

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 1463 Department of Economic Opportunity

**SPONSOR(S):** Commerce Committee; Tourism, Infrastructure & Energy Subcommittee; LaMarca

**TIED BILLS:** **IDEN./SIM. BILLS:** CS/SB 1948

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Tourism, Infrastructure & Energy Subcommittee	18 Y, 0 N, As CS	Willson	Keating
2) Infrastructure & Tourism Appropriations Subcommittee	14 Y, 0 N	Hicks	Davis
3) Commerce Committee	19 Y, 0 N, As CS	Willson	Hamon

### SUMMARY ANALYSIS

The Department of Economic Opportunity (DEO) is tasked with assisting the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians. DEO must also ensure that the state's goals and policies relating to economic development, workforce development, community planning and development, and affordable housing are fully integrated with appropriate implementation strategies. Currently, the DEO agency head is referred to as the "Executive Director."

The bill provides that the DEO agency head will be known as "Secretary" instead of "Executive Director" and adds the Secretary to the Board of Directors for Enterprise Florida and CareerSource Florida, respectively. Additionally, the bill establishes an Office of Economic Accountability and Transparency within DEO.

The bill provides flexibility to DEO relating to the administration of the federally funded Florida Small Cities Community Development Block Grant Program and provides for expedited permitting for certain homeowners affected by natural disasters.

The bill makes several changes relating to Florida's reemployment assistance program in order to modernize, increase efficiency and effectiveness, and provide for additional accountability.

The bill does not appear to impact state revenues, and any actions to modernize the reemployment assistance system during the 2021-22 fiscal year are included in the House proposed General Appropriations Act for FY 2021-2022.

The bill takes effect upon becoming law.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

Florida's economic development system is multi-faceted and includes public agencies, non-profit corporations, and private entities at the state, regional, and local level. The Legislature created some of these organizations, while others are units of local government or privately formed associations or alliances. Many of the organizations have similar missions (e.g., encouraging economic development and enhancing the state's business climate) and serve the same constituencies (e.g., in- and out-of-state businesses and the state's economic and workforce development communities). The most prominent of these organizations are Enterprise Florida, Inc. and the Department of Economic Opportunity.<sup>1</sup>

#### **Department of Economic Opportunity (DEO)**

##### Current Situation

The Department of Economic Opportunity (DEO) is tasked with assisting the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians.<sup>2</sup> DEO must also ensure that the state's goals and policies relating to economic development, workforce development, community planning and development, and affordable housing are fully integrated with appropriate implementation strategies.<sup>3</sup>

To achieve these goals, the Legislature established five divisions within DEO:

- Strategic Business Development
- Community Development
- Workforce Services
- Finance and Administration
- Division of Information Technology<sup>4</sup>

These divisions help fulfill DEO's statutorily mandated responsibilities, which include to:

- Facilitate the direct involvement of the Governor and the Lieutenant Governor in economic development and workforce development projects designed to create, expand, and retain businesses in this state, to recruit business from around the world, and to facilitate other job-creating efforts.
- Recruit new businesses to this state and promote the expansion of existing businesses by expediting permitting and location decisions, worker placement and training, and incentive awards.
- Promote viable, sustainable communities by providing technical assistance and guidance on growth and development issues, grants, and other assistance to local communities.
- Ensure that the state's goals and policies relating to economic development, workforce development, community planning and development, and affordable housing are fully integrated with appropriate implementation strategies.
- Manage the activities of public-private partnerships and state agencies in order to avoid duplication and promote coordinated and consistent implementation of programs in areas including, but not limited to, tourism; international trade and investment; business recruitment, creation, retention, and expansion; minority and small business development; rural community development; and the development and promotion of professional and amateur sporting events.

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<sup>1</sup> OPPAGA, Report No. 16-09, Agency Review-Enterprise Florida, Inc., and Department of Economic Opportunity, at 6. (Dec. 2016)

<sup>2</sup> S. 20.60(4), F.S.

<sup>3</sup> OPPAGA, *Program Summary: Department of Economic Opportunity*, <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=6101> (last visited Mar. 11, 2021).

<sup>4</sup> S. 20.60(3), F.S.

- Coordinate with state agencies on the processing of state development approvals or permits to minimize the duplication of information provided by the applicant and the time before approval or disapproval.<sup>5</sup>

Current law refers to the head of DEO as the “executive director.”<sup>6</sup> However, Florida law generally provides that the term “secretary” means “an individual who is appointed by the Governor to head a department and who is not otherwise named in the State Constitution” whereas “executive director” means the chief administrative employee or officer of a department headed by a board or by the Governor and the Cabinet.<sup>7</sup>

Currently, DEO does not have an office or program expressly dedicated to overseeing transparency and accountability for the agency.

### Effect of the Bill

The bill renames the DEO agency head as the “Secretary” from the “Executive Director,” establishes the Office of the Secretary, and allows for the appointment of deputy assistant secretaries. The bill also amends cross references to reflect the change in title concerning the agency head of DEO.

The bill establishes the Office of Economic Accountability and Transparency within DEO, which must:

- Oversee critical objectives and ensure key objectives are clearly communicated to the public.
- Organize resources, expertise, data, and research to focus on and solve the complex economic challenges facing the state.
- Provide leadership for priority issues that require integration of policy, managements, and critical objectives from multiple programs and organizations internal and external to DEO.
- Promote and facilitate key initiatives to address priority economic issues and explore data and identify opportunities for innovative approaches to address such economic issues.
- Promote strategic planning.

## **Community Development Block Grants**

### Current Situation

#### *Florida Small Cities Community Development Block Grant Program*

In 1981, Congress amended the Housing and Community Development Act of 1974 to give each state the opportunity to administer Community Development Block Grant (CDBG) funds for non-entitlement areas. Non-entitlement<sup>8</sup> areas include local governments which do not receive CDBG funds directly from the U.S. Department of Housing and Urban Development (HUD) as part of the entitlement program (Entitlement Cities and Urban Counties). The purpose of the Act is to assist local governments in carrying out effective community development and project planning/design activities to reverse community decline.<sup>9</sup>

HUD distributes funds to each state through a statutory formula based on population, poverty, incidence of overcrowded housing, and age of housing. Neither HUD nor states distribute funds

<sup>5</sup> S. 20.60(4), F.S.

<sup>6</sup> S. 20.60(2), F.S.

<sup>7</sup> S. 20.03, F.S.

<sup>8</sup> Funding for the Florida Small Cities CDBG Program is competitive and there are no “targeted” areas. The HUD identifies communities as non-entitlement local governments. Communities that do not have an open Commercial Revitalization, Neighborhood Revitalization, or Housing Rehabilitation subgrant are eligible to apply for CDBG funding in one of those categories. For a list of the Florida communities that were eligible to receive CDBG funding during the FFY 2019 funding cycle, see DEO, *Small Cities Community Development Block Grant FFY 2019 Eligible Communities*, [https://floridajobs.org/docs/default-source/2015-community-development/community-revitalization/cdbg/applicants/ffy2019smallcitieseligiblecommunities.pdf?sfvrsn=11a948b0\\_2](https://floridajobs.org/docs/default-source/2015-community-development/community-revitalization/cdbg/applicants/ffy2019smallcitieseligiblecommunities.pdf?sfvrsn=11a948b0_2) (last visited Mar. 11, 2021).

<sup>9</sup> *Id.*

directly to citizens or private organizations. State governments, in turn, distribute the funds to local governments.<sup>10</sup>

DEO manages four CDBG Programs:

- Florida Small Cities Community Development Block Grant (CDBG) Program
- CDBG – Coronavirus Relief Funding (CDBG-CV)
- Office of Disaster Recovery
- Neighborhood Stabilization Program

The Community Development Block Grant (CDBG) Program is a federal program that provides funding for housing and community development activities. The program consists of two components:

- Entitlement Program - funds are provided directly to urban communities, and
- State Program - funds are allocated to the states for distribution to eligible non-entitlement communities

DEO administers the State Program in Florida through the Small Cities CDBG Program, which is a competitive grant program that awards funds to units of local government in small urban and rural areas. Florida receives between 18 and 26 million dollars annually from HUD to award subgrants to eligible units of local government. The program provides an opportunity for communities to obtain funds for projects that they cannot otherwise afford. CDBG funds can also provide administrative support for local governments that may not have the staffing resources necessary to administer their projects.

Chapter 290, F.S., provides that the intent of the Florida Small Cities CDBG Program Act (Act) is to provide the necessary means to develop, preserve, redevelop, and revitalize Florida communities exhibiting signs of decline or distress by enabling local governments to undertake necessary community development programs. Mirroring the federal law, the overall objective of the program is to create viable communities by eliminating slum and blight, fortifying communities in urgent need, providing adequate housing and suitable living environments, and expanding economic opportunities, principally for persons of low or moderate income.<sup>11</sup>

An eligible local government may apply up to three times in any one annual funding cycle for an economic development grant, but may not receive more than one such grant per annual funding cycle. Current law further specifies that a local government may have more than one open economic development grant.<sup>12</sup>

The following units of local government are eligible to apply for Small Cities CDBG funds:

- Cities with fewer than 50,000 residents that have not accepted special entitlement status and have not opted to join an entitlement program.
- Counties with fewer than 200,000 residents.
- Cities with more than 50,000 residents that have opted out of the urban entitlement program.

The program focuses on the following four funding categories:

- Commercial Revitalization
- Economic Development
- Housing Rehabilitation
- Neighborhood Revitalization

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<sup>10</sup> *Id.*

<sup>11</sup> S. 290.0411, F.S. See 42 U.S.C. § 5302(a)(20). “Persons of low or moderate income” means any person who meets the definition established by the federal Department of Housing and Urban Development. HUD defines “persons of low income” as families and individuals whose incomes do not exceed 50 percent of the median income of a service area, as determined by HUD. “Persons of moderate income” are defined as families and individuals whose incomes exceed 50 percent, but do not exceed 80 percent of the median income of a service area, as determined by HUD.

<sup>12</sup> S. 290.046(2), F.S.

To be eligible for funding, an activity must meet at least one of the following objectives:

- Benefit to Low-and Moderate-Income Persons - At least 51 percent of the beneficiaries must be low- and moderate-income persons (total household income is at or below 80 percent of the area's median income).
- Elimination of Slum and Blight - Eliminate conditions of slum or blight as defined by state law and identified by the unit of local government on a spot or area basis.
- Address an Urgent Need - The activity must alleviate a condition that poses a serious and immediate threat to those living in the area. The condition must have occurred within 18 months of application. The unit of local government must demonstrate that it is unable to finance the activity on its own and that other funding is not available.

Examples of CDBG-funded projects include:

- Water and sewer improvements
- Rehabilitation of substandard housing
- Street and sidewalk improvements
- Economic development activities that create jobs for low-and moderate-income people
- Downtown revitalization, including facade improvements, streetscaping, and underground utilities
- Park facilities and community centers
- Drainage & stormwater improvements

### *Community Development Block Grant-Disaster Recovery*

The Community Development Block Grant-Disaster Recovery Program (CDBG-DR) is a federally funded program administered by HUD. CDBG-DR programs are long-term recovery programs that work to provide safe, sanitary, and decent homes for Florida citizens recovering from the devastating impacts of hurricanes and other natural disasters. The CDBG-DR program repairs or replaces the residential housing of low- and moderate-income individuals and most vulnerable citizens who have been unable to recover from a disaster after exhaustion of all other forms of assistance.

The Office of Long-Term Resiliency within DEO conducts single-family residential housing repair and replacement for Florida residents whose homes still have unrepaired damage from Hurricanes Hermine, Matthew, Irma, and Michael. These projects must comply with the Florida Building Code by applying for and receiving Florida building permits from the applicable local building code enforcement jurisdictions. Applications for and issuance of permitting for these projects is currently given the same priority as any other residential permit application.

### Effect of the Bill

Relating to the Florida Small Cities CDBG Program, the bill:

- Amends definitions to align with applicable federal law.
- Removes the requirement that applicants may only participate in one program category.
- Changes the percentage of funds that can be set aside for an emergency or natural disaster that has been declared by an executive order, from 5 percent to 15 percent.
- Allows funds set aside for an emergency or natural disaster to be used for unfunded applications for any funding cycle and not just the most recent funding cycle.
- Removes provisions which limit the number of grant applications a local government may submit during each grant cycle.
- Removes the requirement that unused economic development grant funds be awarded on a first come, first serve basis, and
- Specifies that DEO may prohibit an applicant from receiving a grant or may penalize an applicant in the rating of a current application if the DEO determines that any applicant has failed to substantially accomplish the results it proposed in previously funded applications.

The bill requires that a building permit for a single-family residential dwelling applied for by a contractor on behalf of a homeowner who participates in a CDBG—DR program must be issued within 15 days, unless the application fails to satisfy the Florida Building Code or local government ordinance.

## Reemployment Assistance

### Current Situation

The federal Unemployment Insurance Program provides unemployment benefits to qualified workers who are unemployed through no fault of their own and who meet the requirements of state law. The program is administered as a partnership of the federal government and the states. The individual states collect unemployment compensation payroll taxes on a quarterly basis, which are used to pay benefits. Subject to the approval of the United States Department of Labor (USDOL), each state also sets tax rates, benefit levels, and trust fund balances based on the state's needs.<sup>13</sup>

Florida's unemployment insurance program was created by the Legislature in 1937<sup>14</sup> and was rebranded as the "Reemployment Assistance Program" in 2012.<sup>15</sup> DEO is responsible for administering the program and determining the calculation and payment of reemployment assistance (RA) benefits to eligible claimants. The Reemployment Assistance Program supports reemployment services through local One-Stop Career Centers located throughout the state.

A qualified worker is one who is able, available, and actively searching for work, who lost their job through no fault of their own, or who had good cause to leave, and who earned at least \$3,400 during their base period.<sup>16</sup> The base period is the 12 month period which covers the first four of the last five quarters prior to the date of the claim.<sup>17</sup> To be eligible for RA benefits for a given week, individuals must make a claim for benefits for that week and have completed DEO's online work registration requirement and subsequently report to the one-stop career center as directed by the local workforce development board for reemployment services. Individuals who are on a temporary layoff<sup>18</sup> are not required to complete the online work registration requirement or report to a one-stop career center.<sup>19</sup>

Employees who quit their jobs voluntarily may still be eligible for reemployment assistance if they were required to work in an unsafe or hostile environment.<sup>20</sup> Military spouses who voluntarily leave work to relocate as a result of their spouse's military-connected change of station orders, activation orders, or unit deployment orders are also considered to have good cause and are eligible for reemployment assistance.<sup>21</sup> In order to remain eligible for benefits, claimants must actively seek employment by making at least five verifiable job contacts or activities each week.<sup>22</sup> Claimants will lose their eligibility if DEO finds that they have failed to accept suitable work.<sup>23</sup>

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<sup>13</sup> USDOL, Employment and Training Administration, *State Unemployment Insurance Benefits*, <http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp> (last visited Jan. 28, 2020).

<sup>14</sup> Ch. 18402, Laws of Fla.

<sup>15</sup> Ch. 2012-30, Laws of Fla.

<sup>16</sup> *Id.*

<sup>17</sup> S. 443.036(7), F.S.

<sup>18</sup> Section 443.036(43), F.S. defines "temporary layoff" as a job separation due to lack of work which does not exceed 8 consecutive weeks and which has a fixed or approximate return-to-work date.

<sup>19</sup> S. 443.091(1)(b)3., F.S.

<sup>20</sup> *Spangler v. Unemployment Appeals Com'n*, 632 So. 2d 98, (Fla. 5<sup>th</sup> DCA 1994). (holding that quitting because employer failed to remedy an unsanitary workplace is good cause); *Rivera v. Florida Unemployment Appeals Com'n*, 99 So. 3d 505, (Fla. 3<sup>d</sup> DCA 2011). (holding that quitting because of sexual harassment by a co-worker is good cause); *Grossman v. Jewish Community Center of Greater Fort Lauderdale Inc.*, 704 So. 2d 714, (Fla. 4<sup>th</sup> DCA 1998). (holding that quitting because of verbal abuse by one's employer is good cause).

<sup>21</sup> S. 443.101(1)(a)1., F.S.

<sup>22</sup> S. 443.091(1)(d), F.S.

<sup>23</sup> S. 443.101(2), F.S.

Reemployment assistance is funded entirely by employers.<sup>24</sup> Private employers are known as contributory employers and fund the program through a tax on their businesses.<sup>25</sup> Public employers are considered reimbursable employers, meaning they pay the exact amount of benefits received by claimants.<sup>26</sup> A public employer may elect to become a contributory employer.<sup>27</sup> Non-profits are contributory employers by default, but may elect to become reimbursable employers.<sup>28</sup> Employers must submit quarterly tax and wage reports regardless of employment activity or whether any taxes are due.<sup>29</sup> Employers are taxed on the first \$7,000 that they pay to each employee.<sup>30</sup>

### *Domestic Violence Victims*

Current law provides that an individual may not be disqualified from receiving reemployment assistance if he or she voluntarily leaves work and is able to prove that the discontinuation of employment is a direct result of circumstances related to domestic violence.<sup>31</sup> An individual who leaves work as a result of domestic violence must make reasonable efforts to preserve employment unless the individual establishes that such remedies are likely to be futile or increase risk of future incidents of domestic violence. The employee must have a reasonable belief that he or she is likely to be the victim of a future act of domestic violence at, in transit to, or departing from his or her place of employment. An individual who is otherwise eligible for reemployment assistance is ineligible for each week that he or she no longer meets such criteria or refuses a reasonable accommodation offered in good faith by his or her employing unit.

### *Employer Response to Claims*

As part of the RA eligibility review process, employers are sent a notice of claim which is used, in part, to obtain information on the employment separation for the person requesting RA benefits. Employers have 20 days to respond to the notice of claim.<sup>32</sup>

### *Appeals Referees*

Current law requires that a practicing RA appeals referee be admitted to the Florida Bar within eight months after they begin employment with DEO.<sup>33</sup> This requirement does not apply to appeals referees who were appointed before January 1, 2014.

### *Monetary Reconsideration*

As part of the eligibility review process, DEO must determine if the individual filing for RA benefits is monetarily eligible. To be monetarily eligible, the individual must: (1) have at least \$3,400 in total wages in the base period; (2) have been paid wages in two or more calendar quarters in the base period; and (3) have total base period wages of at least 1 ½ times the wages in the quarter having the highest earnings. The individual will receive a monetary determination, which will inform them if they are monetarily eligible, and, if they are, it will provide information on their weekly benefit amount. If the individual is monetarily ineligible, the determination will provide the reason why they are ineligible. If the individual disagrees with the determination, they have the right to dispute it.

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<sup>24</sup> DEO, *Claimant FAQs*, <http://www.floridajobs.org/Reemployment-Assistance-Service-Center/reemployment-assistance/claimants/claimant-faqs> (last visited Jan. 22, 2019).

<sup>25</sup> DEO, *Employer Reemployment Assistance FAQ*, <http://www.floridajobs.org/frequently-asked-questions-directory/faqs> (last visited Jan. 22, 2019).

<sup>26</sup> *Id.*

<sup>27</sup> S. 443.1313, F.S.

<sup>28</sup> S. 443.1312, F.S.

<sup>29</sup> Florida Department of Revenue, *Employer's Quarterly Report*, [http://floridarevenue.com/Forms\\_library/current/rt6.pdf](http://floridarevenue.com/Forms_library/current/rt6.pdf) (last visited Jan. 25, 2019).

<sup>30</sup> Florida Department of Revenue, *Reemployment Tax Rate Information*, [http://floridarevenue.com/taxes/taxesfees/Pages/rt\\_rate.aspx](http://floridarevenue.com/taxes/taxesfees/Pages/rt_rate.aspx) (last visited Jan. 22, 2019).

<sup>31</sup> S. 443.01, F.S.

<sup>32</sup> S. 443.151(3)(a), F.S.

<sup>33</sup> S. 443.151, F.S.,

Current law provides that an individual has 20 days to file an appeal or a written request for reconsideration if they disagree with the monetary determination. Currently, an individual can file both a reconsideration request and an appeal at the same time.<sup>34</sup>

### *Disqualification for Fraud*

Individuals who make false or fraudulent representations to obtain RA benefits are disqualified from receiving benefits. The disqualification begins with the week in which the false or fraudulent representation is made and continues for a period not to exceed one year after the date DEO discovers the false or fraudulent representation and until any overpayment of benefits resulting from the representation has been repaid in full.<sup>35</sup>

### *Work Search Requirement*

Current law provides that for each week of unemployment claimed, the individual must report the name, address, and telephone number of each prospective employer contacted or the date the individual reported to a one-stop career center.<sup>36</sup>

### *Statute of Limitations for Appeals*

A claimant or adverse party may file an appeal to an adverse determination within 20 days after the date a notice is mailed to her or his last known address or, if the notice is not mailed, within 20 days after the date the notice is delivered. An appeal may be filed after the 20-day time limit if the individual can show good cause as to why they failed to appeal the determination timely.<sup>37</sup>

### *COVID-19 Pandemic and the CONNECT System<sup>38</sup>*

Florida's unemployment system is administered by DEO using the CONNECT system, which was deployed in 2013 to provide a modernized, web-based system and to replace a mainframe system.<sup>39</sup> According to ISF, an information technology and strategy firm who completed an assessment of the CONNECT system between November 2020 and February 2021, the CONNECT system was not designed to process the volume of claims received during the COVID-19 pandemic.<sup>40</sup> ISF analyzed ways to improve the delivery of RA benefits, including a phased approach to ensure the DEO can meet current and future demands.<sup>41</sup> ISF's assessment provides an overview of the current state of the CONNECT system, and recommends the modernization of the RA system, which includes cloud migration.<sup>42</sup>

On May 4, 2020, at the request of Governor DeSantis, the Office of the Chief Inspector General (CIG) initiated a review of the CONNECT system.<sup>43</sup> The scope of the CIG's review considered available documentation and testimony about the CONNECT system from the period of 2007 to 2020.<sup>44</sup> The CIG's recommendations in the draft report included the following:

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<sup>34</sup> S. 443.151(3)(b), F.S.

<sup>35</sup> S. 443.101(6), F.S.

<sup>36</sup> S. 443.091, F.S.

<sup>37</sup> S. 443.151(4)(b)3., F.S.

<sup>38</sup> See Executive Office of the Governor, Office Of The Chief Inspector General, *Review Of The Department Of Economic Opportunity Florida Connect System* (Mar. 4, 2021) [https://www.flgov.com/wp-content/uploads/2021/03/202005040015-Draft-Report-3.4.21\\_2.05pm.pdf](https://www.flgov.com/wp-content/uploads/2021/03/202005040015-Draft-Report-3.4.21_2.05pm.pdf) (last visited Mar. 11, 2021).

<sup>39</sup> DEO, *Improved Delivery of Reemployment Assistance Benefits – Final Report* at 1 (Feb. 26, 2021) <http://floridajobs.org/docs/default-source/communicationsfiles/2021-improved-delivery-of-reemployment-assistance-benefits-final-report-and-cost-benefit-analysis.pdf> (last visited Mar. 16, 2021).

<sup>40</sup> *Id.* at 2.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> Office of the Chief Inspector General, *Review of the Department of Economic Opportunity Florida CONNECT System* at iii (Mar. 4, 2021), available at [https://www.flgov.com/wp-content/uploads/2021/03/202005040015-Draft-Report-3.4.21\\_2.05pm.pdf](https://www.flgov.com/wp-content/uploads/2021/03/202005040015-Draft-Report-3.4.21_2.05pm.pdf) (last visited Mar. 16, 2021).

<sup>44</sup> *Id.*



- Document future Information Technology (IT) system capacity requirements and expected utilization in system testing plans and test results;
- Assess the proposed level of maturity of any state transfer or commercial off-the-shelf system relied upon for risk and properly document the risk;
- Monitor what is being provided by the vendor and build in an escape plan and financial penalties for noncompliance;
- Require project management to be flat and agile, which may include considering more modular IT projects to accommodate future and rapid technological changes; and
- Strengthen administrative and physical infrastructure needs, which may include moving the future CONNECT system to the cloud to allow for greater scalability.<sup>45</sup>

### Effect of the Bill

Relating to reemployment assistance, the bill:

- Removes the requirement that RA claimants include a prospective employer's telephone number in their weekly work search report.
- Allows the address of a prospective employer to be provided as a website address, physical address, or email address in their weekly work search report.
- Allows claimants who are, at the time, victims of domestic violence to certify bi-weekly instead of weekly.
- Allows DEO to hold a claimant ineligible from the date in which a fraud occurred, instead of when the claimant advises DEO that the fraud was committed.
- Decreases the amount of time employers may respond to a notice of claim filed, from 20 days to 14 days.
- Requires that a monetary reconsideration be requested, completed, and ruled on prior to an appeal being filed on the monetary determination.
- Removes the requirement that appeals hearing officers must be Florida Bar licensed attorneys.
- Prohibits an appeal from being filed 5 years or more after the determination was delivered.
- Amends the definition of temporary layoff to include an employer-initiated furlough that causes a mandatory complete stoppage of work if such furlough is temporary and the individual remains job attached and is expected to return to work with the employer.
- Authorize an employer that commences a mass separation<sup>46</sup> to initiate an employer-assisted claim on behalf of its employees by submitting employee information to DEO.

The bill requires DEO to implement an integrated, modular system hosted in a cloud computing<sup>47</sup> service that provides for rapid provisioning of additional data processing when necessary. The system must support the efficient distribution of benefits and the effective operation and management of the RA program, and must:

- Be accessible through the Internet on both mobile devices and personal computers.
- Process reemployment assistance claims and benefit payments.
- Process and manage overpayments.
- Perform adjudication functions.
- Process appeals and manage hearings.
- Manage and process the charging of employers.
- Enhance online, self-service capabilities to claimant and employer information and federal and state reporting.
- Maintain interoperability with other workforce systems within DEO.
- Allow for employer-assisted claims.

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<sup>45</sup> *Id.*

<sup>46</sup> The bill defines "mass separation" as a full, partial, permanent, or temporary separation, including a temporary layoff, of full-time employees from their employer if the separation occurs at or around the same time, the employees are separated for the same reason, and the separation is due to circumstances for which the employees are not at fault.

<sup>47</sup> Section 282.0041(5), F.S., provides that "Cloud computing" has the same meaning as provided in Special Publication 800-145 issued by the National Institute of Standards and Technology.

The bill specifies that DEO must perform an annual review of the system and identify enhancements or modernization efforts that improve the delivery of services to claimants and employers and reporting to state and federal entities, including:

- Infrastructure upgrades through cloud services.
- Software improvements.
- Enhanced data analytics and reporting.
- Increased cybersecurity.

The bill requires DEO to seek input on recommended enhancements from certain entities, including but not limited to:

- The Florida Digital Service within the Department of Management Services.
- The General Tax Administration Program Office within the Department of Revenue.
- The Division of Accounting and Auditing within the Department of Financial Services.

Beginning October 1, 2023, the bill requires DEO to annually submit a CONNECT system report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, which includes at a minimum:

- A summary of maintenance, enhancement, and modernization efforts over the last fiscal year.
- A 3-year outlook of recommended enhancements or modernization efforts that includes projected costs and timeframes for completion.

The bill requires DEO to provide monthly project status reports to the chairs of the Senate and House Appropriations Committees, the Office of Policy and Budget in the Executive Office of the Governor, and the Florida Digital Service. Each status report must include ongoing system maintenance activities and progress made to date for each project milestone, deliverable, and task order, planned and actual completion dates, planned and actual costs incurred, and any current project issues and risks.

The bill requires DEO to provide project related data to the Florida Digital Service in support of the Florida Digital Service's project oversight responsibilities.

Additionally, the bill specifies that, for the 2021-2022 fiscal year, DEO must take actions to modernize the CONNECT system as provided in the General Appropriations Act.

## **Enterprise Florida, Inc. (EFI)**

### Current Situation

EFI is a nonprofit corporation established by the Legislature to serve as the state's main economic development organization.<sup>48</sup> EFI is required to enter into a performance-based contract with DEO, which includes annual measurements of the performance of EFI.<sup>49</sup> EFI is governed by a board of directors chaired by the Governor.

The board consists of the Governor or his or her designee, as well as the following appointed members (or their designee):

- The Commissioner of Education.
- The Chief Financial Officer.
- The Attorney General.
- The Commissioner of Agriculture.
- The chairperson of CareerSource Florida.
- The Secretary of State.

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<sup>48</sup> S. 288.901, F.S. Chapter 92-277, Laws of Fla., created EFI, while ch. 96-320, Laws of Fla, established EFI as a public-private partnership.

<sup>49</sup> Section 20.60(1), F.S., requires DEO to "establish annual performance standards for Enterprise Florida, Inc., CareerSource Florida, Inc., the Florida Tourism Industry Marketing Corporation, and Space Florida and report annually on how these performance measures are being met."

- Twelve members from the private sector (6 of whom are appointed by the Governor, 3 by the President of the Senate, and 3 by the Speaker of the House of Representatives.)<sup>50</sup>

As a public-private partnership, EFI is expected to obtain private sector support to help pay for its operational costs. According to state law, EFI's legislative appropriations must be matched with private sector support equal to at least 100% of state operational funding.<sup>51</sup> Under state law, private sector support includes:

- Cash given directly to EFI for its operations, including contributions from at-large members of the board of directors;
- Cash donations from organizations assisted by EFI's divisions;
- Cash jointly raised by EFI, private local economic development organizations, a group of such organizations, or a statewide private business organization that supports collaborative projects;
- Cash generated by fees charged for products or services of EFI and its divisions by sponsorship of events, missions, programs, and publications; and
- Copayments, stock, warrants, royalties, or other private resources dedicated to EFI.

The Legislature provides an annual appropriation to EFI for its operations. EFI is required to have divisions related to:

- International Trade and Business Development
- Business Retention and Recruitment
- Tourism Marketing
- Minority Business Development
- Sports Industry Development

Florida law directs EFI's board of directors to "integrate its efforts in business recruitment and expansion, job creation, marketing the state for tourism and sports, and promoting economic opportunities for minority-owned businesses and promoting economic opportunities for rural and distressed urban communities with those of the department, to create an aggressive, agile, and collaborative effort to reinvigorate the state's economy."<sup>52</sup>

### Effect of the Bill

The bill adds the Secretary of DEO to the Board of Directors of EFI.

### **CareerSource Florida, Inc.**

#### Current Situation

DEO serves as Florida's lead workforce agency.<sup>53</sup> DEO is responsible for the fiscal and administrative affairs of the workforce development system.<sup>54</sup> DEO receives and distributes federal funds for employment-related programs to local workforce development boards.<sup>55</sup> Additionally, under the direction of CareerSource, DEO must annually meet with each local workforce development board to review the board's performance and to certify that the board is in compliance with applicable state and federal law.<sup>56</sup>

CareerSource Florida, Inc., a not-for-profit corporation, serves as Florida's state-level workforce development board.<sup>57</sup> CareerSource is responsible for the development of a 4-year plan that is consistent with federal requirements<sup>58</sup> and collaborates with DEO, the local workforce development

<sup>50</sup> S 288.901(5), F.S.

<sup>51</sup> S. 288.904(2)(a), F.S.

<sup>52</sup> S. 288.9015(1), F.S.

<sup>53</sup> Primarily through the Division of Workforce Services. See s. 20.60, F.S.

<sup>54</sup> S. 445.009(3)(c), F.S.

<sup>55</sup> See s. 445.003, F.S.

<sup>56</sup> See s. 445.007(3), F.S.

<sup>57</sup> S. 445.004(5)(a), F.S. Prior to 2014, CareerSource was known as Workforce Florida, Inc.

<sup>58</sup> S. 445.003(2), F.S.

boards, and one-stop service providers to ensure workforce services are consistent with state and local plans.<sup>59</sup> CareerSource also provides state-level policy direction, planning, and performance evaluation of the delivery of workforce services.<sup>60</sup> Florida law requires CareerSource to operate pursuant to an agreement with DEO and at the direction of its state board in consultation with DEO.

### *Regional Workforce Boards*

Twenty-four local workforce development boards deliver Florida's workforce development services through over 100 one-stop service providers.<sup>61</sup> The one-stop service providers give Floridians access to available workforce services, including job placement, career counseling, and skills training.<sup>62</sup> Collectively, the local workforce development boards operate under a charter approved by CareerSource.<sup>63</sup> Each local workforce development board formulates a local budget and oversees the one-stop delivery system within its local area.<sup>64</sup>

DEO and the regional workforce boards entered into agreements in July 2020, which required, among other things, that the regional workforce boards complete background screenings on certain employees. However, the regional workforce boards do not have statutory authority to require such screenings.<sup>65</sup>

### *Background Screening*

An employer<sup>66</sup> may not hire, select, or otherwise allow an employee to have contact with a vulnerable person<sup>67</sup> that would place the employee in a role that requires a background screening until the screening process is completed and demonstrates the absence of any grounds for the denial or termination of employment.<sup>68</sup> If the screening process shows any grounds for the denial or termination of employment, the employer may not hire, select, or otherwise allow the employee to have contact with any vulnerable person that would place the employee in a role that requires background screening unless the employee is granted an exemption for disqualification by the agency<sup>69</sup> as provided under s. 435.07, F.S.<sup>70</sup>

Sections 435.03 and 435.04, F.S., outline the screening requirements. There are two levels of background screening.

- Level 1 screening includes, at a minimum, employment history checks and statewide criminal correspondence checks through the Florida Department of Law Enforcement (FDLE) and a check of the Dru Sjodin National Sex Offender Public Website,<sup>71</sup> and may include criminal records checks through local law enforcement agencies.<sup>72</sup>

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<sup>59</sup> See s. 445.004, F.S.

<sup>60</sup> *Id.*

<sup>61</sup> DEO, *CareerSource Florida Network Directory*, <http://lcd.floridajobs.org/> (last visited Mar. 11, 2021).

<sup>62</sup> See s. 445.009, F.S.

<sup>63</sup> See s. 445.004, F.S.

<sup>64</sup> S. 445.007(12), F.S.

<sup>65</sup> DEO, *Agreement Between [Lwdb] and The Florida Department Of Economic Opportunity*, [https://floridajobs.org/docs/default-source/lwdb-resources/deo-lwdb-grantee-subgrantee-agreement/grantee-sub-grantee-agreement---final-draft-\(003\).pdf?sfvrsn=227647b0\\_2](https://floridajobs.org/docs/default-source/lwdb-resources/deo-lwdb-grantee-subgrantee-agreement/grantee-sub-grantee-agreement---final-draft-(003).pdf?sfvrsn=227647b0_2) (last visited Mar. 11, 2021).

<sup>66</sup> Section 435.02(3), F.S., defines "employer" as any person or entity required by law to conduct screening of employees pursuant to ch. 435, F.S.

<sup>67</sup> Section 415.102(28), F.S., defines "vulnerable adult" as a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging.

<sup>68</sup> S. 435.06(2)(a), F.S.

<sup>69</sup> Section 435.02(1), F.S., defines "agency" as any state, county, or municipal agency that grants licenses or registration permitting the operation of an employer, or is itself an employer, or that otherwise facilitates the screening of employees pursuant to ch.435, F.S. If there is no state agency or the municipal or county agency chooses not to conduct employment screening, "agency" means the Department of Children and Families.

<sup>70</sup> S. 435.06(2)(a), F.S.

<sup>71</sup> The Dru Sjodin National Sex Offender Public Website is a U.S. government website that links public state, territorial, and tribal sex offender registries in one national search site, <https://www.nsopw.gov/> (last visited Mar. 16, 2021).

<sup>72</sup> S. 435.03(1), F.S.

- Level 2 screening includes, but, is not limited to, fingerprinting for statewide criminal history records checks through the FDLE and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.<sup>73</sup>

### Effect of the Bill

The bill adds the Secretary of DEO to the Board of Directors of CareerSource Florida.

The bill changes the definition of “specified agency” to include regional workforce boards providing services defined in s. 445.002(3), F.S., which will allow regional workforce development boards to conduct level 2 background screenings.

#### B. SECTION DIRECTORY:

- Section 1 Amends s. 20.60, F.S.; relating to DEO.
- Section 2 Amends s. 288.901, F.S.; revising the membership of the board of directors of Enterprise Florida, Inc.
- Section 3 Amends s. 290.042, F.S.; revising the definition of the term "administrative costs" relating to the Florida Small Cities Community Development Block Grant Program Act.
- Section 4 Amends s. 290.044, F.S.; revising the application process and funding for the Florida Small Cities Community Development Block Grant Program Fund.
- Section 5 Amends s. 290.046, F.S.; revising the application process and funding for development grants awarded by DEO to local governments.
- Section 6 Amends s. 331.3081, F.S.; conforming a cross-reference.
- Section 7 Amends s. 435.02, F.S.; revising the definition of the term "specified agency" to include certain regional workforce boards for the purposes of labor laws.
- Section 8 Amends s. 443.036, F.S.; amending definitions.
- Section 9 Amends s. 443.091, F.S.; revising the reporting requirements for reemployment assistance benefit eligibility; defining the term "address".
- Section 10 Amends s. 443.101, F.S.; deleting a provision providing that individuals who voluntarily leave work as a direct result of circumstances relating to domestic violence are ineligible for benefits under certain circumstances.
- Section 11 Amends s. 443.1113, F.S.; relating to the Reemployment Assistance Claims and Benefits Information System.
- Section 12 Creates s. 443.1118, F.S.; relating to employer-assisted claims.
- Section 13 Amends s. 443.151, F.S.; relating to claims procedures.
- Section 14 Amends s. 445.004, F.S.; relating to CareerSource Florida, Inc.
- Section 15 Amends s. 553.79, F.S.; requiring specified building permit applications applied for by licensed contractors for property owners under certain programs administered by DEO to be issued within a reduced timeframe.
- Sections 16-54 Amends ss. 14.20195, 16.615, 20.04, 213.053, 220.194, 288.005, 288.061, 288.0656, 288.106, 288.1089, 288.1251, 288.8014, 288.955, 288.9604, 288.987, 290.0065, 311.09, 311.105, 334.065, 373.4149, 380.045, 403.0752, 420.0005, 420.0006, 420.101, 420.503, 420.504, 420.506, 420.507, 420.511, 420.602, 420.609, 420.622, 427.012, 443.1116, 446.53, 450.261, 624.5105, and 1004.015, F.S.; conforming provisions to changes made by the act.
- Section 55 Requires DEO to take certain actions for a specified fiscal year.

<sup>73</sup> S. 435.04(1)(a), F.S.  
**STORAGE NAME:** h1463e.COM  
**DATE:** 4/14/2021

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Any actions to modernize the CONNECT system during the 2021-22 fiscal year are included in the House proposed General Appropriations Act for FY 2021-2022.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill should allow DEO to administer the RA program more efficiently and effectively, which should have a positive fiscal impact on individuals who seek reemployment assistance.

### D. FISCAL COMMENTS:

To the extent the department creates offices within the Office of the Secretary and provides for the Office of Economic Accountability and Transparency, costs can be covered with a realignment of current resources or upon further request from the Legislature during the FY 2022-2023 budget cycle.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On April 1, 2021, the Tourism, Infrastructure & Energy Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute provided clarifying language and specifies certain reporting requirements relating to the implementation and oversight of the Reemployment Assistance Claims and Benefits Information (CONNECT) system.

On April 14, 2021, the Commerce Committee adopted an amendment and reported the bill favorably as a committee substitute. The committee substitute amends the definition of "temporary layoff" and authorizes an employer to file initial claims on behalf of its employees who are a part of a mass separation from the employer.

The analysis is drafted to the committee substitute as approved by the Commerce Committee.