

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 317 Substitution of Work Experience for Postsecondary Educational Requirements

**SPONSOR(S):** State Affairs Committee, DiCeglie and others

**TIED BILLS:** IDEN./SIM. BILLS: SB 514

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	13 Y, 0 N	Landry	Toliver
2) Local Administration & Veterans Affairs Subcommittee	15 Y, 0 N	Darden	Miller
3) State Affairs Committee	20 Y, 0 N, As CS	Landry	Williamson

### SUMMARY ANALYSIS

State agencies must make hiring decisions without regard to age, sex, color, religion, national origin, political affiliation, marital status, or disability. Hiring decisions are determined based on an assessment of the specific knowledge, skills, and abilities (KSAs) necessary for the successful performance of the position's duties. Candidates must also have any required licenses, certifications, or registrations. The final employment selection decision is the sole responsibility of the employing agency. Agencies must document the qualifications of the selected candidate to ensure the candidate meets the minimum requirements specified by the employing agency, any licensure, certification, or registration requirements, and possess the requisite KSAs for the position.

The bill allows an employing agency of the state or its political subdivisions to substitute verifiable, related work experience for postsecondary educational requirements for employment positions if the candidate is otherwise qualified for the position. Work experience may not be substituted for any required licensure, certification, or registration. If the employing agency elects to substitute related work experience for postsecondary educational requirements, the employing agency must include in all advertisements for the position a notice that such substitution is authorized. The advertisements must also describe the related work experience equivalencies that may be substituted for postsecondary educational requirements.

The bill does not appear to have a fiscal impact on state or local governments.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### State Employment Policy

According to the employment policy of the state, conditions of employment in state government must be made without regard to age, sex, color, religion, national origin, political affiliation, marital status, or disability.<sup>1</sup> The state and its political subdivisions must comply with the Americans with Disabilities Act,<sup>2</sup> Equal Employment Opportunity Act,<sup>3</sup> Florida Civil Rights Act,<sup>4</sup> and Fair Labor Standards Act.<sup>5</sup> In addition, the state and its political subdivisions must give preference to veterans for positions of employment.<sup>6</sup>

##### State Hiring Process

The State of Florida's employment process is decentralized, so each state agency is responsible for its recruitment, selection, and hiring decisions.<sup>7</sup> However, recruitment of candidates for employment must be done in a manner that assures open competition, while placing special emphasis on efforts to attract minorities, women, or other groups that are underrepresented in the workforce of the employing agency.<sup>8</sup> Selection of candidates for employment is based on an assessment of the specific knowledge, skills, and abilities (KSAs) necessary for the successful performance of the position's duties.<sup>9</sup> After assembling a pool of candidates, an agency's hiring official compares candidates' education, experience, and any necessary license or certification requirements.<sup>10</sup> Candidates who appear to possess the required KSAs and any required licensure or certifications will proceed further in the selection process.<sup>11</sup> The hiring official then determines the candidates who will be asked to participate in additional selection procedures, such as oral interviews or work sample exercises.<sup>12</sup> The job-related information gained during the selection process assists the hiring official in making the final selection decision. The final selection decision is the sole responsibility of the employing agency.<sup>13</sup> Agencies must document the qualifications of the selected candidate to ensure the candidate meets the minimum requirements specified by the employing agency, any licensure, certification, or registration requirements, and possesses the requisite KSAs for the position.<sup>14</sup>

#### Effect of the Bill

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<sup>1</sup> S. 110.105(2)(a), F.S.

<sup>2</sup> U.S. Department of Labor, *Employers' Responsibilities, Americans with Disabilities Act*, <https://www.dol.gov/general/topic/disability/employersresponsibilities> (last visited Jan. 18, 2022).

<sup>3</sup> U.S. Equal Employment Opportunity Commission, *Overview*, [https://www.eeoc.gov/overview#:~:text=The%20U.S.%20Equal%20Employment%20Opportunity,national%20origin%2C%20age%20\(40%20or](https://www.eeoc.gov/overview#:~:text=The%20U.S.%20Equal%20Employment%20Opportunity,national%20origin%2C%20age%20(40%20or) (last visited Jan. 18, 2022).

<sup>4</sup> S. 760.02(7), F.S.

<sup>5</sup> U.S. Department of Labor, *Wages and the Fair Labor Standards Act*, <https://www.dol.gov/agencies/whd/flsa> (last visited Jan. 18, 2022).

<sup>6</sup> S. 296.07, F.S.

<sup>7</sup> Job Candidate Program Manual, Division of Human Resource Management, Department of Management Services, *available at* [https://www.dms.myflorida.com/content/download/99277/573474/Job\\_Candidate\\_Program\\_Manual\\_Final\\_3-21-17.pdf](https://www.dms.myflorida.com/content/download/99277/573474/Job_Candidate_Program_Manual_Final_3-21-17.pdf) (last visited Nov. 22, 2021).

<sup>8</sup> S. 110.211, F.S.

<sup>9</sup> State of Florida Employee Handbook, Department of Management Services, *available at* [https://www.dms.myflorida.com/workforce\\_operations/human\\_resource\\_management/for\\_state\\_personnel\\_system\\_hr\\_practitioners/employment\\_policies\\_and\\_programs#EPP\\_EmpHndbk](https://www.dms.myflorida.com/workforce_operations/human_resource_management/for_state_personnel_system_hr_practitioners/employment_policies_and_programs#EPP_EmpHndbk) (last visited Nov. 22, 2021).

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

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> S. 110.211(1), F.S.

<sup>14</sup> S. 110.213(2), F.S.

Beginning July 1, 2022, the bill allows the head of an employing agency<sup>15</sup> to substitute verifiable, related work experience for postsecondary educational requirements for an employment position if the candidate is otherwise qualified for the position. Work experience may not be substituted for any required licensure, certification, or registration. If the head of an employing agency elects to substitute related work experience for postsecondary educational requirements, the employing agency must include a notice that such substitution is authorized in all of the position's advertisements. The advertisements must also describe the related work experience equivalencies that may be substituted for postsecondary educational requirements.

**B. SECTION DIRECTORY:**

**Section 1:** Creates s. 112.219, F.S., relating to substitution of work experience for postsecondary educational requirements.

**Section 2:** Provides an effective date of July 1, 2022.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

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<sup>15</sup> The bill defines "employing agency" to mean any agency or unit of government of the state or any county, municipality, or political subdivision thereof, including special districts, that is authorized to employ personnel to carry out the responsibilities of the agency or unit of government.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

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

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On January 20, 2022, the State Affairs Committee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removes the word “city” from the definition of an “employment agency.” The definition already includes the word “municipality.”

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