

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SPB 7022

INTRODUCER: Governmental Oversight and Accountability Committee

SUBJECT: Individuals with Disabilities

DATE: February 3, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	GO Submitted as Committee Bill
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____

I. Summary:

SPB 7022 modifies the State of Florida’s employment policy to provide enhanced opportunities for persons who have a disability to be employed by executive branch agencies. Specifically, the bill requires each executive agency to:

- Establish annual goals in its affirmative action plan that ensures full utilization of underrepresented groups in agency’s workforce, including individuals who have a disability
- Annually report its progress toward increasing employment of individuals who have a disability; and
- By Jan. 1, 2016, develop agency-specific plan on promoting employment opportunities for individuals who have a disability.

Additionally, the bill directs the Department of Management Services to:

- Develop and implement programs geared toward individuals who have a disability in consultation with Agency for Persons with Disabilities, Division of Vocational Rehabilitation of the Department of Education, Department of Economic Opportunity, and Executive Office of the Governor;
- Develop mandatory training programs for human resources personnel and hiring managers of executive agencies that support the employment of individuals who have a disability;
- Assist executive agencies with implementing the agency-specific plans and strategies for retaining employees who have a disability;
- Compile data on hiring practices of executive agencies regarding hiring of individuals who have a disability and post this information on agency website; and
- Adopt rules relating to forms providing for voluntary self-identification of individuals who have a disability who are employed by executive agency.

The bill provides for an effective date of July 1, 2015.

II. Present Situation:

Section 110.112, F.S., declares that the policy of the state is to afford equal employment opportunities through programs of affirmative and positive action allowing for the full utilization of women and minorities.

Each executive agency is required to develop and implement an affirmative action plan;¹ establish annual goals in its affirmative action plan for ensuring full utilization of groups underrepresented in the agency's workforce as compared to relevant labor market;² and appoint an affirmative action-equal employment opportunity officer.³

DMS is required to issue an annual workforce report⁴ and provide training to all supervisory personnel of executive agencies.⁵

Presently, s. 110.112, F.S., does not contain a definition of the term "individual who has a disability" and does not specifically address equal employment opportunity and affirmative action for this group.

III. Effect of Proposed Changes:

Section 1 reorders, amends and revises definitions contained in s. 110.107, Florida Statutes, and defines the term "individual who has a disability".

The definition of "individual who has a disability" mirrors the federal definition of "disability" contained in the American with Disabilities Act (ADA),⁶ with the exceptions of the following:

- The federal term "mental impairment"⁷ is replaced with "intellectual impairment"; and
- The federal phrase "being regarded"⁸ is replaced with "who is perceived by others".

Section 2 amends s. 110.112, Florida Statutes, and revises and broadens the state's equal employment opportunity policy to include individuals who have a disability.

Executive agencies are required to:

¹ Section 110.112(2) (a), F.S.

² Section 110.112(2) (b), F.S.

³ Section 110.112(2)(c), F.S., provides that the duties of the affirmative action-equal employment opportunity officer include determining annual goals, monitoring agency compliance, and providing consultation to managers regarding progress, deficiencies, and appropriate corrective action.

⁴ Section 110.112(2) (d), F.S., provides that the DMS annual workforce report shall include information relating to implementation, continuance, and updating the results of each executive agency's affirmative action plan for the previous fiscal year.

⁵ Section 110.112(2)(e), F.S., provides that the training will be in the principals of equal employment opportunity and affirmative action, the development and implementation of affirmative action plans, and establishment of annual affirmative action goals.

⁶ 42 U.S.C. s. 12102(2).

⁷ *Id.*

⁸ *Id.*

- Set annual goals in its affirmative action plan to ensure the full utilization of underrepresented groups, to specifically include individuals who have a disability as compared to the relevant labor market;
- Report annually to DMS on the agency's progress toward increasing employment of individuals who have a disability; and
- Develop an agency-specific plan by Jan. 1, 2016, addressing how to promote employment opportunities for individuals who have a disability.

DMS is required to:

- Include data for each executive agency related to employment levels among women, minorities, and individuals who have a disability in its annual workforce report;
- Develop and implement programs specifically geared toward individuals who have a disability in consultation with Agency for Persons with Disabilities, Division of Vocational Rehabilitation of the Department of Education, Department of Economic Opportunity, and Executive Office of the Governor;⁹
- Develop mandatory training programs by Jan. 1, 2016, for human resources personnel and hiring managers of executive agencies that support the employment of individuals who have a disability;
- Assist executive agencies in implementing agency-specific plans; and identifying and implementing strategies for retaining employees who have a disability.¹⁰
- Biannually report on the progress of executive agencies in implementing their plans to the Governor, the President of the Senate, and the Speaker of the House of Representatives;
- Compile data regarding the hiring practices of executive agencies in regards to individuals who have a disability and make this data available on its website; and
- Adopt rules regarding forms that provide for voluntary self-identification of individuals who have a disability who are employed by an executive agency.

SPB 7022 also contains a provision that specifically states that no substantive or procedural right or benefit enforceable at law or in equity against the state is created by this legislation.

The bill applies to the State Personnel System comprised of positions in the Career Service, Selected Exempt Service, or Senior Management Service within all executive branch agencies. This bill is not applicable to the personnel systems of the State University System, the Florida Lottery, the Legislature, the Justice Administration System, or the State Courts System.

Section 3 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

⁹ These programs may incorporate internships, mentoring, on-the-job training, unpaid work experience, situational assessments, and other innovative strategies.

¹⁰ Some of these strategies include training programs, funding reasonable accommodations, increasing access to technologies, and ensuring accessibility of physical and virtual workplaces.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

DMS has noted that additional positions and funds are necessary to implement the requirements of this legislation. DMS has suggested that it needs at least two additional full-time positions to implement the additional responsibilities created by SPB 7022. The total costs for these two positions will be roughly \$145,000.

DMS has also suggested the People First system, the state's human resource information system, may need to be enhanced to add an "individual who has a disability" indicator to fully implement the reporting requirements of this legislation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

DMS uses data from the Equal Employment Opportunity (EEO) Tabulation that is published by the U.S. Census Bureau for information on women and minorities. The EEO Tabulation provides detailed occupational statistics by race, ethnicity and sex in the labor market by location-based geography. The state's data center, the Department of Economic Opportunity, has informed DMS that data for individuals who have a disability is not available at the occupational level. Data is only available in broad categories (employed/unemployed, full-time/less than full-time). Accordingly, it might be difficult for agencies to establish numerical goals on such limited data.

VIII. Statutes Affected:

This bill substantially amends the sections 110.107 and 110.112 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
