

By the Committees on Budget Subcommittee on Transportation, Tourism, and Economic Development Appropriations; and Commerce and Tourism; and Senators Gardiner, Fasano, and Lynn

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1 A bill to be entitled
2 An act relating to regional workforce boards;
3 providing a short title; amending s. 445.003, F.S.;
4 specifying qualified expenditures for Individual
5 Training Accounts; amending s. 445.007, F.S.;
6 authorizing the chief elected official in the area of
7 a regional workforce board to appoint representatives
8 to the board if authorized by the Governor; providing
9 that additional members may be added to the board
10 under certain circumstances; requiring members and the
11 executive director of a regional workforce board to
12 make financial disclosures; authorizing the Governor
13 to remove board members or the executive director of
14 the board for cause; requiring that staff of the
15 Department of Economic Opportunity, under the
16 direction of Workforce Florida, Inc., assign staff to
17 review the performance of regional workforce boards;
18 encouraging each regional workforce board to provide
19 the greatest possible choice of training providers to
20 those who qualify for training services; providing
21 requirements for the procurement and expenditure of
22 certain funds; requiring a regional workforce board to
23 develop an annual budget, subject to the approval of
24 the chief elected official of the area; requiring the
25 regional workforce board to submit its budget for
26 review to Workforce Florida, Inc.; reinstating expired
27 provisions that restrict the ability of a regional
28 workforce board to use state or federal funds for
29 meals, food, or beverages and that prohibit a board

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30 from using state or federal funds for entertainment
31 costs or recreational activities for board members or
32 employees; reinstating expired provisions that limit
33 the ability of a regional workforce board to enter
34 into contracts with a member, employee, or relative of
35 a member or employee of the board; making technical
36 and grammatical changes; amending s. 445.009, F.S.;
37 deleting the expiration of a provision relating to the
38 determination of the wages of a participant in an
39 adult or youth work experience activity; making
40 technical and grammatical changes; requiring Workforce
41 Florida, Inc., to evaluate the means to establish a
42 single, statewide-workforce system brand and to report
43 its findings and recommendations to the Governor by a
44 specified date; providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

47
48 Section 1. This act may be cited as the "Regional Workforce
49 Boards Accountability Act."

50 Section 2. Paragraph (a) of subsection (3) of section
51 445.003, Florida Statutes, is amended to read:

52 445.003 Implementation of the federal Workforce Investment
53 Act of 1998.—

54 (3) FUNDING.—

55 (a) Title I, Workforce Investment Act of 1998 funds;
56 Wagner-Peyser funds; and NAFTA/Trade Act funds will be expended
57 based on the 5-year plan of Workforce Florida, Inc. The plan
58 shall outline and direct the method used to administer and

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59 coordinate various funds and programs that are operated by
60 various agencies. The following provisions shall also apply to
61 these funds:

62 1. At least 50 percent of the Title I funds for Adults and
63 Dislocated Workers that are passed through to regional workforce
64 boards shall be allocated and expended on ~~to~~ Individual Training
65 Accounts unless a regional workforce board obtains a waiver from
66 Workforce Florida, Inc. Tuition, books, and fees of training
67 providers and other training services aligned with training
68 prescribed and authorized by the Workforce Investment Act of
69 1998 qualify as ~~an~~ Individual Training Account expenditures
70 ~~expenditure, as do other programs developed by regional~~
71 ~~workforce boards in compliance with policies of Workforce~~
72 ~~Florida, Inc.~~

73 2. Fifteen percent of Title I funding shall be retained at
74 the state level and shall be dedicated to state administration
75 and used to design, develop, induce, and fund innovative
76 Individual Training Account pilots, demonstrations, and
77 programs. Of such funds retained at the state level, \$2 million
78 shall be reserved for the Incumbent Worker Training Program,
79 created under subparagraph 3. Eligible state administration
80 costs include the costs of: funding for the board and staff of
81 Workforce Florida, Inc.; operating fiscal, compliance, and
82 management accountability systems through Workforce Florida,
83 Inc.; conducting evaluation and research on workforce
84 development activities; and providing technical and capacity
85 building assistance to regions at the direction of Workforce
86 Florida, Inc. Notwithstanding s. 445.004, such administrative
87 costs shall not exceed 25 percent of these funds. An amount not

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88 to exceed 75 percent of these funds shall be allocated to
89 Individual Training Accounts and other workforce development
90 strategies for other training designed and tailored by Workforce
91 Florida, Inc., including, but not limited to, programs for
92 incumbent workers, displaced homemakers, nontraditional
93 employment, and enterprise zones. Workforce Florida, Inc., shall
94 design, adopt, and fund Individual Training Accounts for
95 distressed urban and rural communities.

96 3. The Incumbent Worker Training Program is created for the
97 purpose of providing grant funding for continuing education and
98 training of incumbent employees at existing Florida businesses.
99 The program will provide reimbursement grants to businesses that
100 pay for preapproved, direct, training-related costs.

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

105 b. To be eligible for the program's grant funding, a
106 business must have been in operation in Florida for a minimum of
107 1 year prior to the application for grant funding; have at least
108 one full-time employee; demonstrate financial viability; and be
109 current on all state tax obligations. Priority for funding shall
110 be given to businesses with 25 employees or fewer, businesses in
111 rural areas, businesses in distressed inner-city areas,
112 businesses in a qualified targeted industry, businesses whose
113 grant proposals represent a significant upgrade in employee
114 skills, or businesses whose grant proposals represent a
115 significant layoff avoidance strategy.

116 c. All costs reimbursed by the program must be preapproved

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117 by Workforce Florida, Inc., or the grant administrator. The
118 program will not reimburse businesses for trainee wages, the
119 purchase of capital equipment, or the purchase of any item or
120 service that may possibly be used outside the training project.
121 A business approved for a grant may be reimbursed for
122 preapproved, direct, training-related costs including tuition;
123 fees; books and training materials; and overhead or indirect
124 costs not to exceed 5 percent of the grant amount.

125 d. A business that is selected to receive grant funding
126 must provide a matching contribution to the training project,
127 including, but not limited to, wages paid to trainees or the
128 purchase of capital equipment used in the training project; must
129 sign an agreement with Workforce Florida, Inc., or the grant
130 administrator to complete the training project as proposed in
131 the application; must keep accurate records of the project's
132 implementation process; and must submit monthly or quarterly
133 reimbursement requests with required documentation.

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

141 f. Workforce Florida, Inc., may establish guidelines
142 necessary to implement the Incumbent Worker Training Program.

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

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146 4. At least 50 percent of Rapid Response funding shall be
147 dedicated to Intensive Services Accounts and Individual Training
148 Accounts for dislocated workers and incumbent workers who are at
149 risk of dislocation. Workforce Florida, Inc., shall also
150 maintain an Emergency Preparedness Fund from Rapid Response
151 funds which will immediately issue Intensive Service Accounts
152 and Individual Training Accounts as well as other federally
153 authorized assistance to eligible victims of natural or other
154 disasters. At the direction of the Governor, for events that
155 qualify under federal law, these Rapid Response funds shall be
156 released to regional workforce boards for immediate use. Funding
157 shall also be dedicated to maintain a unit at the state level to
158 respond to Rapid Response emergencies around the state, to work
159 with state emergency management officials, and to work with
160 regional workforce boards. All Rapid Response funds must be
161 expended based on a plan developed by Workforce Florida, Inc.,
162 and approved by the Governor.

163 Section 3. Section 445.007, Florida Statutes, is amended to
164 read:

165 445.007 Regional workforce boards.—

166 (1) (a) One regional workforce board shall be appointed in
167 each designated service delivery area and shall serve as the
168 local workforce investment board pursuant to the Workforce
169 Investment Act of 1998, 29 U.S.C. 2801 et. seq. ~~Pub. L. No. 105-~~
170 220. The membership of the board shall be consistent with and
171 limited to the members described in 29 U.S.C. 2832(b)(2)(A) ~~Pub.~~
172 ~~L. No. 105-220, Title I, s. 117(b)~~. The board may also include
173 other individuals and representatives of entities who are
174 appointed by the chief elected official in the local area if

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175 authorized by the Governor. If a public education or training
176 provider is represented on the board, a representative of a
177 private nonprofit provider and a representative of a private
178 for-profit provider must also be appointed to the board.

179 (b) The board shall include one nonvoting representative
180 from a military installation if a military installation is
181 located within the region and the appropriate military command
182 or organization authorizes such representation. It is the intent
183 of the Legislature that membership of a regional workforce board
184 include persons who are current or former recipients of welfare
185 transition assistance as defined in s. 445.002(2) or workforce
186 services as provided in s. 445.009(1) or that such persons be
187 included as ex officio members of the board or of committees
188 organized by the board. The importance of minority and gender
189 representation shall be considered when making appointments to
190 the board.

191 (c) The board, its committees, subcommittees, and
192 subdivisions, and other units of the workforce system, including
193 units that may consist in whole or in part of local governmental
194 units, may use any method of telecommunications to conduct
195 meetings, including establishing a quorum through
196 telecommunications, provided that the public is given proper
197 notice of the telecommunications meeting and reasonable access
198 to observe and, when appropriate, participate. Regional
199 workforce boards are subject to chapters 119 and 286 and s. 24,
200 Art. I of the State Constitution.

201 (d) If the regional workforce board enters into a contract
202 with an organization or individual represented on the board of
203 directors, the contract must be approved by a two-thirds vote of

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204 the board, a quorum having been established, and the board
205 member who could benefit financially from the transaction must
206 abstain from voting on the contract. A board member must
207 disclose any such conflict in a manner that is consistent with
208 the procedures outlined in s. 112.3143.

209 (e) Each member of a regional workforce board who is not
210 otherwise required to file a financial disclosure pursuant to s.
211 8, Art. II of the State Constitution or s. 112.3144 shall file a
212 disclosure of financial interests pursuant to s. 112.3145. The
213 executive director or other person responsible for the
214 operational and administrative functions of the regional
215 workforce board who is not otherwise required to file a
216 financial disclosure pursuant to s. 8, Art. II of the State
217 Constitution or s. 112.3144 shall file a disclosure of financial
218 interests pursuant to s. 112.3145.

219 (2) (a) The regional workforce board shall elect a chair
220 from among the representatives of businesses in the local area
221 who:

222 1. Are owners of businesses, chief executives or operating
223 officers of businesses, and other business executives or
224 employers who have optimum policymaking or hiring authority;

225 2. Represent businesses that offer employment opportunities
226 similar to the employment opportunities of the local area; and

227 3. Are appointed from among individuals nominated by local
228 business organizations and business trade associations.

229 (b) A chair shall be appointed ~~described in Pub. L. No.~~
230 ~~105-220, Title I, s. 117(b)(2)(A)(i)~~ to serve for a term of no
231 more than 2 years and shall serve no more than two terms.

232 (c) The Governor may remove a member of the board, the

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233 executive director of the board, or the designated person
234 responsible for the operational and administrative functions of
235 the board for cause. As used in this paragraph, the term "cause"
236 includes, but is not limited to, engaging in fraud or other
237 criminal acts, incapacity, unfitness, neglect of duty, official
238 incompetence and irresponsibility, misfeasance, malfeasance,
239 nonfeasance, or lack of performance.

240 (3) The Department of Economic Opportunity, under the
241 direction of Workforce Florida, Inc., shall assign staff to meet
242 with each regional workforce board annually to review the
243 board's performance and to certify that the board is in
244 compliance with applicable state and federal law.

245 (4) In addition to the duties and functions specified by
246 Workforce Florida, Inc., and by the interlocal agreement
247 approved by the local county or city governing bodies, the
248 regional workforce board shall have the following
249 responsibilities:

250 (a) Develop, submit, ratify, or amend the local plan
251 pursuant to 29 U.S.C. 2833 ~~Pub. L. No. 105-220, Title I, s. 118,~~
252 ~~and the provisions of this chapter act.~~

253 (b) Conclude agreements necessary to designate the fiscal
254 agent and administrative entity. A public or private entity,
255 including an entity established pursuant to s. 163.01, which
256 makes a majority of the appointments to a regional workforce
257 board may serve as the board's administrative entity if approved
258 by Workforce Florida, Inc., based upon a showing that a fair and
259 competitive process was used to select the administrative
260 entity.

261 (c) Complete assurances required for the charter process of

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262 Workforce Florida, Inc., and provide ongoing oversight related
263 to administrative costs, duplicated services, career counseling,
264 economic development, equal access, compliance and
265 accountability, and performance outcomes.

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

267 (5) Workforce Florida, Inc., shall implement a training
268 program for the regional workforce boards to familiarize board
269 members with the state's workforce development goals and
270 strategies.

271 (6) The regional workforce board shall designate all local
272 service providers and may not transfer this authority to a third
273 party. Consistent with the intent of the Workforce Investment
274 Act, regional workforce boards should provide the greatest
275 possible choice of training providers to those who qualify for
276 training services. A regional workforce board may not restrict
277 the choice of training providers based upon cost, location, or
278 historical training arrangement. A board, however, may restrict
279 the amount of training resources available to any one client.
280 Such restrictions may vary based upon the cost of training in
281 the client's chosen occupational area. The regional workforce
282 board may be designated as a one-stop operator and direct
283 provider of intake, assessment, eligibility determinations, or
284 other direct provider services except training services. Such
285 designation may occur only with the agreement of the chief
286 elected official and the Governor as specified in 29 U.S.C. s.
287 2832(f)(2). Workforce Florida, Inc., shall establish procedures
288 by which a regional workforce board may request permission to
289 operate under this section and the criteria under which such
290 permission may be granted. The criteria shall include, but need

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291 not be limited to, a reduction in the cost of providing the
292 permitted services. Such permission shall be granted for a
293 period not to exceed 3 years for any single request submitted by
294 the regional workforce board.

295 (7) Regional workforce boards shall adopt a committee
296 structure consistent with applicable federal law and state
297 policies established by Workforce Florida, Inc.

298 (8) The importance of minority and gender representation
299 shall be considered when appointments are made to any committee
300 established by the regional workforce board.

301 (9) For purposes of procurement, regional workforce boards
302 and their administrative entities are not state agencies and are
303 exempt from chapters 120 and 287. The regional workforce boards
304 shall apply the procurement and expenditure procedures required
305 by federal law and policies of the Department of Economic
306 Opportunity and Workforce Florida, Inc., for the expenditure of
307 federal, state, and nonpass-through funds. The making or
308 approval of smaller, multiple payments for a single purchase
309 with the intent to avoid or evade the monetary thresholds and
310 procedures established by federal law and policies of the
311 Department of Economic Opportunity and Workforce Florida, Inc.,
312 is grounds for removal for cause. Regional workforce boards,
313 their administrative entities, committees, and subcommittees,
314 and other workforce units may authorize expenditures to award
315 suitable framed certificates, pins, or other tokens of
316 recognition for performance by units of the workforce system.
317 Regional workforce boards; their administrative entities,
318 committees, and subcommittees; and other workforce units may
319 authorize expenditures for promotional items, such as t-shirts,

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320 hats, or pens printed with messages promoting Florida's
321 workforce system to employers, job seekers, and program
322 participants. However, such expenditures are subject to federal
323 regulations applicable to the expenditure of federal funds. All
324 contracts executed by regional workforce boards must include
325 specific performance expectations and deliverables.

326 (10) A regional workforce board shall prepare an annual
327 budget for the purpose of carrying out its duties under this
328 section. The budget is subject to the approval of the chief
329 elected local official in the area. Each regional workforce
330 board shall submit its budget for review to Workforce Florida,
331 Inc., within 2 weeks after approval by the chief elected local
332 official.

333 (11)~~(10)~~ State and federal funds provided to the regional
334 workforce boards may not be used directly or indirectly to pay
335 for meals, food, or beverages for board members, staff, or
336 employees of regional workforce boards, Workforce Florida, Inc.,
337 or the Department of Economic Opportunity Agency for Workforce
338 Innovation except as expressly authorized by state law.
339 Preapproved, reasonable, and necessary per diem allowances and
340 travel expenses may be reimbursed. Such reimbursement shall be
341 at the standard travel reimbursement rates established in s.
342 112.061 and shall be in compliance with all applicable federal
343 and state requirements. Workforce Florida, Inc., shall develop a
344 statewide fiscal policy applicable to the state board and all
345 regional workforce boards, to hold both the state and regional
346 boards strictly accountable for adherence to the policy and
347 subject to regular and periodic monitoring by the Department of
348 Economic Opportunity Agency for Workforce Innovation, the

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349 administrative entity for Workforce Florida, Inc. A board may
350 not use ~~Boards are prohibited from expending~~ state or federal
351 funds for entertainment costs or ~~and~~ recreational activities for
352 board members and employees as these terms are defined by 2
353 C.F.R. part 230. ~~This subsection expires July 1, 2011.~~

354 (12) ~~(11)~~ To increase transparency and accountability,
355 regional workforce boards must ~~shall~~ comply with ~~the~~
356 ~~requirements of~~ this section before contracting with a member of
357 the regional workforce board or a relative, as defined in s.
358 112.3143(1) (b), of a regional workforce board member or employee
359 of the board. Such contracts may ~~shall~~ not be executed before or
360 without the approval of Workforce Florida, Inc. Such contracts,
361 as well as documentation demonstrating adherence to this section
362 as specified by Workforce Florida, Inc., must be submitted to
363 the Department of Economic Opportunity ~~Agency for Workforce~~
364 ~~Innovation~~ for review and recommendation according to criteria
365 to be determined by Workforce Florida, Inc. Such contracts
366 ~~between relatives, as defined in s. 112.3143(1) (b), of a board~~
367 ~~member or employee of a board~~ must be approved by a two-thirds
368 vote of the ~~entire~~ board, a quorum having been established; all
369 conflicts of interest must be disclosed before ~~prior to~~ the
370 vote; and any member who may benefit from the contract, or whose
371 relative may benefit from the contract, must abstain from the
372 vote ~~and the contract must be reviewed and approved as stated~~
373 ~~above.~~ Contracts under \$25,000 between a regional workforce
374 board and a member of that board or between relatives, as
375 defined in s. 112.3143(1) (b), of a board member or employees of
376 a board are not required to have the prior approval of Workforce
377 Florida, Inc., ~~exempt from the review and recommendation process~~

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378 but must be approved by a two-thirds vote of the ~~entire board~~, a
379 quorum having been established, and must be reported to the
380 Department of Economic Opportunity Agency for Workforce
381 ~~Innovation~~ and Workforce Florida, Inc., within 30 days after
382 approval. If a contract cannot be approved by Workforce Florida,
383 Inc., a review of the decision to disapprove the contract may be
384 requested by the regional workforce board or other parties to
385 the disapproved contract. ~~This subsection expires July 1, 2011.~~

386 Section 4. Subsection (11) of section 445.009, Florida
387 Statutes, is amended to read:

388 445.009 One-stop delivery system.—

389 (11) A participant in an adult or youth work experience
390 activity administered under this chapter shall be deemed an
391 employee of the state for purposes of workers' compensation
392 coverage. In determining the average weekly wage, all
393 remuneration received from the employer shall be considered a
394 gratuity, and the participant is ~~shall~~ not be entitled to any
395 benefits otherwise payable under s. 440.15, regardless of
396 whether the participant is ~~may be~~ receiving wages and
397 remuneration from other employment with another employer and
398 regardless of his or her future wage-earning capacity. ~~This~~
399 ~~subsection expires July 1, 2012.~~

400 Section 5. Workforce Florida, Inc., shall evaluate the
401 means to establish a single, statewide workforce-system brand
402 for this state. Workforce Florida, Inc., shall submit a report
403 of its findings and recommendations to the Governor by November
404 1, 2012.

405 Section 6. This act shall take effect July 1, 2012.