic development experience. Members appointed by the Governor serve at the pleasure of the Governor and are eligible for reappointment.

(d) The state board must include the vice chairperson of the board of directors of Enterprise Florida, Inc., and one member representing each of the Workforce Innovation and Opportunity Act partners, including the Division of Career and Adult Education, and other entities representing programs

identified in the Workforce Innovation and Opportunity Act, as determined necessary.

(e) A member of the state board ~~of directors of CareerSource Florida, Inc.,~~ may be removed by the Governor for cause. Absence from three consecutive meetings results in automatic removal. The chair of the state board ~~CareerSource Florida, Inc.,~~ shall notify the Governor of such absences.

(f) Representatives of businesses appointed to the state board ~~of directors~~ may not include providers of workforce services.

(g) The state board serves as the board of directors of CareerSource Florida, Inc. The state board shall hire an executive director for CareerSource Florida, Inc. The executive director serves as the president, the chief executive officer, and an employee of CareerSource Florida, Inc. The president of CareerSource Florida, Inc., serves at the pleasure of the Governor.

(4) ~~(a) The president of CareerSource Florida, Inc., shall be hired by the board of directors of CareerSource Florida, Inc., and shall serve at the pleasure of the Governor in the capacity of an executive director and secretary of CareerSource Florida, Inc.~~

(a) ~~(b)~~ The state board ~~of directors of CareerSource Florida, Inc.,~~ shall meet at least quarterly and at other times upon the call of its chair. The state board and its committees, subcommittees, or other subdivisions may use any method of

telecommunications to conduct meetings, including establishing a quorum through telecommunications, if the public is given proper notice of the telecommunications meeting and is given reasonable access to observe and, if appropriate, participate.

(b) ~~(c)~~ A majority of the total current membership of the state board ~~of directors of CareerSource Florida, Inc.,~~ constitutes a quorum and is required to organize and conduct the business of the state board, except that a majority of the executive committee is required to adopt or amend the bylaws.

~~(d) A majority of those voting is required to organize and conduct the business of the board, except that a majority of the entire board of directors is required to adopt or amend the bylaws.~~

(c) ~~(e)~~ Except as delegated or authorized by the state board ~~of directors of CareerSource Florida, Inc.~~, individual members have no authority to control or direct the operations of CareerSource Florida, Inc., or the actions of its officers and employees~~, including the president~~.

(d) ~~(f)~~ Members of the state board ~~of directors of CareerSource Florida, Inc.,~~ and its committees serve without compensation, but these members and~~,~~ the president~~,~~ and ~~the~~ employees of CareerSource Florida, Inc., may be reimbursed for all reasonable, necessary, and actual expenses as provided under ~~pursuant to~~ s. 112.061.

(e) ~~(g)~~ The state board shall ~~of directors of CareerSource Florida, Inc., may~~ establish an executive committee consisting

of the chair and at least six additional ~~board~~ members selected by the chair, one of whom must be a representative of organized labor. The executive committee and the president of CareerSource Florida, Inc., have such authority as the state board delegates to them, except that the state board ~~of directors~~ may not delegate to the executive committee authority to take action that requires approval by a majority of the entire state board ~~of directors~~.

(f) ~~(h)~~ The chair may appoint committees to fulfill the state board's responsibilities, to comply with federal requirements, or to obtain technical assistance, and must incorporate members of local workforce development boards into its structure.

(g) ~~(i)~~ Each member of the state board ~~of directors~~ who is not otherwise required to file a financial disclosure under ~~pursuant to~~ s. 8, Art. II of the State Constitution or s. 112.3144 must file disclosure of financial interests under ~~pursuant to~~ s. 112.3145.

(5) The state board has ~~CareerSource Florida, Inc., shall have~~ all the powers and authority not explicitly prohibited by statute which are necessary or convenient to carry out and effectuate its purposes as determined by statute, Pub. L. No. 113-128, and the Governor, as well as its functions, duties, and responsibilities, including, but not limited to, the following:

(a) Serving as the state's workforce development board pursuant to Pub. L. No. 113-128. Unless otherwise required by

federal law, at least 90 percent of workforce development funding must go toward direct customer service.

(b) Providing ~~oversight and~~ policy direction to ensure that the following programs are administered by the department consistent ~~in compliance~~ with approved plans ~~and under contract with CareerSource Florida, Inc.~~:

1. Programs authorized under Title I of the Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, with the exception of programs funded directly by the United States Department of Labor under Title I, s. 167.

2. Programs authorized under the Wagner-Peyser Act of 1933, as amended, 29 U.S.C. ss. 49 et seq.

3. Activities authorized under Title II of the Trade Act of 2002, as amended, 19 U.S.C. ss. 2272 et seq., and the Trade Adjustment Assistance Program.

4. Activities authorized under 38 U.S.C. chapter 41, including job counseling, training, and placement for veterans.

5. Employment and training activities carried out under funds awarded to this state by the United States Department of Housing and Urban Development.

6. Welfare transition services funded by the Temporary Assistance for Needy Families Program, created under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, Pub. L. No. 104-193, and Title IV, s. 403, of the Social Security Act, as amended.

7. The Florida Bonding Program, provided under Pub. L. No.

97-300, s. 164(a)(1).

8. The Food Assistance Employment and Training Program, provided under the Food and Nutrition Act of 2008, 7 U.S.C. ss. 2011-2032; the Food Security Act of 1988, Pub. L. No. 99-198; ~~and~~ the Hunger Prevention Act, Pub. L. No. 100-435; and the Agriculture Improvement Act of 2018, Pub. L. No. 115-334.

9. The Quick-Response Training Program, provided under ss. 288.046-288.047. Matching funds and in-kind contributions that are provided by clients of the Quick-Response Training Program ~~shall~~ count toward the requirements of s. 288.904, pertaining to the return on investment from activities of Enterprise Florida, Inc.

10. The Work Opportunity Tax Credit, provided under the Tax and Trade Relief Extension Act of 1998, Pub. L. No. 105-277, and the Taxpayer Relief Act of 1997, Pub. L. No. 105-34.

11. Offender placement services, provided under ss. 944.707-944.708.

~~(c)~~

The department may adopt rules necessary to administer this chapter which relate to implementing and administering the programs listed in this paragraph ~~(b)~~ as well as rules related to eligible training providers and auditing and monitoring subrecipients of the workforce system grant funds.

(c) ~~(d)~~ Contracting with public and private entities as necessary to further the directives of this section. All contracts executed by the state board or CareerSource Florida,

Inc., must include specific performance expectations and deliverables. All ~~CareerSource Florida, Inc.,~~ contracts, including those solicited, managed, or paid by the department under ~~pursuant to~~ s. 20.60(5)(c), are exempt from s. 112.061, but shall be governed by subsection (1).

(d) ~~(e)~~ Notifying the Governor and the department of statewide or local workforce development and training needs that may require policy changes or an update to the state plan required under s. 445.003, and notifying the Governor, the President of the Senate, and the Speaker of the House of Representatives of noncompliance by the department or other agencies or obstruction of the state board's efforts by such agencies. Upon such notification, the Executive Office of the Governor shall assist agencies to bring them into compliance with state board objectives.

(e) ~~(f)~~ Ensuring that the state does not waste valuable training resources. The state board's policy is ~~board shall direct~~ that all resources, including equipment purchased for training Workforce Innovation and Opportunity Act clients, be available for use at all times by eligible populations as first priority users. At times when eligible populations are not available, such resources shall be used for any other state-authorized education and training purpose. The state board ~~CareerSource Florida, Inc.,~~ may authorize expenditures to award suitable framed certificates, pins, or other tokens of recognition for performance by a local workforce development

board, its committees and subdivisions, and other units of the workforce system. The state board ~~CareerSource Florida, Inc.,~~ may also authorize expenditures for promotional items, such as t-shirts, hats, or pens printed with messages promoting the state's workforce system to employers, job seekers, and program participants. However, such expenditures are subject to federal regulations applicable to the expenditure of federal funds.

(f) ~~(g)~~ Establishing a dispute resolution process for all memoranda of understanding or other contracts or agreements entered into between the department and local workforce development boards.

(g) ~~(h)~~ Archiving records with the Bureau of Archives and Records Management of the Division of Library and Information Services of the Department of State.

(6) The state board ~~CareerSource Florida, Inc.,~~ may take action that it deems necessary to achieve the purposes of this section, including, but not limited to:

(a) Creating a state employment, education, and training policy that ensures that programs to prepare workers are responsive to present and future business and industry needs and complement the initiatives of Enterprise Florida, Inc.

(b) Establishing policy direction for a funding system that provides incentives to improve the outcomes of career education, registered apprenticeship, and work-based learning programs and that focuses resources on occupations related to new or emerging industries that add greatly to the value of the

state's economy.

(c) Establishing a comprehensive policy related to the education and training of target populations such as those who have disabilities, are economically disadvantaged, receive public assistance, are not proficient in English, or are dislocated workers. This approach should ensure the effective use of federal, state, local, and private resources in reducing the need for public assistance.

(d) Designating Institutes of Applied Technology composed of public and private postsecondary institutions working together with business and industry to ensure that career education programs use the most advanced technology and instructional methods available and respond to the changing needs of business and industry.

(e) Providing policy direction for a system to project and evaluate labor market supply and demand using the results of the Workforce Estimating Conference created in s. 216.136 and the career education performance standards identified under s. 1008.43.

(f) Reviewing the performance of public programs that are responsible for economic development, education, employment, and training. The review must include an analysis of the return on investment of these programs.

(g) Expanding the occupations identified by the Workforce Estimating Conference to meet needs created by local emergencies or plant closings or to capture occupations within emerging

industries.

(7) By December 1 of each year, the state board ~~CareerSource Florida, Inc.,~~ shall submit to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate Minority Leader, and the House Minority Leader a complete and detailed annual report setting forth:

(a) All audits, including any audit conducted under subsection (8).

(b) The operations and accomplishments of the state board, including the programs or entities specified in subsection (6).

(8) Pursuant to his or her own authority or at the direction of the Legislative Auditing Committee, the Auditor General may conduct an audit of the state board and CareerSource Florida, Inc., or the programs or entities created by the state board ~~CareerSource Florida, Inc~~. The Office of Program Policy Analysis and Government Accountability, pursuant to its authority or at the direction of the Legislative Auditing Committee, may review the systems and controls related to performance outcomes and quality of services of the state board and CareerSource Florida, Inc.

(9) The state board ~~CareerSource Florida, Inc.~~, in collaboration with the local workforce development boards and appropriate state agencies and local public and private service providers, shall establish uniform performance accountability measures that apply across the core programs to gauge the

performance of the state and local workforce development boards in achieving the workforce development strategy.

(a) The performance accountability measures for the core programs consist of the primary indicators of performance, any additional indicators of performance, and a state-adjusted level of performance for each indicator pursuant to Pub. L. No. 113-128, Title I, s. 116(b).

(b) The performance accountability measures for each local area consist of the primary indicators of performance, any additional indicators of performance, and a local level of performance for each indicator pursuant to Pub. L. No. 113-128. The local level of performance is determined by the local board, the chief elected official, and the Governor pursuant to Pub. L. No. 113-128, Title I, s. 116(c).

(c) Performance accountability measures shall be used to generate performance reports pursuant to Pub. L. No. 113-128, Title I, s. 116(d).

(d) The performance accountability measures of success that are adopted by the state board ~~CareerSource Florida, Inc.,~~ or the local workforce development boards must be developed in a manner that provides for an equitable comparison of the relative success or failure of any service provider in terms of positive outcomes.

(10) The workforce development strategy for the state shall be designed by the state board, in consultation with the department, and approved by the Governor ~~CareerSource Florida,~~

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~~Inc~~. The strategy must include efforts that enlist business, education, and community support for students to achieve long-term career goals, ensuring that young people have the academic and occupational skills required to succeed in the workplace. The strategy must also assist employers in upgrading or updating the skills of their employees and assisting workers to acquire the education or training needed to secure a better job with better wages. The strategy must assist the state's efforts to attract and expand job-creating businesses offering high-paying, high-demand occupations.

(11) The workforce development system must encourage ~~use a charter process approach aimed at encouraging~~ local design and control of service delivery and targeted activities. The state board, in consultation with the department ~~CareerSource Florida, Inc.~~, is ~~shall be~~ responsible for ensuring that ~~granting charters to~~ local workforce development boards ~~that~~ have a membership consistent with the requirements of federal and state law and have developed a plan consistent with the state's workforce development strategy. The plan must specify methods for allocating the resources and programs in a manner that eliminates unwarranted duplication, minimizes administrative costs, meets the existing job market demands and the job market demands resulting from successful economic development activities, ensures access to quality workforce development services for all Floridians, allows for pro rata or partial distribution of benefits and services, prohibits the creation of

a waiting list or other indication of an unserved population, serves as many individuals as possible within available resources, and maximizes successful outcomes. The state board ~~As part of the charter process, CareerSource Florida, Inc.,~~ shall establish incentives for effective coordination of federal and state programs, outline rewards for successful job placements, and institute collaborative approaches among local service providers. ~~Local decisionmaking and control shall be important components for inclusion in this charter application.~~

(12) CareerSource Florida, Inc., under the direction of the state board, shall enter into agreement with Space Florida and collaborate with vocational institutes, community colleges, colleges, and universities in this state to develop a workforce development strategy to implement the workforce provisions of s. 331.3051.

(13) The department may consult with the state board to issue technical assistance letters on the operation of federal programs and the expenditure of federal funds by the state board or any local workforce development board. A technical assistance letter must be in writing, must be posted on the department's website, and remains in effect until superseded or terminated. A technical assistance letter is not a rule of general applicability under s. 120.54 and is not a declaratory statement issued under s. 120.565 or an order issued under s. 120.569. Section 120.53 does not apply to technical assistance letters.

Section 4. Section 445.006, Florida Statutes, is amended

to read:

445.006 State plan for workforce development.—

(1) STATE PLAN.—The state board ~~CareerSource Florida, Inc.~~, in conjunction with state and local partners in the workforce system, shall develop a state plan that produces an educated and skilled workforce. The state plan must consist of strategic and operational planning elements. The state plan shall be submitted by the Governor to the United States Department of Labor pursuant to the requirements of Pub. L. No. 113-128.

(2) STRATEGIC PLANNING ELEMENTS.—The state board ~~CareerSource Florida, Inc.~~, in conjunction with state and local partners in the workforce system, shall develop strategic planning elements, pursuant to Pub. L. No. 113-128, Title I, s. 102, for the state plan.

(a) The strategic planning elements of the state plan must include, but need not be limited to, strategies for:

1. Fulfilling the workforce system goals and strategies prescribed in s. 445.004;

2. Aggregating, integrating, and leveraging workforce system resources;

3. Coordinating the activities of federal, state, and local workforce system partners;

4. Addressing the workforce needs of small businesses; and

5. Fostering the participation of rural communities and distressed urban cores in the workforce system.

(b) The strategic planning elements must include criteria for allocating workforce resources to local workforce development boards. With respect to allocating funds to serve customers of the welfare transition program, such criteria may include weighting factors that indicate the relative degree of difficulty associated with securing and retaining employment placements for specific subsets of the welfare transition caseload.

(3) OPERATIONAL PLANNING ELEMENTS.—The state board ~~CareerSource Florida, Inc.~~, in conjunction with state and local partners in the workforce system, shall develop operational planning elements, pursuant to Pub. L. No. 113-128, Title I, s. 102, for the state plan.

Section 5. Subsection (1), paragraph (b) of subsection (2), and subsections (3) through (7) and (9) through (13) of section 445.007, Florida Statutes, are amended, and paragraph (c) is added to subsection (2) of that section, to read:

445.007 Local workforce development boards.—

(1) One local workforce development board shall be appointed in each designated service delivery area and shall serve as the local workforce development board pursuant to Pub. L. No. 113-128. The membership of the local board must be consistent with Pub. L. No. 113-128, Title I, s. 107(b). If a public education or training provider is represented on the local board, a representative of a private education provider must also be appointed to the local board. The state board

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~~CareerSource Florida, Inc.,~~ may waive this requirement if requested by a local workforce development board if it is demonstrated that such representatives do not exist in the region. The importance of minority and gender representation shall be considered when making appointments to the local board. The local board, its committees, subcommittees, and subdivisions, and other units of the workforce system, including units that may consist in whole or in part of local governmental units, may use any method of telecommunications to conduct meetings, including establishing a quorum through telecommunications, provided that the public is given proper notice of the telecommunications meeting and reasonable access to observe and, when appropriate, participate. Local workforce development boards are subject to chapters 119 and 286 and s. 24, Art. I of the State Constitution. If the local workforce development board enters into a contract with an organization or individual represented on the local board ~~of directors~~, the contract must be approved by a two-thirds vote of the local board, a quorum having been established, and the local board member who could benefit financially from the transaction must abstain from voting on the contract. A local board member must disclose any such conflict in a manner that is consistent with the procedures outlined in s. 112.3143. Each member of a local workforce development board who is not otherwise required to file a full and public disclosure of financial interests under ~~pursuant to~~ s. 8, Art. II of the State Constitution or s.

112.3144 shall file a statement of financial interests under ~~pursuant to~~ s. 112.3145. The executive director or designated person responsible for the operational and administrative functions of the local workforce development board who is not otherwise required to file a full and public disclosure of financial interests under ~~pursuant to~~ s. 8, Art. II of the State Constitution or s. 112.3144 shall file a statement of financial interests under ~~pursuant to~~ s. 112.3145.

(2)

(b) The Governor may remove a member of the local board, the executive director of the local board, or the designated person responsible for the operational and administrative functions of the local board for cause. ~~As used in this paragraph, the term "cause" includes, but is not limited to, engaging in fraud or other criminal acts, incapacity, unfitness, neglect of duty, official incompetence and irresponsibility, misfeasance, malfeasance, nonfeasance, or lack of performance.~~

(c) The chief elected official for the local workforce development board may remove a member of the local board, the executive director of the local board, or the designated person responsible for the operational and administrative functions of the local board for cause.

(3) The department ~~of Economic Opportunity, under the direction of CareerSource Florida, Inc.,~~ shall assign staff to meet with each local workforce development board annually to review the local board's performance and to certify that the

local board is in compliance with applicable state and federal law.

(4) In addition to the duties and functions specified by the state board ~~CareerSource Florida, Inc.,~~ and by the interlocal agreement approved by the local county or city governing bodies, the local workforce development board shall have the following responsibilities:

(a) Develop, submit, ratify, or amend the local plan pursuant to Pub. L. No. 113-128, Title I, s. 108 and this act.

(b) Conclude agreements necessary to designate the fiscal agent and administrative entity. A public or private entity, including an entity established under ~~pursuant to~~ s. 163.01, which makes a majority of the appointments to a local workforce development board may serve as the local board's administrative entity if approved by the department ~~CareerSource Florida, Inc.,~~ based upon a showing that a fair and competitive process was used to select the administrative entity.

(c) ~~Complete assurances required for the charter process of CareerSource Florida, Inc., and~~ Provide ongoing oversight related to administrative costs, duplicated services, career counseling, economic development, equal access, compliance and accountability, and performance outcomes.

(d) Oversee the one-stop delivery system in its local area.

(5) The department, in conjunction with the state board ~~CareerSource Florida, Inc.~~, shall implement a training program

for the local workforce development boards to familiarize local board members with the state's workforce development goals and strategies.

(6) The local workforce development board shall designate all local service providers and may not transfer this authority to a third party. Consistent with the intent of the Workforce Innovation and Opportunity Act, local workforce development boards should provide the greatest possible choice of training providers to those who qualify for training services. A local workforce development board may not restrict the choice of training providers based upon cost, location, or historical training arrangements. However, a local board may restrict the amount of training resources available to any one client. Such restrictions may vary based upon the cost of training in the client's chosen occupational area. The local workforce development board may be designated as a one-stop operator and direct provider of intake, assessment, eligibility determinations, or other direct provider services except training services. Such designation may occur only with the agreement of the chief elected official and the Governor as specified in 29 U.S.C. s. 2832(f)(2). The state board ~~CareerSource Florida, Inc.,~~ shall establish procedures by which a local workforce development board may request permission to operate under this section and the criteria under which such permission may be granted. The criteria shall include, but need not be limited to, a reduction in the cost of providing the

permitted services. Such permission shall be granted for a period not to exceed 3 years for any single request submitted by the local workforce development board.

(7) Local workforce development boards shall adopt a committee structure consistent with applicable federal law and state policies established by the state board ~~CareerSource Florida, Inc~~.

(9) For purposes of procurement, local workforce development boards and their administrative entities are not state agencies and are exempt from chapters 120 and 287. The local workforce development boards shall apply the procurement and expenditure procedures required by federal law and policies of the department ~~of Economic Opportunity~~ and the state board ~~CareerSource Florida, Inc.,~~ for the expenditure of federal, state, and nonpass-through funds. The making or approval of smaller, multiple payments for a single purchase with the intent to avoid or evade the monetary thresholds and procedures established by federal law and policies of the department ~~of Economic Opportunity~~ and the state board ~~CareerSource Florida, Inc.,~~ is grounds for removal for cause. Local workforce development boards, their administrative entities, committees, and subcommittees, and other workforce units may authorize expenditures to award suitable framed certificates, pins, or other tokens of recognition for performance by units of the workforce system. Local workforce development boards; their administrative entities, committees, and subcommittees; and

other workforce units may authorize expenditures for promotional items, such as t-shirts, hats, or pens printed with messages promoting Florida's workforce system to employers, job seekers, and program participants. However, such expenditures are subject to federal regulations applicable to the expenditure of federal funds. All contracts executed by local workforce development boards must include specific performance expectations and deliverables.

(10) State and federal funds provided to the local workforce development boards may not be used directly or indirectly to pay for meals, food, or beverages for ~~board~~ members, staff, or employees of local workforce development boards, the state board ~~CareerSource Florida, Inc.~~, or the department ~~of Economic Opportunity~~ except as expressly authorized by state law. Preapproved, reasonable, and necessary per diem allowances and travel expenses may be reimbursed. Such reimbursement shall be at the standard travel reimbursement rates established in s. 112.061 and shall be in compliance with all applicable federal and state requirements. The department shall provide fiscal and programmatic guidance ~~CareerSource Florida, Inc., shall develop a statewide fiscal policy applicable~~ to the state board, CareerSource Florida, Inc., and all local workforce development boards~~,~~ to hold both the state and local workforce development boards strictly accountable for adherence to the policy and subject to regular and periodic monitoring by the department ~~of Economic Opportunity, the~~

~~administrative entity for CareerSource Florida, Inc~~. Local boards are prohibited from expending state or federal funds for entertainment costs and recreational activities for local board members and employees as these terms are defined by 2 C.F.R. part 200 ~~230~~.

(11) To increase transparency and accountability, a local workforce development board must comply with the requirements of this section before contracting with a member of the local board or a relative, as defined in s. 112.3143(1)(c), of a local board member or of an employee of the local board. Such contracts may not be executed before or without the prior approval of the department ~~CareerSource Florida, Inc~~. Such contracts, as well as documentation demonstrating adherence to this section as specified by the department ~~CareerSource Florida, Inc.~~, must be submitted to the department ~~of Economic Opportunity~~ for review and approval ~~recommendation according to criteria to be determined by CareerSource Florida, Inc~~. Such a contract must be approved by a two-thirds vote of the local board, a quorum having been established; all conflicts of interest must be disclosed before the vote; and any member who may benefit from the contract, or whose relative may benefit from the contract, must abstain from the vote. A contract under $25,000 between a local workforce development board and a member of that board or between a relative, as defined in s. 112.3143(1)(c), of a local board member or of an employee of the local board is not required to have the prior approval of the department

~~CareerSource Florida, Inc.~~, but must be approved by a two-thirds vote of the local board, a quorum having been established, and must be reported to the department ~~of Economic Opportunity~~ and the state board ~~CareerSource Florida, Inc.,~~ within 30 days after approval. If a contract cannot be approved by the department ~~CareerSource Florida, Inc.~~, a review of the decision to disapprove the contract may be requested by the local workforce development board or other parties to the disapproved contract.

(12) Each local workforce development board shall develop a budget for the purpose of carrying out the duties of the local board under this section, subject to the approval of the chief elected official. Each local workforce development board shall submit its annual budget for review to the department ~~CareerSource Florida, Inc.,~~ no later than 2 weeks after the chair approves the budget.

~~(13) By March 1, 2018, CareerSource Florida, Inc., shall establish regional planning areas in accordance with Pub. L. No. 113-128, Title I, s. 106(a)(2). Local workforce development boards and chief elected officials within identified regional planning areas shall prepare a regional workforce development plan as required under Pub. L. No. 113-128, Title I, s. 106(c)(2).~~

Section 6. Subsections (1) and (4) of section 445.0071, Florida Statutes, are amended to read:

445.0071 Florida Youth Summer Jobs Pilot Program.—

(1) CREATION.—Contingent upon appropriations, there is

created the Florida Youth Summer Jobs Pilot Program within workforce development district 22 served by the Broward Workforce Development Board. The board shall, in consultation with the state board ~~CareerSource Florida, Inc.~~, provide a program offering at-risk and disadvantaged children summer jobs in partnership with local communities and public employers.

(4) GOVERNANCE.—

(a) The pilot program shall be administered by the local workforce development board in consultation with the state board ~~CareerSource Florida, Inc~~.

(b) The local workforce development board shall report to the state board and the department ~~CareerSource Florida, Inc.,~~ the number of at-risk and disadvantaged children who enter the program, the types of work activities they participate in, and the number of children who return to school, go on to postsecondary school, or enter the workforce full time at the end of the program. The state board ~~CareerSource Florida, Inc.,~~ shall report to the Legislature by November 1 of each year on the performance of the program.

Section 7. Subsections (1) and (2) of section 445.008, Florida Statutes, are amended to read:

445.008 Workforce Training Institute.—

(1) The state board, through CareerSource Florida, Inc., may create the Workforce Training Institute, which shall be a comprehensive program of workforce training courses designed to meet the unique needs of, and shall include Internet-based

training modules suitable for and made available to, professionals integral to the workforce system, including advisors and counselors in educational institutions.

(2) The state board, through CareerSource Florida, Inc., may enter into a contract for the provision of administrative support services for the institute and shall adopt policies for the administration and operation of the institute and establish admission fees in an amount which, in the aggregate, does not exceed the cost of the program. CareerSource Florida, Inc., may accept donations or grants of any type for any function or purpose of the institute. All donations and grants received by CareerSource Florida, Inc., must be reported to the state board and the department.

Section 8. Subsections (2), (3), and (4), paragraph (b) of subsection (6), subsection (7), paragraphs (a), (c), and (d) of subsection (8), and subsection (9) of section 445.009, Florida Statutes, are amended to read:

445.009 One-stop delivery system.—

(2)(a) Subject to a process designed by the state board ~~CareerSource Florida, Inc.~~, and in compliance with Pub. L. No. 113-128, local workforce development boards shall designate one-stop delivery system operators.

(b) A local workforce development board may designate as its one-stop delivery system operator any public or private entity that is eligible to provide services under any state or federal workforce program that is a mandatory or discretionary

partner in the local workforce development area's one-stop delivery system if approved by the department ~~CareerSource Florida, Inc.,~~ upon a showing by the local workforce development board that a fair and competitive process was used in the selection. As a condition of authorizing a local workforce development board to designate such an entity as its one-stop delivery system operator, the department ~~CareerSource Florida, Inc.,~~ must require the local workforce development board to demonstrate that safeguards are in place to ensure that the one-stop delivery system operator will not exercise an unfair competitive advantage or unfairly refer or direct customers of the one-stop delivery system to services provided by that one-stop delivery system operator. A local workforce development board may retain its current one-stop career center operator without further procurement action if the local board has an established one-stop career center that has complied with federal and state law.

(c) The local workforce development board must enter into a memorandum of understanding with each mandatory or optional partner participating in the one-stop delivery system which details the partner's required contribution to infrastructure costs, as required by Pub. L. No. 113-128, s. 121(h). ~~If the local workforce development board and the one-stop partner are unable to come to an agreement regarding infrastructure costs by July 1, 2017, the costs shall be allocated pursuant to a policy established by the Governor.~~

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(3) Local workforce development boards shall enter into a memorandum of understanding with the department ~~of Economic Opportunity~~ for the delivery of employment services authorized by the federal Wagner-Peyser Act. This memorandum of understanding must be performance based.

(a) Unless otherwise required by federal law, at least 90 percent of the Wagner-Peyser funding must go into direct customer service costs.

(b) Employment services must be provided through the one-stop delivery system, under the guidance of one-stop delivery system operators. One-stop delivery system operators shall have overall authority for directing the staff of the workforce system. Personnel matters shall remain under the ultimate authority of the department. However, the one-stop delivery system operator shall submit to the department information concerning the job performance of employees of the department who deliver employment services. The department shall consider any such information submitted by the one-stop delivery system operator in conducting performance appraisals of the employees.

(c) The department shall retain fiscal responsibility and accountability for the administration of funds allocated to the state under the Wagner-Peyser Act. An employee of the department who is providing services authorized under the Wagner-Peyser Act shall be paid using Wagner-Peyser Act funds.

(4) One-stop delivery system partners shall enter into a memorandum of understanding pursuant to Pub. L. No. 113-128,

Title I, s. 121, with the local workforce development board. Failure of a local partner to participate cannot unilaterally block the majority of partners from moving forward with their one-stop delivery system, and the state board, in conjunction with the department, may notify the Governor ~~CareerSource Florida, Inc., pursuant to s. 445.004(5)(e), may make notification~~ of a local partner that fails to participate.

(6)

(b) To expand electronic capabilities, the state board and the department ~~CareerSource Florida, Inc.~~, working with local workforce development boards, shall develop a centralized help center to assist local workforce development boards in fulfilling core services, minimizing the need for fixed-site one-stop delivery system centers.

(7) Intensive services and training provided pursuant to Pub. L. No. 113-128 shall be provided to individuals through Intensive Service Accounts and Individual Training Accounts. The state board ~~CareerSource Florida, Inc.,~~ shall develop an implementation plan, including identification of initially eligible training providers, transition guidelines, and criteria for use of these accounts. Individual Training Accounts must be compatible with Individual Development Accounts for education allowed in federal and state welfare reform statutes.

(8)(a) Individual Training Accounts must be expended on programs that prepare people to enter high-wage occupations identified by the Workforce Estimating Conference created by s.

216.136, and on other programs recommended by the state board and approved by the department ~~as approved by CareerSource Florida, Inc~~.

(c) The department ~~CareerSource Florida, Inc.,~~ shall periodically review Individual Training Account pricing schedules developed by local workforce development boards and present findings and recommendations for process improvement to the President of the Senate and the Speaker of the House of Representatives.

(d) To the maximum extent possible, training providers shall use funding sources other than the funding provided under Pub. L. No. 113-128. The state board ~~CareerSource Florida, Inc.,~~ shall develop a system to encourage the leveraging of appropriated resources for the workforce system and shall report on such efforts as part of the required annual report.

(9)(a) The state board ~~CareerSource Florida, Inc.~~, working with the department, shall coordinate among the agencies a plan for a One-Stop Electronic Network made up of one-stop delivery system centers and other partner agencies that are operated by authorized public or private for-profit or not-for-profit agents. The plan shall identify resources within existing revenues to establish and support this electronic network for service delivery that includes Government Services Direct. If necessary, the plan shall identify additional funding needed to achieve the provisions of this subsection.

(b) The network shall assure that a uniform method is used

to determine eligibility for and management of services provided by agencies that conduct workforce development activities. The Department of Management Services shall develop strategies to allow access to the databases and information management systems of the following systems in order to link information in those databases with the one-stop delivery system:

1. The Reemployment Assistance Program under chapter 443.

2. The public employment service described in s. 443.181.

3. The public assistance information system used by the Department of Children and Families and the components related to temporary cash assistance, food assistance, and Medicaid eligibility.

4. The Student Financial Assistance System of the Department of Education.

5. Enrollment in the public postsecondary education system.

6. Other information systems determined appropriate by the state board, in consultation with the department ~~CareerSource Florida, Inc~~.

Section 9. Section 445.011, Florida Statutes, is amended to read:

445.011 Workforce information systems.—

(1) The department, in consultation with the state board ~~CareerSource Florida, Inc.~~, shall implement, subject to legislative appropriation, automated information systems that are necessary for the efficient and effective operation and

management of the workforce development system. These information systems shall include, but need not be limited to, the following:

(a) An integrated management system for the one-stop service delivery system, which includes, at a minimum, common registration and intake, screening for needs and benefits, case planning and tracking, training benefits management, service and training provider management, performance reporting, executive information and reporting, and customer-satisfaction tracking and reporting.

1. The system should report current budgeting, expenditure, and performance information for assessing performance related to outcomes, service delivery, and financial administration for workforce programs pursuant to s. 445.004(5) and (9).

2. The information system should include auditable systems and controls to ensure financial integrity and valid and reliable performance information.

3. The system should support service integration and case management by providing for case tracking for participants in welfare transition programs.

(b) An automated job-matching information system that is accessible to employers, job seekers, and other users via the Internet, and that includes, at a minimum:

1. Skill match information, including skill gap analysis; resume creation; job order creation; skill tests; job search by

area, employer type, and employer name; and training provider linkage;

2. Job market information based on surveys, including local, state, regional, national, and international occupational and job availability information; and

3. Service provider information, including education and training providers, child care facilities and related information, health and social service agencies, and other providers of services that would be useful to job seekers.

(2) The department ~~In procuring workforce information systems, CareerSource Florida, Inc., shall employ competitive processes, including requests for proposals, competitive negotiation, and other competitive processes to ensure that the procurement results in the most cost-effective investment of state funds.~~

~~(3) CareerSource Florida, Inc.,~~ may procure independent verification and validation services associated with developing and implementing any workforce information system.

(3) ~~(4)~~ The department ~~CareerSource Florida, Inc.,~~ shall coordinate development and implementation of workforce information systems with the state chief information officer to ensure compatibility with the state's information system strategy and enterprise architecture.

Section 10. Subsections (1) and (3) of section 445.014, Florida Statutes, are amended to read:

445.014 Small business workforce service initiative.—

(1) Subject to legislative appropriation, the state board ~~CareerSource Florida, Inc.,~~ shall establish a program to encourage local workforce development boards to establish one-stop delivery systems that maximize the provision of workforce and human-resource support services to small businesses. Under the program, a local workforce development board may apply, on a competitive basis, for funds to support the provision of such services to small businesses through the local workforce development area's one-stop delivery system.

(3) The state board ~~CareerSource Florida, Inc.,~~ shall establish guidelines governing the administration of this program and shall establish criteria to be used in evaluating applications for funding. Such criteria must include, but need not be limited to, a showing that the local workforce development board has in place a detailed plan for establishing a one-stop delivery system designed to meet the workforce needs of small businesses and for leveraging other funding sources in support of such activities.

Section 11. Paragraphs (b), (c), and (d) of subsection (2) and subsection (4) of section 445.021, Florida Statutes, are amended to read:

445.021 Relocation assistance program.—

(2) The relocation assistance program shall involve five steps by the local workforce development board, in cooperation with the Department of Children and Families:

(b) A determination that there is a basis for believing

that relocation will contribute to the ability of the applicant to achieve self-sufficiency. For example, the applicant:

1. Is unlikely to achieve economic self-sufficiency at the current community of residence;

2. Has secured a job that provides an increased salary or improved benefits and that requires relocation to another community;

3. Has a family support network that will contribute to job retention in another community;

4. Is determined, pursuant to criteria or procedures established by the state board ~~of directors of CareerSource Florida, Inc.,~~ to be a victim of domestic violence who would experience reduced probability of further incidents through relocation; or

5. Must relocate in order to receive education or training that is directly related to the applicant's employment or career advancement.

(c) Establishment of a relocation plan that includes such requirements as are necessary to prevent abuse of the benefit and provisions to protect the safety of victims of domestic violence and avoid provisions that place them in anticipated danger. The payment to defray relocation expenses shall be determined based on criteria approved by the state board ~~of directors of CareerSource Florida, Inc~~. Participants in the relocation program shall be eligible for diversion or transitional benefits.

(d) A determination, pursuant to criteria adopted by the state board ~~of directors of CareerSource Florida, Inc.,~~ that a community receiving a relocated family has the capacity to provide needed services and employment opportunities.

(4) The state board ~~of directors of CareerSource Florida, Inc.,~~ may establish criteria for developing and implementing relocation plans and for drafting agreements to restrict a family from applying for temporary cash assistance for a specified period after receiving a relocation assistance payment.

Section 12. Section 445.022, Florida Statutes, is amended to read:

445.022 Retention Incentive Training Accounts.—To promote job retention and to enable upward job advancement into higher skilled, higher paying employment, the state board o~~f directors of CareerSource Florida, Inc.,~~ and the local workforce development boards may assemble a list of programs and courses offered by postsecondary educational institutions which may be available to participants who have become employed to promote job retention and advancement.

(1) The state board ~~of directors of CareerSource Florida, Inc.,~~ may establish Retention Incentive Training Accounts (RITAs) to use Temporary Assistance to Needy Families (TANF) block grant funds specifically appropriated for this purpose. RITAs must complement the Individual Training Account required by the federal Workforce Innovation and Opportunity Act, Pub. L.

No. 113-128.

(2) RITAs may pay for tuition, fees, educational materials, coaching and mentoring, performance incentives, transportation to and from courses, child care costs during education courses, and other such costs as the local workforce development boards determine are necessary to effect successful job retention and advancement.

(3) Local workforce development boards shall retain only those courses that continue to meet their performance standards as established in their local plan.

(4) Local workforce development boards shall report annually to the Legislature on the measurable retention and advancement success of each program provider and the effectiveness of RITAs, making recommendations for any needed changes or modifications.

Section 13. Paragraph (e) of subsection (5) of section 445.024, Florida Statutes, is amended to read:

445.024 Work requirements.—

(5) USE OF CONTRACTS.—Local workforce development boards shall provide work activities, training, and other services, as appropriate, through contracts. In contracting for work activities, training, or services, the following applies:

(e) The administrative costs associated with a contract for services provided under this section may not exceed the applicable administrative cost ceiling established in federal law. An agency or entity that is awarded a contract under this

section may not charge more than 7 percent of the value of the contract for administration unless an exception is approved by the local workforce development board. A list of any exceptions approved must be submitted to the state board ~~of directors of CareerSource Florida, Inc.,~~ for review, and the state board may rescind approval of the exception.

Section 14. Subsection (6) of section 445.026, Florida Statutes, is amended to read:

445.026 Cash assistance severance benefit.—An individual who meets the criteria listed in this section may choose to receive a lump-sum payment in lieu of ongoing cash assistance payments, provided the individual:

(6) Signs an agreement not to apply for or accept cash assistance for 6 months after receipt of the one-time payment. In the event of an emergency, such agreement shall provide for an exception to this restriction, provided that the one-time payment shall be deducted from any cash assistance for which the family subsequently is approved. This deduction may be prorated over an 8-month period. The state board ~~of directors of CareerSource Florida, Inc.,~~ shall adopt criteria defining the conditions under which a family may receive cash assistance due to such emergency.

Such individual may choose to accept a one-time, lump-sum payment of $1,000 in lieu of receiving ongoing cash assistance. Such payment shall only count toward the time limitation for the

month in which the payment is made in lieu of cash assistance. A participant choosing to accept such payment shall be terminated from cash assistance. However, eligibility for Medicaid, food assistance, or child care shall continue, subject to the eligibility requirements of those programs.

Section 15. Section 445.028, Florida Statutes, is amended to read:

445.028 Transitional benefits and services.—In cooperation with the department ~~CareerSource Florida, Inc.~~, the Department of Children and Families shall develop procedures to ensure that families leaving the temporary cash assistance program receive transitional benefits and services that will assist the family in moving toward self-sufficiency. At a minimum, such procedures must include, but are not limited to, the following:

(1) Each recipient of cash assistance who is determined ineligible for cash assistance for a reason other than a work activity sanction shall be contacted by the workforce system case manager and provided information about the availability of transitional benefits and services. Such contact shall be attempted prior to closure of the case management file.

(2) Each recipient of temporary cash assistance who is determined ineligible for cash assistance due to noncompliance with the work activity requirements shall be contacted and provided information in accordance with s. 414.065(1).

(3) The department, in consultation with the state board ~~of directors of CareerSource Florida, Inc.~~, shall develop

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informational material, including posters and brochures, to better inform families about the availability of transitional benefits and services.

(4) The department ~~CareerSource Florida, Inc.~~, in cooperation with the Department of Children and Families, shall, to the extent permitted by federal law, develop procedures to maximize the utilization of transitional Medicaid by families who leave the temporary cash assistance program.

Section 16. Section 445.030, Florida Statutes, is amended to read:

445.030 Transitional education and training.—In order to assist former recipients of temporary cash assistance who are working or actively seeking employment in continuing their training and upgrading their skills, education, or training, support services may be provided for up to 2 years after the family is no longer receiving temporary cash assistance. This section does not constitute an entitlement to transitional education and training. If funds are not sufficient to provide services under this section, the state board ~~of directors of CareerSource Florida, Inc.,~~ may limit or otherwise prioritize transitional education and training.

(1) Education or training resources available in the community at no additional cost shall be used whenever possible.

(2) Local workforce development boards may authorize child care or other support services in addition to services provided in conjunction with employment. For example, a participant who

is employed full time may receive child care services related to that employment and may also receive additional child care services in conjunction with training to upgrade the participant's skills.

(3) Transitional education or training must be job-related, but may include training to improve job skills in a participant's existing area of employment or may include training to prepare a participant for employment in another occupation.

(4) A local workforce development board may enter into an agreement with an employer to share the costs relating to upgrading the skills of participants hired by the employer. For example, a local workforce development board may agree to provide support services such as transportation or a wage subsidy in conjunction with training opportunities provided by the employer.

Section 17. Section 445.033, Florida Statutes, is amended to read:

445.033 Evaluation.—The state board ~~of directors of CareerSource Florida, Inc.,~~ and the Department of Children and Families shall arrange for evaluation of TANF-funded programs operated under this chapter, as follows:

(1) If required by federal waivers or other federal requirements, the state board ~~of directors of CareerSource Florida, Inc.,~~ and the department may provide for evaluation according to these requirements.

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(2) The state board ~~of directors of CareerSource Florida, Inc.,~~ and the department shall participate in the evaluation of this program in conjunction with evaluation of the state's workforce development programs or similar activities aimed at evaluating program outcomes, cost-effectiveness, or return on investment, and the impact of time limits, sanctions, and other welfare reform measures set out in this chapter. Evaluation shall also contain information on the number of participants in work experience assignments who obtain unsubsidized employment, including, but not limited to, the length of time the unsubsidized job is retained, wages, and the public benefits, if any, received by such families while in unsubsidized employment. The evaluation must solicit the input of consumers, community-based organizations, service providers, employers, and the general public, and must publicize, especially in low-income communities, the process for submitting comments.

(3) The state board ~~of directors of CareerSource Florida, Inc.,~~ and the department may share information with and develop protocols for information exchange with the Florida Education and Training Placement Information Program.

(4) The state board ~~of directors of CareerSource Florida, Inc.,~~ and the department may initiate or participate in additional evaluation or assessment activities that will further the systematic study of issues related to program goals and outcomes.

(5) In providing for evaluation activities, the state

board ~~of directors of CareerSource Florida, Inc.,~~ and the department shall safeguard the use or disclosure of information obtained from program participants consistent with federal or state requirements. Evaluation methodologies may be used which are appropriate for evaluation of program activities, including random assignment of recipients or participants into program groups or control groups. To the extent necessary or appropriate, evaluation data shall provide information with respect to the state, district, or county, or other substate area.

(6) The state board ~~of directors of CareerSource Florida, Inc.,~~ and the department may contract with a qualified organization for evaluations conducted under this section.

Section 18. Section 445.035, Florida Statutes, is amended to read:

445.035 Data collection and reporting.—The Department of Children and Families and the state board ~~of directors of CareerSource Florida, Inc.,~~ shall collect data necessary to administer this chapter and make the reports required under federal law to the United States Department of Health and Human Services and the United States Department of Agriculture.

Section 19. Subsections (1), (2), and (3), paragraph (b) of subsection (4), and subsection (5) of section 445.048, Florida Statutes, are amended to read:

445.048 Passport to Economic Progress program.—

(1) AUTHORIZATION.—Notwithstanding any law to the

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contrary, the state board ~~CareerSource Florida, Inc.~~, in conjunction with the department and the Department of Children and Families ~~and the Department of Economic Opportunity~~, shall implement a Passport to Economic Progress program consistent with this section. The state board ~~CareerSource Florida, Inc.,~~ may designate local workforce development boards to participate in the program. Expenses for the program may come from appropriated revenues or from funds otherwise available to a local workforce development board which may be legally used for such purposes. The state board ~~CareerSource Florida, Inc.,~~ must consult with the applicable local workforce development boards and the applicable local offices of the Department of Children and Families which serve the program areas and must encourage community input into the implementation process.

(2) WAIVERS.—If the state board ~~CareerSource Florida, Inc.~~, in consultation with the Department of Children and Families, finds that federal waivers would facilitate implementation of the program, the department shall immediately request such waivers, and the state board ~~CareerSource Florida, Inc.,~~ shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives if any refusal of the federal government to grant such waivers prevents the implementation of the program. If the state board ~~CareerSource Florida, Inc.,~~ finds that federal waivers to provisions of the Food Assistance Program would facilitate implementation of the program, the Department of Children and Families shall

immediately request such waivers in accordance with s. 414.175.

(3) TRANSITIONAL BENEFITS AND SERVICES.—In order to assist them in making the transition to economic self-sufficiency, former recipients of temporary cash assistance participating in the passport program shall be eligible for the following benefits and services:

(a) Notwithstanding the time period specified in s. 445.030, transitional education and training support services as specified in s. 445.030 for up to 4 years after the family is no longer receiving temporary cash assistance;

(b) Notwithstanding the time period specified in s. 445.031, transitional transportation support services as specified in s. 445.031 for up to 4 years after the family is no longer receiving temporary cash assistance; and

(c) Notwithstanding the time period specified in s. 445.032, transitional child care as specified in s. 445.032 for up to 4 years after the family is no longer receiving temporary cash assistance.

All other provisions of ss. 445.030, 445.031, and 445.032 apply to such individuals, as appropriate. This subsection does not constitute an entitlement to transitional benefits and services. If funds are insufficient to provide benefits and services under this subsection, the state board ~~of directors of CareerSource Florida, Inc.~~, or its agent, may limit such benefits and services or otherwise establish priorities for the provisions of

such benefits and services.

(4) INCENTIVES TO ECONOMIC SELF-SUFFICIENCY.—

(b) The state board ~~CareerSource Florida, Inc.~~, in cooperation with the department and the Department of Children and Families ~~and the Department of Economic Opportunity~~, shall offer performance-based incentive bonuses as a component of the Passport to Economic Progress program. The bonuses do not represent a program entitlement and are contingent on achieving specific benchmarks prescribed in the self-sufficiency plan. If the funds appropriated for this purpose are insufficient to provide this financial incentive, the state board ~~of directors of CareerSource Florida, Inc.,~~ may reduce or suspend the bonuses in order not to exceed the appropriation or may direct the local workforce development boards to use resources otherwise given to the local workforce development board to pay such bonuses if such payments comply with applicable state and federal laws.

(5) EVALUATIONS AND RECOMMENDATIONS.—The state board ~~CareerSource Florida, Inc.~~, in conjunction with the department, the Department of Children and Families, ~~the Department of Economic Opportunity,~~ and the local workforce development boards, shall conduct a comprehensive evaluation of the effectiveness of the program operated under this section. Evaluations and recommendations for the program shall be submitted by the state board ~~CareerSource Florida, Inc.,~~ as part of its annual report to the Legislature.

Section 20. Subsections (6), (8), and (13) of section

445.051, Florida Statutes, are amended to read:

445.051 Individual development accounts.—

(6) The state board ~~CareerSource Florida, Inc.,~~ shall establish procedures for local workforce development boards to include in their annual program and financial plan an application to offer an individual development account program as part of their TANF allocation. These procedures must include, but need not be limited to, administrative costs permitted for the fiduciary organization and policies relative to identifying the match ratio and limits on the deposits for which the match will be provided in the application process. The state board ~~CareerSource Florida, Inc.,~~ shall establish policies and procedures necessary to ensure that funds held in an individual development account are not withdrawn except for one or more of the qualified purposes described in this section.

(8) The state board ~~CareerSource Florida, Inc.,~~ shall establish procedures for controlling the withdrawal of funds for uses other than qualified purposes, including specifying conditions under which an account must be closed.

(13) Pursuant to policy direction by the state board ~~CareerSource Florida, Inc.~~, the department ~~of Economic Opportunity~~ shall adopt such rules as are necessary to implement this act.

Section 21. Subsection (2) of section 445.055, Florida Statutes, is amended to read:

445.055 Employment advocacy and assistance program

targeting military spouses and dependents.—

(2) The state board ~~CareerSource Florida, Inc.,~~ shall establish an employment advocacy and assistance program targeting military spouses and dependents. This program shall deliver employment assistance services through military family employment advocates colocated within selected one-stop career centers. Persons eligible for assistance through this program include spouses and dependents of active duty military personnel, Florida National Guard members, and military reservists.

Section 22. Paragraph (p) of subsection (3) of section 11.45, Florida Statutes, is amended to read:

11.45 Definitions; duties; authorities; reports; rules.—

(3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The Auditor General may, pursuant to his or her own authority, or at the direction of the Legislative Auditing Committee, conduct audits or other engagements as determined appropriate by the Auditor General of:

(p) CareerSource Florida, Inc., the state board as defined in s. 445.002, or the programs or entities created by the state board under ~~CareerSource Florida, Inc., created pursuant to~~ s. 445.004.

Section 23. Paragraph (a) of subsection (5) of section 288.901, Florida Statutes, is amended to read:

288.901 Enterprise Florida, Inc.—

(5) APPOINTED MEMBERS OF THE BOARD OF DIRECTORS.—

(a) In addition to the Governor or his or her designee, the board of directors shall consist of the following appointed members:

1. The Commissioner of Education or his or her designee.

2. The Chief Financial Officer or his or her designee.

3. The Attorney General or his or her designee.

4. The Commissioner of Agriculture or his or her designee.

5. The chairperson of the state board as defined in s. 445.002 ~~board of directors of CareerSource Florida, Inc~~.

6. The Secretary of State or his or her designee.

7. Twelve members from the private sector, six of whom shall be appointed by the Governor, three of whom shall be appointed by the President of the Senate, and three of whom shall be appointed by the Speaker of the House of Representatives. Members appointed by the Governor are subject to Senate confirmation.

All board members shall serve without compensation, but are entitled to receive reimbursement for per diem and travel expenses pursuant to s. 112.061. Such expenses must be paid out of funds of Enterprise Florida, Inc.

Section 24. Subsection (5) of section 331.369, Florida Statutes, is amended to read:

331.369 Space Industry Workforce Initiative.—

(5) The state board as defined in s. 445.002 ~~CareerSource Florida, Inc.~~, as part of its statutorily prescribed annual

report to the Legislature, shall provide recommendations for policies, programs, and funding to enhance the workforce needs of the aerospace industry.

Section 25. Paragraph (k) of subsection (1) and subsection (9) of section 413.405, Florida Statutes, are amended to read:

413.405 Florida Rehabilitation Council.—There is created the Florida Rehabilitation Council to assist the division in the planning and development of statewide rehabilitation programs and services, to recommend improvements to such programs and services, and to perform the functions listed in this section.

(1) The council shall be composed of:

(k) At least one representative of the state board as defined in s. 445.002 ~~board of directors of CareerSource Florida, Inc~~.

(9) In addition to the other functions specified in this section, the council shall, after consulting with the state board as defined in s. 445.002 ~~board of directors of CareerSource Florida, Inc.~~:

(a) Review, analyze, and advise the division regarding the performance of the responsibilities of the division under Title I of the act, particularly responsibilities relating to:

1. Eligibility, including order of selection.

2. The extent, scope, and effectiveness of services provided.

3. Functions performed by state agencies which affect or potentially affect the ability of individuals with disabilities

to achieve employment outcomes under Title I.

(b) In partnership with the division:

1. Develop, agree to, and review state goals and priorities in accordance with 34 C.F.R. s. 361.29(c); and

2. Evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the United States Secretary of Education in accordance with 34 C.F.R. s. 361.29(e).

(c) Advise the department and the division and assist in the preparation of the state plan and amendments to the plan, applications, reports, needs assessments, and evaluations required by Title I.

(d) To the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with:

1. The functions performed by state agencies and other public and private entities responsible for performing functions for individuals who have disabilities.

2. Vocational rehabilitation services:

a. Provided or paid for from funds made available under the act or through other public or private sources.

b. Provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals who have disabilities.

3. The employment outcomes achieved by eligible individuals receiving services under this part, including the

availability of health or other employment benefits in connection with those employment outcomes.

(e) Prepare and submit an annual report on the status of vocational rehabilitation programs in the state to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the United States Secretary of Education and make the report available to the public.

(f) Coordinate with other councils within Florida, including the Florida Independent Living Council, the advisory panel established under s. 612(a)(21) of the Individuals with Disabilities Education Act, 20 U.S.C. s. 1412(a)(21), the State Planning Council described in s. 124 of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. s. 15024, the state mental health planning council established under s. 1914 of the Public Health Service Act, 42 U.S.C. s. 300x-3, and the state board as defined in s. 445.002 ~~board of directors of CareerSource Florida, Inc~~.

(g) Advise the department and division and provide for coordination and the establishment of working relationships among the department, the division, the Florida Independent Living Council, and centers for independent living in the state.

(h) Perform other functions that are consistent with the duties and responsibilities of the council under this section.

Section 26. Section 414.045, Florida Statutes, is amended to read:

414.045 Cash assistance program.—Cash assistance families

include any families receiving cash assistance payments from the state program for temporary assistance for needy families as defined in federal law, whether such funds are from federal funds, state funds, or commingled federal and state funds. Cash assistance families may also include families receiving cash assistance through a program defined as a separate state program.

(1) For reporting purposes, families receiving cash assistance shall be grouped into the following categories. The department may develop additional groupings in order to comply with federal reporting requirements, to comply with the data-reporting needs of the state board as defined in s. 445.002 ~~board of directors of CareerSource Florida, Inc.~~, or to better inform the public of program progress.

(a) Work-eligible cases.—Work-eligible cases shall include:

1. Families containing an adult or a teen head of household, as defined by federal law. These cases are generally subject to the work activity requirements provided in s. 445.024 and the time limitations on benefits provided in s. 414.105.

2. Families with a parent where the parent's needs have been removed from the case due to sanction or disqualification shall be considered work-eligible cases to the extent that such cases are considered in the calculation of federal participation rates or would be counted in such calculation in future months.

3. Families participating in transition assistance

programs.

4. Families otherwise eligible for temporary cash assistance which receive diversion services, a severance payment, or participate in the relocation program.

(b) Child-only cases.—Child-only cases include cases that do not have an adult or teen head of household as defined in federal law. Such cases include:

1. Children in the care of caretaker relatives, if the caretaker relatives choose to have their needs excluded in the calculation of the amount of cash assistance.

2. Families in the Relative Caregiver Program as provided in s. 39.5085.

3. Families in which the only parent in a single-parent family or both parents in a two-parent family receive supplemental security income (SSI) benefits under Title XVI of the Social Security Act, as amended. To the extent permitted by federal law, individuals receiving SSI shall be excluded as household members in determining the amount of cash assistance, and such cases shall not be considered families containing an adult. Parents or caretaker relatives who are excluded from the cash assistance group due to receipt of SSI may choose to participate in work activities. An individual whose ability to participate in work activities is limited who volunteers to participate in work activities shall be assigned to work activities consistent with such limitations. An individual who volunteers to participate in a work activity may receive child

care or support services consistent with such participation.

4. Families in which the only parent in a single-parent family or both parents in a two-parent family are not eligible for cash assistance due to immigration status or other limitation of federal law. To the extent required by federal law, such cases shall not be considered families containing an adult.

5. To the extent permitted by federal law and subject to appropriations, special needs children who have been adopted pursuant to s. 409.166 and whose adopting family qualifies as a needy family under the state program for temporary assistance for needy families. Notwithstanding any provision to the contrary in s. 414.075, s. 414.085, or s. 414.095, a family shall be considered a needy family if:

a. The family is determined by the department to have an income below 200 percent of the federal poverty level;

b. The family meets the requirements of s. 414.095(2) and (3) related to residence, citizenship, or eligible noncitizen status; and

c. The family provides any information that may be necessary to meet federal reporting requirements specified under Part A of Title IV of the Social Security Act.

6. Families in the Guardianship Assistance Program as provided in s. 39.6225.

Families described in subparagraph 1., subparagraph 2., or

subparagraph 3. may receive child care assistance or other supports or services so that the children may continue to be cared for in their own homes or in the homes of relatives. Such assistance or services may be funded from the temporary assistance for needy families block grant to the extent permitted under federal law and to the extent funds have been provided in the General Appropriations Act.

(2) Oversight by the state board as defined in s. 445.002 ~~board of directors of CareerSource Florida, Inc.,~~ and the service delivery and financial planning responsibilities of the local workforce development boards apply to the families defined as work-eligible cases in paragraph (1)(a). The department shall be responsible for program administration related to families in groups defined in paragraph (1)(b), and the department shall coordinate such administration with the state board ~~of directors of CareerSource Florida, Inc.,~~ to the extent needed for operation of the program.

Section 27. Subsection (2) of section 420.622, Florida Statutes, is amended to read:

420.622 State Office on Homelessness; Council on Homelessness.—

(2) The Council on Homelessness is created to consist of 17 representatives of public and private agencies who shall develop policy and advise the State Office on Homelessness. The council members shall be: the Secretary of Children and Families, or his or her designee; the executive director of the

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Department of Economic Opportunity, or his or her designee, who shall advise the council on issues related to rural development; the State Surgeon General, or his or her designee; the Executive Director of Veterans' Affairs, or his or her designee; the Secretary of Corrections, or his or her designee; the Secretary of Health Care Administration, or his or her designee; the Commissioner of Education, or his or her designee; the Executive Director of CareerSource Florida, Inc., or his or her designee; one representative of the Florida Association of Counties; one representative of the Florida League of Cities; one representative of the Florida Supportive Housing Coalition; the Executive Director of the Florida Housing Finance Corporation, or his or her designee; one representative of the Florida Coalition for the Homeless; and four members appointed by the Governor. The council members shall be nonpaid volunteers and shall be reimbursed only for travel expenses. The appointed members of the council shall be appointed to staggered 2-year terms, and the council shall meet at least four times per year. The importance of minority, gender, and geographic representation shall be considered in appointing members to the council.

Section 28. Subsections (1) and (4) of section 443.171, Florida Statutes, are amended to read:

443.171 Department of Economic Opportunity and commission; powers and duties; records and reports; proceedings; state-federal cooperation.—

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(1) POWERS AND DUTIES.—The Department of Economic Opportunity shall administer this chapter. The department may employ persons, make expenditures, require reports, conduct investigations, and take other action necessary or suitable to administer this chapter. The department shall annually submit information to the state board as defined in s. 445.002 ~~CareerSource Florida, Inc.,~~ covering the administration and operation of this chapter during the preceding calendar year for inclusion in the strategic plan under s. 445.006 and may make recommendations for amendment to this chapter.

(4) EMPLOYMENT STABILIZATION.—The Department of Economic Opportunity, under the direction of the state board as defined in s. 445.002 ~~CareerSource Florida, Inc.~~, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of career training, retraining, and career guidance; to investigate, recommend, advise, and assist municipalities, counties, school districts, and the state in the establishment and operation of reserves for public works to be used in times of business depression and unemployment; to promote the reemployment of unemployed workers throughout the state in every other way that may be feasible; to refer a claimant entitled to extended benefits to suitable work that meets the criteria of this chapter; and, to these ends, to carry on and publish the results of investigations and research studies.

Section 29. Subsection (1) of section 443.181, Florida

Statutes, is amended to read:

443.181 Public employment service.—

(1) The one-stop delivery system established under s. 445.009 is this state's public employment service as part of the national system of public employment offices established under 29 U.S.C. s. 49. The Department of Economic Opportunity, under policy direction from the state board as defined in s. 445.002 ~~CareerSource Florida, Inc.~~, shall cooperate with any official or agency of the United States having power or duties under 29 U.S.C. ss. 49-49l-1 and shall perform those duties necessary to secure to this state the funds provided under federal law for the promotion and maintenance of the state's public employment service. In accordance with 29 U.S.C. s. 49c, this state accepts 29 U.S.C. ss. 49-49l-1. The department is designated the state agency responsible for cooperating with the United States Secretary of Labor under 29 U.S.C. s. 49c. The department shall appoint sufficient employees to administer this section. The department may cooperate with or enter into agreements with the Railroad Retirement Board for the establishment, maintenance, and use of one-stop career centers.

Section 30. Subsection (1) of section 446.71, Florida Statutes, is amended to read:

446.71 Everglades Restoration Agricultural Community Employment Training Program.—

(1) The Department of Economic Opportunity, in cooperation with the state board as defined in s. 445.002 ~~CareerSource~~

~~Florida, Inc.~~, shall establish the Everglades Restoration Agricultural Community Employment Training Program within the Department of Economic Opportunity. The Department of Economic Opportunity shall use funds appropriated to the program by the Legislature to provide grants to stimulate and support training and employment programs that seek to match persons who complete such training programs to nonagricultural employment opportunities in areas of high agricultural unemployment, and to provide other training, educational, and information services necessary to stimulate the creation of jobs in the areas of high agricultural unemployment. In determining whether to provide funds to a particular program, the Department of Economic Opportunity shall consider the location of the program in proximity to the program's intended participants.

Section 31. Subsection (9) of section 1011.80, Florida Statutes, is amended to read:

1011.80 Funds for operation of workforce education programs.—

(9) The State Board of Education and the state board as defined in s. 445.002 ~~CareerSource Florida, Inc.,~~ shall provide the Legislature with recommended formulas, criteria, timeframes, and mechanisms for distributing performance funds. The commissioner shall consolidate the recommendations and develop a consensus proposal for funding. The Legislature shall adopt a formula and distribute the performance funds to the State Board of Education for Florida College System institutions and school

districts through the General Appropriations Act. These recommendations shall be based on formulas that would discourage low-performing or low-demand programs and encourage through performance-funding awards:

(a) Programs that prepare people to enter high-wage occupations identified by the Workforce Estimating Conference created by s. 216.136 and other programs as approved by the state board as defined in s. 445.002 ~~CareerSource Florida, Inc~~. At a minimum, performance incentives shall be calculated for adults who reach completion points or complete programs that lead to specified high-wage employment and to their placement in that employment.

(b) Programs that successfully prepare adults who are eligible for public assistance, economically disadvantaged, disabled, not proficient in English, or dislocated workers for high-wage occupations. At a minimum, performance incentives shall be calculated at an enhanced value for the completion of adults identified in this paragraph and job placement of such adults upon completion. In addition, adjustments may be made in payments for job placements for areas of high unemployment.

(c) Programs that are specifically designed to be consistent with the workforce needs of private enterprise and regional economic development strategies, as defined in guidelines set by the state board as defined in s. 445.002 ~~CareerSource Florida, Inc~~. The state board ~~CareerSource Florida, Inc.,~~ shall develop guidelines to identify such needs and

strategies based on localized research of private employers and economic development practitioners.

(d) Programs identified by the state board as defined in s. 445.002 ~~CareerSource Florida, Inc.,~~ as increasing the effectiveness and cost efficiency of education.

Section 32. Subsection (3) of section 1011.801, Florida Statutes, is amended to read:

1011.801 Workforce Development Capitalization Incentive Grant Program.—The Legislature recognizes that the need for school districts and Florida College System institutions to be able to respond to emerging local or statewide economic development needs is critical to the workforce development system. The Workforce Development Capitalization Incentive Grant Program is created to provide grants to school districts and Florida College System institutions on a competitive basis to fund some or all of the costs associated with the creation or expansion of workforce development programs that serve specific employment workforce needs.

(3) The State Board of Education shall give highest priority to programs that train people to enter high-skill, high-wage occupations identified by the Workforce Estimating Conference and other programs approved by the state board as defined in s. 445.002, ~~CareerSource Florida, Inc.,~~ programs that train people to enter occupations under the welfare transition program, ~~,~~ or programs that train for the workforce adults who are eligible for public assistance, economically disadvantaged,

disabled, not proficient in English, or dislocated workers. The State Board of Education shall consider the statewide geographic dispersion of grant funds in ranking the applications and shall give priority to applications from education agencies that are making maximum use of their workforce development funding by offering high-performing, high-demand programs.

Section 33. Paragraph (b) of subsection (5), subsection (6), paragraph (b) of subsection (10), and subsection (11) of section 20.60, Florida Statutes, are amended, and paragraph (c) is added to subsection (9) of that section, to read:

20.60 Department of Economic Opportunity; creation; powers and duties.—

(5) The divisions within the department have specific responsibilities to achieve the duties, responsibilities, and goals of the department. Specifically:

(c) The Division of Workforce Services shall:

1. Prepare and submit a unified budget request for workforce development in accordance with chapter 216 for, and in conjunction with, the state ~~CareerSource Florida, Inc., and its~~ board as defined in s. 445.002.

2. Ensure that the state appropriately administers federal and state workforce funding by administering plans and policies of the state board as defined in s. 445.002 ~~CareerSource Florida, Inc., under contract with CareerSource Florida, Inc~~. The operating budget and midyear amendments thereto must be part of such contract.

a. All program and fiscal instructions to local workforce development boards shall emanate from the Department of Economic Opportunity pursuant to plans and policies of the state board as defined in s. 445.002 ~~CareerSource Florida, Inc.~~, which shall be responsible for all policy directions to the local workforce development boards.

b. Unless otherwise provided by agreement with the state board as defined in s. 445.002 ~~CareerSource Florida, Inc.~~, administrative and personnel policies of the Department of Economic Opportunity apply.

3. Implement the state's reemployment assistance program. The Department of Economic Opportunity shall ensure that the state appropriately administers the reemployment assistance program pursuant to state and federal law.

4. Assist in developing the 5-year statewide strategic plan required by this section.

(6)(a) The Department of Economic Opportunity is the administrative agency designated for receipt of federal workforce development grants and other federal funds. The department shall administer the duties and responsibilities assigned by the Governor under each federal grant assigned to the department. The department shall expend each revenue source as provided by federal and state law and as provided in plans developed by and agreements with the state board as defined in s. 445.002 ~~CareerSource Florida, Inc~~. The department may serve as the contract administrator for contracts entered into by the

state board under ~~CareerSource Florida, Inc., pursuant to~~ s. 445.004(5)~~, as directed by CareerSource Florida, Inc~~.

(b) The Department of Economic Opportunity shall serve as the designated agency for purposes of each federal workforce development grant assigned to it for administration. The department shall carry out the duties assigned to it by the Governor, under the terms and conditions of each grant. The department shall have the level of authority and autonomy necessary to be the designated recipient of each federal grant assigned to it and shall disburse such grants pursuant to the plans and policies of the state board as defined in s. 445.002 ~~CareerSource Florida, Inc~~. The executive director may, upon delegation from the Governor and pursuant to agreement with the state board ~~CareerSource Florida, Inc.~~, sign contracts, grants, and other instruments as necessary to execute functions assigned to the department. Notwithstanding other provisions of law, the department shall administer other programs funded by federal or state appropriations, as determined by the Legislature in the General Appropriations Act or other law.

(9) The executive director shall:

(c) Serve as the chair of the board of directors of the Florida Development Finance Corporation.

(10) The department, with assistance from Enterprise Florida, Inc., shall, by November 1 of each year, submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the condition of

the business climate and economic development in the state.

(b) The report must incorporate annual reports of other programs, including:

1. Information provided by the Department of Revenue under s. 290.014.

2. Information provided by enterprise zone development agencies under s. 290.0056 and an analysis of the activities and accomplishments of each enterprise zone.

3. The Economic Gardening Business Loan Pilot Program established under s. 288.1081 and the Economic Gardening Technical Assistance Pilot Program established under s. 288.1082.

4. A detailed report of the performance of the Black Business Loan Program and a cumulative summary of quarterly report data required under s. 288.714.

5. The Rural Economic Development Initiative established under s. 288.0656.

6. The Florida Unique Abilities Partner Program.

7. A detailed report of the performance of the Florida Development Finance Corporation and a summary of the corporation's report that is required under s. 288.9610.

(11) The department shall establish annual performance standards for Enterprise Florida, Inc., CareerSource Florida, Inc., the Florida Tourism Industry Marketing Corporation, the Florida Development Finance Corporation, and Space Florida and report annually on how these performance measures are being met

in the annual report required under subsection (10).

Section 34. Subsection (2), paragraphs (a) and (c) of subsection (3), and subsection (4) of section 288.9604, Florida Statutes, are amended, and subsection (5) is added to that section, to read:

288.9604 Creation of the authority.—

(2)(a) The board of directors of the corporation shall consist of seven members. The executive director of the department, or his or her designee, shall serve as chair of the board of directors. The director of the Division of Bond Finance of the State Board of Administration, or his or her designee, shall serve as a director on the board. The Governor, subject to confirmation by the Senate, shall appoint the remaining five members of the board of directors ~~of the corporation, who shall be five in number~~. At least three of the appointed directors of the corporation must be bankers or persons with experience in finance, and one of the appointed directors must be an economic development specialist.

(b) The terms of office for the appointed directors are for ~~shall be for~~ 4 years after ~~from~~ the date of their appointment. A vacancy occurring during a term of an appointed director shall be filled for the unexpired term. An appointed ~~A~~ director is ~~shall be~~ eligible for reappointment. Each appointed director shall hold office until his or her successor has been appointed ~~At least three of the directors of the corporation shall be bankers who have been selected by the Governor from a~~

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

~~list of bankers who were nominated by Enterprise Florida, Inc., and one of the directors shall be an economic development specialist~~.

(3)(a)1. A director may not receive compensation for his or her services, but is entitled to necessary expenses, including travel expenses, incurred in the discharge of his or her duties. ~~Each director shall hold office until his or her successor has been appointed.~~

2. Directors are subject to ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2). For purposes of applying ss. 112.313(1)-(8), (10), (12), and (15); 112.3135; and 112.3143(2) to activities of directors, directors are ~~shall be~~ considered public officers and the corporation is ~~shall be~~ considered their agency.

(c) ~~The directors of the corporation shall annually elect one of their members as chair and one as vice chair.~~ The corporation may employ a president, technical experts, and such other agents and employees, permanent and temporary, as it requires and determine their qualifications, duties, and compensation. For such legal services as it requires, the corporation may employ or retain its own counsel and legal staff.

(4) The board may remove an appointed ~~a~~ director for inefficiency, neglect of duty, or misconduct in office. An appointed director may be removed only after a hearing and only if he or she has been given a copy of the charges at least 10

days before such hearing and has had an opportunity to be heard in person or by counsel. The removal of an appointed ~~a~~ director creates ~~shall create~~ a vacancy on the board which must ~~shall~~ be filled pursuant to subsection (2).

(5) This section is repealed October 1, 2022, and October 1 of every fourth year thereafter, unless reviewed and saved from repeal by the Legislature.

Section 35. In order to implement the changes made by this act to s. 288.9604, Florida Statutes, the chair and vice chair of the board of directors of the Florida Development Finance Corporation on June 30, 2020, shall serve as appointed directors beginning on July 1, 2020. This act does not affect the terms of the current directors serving on the board on July 1, 2020.

Section 36. Section 288.9610, Florida Statutes, is amended to read:

288.9610 Annual reports of Florida Development Finance Corporation.—On or before 90 days after the close of the Florida Development Finance Corporation's fiscal year, the corporation shall submit to the Governor, the Legislature, the Auditor General, the Department of Economic Opportunity, and the governing body of each public entity with which it has entered into an interlocal agreement a complete and detailed report setting forth:

(1) The results of any audit conducted under ~~pursuant to~~ s. 11.45.

(2) The activities, operations, and accomplishments of the

Florida Development Finance Corporation, including the number of businesses assisted by the corporation.

(3) Its assets, liabilities, income, and operating expenses at the end of its most recent fiscal year, including a description of all of its outstanding revenue bonds.

Section 37. A contract or interlocal agreement that exists before July 1, 2020, between the Florida Development Finance Corporation, or an entity or agent of the corporation, and any other entity or person shall remain in effect and be binding on the successor department, entity, or person responsible for the program, activity, or function that relates to the contract or interlocal agreement.

Section 38. This act shall take effect July 1, 2020.