

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 Fiscal Policy

BILL: CS/SB 7022

INTRODUCER: Fiscal Policy Committee (Recommended by Appropriations Subcommittee of General Government); Governmental Oversight and Accountability Committee; Senators Galvano and Hukill

SUBJECT: Individuals With Disabilities

DATE: March 20, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Peacock	McVaney		GO SPB 7022 as introduced
1.	Davis	DeLoach	AGG	Recommend: Fav/CS
2.	Pace	Hrdlicka	FP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7022 addresses the employment and economic independence of individuals with disabilities. Specifically, the bill:

- Modifies the state's equal employment policy to provide enhanced executive agency employment opportunities for individuals who have a disability;
- Creates the Financial Literacy Program for Individuals with Developmental Disabilities within the Department of Financial Services to provide information and outreach to individuals and employers;
- Creates the Employment First Act requiring an interagency cooperative agreement among specified state agencies and organizations to ensure a long-term commitment to improve employment for individuals who have a disability; and
- Creates the Florida Unique Abilities Partner program to recognize businesses that employ or support the independence of individuals who have a disability.

The bill makes several appropriations to implement the programs and activities required under the bill. Specifically, the bill:

- Appropriates \$164,956 and 2 FTE to the Department of Management Services to implement the provisions relating enhancing executive agency employment opportunities;

- Appropriates \$137,234 and 1 FTE to Department of Financial Services for the implementation of the Financial Literacy Program for Individuals with Developmental Disabilities; and
- Appropriates \$200,000 to the Department of Economic Opportunity for the implementation of the Florida Unique Abilities Partner program.

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 ages 18 to 64 (working age) have a disability.¹ In 2013, over 20 percent of working aged individuals who have a disability lived below the federal poverty line in Florida, compared with 14.3 percent of individuals without a disability.²

Individuals who have a disability experience significant disparities in employment and participation in the workforce.³ For example, 18.2 percent of individuals who have a disability are employed in Florida, while over 60.5 percent of those who do not have a disability are employed.⁴ The trend is similar nationally with an 11.2 percent unemployment rate for individuals who have a disability and a 5.6 percent unemployment rate for individuals without a disability.⁵ According to the National Disability Institute (NDI), many of these individuals would like to find employment, but are concerned if they earn more money it will cause them to lose disability and health benefits.⁶

State Equal Employment Policy

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;⁷ establish annual goals in its affirmative action plan for ensuring full

¹ U.S. Department of Commerce, U.S. Census Bureau, American Fact Finder, *Selected Social Characteristics in the United States, 2013 American Community Survey 1-year Estimates*, Report DP02, searchable database available at <http://factfinder.census.gov/> (last visited March 19, 2015).

² U.S. Department of Commerce, U.S. 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, searchable database available at <http://factfinder.census.gov/> (last visited March 19, 2015).

³ American Institutes for Research, *An Uneven Playing Field: The Lack of Equal Pay for People with Disabilities*, p. 2, December 2014, available at http://www.air.org/sites/default/files/Lack%20of%20Equal%20Pay%20for%20People%20with%20Disabilities_Dec%2014.pdf (last accessed March 19, 2015).

⁴ Supra note 2.

⁵ U.S. Department of Labor, Bureau of Labor Statistics, *Employment Status of the Civilian Population by Sex, Age, and Disability Status, not seasonally adjusted*, available at <http://www.bls.gov/news.release/empsit.t06.htm> (last visited March 19, 2015).

⁶ National Disability Institute with support from the Florida Development Disabilities Council, *The Changing Face of Benefits Knowledge for Successful Employment and Asset Development*, p. 1, March 2013, available at http://www.realeconomicimpact.org/data/files/other%20documents/changing_face_of_benefits_2013.pdf.pdf (last visited March 19, 2015).

⁷ Section 110.112(2)(a), F.S.

utilization of groups underrepresented in the agency's workforce as compared to the relevant labor market;⁸ and appoint an affirmative action-equal employment opportunity officer.⁹

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.

State Disability Resources

Various state agencies provide services, benefits, and resources for individuals with disabilities. These agencies include the Agency for Health Care Administration (AHCA), the Agency for Persons with Disabilities (APD), the Department of Children and Families (DCF), the Department of Economic Opportunity (DEO), and the Department of Education (DOE). Many state and regional advocacy groups also provide resources and services.

Section 393.063(9), F.S., defines developmental disability to mean "a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely."

The APD currently serves approximately 55,000 clients with developmental disabilities.¹⁰ The total population of individuals in Florida with developmental disabilities is indeterminate at this time. However, the APD estimates the population of individuals with developmental disabilities in Florida could be between 300,000 to 600,000 people.¹¹

Governor's Commission of Jobs for Floridians with Disabilities

On July 26, 2011, Governor Scott created the Governor's Commission on Jobs for Floridians with Disabilities to advance job and employment opportunities for persons with disabilities in order to help those individuals achieve greater independence.¹² The commission found that the state's disability system does not effectively connect employers to candidates with disabilities and inform them about the resources available to support these individuals in the workplace. The commission recommended that the DEO serve as a single-point of contact to assist employers in finding these resources and services in order to help them recruit, hire, and retain individuals with disabilities. The commission further recommended the DEO provide information on available services and support that make it possible for persons with disabilities to succeed in the

⁸ Section 110.112(2)(b), F.S.

⁹ 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."

¹⁰ Email from the Agency for Persons with Disabilities regarding SB 206, January 11, 2015, Summary of Active Clients (on file with the Senate Banking and Insurance Committee).

¹¹ Email from the Agency for Persons with Disabilities regarding SB 206, January 13, 2015, (on file with the Senate Banking and Insurance Committee).

¹² Executive Order 11-161, available at <http://www.flgov.com/gcifd/> (last visited March 9, 2015).

workforce. The “Abilities Work” web portal¹³ within the Employ Florida Marketplace¹⁴ website was developed to meet the needs of Florida employers looking to hire qualified job seekers with disabilities and of individuals with disabilities who are seeking to find employment.

Employment First Initiative

On October 8, 2013, Governor Scott issued Executive Order 13-284 requiring an interagency cooperative agreement between state agencies and other disability service organizations to ensure a long-term commitment to improving employment for individuals who have a disability.¹⁵ The Executive Order directed state agencies and organizations to develop methods to increase the number and percentage of growth in competitive employment for individuals who have a disability. In 2014, a five-year interagency cooperative agreement identified as the Employment First Initiative was executed by the following agencies and organizations:

- Agency for Persons with Disabilities;
- Department of Education, Bureau of Exceptional Education and Student Services;
- Department of Education, Division of Vocational Rehabilitation;
- Department of Education, Division of Blind Services;
- Department of Economic Opportunity;
- CareerSource Florida, Inc.;
- Department of Children and Families, Substance Abuse and Mental Health Office;
- Florida Developmental Disabilities Council, Inc.; and
- Florida Association of Rehabilitation Facilitates, Inc.¹⁶

Department of Financial Services

The Chief Financial Officer (CFO) of the State of Florida is the head of the DFS.¹⁷ The CFO has established outreach and education programs to increase the financial literacy of Florida residents and to protect them from financial fraud. These initiatives include, among others, a comprehensive online financial literacy and education initiative to provide Hispanic Floridians and their families with important financial information and resources, a program to educate and protect seniors from financial scams and identity theft, and financial education for military service members.¹⁸

¹³ The Abilities Work website, available at <https://abilitieswork.employflorida.com/vosnet/Default.aspx#> (last visited March 9, 2014).

¹⁴ Employ Florida Marketplace (EFM) is a partnership of CareerSource Florida, Inc., (formerly Workforce Florida, Inc.) and the Department of Economic Opportunity.

¹⁵ See Executive Order 13-284 available at <http://www.flgov.com/wp-content/uploads/orders/2013/13-284-disabilities.pdf> (last visited March 16, 2015).

¹⁶ Interagency Cooperative Agreement, Employment First Initiative (2014), FLDOE Contract No.:IA-556, available at <http://www.fddc.org/sites/default/files/2.Employment%20First%20Interagency%20Cooperative%20Agreement.5.7.14.pdf> (last visited March 18, 2015). The Florida Developmental Disabilities Council, Inc., is the point of contact for the agreement until June 30, 2015.

¹⁷ Section 20.121(1), F.S.

¹⁸ See Your Money Matter\$, a one-stop website to access the DFS’s financial literacy resources, available at <http://www.myfloridacfo.com/ymm/> (last visited March 9, 2015).

Presently, the CFO has not established an outreach or education program to address the financial literacy of individuals with developmental disabilities.

Corporate Social Responsibility and Consumer Response

Corporate social responsibility is now a standard practice in the business world.¹⁹ Corporate social responsibility is defined as a company's sense of responsibility toward the community and environment,²⁰ which may be expressed through support of issues, such as ethical supply sourcing or a contribution to, or support for, social issues and programs. In 2013, 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.²¹ 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.²²

Studies suggest that people value businesses that support causes that are important to them. A recent Nielsen survey found that 55 percent of global respondents indicated a willingness to pay extra for goods and services from businesses that are committed to making a positive social and environmental impact.²³ Consumers are becoming "more deliberate and purposeful" in their shopping decisions by patronizing businesses that have similar values to their own.²⁴ 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.²⁵ People may even base their employment decisions on such values.

III. Effect of Proposed Changes:

State Equal Employment Policy

(Section 2, amending s. 110.107, F.S. and Section 3; amending s. 110.112, F.S.)

The bill modifies the state's employment policy to provide enhanced executive agency employment opportunities for persons who have a disability. Specifically, the bill reorders,

¹⁹ Illia, Laura et al., *Communicating Corporate Social Responsibility to a Cynical Public*, MIT SLOAN MANAGEMENT REVIEW, Feb. 21, 2013, available at http://sloanreview.mit.edu/article/communicating-corporate-social-responsibility-to-a-cynical-public/?use_credit=db34fbf0a135038c9c9102e028c614be (last visited March 13, 2015).

²⁰ BusinessDictionary.com, available at <http://www.businessdictionary.com/definition/corporate-social-responsibility.html> (last visited March 13, 2015).

²¹ 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 March 13, 2015).

²² 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 March 13, 2015).

²³ 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 March 13, 2015).

²⁴ Solomon, Micah, *Six Customer Trends That Will Build or Break Your Business As We Enter 2015*, FORBES, Dec. 25, 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. 13, 2015).

²⁵ 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. 13, 2015).

amends, and revises definitions contained in s. 110.107, F.S., 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 ADA,²⁶ with the exception of the following:

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

Each executive agency is required to:

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

The 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 the APD, the Division of Vocational Rehabilitation and the Division of Blind Services within the DOE, the DEO, and the Executive Office of the Governor;²⁷
- Develop mandatory training programs by January 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;²⁸
- 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.

For FY 2015-2016 the sums of \$138,692 in recurring funds and \$26,264 in nonrecurring funds are appropriated from the State Personnel System Trust Fund to the DMS, and two FTE positions

²⁶ 42 U.S.C. s. 12102, defines “disability,” with respect to an individual, as a physical or mental impairment that substantially limits one or more life activities of such individual; a record of such impairment; or being regarded as having such an impairment.

²⁷ These programs may incorporate internships, mentoring, on-the-job training, unpaid work experience, situational assessments, and other innovative strategies.

²⁸ Some of these strategies include training programs, funding reasonable accommodations, increasing access to technologies, and ensuring accessibility of physical and virtual workplaces.

are authorized for the purpose of implementing the amendments made by the bill to s. 110.112, F.S., relating to individuals who have a disability (Section 10).

Financial Literacy Program

(Section 2, creating s. 17.68, F.S.; and Section 4, amending s. 280.16(1)(e), F.S.)

The bill creates the Financial Literacy Program for Individuals with Developmental Disabilities within the DFS. The goal of the program is to promote economic independence and successful employment of individuals with developmental disabilities by providing resources, outreach, and education on specific issues. For individuals with developmental disabilities these issues include financial education, identification of financial and health benefit programs and services, job training and employment opportunities, and the impact of earnings and assets on federal and state programs. For employers of the state, the issues include information on state and federal law requirements with regard to the employment of individuals with developmental disabilities, and resources that facilitate such employment.

The DFS, in consultation with public and private stakeholders, is required to develop and implement the program. Credit unions, banks, savings associations, and savings banks will be key participants in the development and promotion of the program. The DFS must:

- Establish a clearinghouse for information regarding the program and other available resources for individuals with developmental disabilities and their employers on its website; and
- Publish a brochure that describes the program and is accessible through the website.

The bill requires financial institutions participating in the qualified public depository program to participate in the Financial Literacy Program as condition of eligibility for the qualified public depository program.²⁹ This requirement would apply to banks, savings associations, and savings banks that participate in the program.³⁰ Each participating financial institution must:

- Make program brochures available at each branch office; and
- Provide a hyperlink on its website to the DFS's program website.

These provisions take effect on January 1, 2016.

The bill redefines the term “developmental disability” to include individuals who have a disability that is attributable Down syndrome (Section 5, amending s. 393.063(9), F.S.)

For FY 2015-2016, the sums of \$63,664 in recurring funds and \$73,570 in nonrecurring funds from the Insurance Regulatory Trust Fund are appropriated to the Consumer Assistance Program within the DFS, and one FTE position is authorized for the program for the purpose of implementing the Financial Literacy Program for Individuals with Developmental Disabilities (Section 9).

²⁹ See ch. 280, F.S., A qualified public depository (QPD) is a bank, savings bank, or savings association that meets specific statutory criteria. The CFO administers the Florida Security for Public Deposits Act, a statewide program that insures public deposits of the state and governmental units are protected from loss due to failure of a financial institution.

³⁰ There are 157 active, qualified public depositories in the state of Florida. Office of Financial Regulation, *2015 Legislative Bill Analysis SB 206*, February 4, 2015 (on file with the Senate Fiscal Policy Committee).

Employment First Act

(Section 6)

The bill creates the Employment First Act requiring an interagency cooperative agreement to ensure a long-term commitment to improve employment for individuals who have a disability among the following state agencies and organizations:

- Agency for Person with Disabilities;
- Department of Education, Bureau of Exceptional Education and Student Services;
- Department of Education, Division of Vocational Rehabilitation;
- Department of Education, Division of Blind Services;
- Department of Economic Opportunity;
- CareerSource Florida, Inc.;
- Department of Children and Families, Substance Abuse and Mental Health Program; and
- Other appropriate organizations.

The interagency cooperative agreement must outline the roles and responsibilities of the parties to the agreement. The bill requires the objectives of the interagency agreement to include the following:

- Establishing commitment by state leadership to maximize resources and coordination to improve employment outcomes for individuals with disabilities;
- Developing strategic goals and benchmarks to assist the state agencies and organizations in the implementation of the agreement;
- Identifying financing and contracting methods to help prioritize employment for individuals with disabilities by state agencies and organizations;
- Establishing training methods to better integrate persons with disabilities into the workforce;
- Ensuring collaborative efforts between agencies;
- Promoting service innovations to better assist individuals with disabilities in the workplace; and
- Identifying accountability measures to ensure sustainability of the agreement.

Florida Unique Abilities Partner Program

(Section 7)

The bill creates the Florida Unique Abilities Partner program to recognize businesses that employ or support the independence of individuals who have a disability. The program is created within the DEO. The DEO is required to consult with the APD, the Division of Vocational Rehabilitation and Division of Blind Services of the DOE, and CareerSource Florida, Inc., in creating the program.

In order to be designated as 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 the:

- Employment of individuals who have a disability;
- Contributions to local or national disability organizations; or
- Contributions to or the 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 at least one Florida resident who has a disability for at least 9 months before applying for the designation; the employer may not be required to provide personally identifiable information about its employees;
- Make a financial or in-kind contribution, including employee volunteer hours, to a local or national disability organization or a contribution in support of individuals who have a disability; or
- Establish or contribute to the establishment of a program that contributes to the independence of individuals who have a disability.

The DEO may also consider nominations from members of the community regarding a local business entity's qualification for designation as a Florida Unique Abilities Partner. The nomination must identify the business entity's achievements in one or more of the above-referenced categories.

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 DEO must adopt procedures for the application, nomination and designation processes for the Florida Unique Abilities Partner program.

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 and requirements for the use and display of the Florida Unique Abilities Partner program logo.

The DEO must maintain a website that, at a minimum, provides:

- A list of businesses, by county, that currently have the Florida Unique Abilities Partners designation, updated quarterly;
- Information on the eligibility requirements for the designation and the method of application of nomination; and
- The best practices for businesses to facilitate the inclusion of individuals who have a disability, updated annually.

The website may provide links to the websites of organizations or other resources that will aid business entities to employ or support individuals who have a disability. The Agency for Persons with Disabilities must provide on its website a link to the DEO website for the Florida Unique Abilities Partner program. On the Employ Florida Marketplace, the DEO and CareerSource, Florida, Inc., must identify the employers that currently have a designation as a Florida Unique Abilities Partner designation.

The DEO is required to provide a list of businesses that have a designation as a Florida Unique Abilities Partner to VISIT Florida³¹ on a quarterly basis. VISIT Florida must consider using the program and the designees in marketing campaigns, including campaigns that target individuals who have a disability or their families.

The DEO must report its progress in implementing the Florida Unique Abilities Partner program to the Legislature by January 1, 2016. Also, beginning in 2016, the DEO must describe the progress and use of the program in its annual report required under s. 20.60, F.S.³²

For FY 2015-2016, the sums of \$100,000 in recurring funds and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund are appropriated to the DEO for the purpose of funding the development, implementation, and administration of the Florida Unique Abilities Partner program (Section 8).

Effective Date

Except as otherwise provided, the bill takes effect on July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

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:

The Financial Literacy Program will facilitate greater financial literacy and economic independence among individuals with developmental disabilities by providing information and resources on financial products and services, financial management,

³¹ VISIT Florida is statutorily referred to as the Florida Tourism Industry Marketing Corporation. s. 288.1226, F.S.

³² This report is due to the Legislature on November 1 annually.

employment options, and federal and state benefits. Employers will also benefit from resources that will facilitate employment of individuals with developmental disabilities.

Financial institutions may incur indeterminate costs associated with providing brochures about the Financial Literacy Program at their places of business and revising their websites to provide a link to access the Financial Literacy Program's website.

Under the Unique Abilities Partner program a business that receives a designation may experience greater patronage due to the designation. Local or national disability organizations may receive additional donations from businesses seeking a designation under the program.

C. Government Sector Impact:

The bill makes several appropriations to implement the programs and activities created in the bill:

State Equal Employment Policy

The bill provides appropriations of \$138,692 in recurring funds and \$26,264 in nonrecurring funds from the State Personnel System Trust Fund to the DMS, and authorizes two positions. The bill also appropriates \$88,285 from the General Revenue Fund and \$76,671 from trust funds to Administered Funds that provide the revenue source to support the appropriation provided to the DMS.

Financial Literacy Program for Individuals with Disabilities

The bill provides one position and \$137,234 from the Insurance Regulatory Trust Fund within the DFS to implement this program (\$63,664 recurring and \$73,570 nonrecurring). This includes expense costs relating to printing and mailing brochures to all bank branches within the state.³³

Unique Abilities Partner Program

The bill appropriates \$100,000 in recurring funds and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund. These costs are associated with staff time to develop the program, process applications, determine compliance, and designate businesses. IT staff time is also required to create, maintain, and update the website that is required by the bill.³⁴

VI. Technical Deficiencies:

None.

³³ See the DFS, *2015 Legislative Bill Analysis on SB 206*, February 12, 2015 (on file with the Senate Fiscal Policy Committee).

³⁴ The Department of Economic Opportunity, *Senate Bill 1246 Analysis* (March 5, 2015) (on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

VII. Related Issues:

The bill directs the DMS to adopt rules to relating to forms that provide for the voluntary self-identification of individuals who have a disability. The bill directs the DEO to adopt rules to administer the Florida Unique Abilities Partner 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.³⁵ 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.³⁶

The 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 Department of Economic Opportunity, the state agency responsible for maintaining employment data, has informed the 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.³⁷

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 110.107, 110.112, 280.16, 393.063.

This bill creates section 17.68 of the Florida Statutes.

This bill creates two undesignated sections 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 Fiscal Policy on March 19, 2015:

The committee substitute modifies the states equal opportunity policy and creates several programs related to the economic independence of individuals who have disabilities. Specifically, the bill:

³⁵ See 42 U.S.C. s. 12112.

³⁶ 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. 13, 2015).

³⁷ See the DMS, *2015 Legislative Analysis on SB 7022*, (Feb. 13, 2015) (on file with the Senate Fiscal Policy Committee).

- Modifies the state's employment policy to provide enhanced executive agency employment opportunities for persons who have a disability;
- Creates the Financial Literacy Program for Individuals with Developmental Disabilities within the DFS;
- Creates the Employment First Act requiring an interagency cooperative agreement among specified state agencies and organizations to ensure a long-term commitment to improve employment for individuals who have a disability;
- Creates the Florida Unique Abilities Partner program within the DEO to recognize businesses that employ or support the independence of individuals who have a disability;
- Appropriates \$137,234 and 1 FTE to the DFS for the implementation of the Financial Literacy Program; and
- Appropriates \$200,000 to the DEO for the implementation of the Florida Unique Abilities Partner program.

As recommended by Appropriations Subcommittee on General Government the CS provides an appropriation to the DMS for FY 2015-2016 of \$138,692 in recurring funds and \$26,264 in nonrecurring funds from the State Personnel System Trust Fund and authorizes two FTE to implement and manage the programs.

B. Amendments:

None.