

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 7010

INTRODUCER: Fiscal Policy Committee (Recommended by Appropriations Subcommittee on General Government) Governmental Oversight and Accountability Committee

SUBJECT: Individuals with Disabilities

DATE: November 20, 2015 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Peacock</u>	<u>McVaney</u>		GO Submitted as Committee Bill
1.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	Recommend: Fav/CS
2.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7010 addresses the employment and economic independence of individuals with disabilities. Specifically, the bill:

- Creates the Financial Literacy Program for Individuals with Developmental Disabilities within the Department of Financial Services (DFS) to provide information and outreach to individuals and employers;
- Modifies the state's equal employment policy to provide enhanced executive agency employment opportunities for individuals who have a disability;
- 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 \$69,570 in recurring funds from the Insurance Regulatory Trust Fund to the DFS to implement the Financial Literacy Program for Individuals with Developmental Disabilities;
- Appropriates \$138,692 in recurring funds and \$26,264 in nonrecurring funds from the State Personnel System Trust Fund to the Department of Management Services (DMS), and

authorizes two FTE positions for the DMS to implement the provisions relating to enhancing executive agency employment opportunities;

- Appropriates the recurring sums of \$74,234 from the General Revenue Fund and \$64,458 from trust funds and the nonrecurring sums of \$14,051 from the General Revenue Fund and \$12,213 from trust funds to Administered Funds for distribution among agencies for the increase in the human resource assessment; and
- Appropriates \$100,000 in recurring and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund to the Department of Economic Opportunity to implement 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 10.1 percent of individuals ages 18 to 64 (working age) have a disability.¹ In 2014, over 20 percent of working aged individuals who have a disability lived below the federal poverty line in Florida, compared with 13.7 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, 17.9 percent of individuals who have a disability are employed in Florida, while over 61 percent of those who do not have a disability are employed.⁴ Nationally, in December 2014, there was an 11.2 percent unemployment rate for individuals who have a disability and a 5.1 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

¹ U.S. Department of Commerce, U.S. Census Bureau, American Fact Finder, *Disability Characteristics, 2014 American Community Survey 1-year Estimates*, Report S1810, searchable database (select advanced search) available at <http://factfinder.census.gov/> (last visited Nov. 5, 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, 2014 American Community Survey 1-year Estimates*, Report S1811, searchable database available at <http://factfinder.census.gov/> (last visited Nov. 5, 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 visited Nov. 5, 2015).

⁴ Supra note 2. Note, 78.5 percent of individuals who have a disability are not in the labor force.

⁵ U.S. Department of Labor, Bureau of Labor Statistics, *BLS Data Viewer: Labor Force Statistics from the Current Population Survey, Series IDs LNU04074593 and LNU04074597*, (for 2014, not seasonally adjusted), available at <http://beta.bls.gov/dataViewer/view/641a3c05bb5b4578b313b2f20ca886cc> (last visited Nov. 9, 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 Nov. 5, 2015).

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

The DMS is required to issue an annual workforce report¹⁰ and provide training to all supervisory personnel of executive agencies.¹¹ The annual workforce report must include information relating to implementation, continuance, any update, and the results of each executive agency's affirmative action plan for the previous fiscal year.¹²

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, the Agency for Persons with Disabilities (APD), the Department of Children and Families, the Department of Economic Opportunity (DEO), and the Department of Education. 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.¹³ 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.¹⁴

Governor's Commission on Jobs for Floridians with Disabilities

On July 26, 2011, Governor Rick Scott created the Governor's Commission on Jobs for Floridians with Disabilities (Commission) to advance job and employment opportunities for

⁷ Section 110.112(2)(a), F.S.

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 Section 110.112(2)(d), F.S.

¹¹ Section 110.112(2)(e), F.S., provides that the training will be in the principals of equal employment opportunity and affirmative action, the development and implementation of affirmative action plans, and establishment of annual affirmative action goals.

¹² Section 110.112(2)(d), F.S.

¹³ E-mail from the Agency for Persons with Disabilities, Summary of Active Clients, Jan. 28, 2015(on file with the Senate Banking and Insurance Committee).

¹⁴ *Id.*

persons with disabilities in order to help those individuals achieve greater independence.¹⁵ 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.”¹⁶ 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 employers 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 workforce. The “Abilities Work” web portal¹⁷ within the Employ Florida Marketplace¹⁸ 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.¹⁹ 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;
- Workforce Florida, Inc.,²⁰
- Department of Children and Families, Substance Abuse and Mental Health Office;
- Florida Developmental Disabilities Council, Inc.; and
- Florida Association of Rehabilitation Facilitates, Inc.²¹

¹⁵ Executive Order 11-161, available at <http://www.flgov.com/wp-content/uploads/2011/07/11-161-Commission-on-Jobs-for-Floridians-with-Disabilities.pdf> (last visited Nov. 9, 2015).

¹⁶ Commission, *2013 Commission Report*, (Aug. 15, 2013), available at http://www.flgov.com/wp-content/uploads/pdfs/governors_commission_on_jobs_for_floridians_with_disabilities_2013_report.pdf (last visited Nov. 12, 2015).

¹⁷ The Abilities Work website, available at <https://abilitieswork.employflorida.com/vosnet/Default.aspx#> (last visited Nov. 9, 2014).

¹⁸ Employ Florida Marketplace is a partnership of CareerSource Florida, Inc., and the DEO.

¹⁹ See Executive Order 13-284, available at <http://www.flgov.com/wp-content/uploads/orders/2013/13-284-disabilities.pdf> (last visited Nov. 9, 2015).

²⁰ Workforce Florida, Inc. was renamed as CareerSource Florida, Inc. See ch. 2015-98, Laws of Florida; see also HB 7019 (reg. session 2015).

²¹ Interagency Cooperative Agreement, Employment First Initiative (2014), FLDOE Contract No.: IA-556, <http://www.fddc.org/sites/default/files/2.Employment%20First%20Interagency%20Cooperative%20Agreement.5.7.14.pdf> (last visited Nov. 9, 2015).

Department of Financial Services

The Chief Financial Officer (CFO) of the State of Florida is the head of the DFS.²² 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.²³

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

The CFO administers the Florida Security for Public Deposits Act (act),²⁴ which authorizes local and state governmental units (public depositors) to place public deposits in qualified public depositories (QPD).²⁵ Public deposits are funds in excess of amounts required to meet disbursement needs or expenses. A QPD can be a bank, savings bank, or savings association that meets specific criteria, including collateral requirements, under the act. The CFO is responsible for designating financial institutions as qualified public depositories.

Corporate Social Responsibility and Consumer Response

Corporate social responsibility is now a standard practice in the business world.²⁶ Corporate social responsibility is defined as a company's sense of responsibility toward the community and environment,²⁷ which may be expressed through support of issues and programs like engaging in ethical supply sourcing or contributing to specific social 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.²⁸ 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.²⁹

²² Section 20.121(1), F.S.

²³ 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 Nov. 9, 2015).

²⁴ Chapter 280, F.S.

²⁵ A qualified public depository is organized under the laws of the United States or any state or territory of the United States; has a principal place of business or branch office in this state authorized to receive deposits; has federally-insured deposits; has procedures and practices that accurately report and collateralize public deposits; meets the requirements of the act; and has been designated as a qualified public depository by the CFO. See s. 280.02(26), F.S.

²⁶ 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 Nov. 16, 2015).

²⁷ BusinessDictionary.com, *available at* <http://www.businessdictionary.com/definition/corporate-social-responsibility.html> (last visited Nov. 16, 2015).

²⁸ 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 Nov. 16, 2015).

²⁹ Montini, Laura, *Corporate Altruism Is on the Rise (Infographic)*, INC., Aug. 27, 2014, *available at* <http://www.inc.com/laura-montini/infographic/the-benefits-of-community-service.html> (last visited Nov. 16, 2015).

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.³⁰ Consumers are becoming “more deliberate and purposeful” in their shopping decisions by patronizing businesses that have similar values to their own.³¹ 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.³² People may even base their employment decisions on such values.³³

III. Effect of Proposed Changes:

Financial Literacy Program

(Section 1, creating s. 17.68, F.S.; and Section 5, amending s. 280.16(1)(e), F.S.)

The bill creates the Financial Literacy Program for Individuals with Developmental Disabilities under the direction of the Chief Financial Officer who heads the Department of Financial Services (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 eligibility for federal and state programs. For employers the issues include strategies to make program and educational materials available to their employees with developmental disabilities.

The bill provides that the DFS, in consultation with public and private stakeholders, will develop and implement the program. Banks, credit unions, savings associations, and savings banks will be key participants in the development and promotion of the program. By October 1, 2016, the DFS must establish a clearinghouse on its website for information regarding the program and other available resources for individuals with developmental disabilities and their employers. The DFS must also publish a brochure that describes the program and make the brochure accessible through its 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. Within 90 days of the DFS establishing the program and publishing the brochure, each participating financial institution must make the brochures available at each Florida branch office that has in-person teller services by having available copies or printing a copy of the brochure upon request. A financial institution or other program participant is not

³⁰ 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 Nov. 16, 2015).

³¹ 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 Nov. 16, 2015).

³² 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 Nov. 16, 2015).

³³ Supra note 11.

subject to a civil cause of action arising from the distribution or nondistribution of program information. Each participating financial institution website must also provide a hyperlink to the department's website for the program.

For FY 2016-2017, the sum of \$69,570 in recurring funds from the Insurance Regulatory Trust Fund is appropriated to the Consumer Assistance Program within the DFS to develop and manage the Financial Literacy Program, which includes printing and postage costs for brochures (Section 9).

The bill redefines the term "developmental disability" to include individuals who have a disability that is attributable to Down syndrome (Section 6, amending s. 393.063(9), F.S.)

State Equal Employment Policy

(Section 3, amending s. 110.107, F.S. and Section 4, 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, amends, and revises definitions contained in s. 110.107, F.S., and defines the term "individual who has a disability" as a person who has a physical or intellectual impairment that substantially limits one or more major life activities; a person who has a history or record of such an impairment; or a person who is perceived by others as having such an impairment.

The definition of "individual who has a disability" mirrors the federal definition of "disability" contained in the Americans with Disabilities Act (ADA),³⁴ 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:

- Set annual goals in its affirmative action plan to ensure the full utilization of underrepresented groups, specifically including 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 individuals who have a disability; and
- Develop an agency-specific plan by January 1, 2017, 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 Agency for Persons with Disabilities, the Division of Vocational Rehabilitation and Division of Blind Services of the Department of Education, the Department of Economic Opportunity, and the Executive Office of the Governor;³⁵

³⁴ 42 U.S.C. s. 12102.

³⁵ These programs may incorporate internships, mentoring, on-the-job training, unpaid work experience, situational assessments, and other innovative strategies.

- Develop mandatory training programs by January 1, 2017, 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.³⁶
- Report biannually 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.

The bill also contains a provision that specifically states that no substantive or procedural right or benefit enforceable at law or in equity against the state, state agency, officer, employee, or agent thereof is created by this legislation.

The bill applies to the State Personnel System comprised of positions in the Career Service, Selected Exempt Service, or Senior Management Service within all executive branch agencies. This bill is not applicable to the personnel systems of the State University System, the Florida Lottery, the Legislature, the Justice Administration System, or the State Courts System.

For FY 2016-2017 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 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).

In addition, the recurring sums of \$74,234 from the General Revenue Fund and \$64,458 from trust funds and the nonrecurring sums of \$14,051 from the General Revenue Fund and \$12,213 from trust funds are appropriated to Administered Funds for distribution among agencies for the increase in the human resource assessment (Section 10).

Employment First Act

(Section 7)

The bill creates the Employment First Act to improve the employment outcomes for individuals with disabilities, to prioritize employment of individuals with disabilities, and to change the employment system to integrate individuals with disabilities into the workforce.

The bill requires an interagency cooperative agreement to be developed 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;

³⁶ Some of these strategies include training programs, funding reasonable accommodations, increasing access to technologies, and ensuring accessibility of physical and virtual workplaces.

- 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 8 and Section 2, amending s. 20.60)

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 Department of Education (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 by:

- Employing individuals who have a disability;
- Contributing to local or national disability organizations; or
- Contributing 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;³⁷ or
- Establish or contribute to the establishment of a program that contributes to the independence of individuals who have a disability.³⁸

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

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. A business that has not received the designation or has elected to discontinue its designation may not display the 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 APD 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.

³⁷ Contributions must be documented by providing copies of written receipts, program materials, or letters of acknowledgment from recipients, volunteers, or donees. A business entity with 100 or fewer employees must make a financial or in-kind contribution of at least \$1,000, and a business entity with more than 100 employees must make a financial or in-kind contribution of at least \$5,000.

³⁸ Id.

The DEO is required to provide a list of businesses that have a designation as a Florida Unique Abilities Partner to VISIT Florida³⁹ 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, 2017. Beginning in 2017, the DEO must describe the progress and use of the program in its annual report required under s. 20.60, F.S.⁴⁰

For FY 2016-2017, 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 development, implementation, and administration of the Florida Unique Abilities Partner program (Section 11).

Effective Date

Except as otherwise provided, the bill takes effect on July 1, 2016 (Section 12).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Financial Literacy Program

Implementation of the Financial Literacy Program will provide individuals with developmental disabilities an opportunity to obtain a better understanding of financial products and services, financial management, employment options, and federal and state

³⁹ VISIT Florida is statutorily referred to as the Florida Tourism Industry Marketing Corporation. s. 288.1226, F.S.

⁴⁰ This report is due to the Legislature on November 1 annually.

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 program at their places of business and revising their websites to provide a link to access the Financial Literacy Program's website.

State Equal Employment Policy

Indeterminate.

Florida Unique Abilities Partner Program

Under the Florida 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:

Financial Literacy

The bill provides the recurring amount of \$69,570 from the Insurance Regulatory Trust Fund within the Department of Financial Services (DFS) to implement this program. This appropriation funds the costs associated with printing and shipping 50 brochures to an estimated 4,500 financial institution branch offices in Florida.⁴¹ The bill requires the DFS to make copies of the brochure available to a bank, savings association, or savings bank upon request of such financial institution.

State Equal Employment Policy

The DMS staff estimates the implementation of the bill will require two additional full-time positions. The total cost for two Human Resource Consultant positions with the standard expense package is \$146,456.⁴²

In addition, the People First system, the state's human resource information system, will need to be enhanced to add an "individual who has a disability" indicator to fully implement the reporting requirements of this bill. The DMS estimates a cost of \$18,500 to implement these changes.⁴³

The bill appropriates \$138,692 in recurring funds and \$26,264 in nonrecurring funds from the State Personnel System Trust Fund to DMS, and authorizes two positions. The bill also appropriates the recurring sums of \$74,234 from the General Revenue Fund and

⁴¹ Department of Financial Services, Senate Bill 376 Analysis (Oct. 5, 2015) (on file with the Senate Committee on Banking and Insurance).

⁴² Department of Management Services, *SB 7010 Analysis*, October 9, 2105 (on file with the Senate Fiscal Policy Committee).

⁴³ *Id.*

\$64,458 from trust funds and the nonrecurring sums of \$14,051 from the General Revenue Fund and \$12,213 from trust funds to Administered Funds, which provide the revenue source to support the appropriation provided to the DMS, for distribution among the agencies.

Florida Unique Abilities Partner Program

For the 2016-2017 fiscal year, the bill appropriates \$100,000 in recurring funds and \$100,000 in nonrecurring funds from the Special Employment Security Administration Trust Fund for the development, implementation, and administration of the Florida Unique Abilities Partner Program. Sufficient revenue is available in that fund to support the recurring and nonrecurring appropriations.

According to the DEO, there will be costs associated with staff time to develop the program, process applications, determine compliance, and designate businesses, and also staff time for IT personnel to create, maintain, and update the website that is required by the bill.⁴⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill directs the DMS and the DEO to adopt rules to implement the provisions of the bill.

Under the ADA, employers are prohibited from inquiring about whether a person has a disability or the nature of a disability prior to employment.⁴⁵ However, an employer may inquire about the applicant's ability to perform job-related functions. Upon employment, an employer may require a medical examination if 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.⁴⁶

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 state's data center, DEO, has informed the DMS that data for individuals who have a disability is not available at the occupational level. Data is only available

⁴⁴ Department of Economic Opportunity, *2015 Senate Bill Analysis for Senate Bill 1246* (Mar. 5, 2015), which included substantively similar provisions (on file with the Senate Commerce and Tourism Committee).

⁴⁵ See 42 U.S.C. s. 12112.

⁴⁶ 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, <http://www.eeoc.gov/policy/docs/guidance-inquiries.html> (last visited Sept. 29, 2015).

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.⁴⁷

VIII. Statutes Affected:

The bill substantially amends sections 20.60, 110.107, 110.112, 280.16, and 393.063 of the Florida Statutes.

The bill creates section 17.68 of the Florida Statutes.

This bill creates two undesignated sections of Florida Law.

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 November 19, 2015:

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

- Creates the Financial Literacy Program for Individuals with Developmental Disabilities within the DFS;
- Modifies the state's employment policy to provide enhanced executive agency employment opportunities for persons who have a disability;
- 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; and
- Makes appropriations to implement the programs.

As recommended by Appropriations Subcommittee on General Government the committee substitute specifies the recurring and nonrecurring amounts appropriated to Administered Funds.

B. Amendments:

None.

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

⁴⁷ Supra note 35.