

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 Commerce and Tourism

BILL: CS/SB 1246

INTRODUCER: Commerce and Tourism Committee and Senator Detert

SUBJECT: Individuals with Disabilities

DATE: March 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	McKay	CM	Fav/CS
2.			ATD	
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1246 creates the Florida Unique Abilities Partner program to recognize business entities that employ individuals who have a disability, contribute to organizations that support the independence of individuals who have a disability, or establish a program that contributes to the independence of individuals who have a disability. The bill directs the Department of Economic Opportunity (DEO) to work with state agencies and CareerSource Florida in creating the program. Businesses who receive the designation must annually re-certify that they continue to meet the criteria for the designation. The DEO must work with disability organizations to develop a logo for the program. The bill requires the DEO to maintain a website that provides the public with a list of businesses that have been designated as a Florida Unique Abilities Partner, and businesses with the designation must be identified on the EmployFlorida Marketplace system. The DEO must provide VISIT Florida a list of businesses that have been designated as a Florida Unique Abilities Partner for consideration for use in any marketing campaigns, especially those targeting individuals who have a disability or their families. The DEO must report to the Legislature on its progress in implementing the program by January 1, 2016.

II. Present Situation:

According to the United States Census Bureau, individuals who have a disability make up approximately 13.4 percent of the population of Florida, and 10.3 percent of individuals between

the ages of 18 to 64 have a disability.¹ Individuals who have a disability participate in the labor force at a lower rate than those who do not have a disability. Approximately 18.2 percent of individuals who have a disability in Florida are employed, while 60.5 percent of those in Florida who do not have a disability are engaged in employment.²

Corporate Social Responsibility and Consumer Response

Corporate social responsibility is now a standard practice in the business world.³ Corporate social responsibility is defined as a company's sense of responsibility toward the community and environment,⁴ which may be expressed through support of issues, such ethical supply sourcing, or a contribution to, or support for, social issues and programs. In 2013, it was estimated that corporations in the United States gave approximately \$18.7 billion, consisting of both cash and non-cash donations, such as product donations and employee volunteer hours.⁵ Corporate philanthropy is considered advantageous to a business because it provides the company with a bolstered public image, improved community relations, and increased employee morale.⁶

Studies suggest that people care about businesses that support causes that are important to them. This is reflected in their spending habits, and may also be reflected in their employment decisions. A recent Nielsen survey found that 55 percent of global respondents indicated a willingness to pay extra for goods and services from business that are committed to making a positive social and environmental impact.⁷ Consumers are becoming "more deliberate and purposeful" in their shopping decisions by patronizing businesses that espouse values that are similar to their own.⁸ Consumers are also more likely to be loyal to those brands that share their values or are engaged in the support of those causes that are important to them.⁹

¹ U.S. Department of Commerce, United States Census Bureau, American Fact Finder, "Disability Characteristics, 2013 American Community Survey 1-year Estimates." Report S1810, (information may be obtained by using guided search criteria of people, disability, employment status, and Florida), available at:

http://factfinder.census.gov/faces/nav/jsf/pages/guided_search.xhtml (last visited Mar. 4, 2015).

² U.S. Department of Commerce, United States Census Bureau, American Fact Finder "Selected Economic Characteristics for the Civilian Noninstitutionalized Population by Disability Status, 2013 American Community Survey 1-year Estimates." Report S1811, (information may be obtained by using guided search criteria of people, disability, employment status, and Florida), available at: http://factfinder.census.gov/faces/nav/jsf/pages/guided_search.xhtml (last visited Mar. 4, 2015).

³ Illia, Laura et al., *Communicating Corporate Social Responsibility to a Cynical Public*, MIT SLOAN MANAGEMENT REVIEW, Spring 2013, available at http://sloanreview.mit.edu/article/communicating-corporate-social-responsibility-to-a-cynical-public/?use_credit=db34fbf0a135038c9c9102e028c614be (last visited Mar. 4, 2015).

⁴ See <http://www.businessdictionary.com/definition/corporate-social-responsibility.html> (last visited Mar. 4, 2015).

⁵ Adams, Susan, *America's Most Generous Companies*, FORBES, July 15, 2014, available at <http://www.forbes.com/sites/susanadams/2014/07/15/americas-most-generous-companies/> (last visited Mar. 3, 2015).

⁶ Montini, Laura, *Corporate Altruism Is on the Rise (Infographic)*, INC., Aug. 17, 2014, available at <http://www.inc.com/laura-montini/infographic/the-benefits-of-community-service.html> (last visited Mar. 4, 2015).

⁷ The Nielsen Company, "Doing Well by Doing Good," (June 2014), available at <http://www.nielsen.com/content/dam/corporate/us/en/reports-downloads/2014%20Reports/global-corporate-social-responsibility-report-june-2014.pdf> (last visited Feb. 27, 2015).

⁸ Solomon, Micah, *Six Customer Trends That Will Build or Break Your Business As We Enter 2015*, FORBES, Dec. 24, 2014, available at <http://www.forbes.com/sites/micahsolomon/2014/12/25/six-deep-customer-trends-that-will-build-or-break-your-business-as-we-enter-2015/> (last visited Mar. 4, 2015).

⁹ Irwin, Julie, *Ethical Consumerism Isn't Dead, It Just Needs Better Marketing*, HARVARD BUSINESS REVIEW, Jan. 12, 2015, available at <https://hbr.org/2015/01/ethical-consumerism-isnt-dead-it-just-needs-better-marketing> (last visited Mar. 4, 2015).

III. Effect of Proposed Changes:

Section 1 of the bill creates the Florida Unique Abilities Partner program to be administered by the Department of Economic Opportunity (DEO or department). The purpose of the program is to recognize businesses that demonstrate a commitment to the independence of individuals who have a disability.¹⁰

In order to be designated a Florida Unique Abilities Partner, a business must submit an application to the DEO, indicating that the business would qualify for the designation due to its employment of individuals who have a disability, contributions to disability organizations, or establishment of a program that contributes to the independence of individuals who have a disability. At a minimum, to qualify for the designation, a business must:

- Employ, in this state, at least one individual who has a disability for at least 9 months before applying for the designation; however, the employer is not required to provide personally identifiable information about its employees;
- Make a financial or in-kind contribution to a local or national disability organization of at least \$1,000, if the entity has 100 or fewer employees or at least \$5,000, if the entity has more than 100 employees;¹¹ or
- Establish a program that contributes to the independence of individuals who have a disability.

In lieu of the application process, the DEO must also accept nominations from members in the disability community regarding a local business entity's qualification for designation as a Florida Unique Abilities Partner in one or more of the above-referenced categories. Upon receipt of nomination and a determination by the DEO that the nominee meets the requirements of the program based on the information provided, the DEO must notify the nominated business and provide the business the qualifying criteria asserted in the nomination. If a business does not decline the nomination within 30 days of receipt of the notification of the nomination, it will be designated a Florida Unique Abilities Partner.

The bill specifies that the DEO's designation under this program does not constitute final agency action, and therefore is not subject to the Florida Administrative Procedures Act in ch. 120, F.S.

A business must annually certify that it continues to meet the requirements to be designated a Florida Unique Abilities Partner. Failure to submit the annual certification will result in the removal of the business' designation. A business may elect to discontinue its use of the designation by notifying the DEO of such decision.

The bill directs the DEO, in partnership with the disability community, to develop a logo that may be used to identify a business that has been designated as a Florida Unique Abilities Partner. The DEO is responsible for developing guidelines for the use and display of the Florida Unique Abilities Partner Program logo. A business that has not received the designation or has elected to discontinue its designation, may not display the logo.

¹⁰ The bill defines "individuals who have a disability" as persons who have a physical or intellectual impairment that substantially limits one or more major life activities; persons who have a history or record of such an impairment; or persons who are perceived by others as having such an impairment.

¹¹ The contribution may also include the value of employee volunteer hours. Contributions must be documented by receipts or letters of acknowledgement from recipients or donees.

The DEO must maintain a website available to the public that provides a list of businesses that have been designated as Florida Unique Abilities Partners, and provides information on the eligibility requirements for the designation. The website must also provide information to businesses on best practices to facilitate the inclusion of individuals who have a disability. The Agency for Persons with Disabilities must provide a link from its website to the DEO website on which the Florida Unique Abilities Partners are listed. The DEO must indicate, on Employ Florida Marketplace, those employers that have been designated as a Florida Unique Partner.

The bill requires the DEO to provide VISIT Florida,¹² on a quarterly basis, a list of businesses that have been designated as Florida Unique Abilities Partners for consideration for use in its marketing campaigns and specifically, for use in marketing campaigns that target individuals who have a disability or their families.

The DEO must report its progress in implementing the Florida Unique Abilities Program to the Legislature by January 1, 2016.

Section 2 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

With the designation as a Florida Unique Abilities Partner, a business may experience greater patronage by those individuals for whom the support of issues related to individuals who have a disability is important.

¹² The Florida Tourism Industry Marketing Corporation.

C. Government Sector Impact:

There may be a negative fiscal impact to the DEO related to the administration of the program. Costs may include personnel, equipment, supplies, computer programming, among other possible costs. The impact is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill directs the DEO to adopt rules to administer the program.

Under the Americans with Disabilities Act (ADA), employers are prohibited from inquiring about whether a person has a disability or the nature of a disability prior to employment.¹³ However, an employer may inquire about the applicant's ability to perform job-related functions. Upon employment, an employer may require a medical examination it is required of all employees, is job-related, and consistent with business necessity. Any medical information obtained from the medical examination must be maintained in a separate file. If an employee requests a reasonable accommodation, an employer is permitted to request documentation sufficient to substantiate the need for the reasonable accommodation.¹⁴

VIII. Statutes Affected:

This bill creates an unnumbered section of the Florida Statutes.

IX. Additional Information:

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

CS by Commerce and Tourism on March 10, 2015:

- Directs the DEO to accept nominations for the Florida Unique Abilities Partner designation from members of the community in which the business is located, in lieu of submission of an application by the business.
- Requires the DEO review nominations for the Florida Unique Abilities Partner program to determine if the nominations meet the requirements of the program.
- Requires the DEO to notify a nominated business of its nomination and the qualifying criteria asserted in the nomination, and give a nominated business the opportunity to decline a nomination.
- Prohibits the DEO from requiring a business to provide personally identifiable information about its employees.

¹³ See 42 U.S.C. s. 12112.

¹⁴ EEOC, No. 915.002, *EEOC Enforcement Guidance of Disability-Related Inquiries and Medical Examinations of Employees Under the Americans with Disabilities Act (ADA)*, July 27, 2000, available at <http://www.eeoc.gov/policy/docs/guidance-inquiries.html> (last visited Mar. 5, 2015).

- Deletes the requirement that the DEO must partner with the Florida Tourism Industry Marketing Corporation (VISIT Florida) to create a marketing campaign and requirement that VISIT Florida has a link from its website to the DEO's website.
- Requires the DEO to provide VISIT Florida a list of Florida Unique Abilities Partners for consideration for use in any marketing campaigns.

B. Amendments:

None.

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