

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1083 Employment Opportunities for Persons with Disabilities

SPONSOR(S): Government Operations Subcommittee; Rooney, Jr.

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 848

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	11 Y, 0 N, As CS	Toliver	Williamson
2) Government Operations Appropriations Subcommittee	12 Y, 0 N	White	Topp
3) State Affairs Committee			

SUMMARY ANALYSIS

In 2013, Governor Scott issued Executive Order Number 13-284 to require certain agencies and organizations to develop and implement an interagency cooperative agreement to improve the employment outcomes for disabled persons. The agreement became effective on July 1, 2014.

The bill provides definitions and legislative findings regarding employment opportunities for persons with disabilities.

The bill requires certain agencies and organizations to develop and implement an interagency cooperative agreement (agreement) to provide the framework for a long-term commitment to improving employment outcomes for persons with disabilities. It requires the agreement to:

- Establish a commitment among the leadership of each agency and organization to maximize resources and to coordinate with other agencies and organizations to improve employment outcomes for persons with disabilities;
- Develop strategic goals and benchmarks to assist each agency and organization in implementing the agreement;
- Identify financing and contracting methods that will prioritize employment for persons with disabilities;
- Identify how training opportunities may be better utilized by employees of each agency and organization to ensure effectiveness of supported employment services;
- Ensure collaboration between each agency and organization during the development of supported employment services when persons with disabilities are served by multiple agencies and organizations to achieve their employment goals;
- Promote the innovation of supported employment services; and
- Identify accountability measures to ensure sustainability of agreement initiatives.

The bill has a minimal negative fiscal impact on state government that is anticipated to be absorbed within existing resources. The bill does not appear to have a fiscal impact on local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Americans with Disabilities Act

The Americans with Disabilities Act (ADA) was passed by congress and signed by President George H. W. Bush in 1990.¹ Its purpose is to provide “a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities.”² The ADA specifically prohibits discrimination against disabled individuals with regard to employment:³

No covered entity shall discriminate against a qualified individual on the basis of disability in regard to job application procedures, the hiring advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.

Florida Statutes

The Legislature enacted the Florida Civil Rights Act of 1992,⁴ which prohibits discrimination because of race, color, religion, sex, national origin, age, handicap, or marital status.⁵ Section 760.10(1)(a), F.S., provides that it is unlawful to discharge or to fail to hire any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions or privileges of employment, because of such individual’s handicap.

Furthermore, it is the state’s policy that:⁶

[A]n individual with a disability be employed in the service of the state or political subdivisions of the state, in the public schools, and in all other employment supported in whole or in part by public funds, and an employer may not refuse employment to such a person on the basis of the disability along, unless it is shown that the particular disability prevents the satisfactory performance of the work involved.

Gubernatorial Executive Orders

In 1993, Governor Chiles issued Executive Order Number 93-166 which created the Florida Coordinating Council (coordinating council) for the ADA. The purpose of the coordinating council was to aid in the elimination of discrimination against disabled individuals in the areas of employment, transportation, telecommunications, state and local services, and public accommodations.⁷

In 1997, Governor Chiles issued Executive Order Number 97-56 in an effort to refocus Florida’s efforts in implementing the ADA. The executive order disbanded the coordinating council and created the Americans with Disabilities Act Working Group (working group).⁸ The working group was created to foster a cooperative effort between state and local governments, the education community, the business community, the private sector, and the disability community.⁹ In 1999, Governor Bush issued Executive Order Number 99-80 to expand the responsibilities of the working group to “provide information, referrals, education, and recommendations for

¹ Americans with Disabilities Act of 1990, Pub. L. No. 101-336, 104 Stat. 327.

² 42 U.S.C. s. 12101(b)(1) (2015).

³ 42 U.S.C. s. 12112(a) (2015).

⁴ Sections 760.01-760.11, F.S.

⁵ Section 760.01(2), F.S.

⁶ Section 413.08(5), F.S.

⁷ Fla. Exec. Order No. 93-166 (1993).

⁸ Fla. Exec. Order No. 97-56 (1997).

⁹ *Id.*

compliance and implementation of the [ADA] in order to increase the independence and quality of life for citizens of Florida with disabilities.”¹⁰

In 2007, Governor Crist extended the duration of the working group¹¹ before dissolving the group and creating the Governor’s Commission on Disabilities.¹² The commission was responsible for identifying and recommending methods to maximize the freedom and independence of Floridians with disabilities, with a focus on employment, transportation, education, and independent living.¹³

In 2011, Governor Scott created the Governor’s Commission on Jobs for Floridians with Disabilities (commission).¹⁴ The vision of the commission is to “advance job and employment opportunities for Floridians with disabilities in order to help those Floridians achieve greater independence.”¹⁵ The commission, which consists of 13 members appointed by the Governor,¹⁶ has three responsibilities:¹⁷

- Identify and recommend strategies to cultivate job opportunities for persons with disabilities in the State of Florida;
- Identify barriers in state and local programs that hinder individuals with disabilities from gaining employment and proposing solutions to mitigate those barriers; and
- Develop and leverage state and community resources to advance service delivery.

Each year, on or before July 26, the commission must provide a report to the Governor outlining its accomplishments during the previous 12 months.¹⁸

In 2013, Governor Scott issued Executive Order Number 13-284, which ordered that an interagency cooperative agreement (agreement) be created “among state agencies and other disabilities service organizations to ensure the continuation of this long-term commitment to improving employment outcomes for this population.” It required certain agencies¹⁹ to develop and implement the agreement with the following objectives:²⁰

- Establish a commitment among the agencies’ leadership to maximize resources and coordinate with each other to improve employment outcomes for persons with disabilities seeking publicly funded services;
- Develop strategic goals and reasonable benchmarks to assist the agencies in implementing the agreement;
- Identify financing and contracting methods that will prioritize employment among the array of services paid for or provided by agencies;
- Identify ways training opportunities can be better utilized by agency employees and contracted providers to ensure effectiveness of employment services;

¹⁰ Fla. Exec. Order No. 99-80 s. 1 (1999).

¹¹ Fla. Exec. Order No. 07-04 (2007).

¹² Fla. Exec. Order No. 07-148 (2007).

¹³ *Id.* at s. 2.

¹⁴ Fla. Exec. Order No. 11-161 (2011); Governor’s Commission on Jobs for Floridians with Disabilities, <http://www.flgov.com/gcjfd/> (last visited 3/17/15).

¹⁵ Fla. Exec. Order No 11-161, s. 1 (2011).

¹⁶ *Id.* at s. 4. The commission membership is as follows: two Florida citizens representing persons with physical or developmental disabilities; four individuals representing the business community who have personal experience in creating private-sector jobs; two individuals representing the state community college system who have experience in education-to-employment transition programs; one individual who has a background in employment recruiting or experience in job training for persons with disabilities; one representative from the Able Trust; one representative from the Division of Vocation Rehabilitation, Department of Education; one representative from the Agency for Persons with Disabilities; and one representative from the Agency for Workforce Development.

¹⁷ *Id.* at s. 2.

¹⁸ *Id.* at s. 3.

¹⁹ The following agencies were tasked with developing the agreement: Division of Vocational Rehabilitation, Department of Education; Division of Blind Services, Department of Education; Bureau of Exception Education and Student Services, Department of Education; Agency for Persons with Disabilities; Mental Health and Substance Abuse Program, Department of Children and Families; Workforce Florida, Inc.; Florida Developmental Disabilities Council; and other state agencies and disability organizations that wish to participate. Fla. Exec. Order No. 13-284 at s. 4.

²⁰ *Id.* at s. 3.

- Ensure collaboration occurs during the development of service plans, including the Individual Plan for Employment, when individuals are served by multiple agencies to achieve their employment goals;
- Promote service innovation; and
- Identify accountability measures to ensure sustainability.

The agreement was executed and became effective on July 1, 2014.²¹ The agreement incorporates the objectives from the executive order and establishes an organizational structure.²² The agreement establishes three entities to carry out its required responsibilities: the Employment Partnership Coalition,²³ the State Level Employment First Collaborative Team,²⁴ and the Grassroots Level Group.²⁵ The agreement further provides that it will automatically terminate on June 30, 2019, unless it is renewed.²⁶

Effect of the Bill

The bill provides legislative findings regarding employment opportunities for persons with disabilities.

The bill requires the following agencies and organizations to develop and implement an interagency cooperative agreement (agreement) to provide the framework for a long-term commitment to improving employment outcomes for persons with disabilities:

- The Division of Vocational Rehabilitation, Department of Education;
- The Division of Blind Services, Department of Education;
- The Bureau of Exceptional Education and Student Services, Department of Education;
- The Substance Abuse and Mental Health Program, Department of Children and Families;
- The Agency for Persons with Disabilities;
- The Department of Economic Opportunity;
- Workforce Florida, Inc.;
- The Florida Developmental Disabilities Council; and
- The Florida Association of Rehabilitation Facilities, Inc.

The agreement must:

- Establish a commitment among the leadership of each agency and organization to maximize resources and to coordinate with other agencies and organizations to improve employment outcomes for persons with disabilities;
- Develop strategic goals and benchmarks to assist each agency and organization in implementing the agreement;
- Identify financing and contracting methods that will prioritize employment for persons with disabilities;
- Identify how training opportunities may be better utilized by employees of each agency and organization to ensure effectiveness of supported employment services;²⁷

²¹ Interagency Cooperative Agreement: Employment First Initiative, s. VI, FLDOE Contract No. IA-556.

²² *Id.* at s. IV.

²³ The coalition is composed of the leaders of each agency or organization that is a participant in the agreement and charged with overall coordination and implementation of activities required by the agreement, as well as to ensure continuous improvement.

²⁴ The team is composed of staff assigned by the participating entities and meet on a monthly basis. The team is responsible for identifying the barriers within extant systems and practices and creating potential solutions for those barriers. The team will present recommendations based upon their findings to the coalition.

²⁵ The group is “composed of self-advocates and local stakeholders representing a cross-section of persons with various disabilities.” The group meets quarterly to share information and “ensure the voice of the stakeholders is heard.”

²⁶ FLDOE Contract No. IA-556 at s. VI.

²⁷ Section 413.20(23), F.S. defines the term “supported employment services” to mean on-going support services and other appropriate services needed to support and maintain a person who has a most significant disability in supported employment. It provides that supported employment services are based upon a determination of the needs of the eligible individual as specified in the person’s individualized plan for employment. The services are provided singly or in combination and are organized and made available in such a way as to assist eligible individuals in entering or maintaining integrated, competitive employment. The services are provided for a

- Ensure collaboration between each agency and organization during the development of supported employment services when persons with disabilities are served by multiple agencies and organizations to achieve their employment goals;
- Promote the innovation of supported employment services; and
- Identify accountability measures to ensure sustainability of agreement initiatives.

The bill defines the term “employment” to mean a person with disabilities performing an activity or service in return for a minimum wage or greater paid by an employer, is fully integrated in the community workforce, and is working towards maximum self-sufficiency. It provides that the term includes integrated employment designed to provide jobs for persons with disabilities in workplace settings where the majority of persons employed are not persons with disabilities, supported employment, customized employment designed to personalize the employment relationship between a person with disabilities and his or her employer in a way that meets both their needs, and suitable gainful employment.²⁸

The bill also defines the term “employment outcome” as having the same meaning as in s. 413.20(9), F.S. Section 413.20(9), F.S., defines the term “employment outcome” to mean “with respect to an individual, entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market to the greatest extent practicable, supported employment, or any other type of employment, including self-employment, telework, or business ownership, that is consistent with an individual’s strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice.”

B. SECTION DIRECTORY:

Section 1: Creates s. 445.08, F.S. regarding employment opportunities for persons with disabilities.

Section 2: Provides an effective date of July 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to impact state government revenues.

2. Expenditures:

The bill does not appear to impact state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to impact local government revenues.

2. Expenditures:

The bill has a minimal negative fiscal impact on the state agencies required to work on the interagency agreement. These agencies will have to provide staff to work on the interagency

period not to extend beyond 18 months, but can be extended under special circumstances with the consent of the individual in order to achieve the objectives of the rehabilitation plan.

²⁸ Section 440.491(1)(g), F.S. defines the term “suitable gainful employment” to mean employment or self-employment that is reasonably attainable in light of the employee’s age, education, work history, transferable skills, previous occupation, and injury, and which offers an opportunity to restore the individual as soon as practicable and as nearly as possible to his or her average weekly earnings at the time of injury.

agreement, so there is an increased workload; however, it is anticipated that the increased workload can be absorbed within existing resources.

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 municipal or county government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill appears to codify several provisions in Executive Order Number 13-284.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 24, 2015, the Government Operations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The first amendment removes the Department of Children and Families from the list of participants due to redundancy and adds the Agency for Persons with Disabilities in its place. The second amendment removes the rulemaking authority provided in the bill.

This analysis is drafted to the committee substitute as passed by the Government Operations Subcommittee.