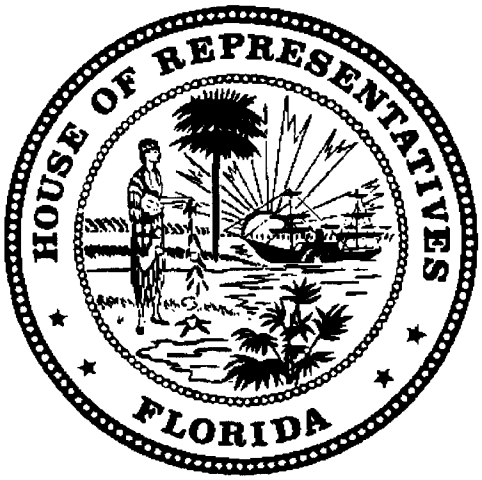

APPROPRIATIONS COMMITTEE

Wednesday, January 27, 2016
12:00 PM – 2:00 PM
212 Knott Building

Meeting Packet

Steve Crisafulli
Speaker

Richard Corcoran
Chair

The Florida House of Representatives

Appropriations Committee

Steve Crisafulli
Speaker

Richard Corcoran
Chair

AGENDA

Thursday, January 21, 2016
212 Knott Building
12:00 PM – 2:00 PM

I. Call to Order/Roll Call/Opening Remarks

II. **Consideration of the following bills:**

HB 95 Public-Private Partnerships by Steube

CS/HB 439 Mental Health Services in the Criminal Justice System by Children, Families & Seniors Subcommittee, McBurney

HB 527 Scrutinized Companies by Workman, Moskowitz, Rader

CS/HB 919 Involuntary Admission to Residential Services by Children, Families & Seniors Subcommittee, Wood

CS/HB 953 Legislative Reauthorization of Agency Rulemaking Authority by Rulemaking Oversight & Repeal Subcommittee, Eisnaugle

HB 981 Administrative Procedures by Richardson

HB 7053 Child Care and Development Block Grant Program by Education Committee, O'Toole

HB 7065 Workforce Development by Economic Development & Tourism Subcommittee, Drake

III. Closing Remarks and Adjournment

221 The Capitol, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 717-4810 Fax: (850) 488-9633

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 95 Public-Private Partnerships
SPONSOR(S): Steube
TIED BILLS: HB 97 **IDEN./SIM. BILLS:** SB 124

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	12 Y, 0 N	Moore	Williamson
2) Local Government Affairs Subcommittee	11 Y, 0 N	Monroe	Miller
3) Appropriations Committee		Hawkins	Leznoff
4) State Affairs Committee			

SUMMARY ANALYSIS

Public-private partnerships (P3s) are contractual agreements formed between public entities and private sector entities that allow for greater private sector participation in the delivery and financing of public buildings and infrastructure projects. Through these agreements, the skills and assets of each sector, public and private, are shared in delivering a service or facility for use by the general public. In addition to the sharing of resources, each party shares in the risks and reward potential in the delivery of the service or facility. Current law authorizes P3s for specified public purpose projects if the responsible public entity determines the project is in the public's best interest, there is a need for or benefit derived from the project, the estimated cost of the project is reasonable, and the private entity's plans will result in the timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project.

Current law also establishes the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force (task force) for the purpose of recommending guidelines for the Legislature to consider for creating a uniform P3 process across the state. This bill incorporates many of the recommendations contained in the task force's final report.

The bill clarifies that the P3 process is an alternative process which must be construed as cumulative and supplemental to any other authority or power vested in the governing body of a county, municipality, district, or municipal hospital or health care system.

The bill expands the list of entities authorized to conduct P3s to include state universities. It clarifies that the list includes special districts, school districts rather than school boards, and Florida College System institutions.

The bill provides increased flexibility to the responsible public entity by permitting a responsible public entity to deviate from the provided procurement timeframes if approved by majority vote of the entity's governing body.

The bill requires that an unsolicited proposal be submitted concurrently with an initial application fee, which the responsible public entity may establish. The bill authorizes a responsible public entity to request additional funds if the initial fee does not cover the costs to evaluate the unsolicited proposal. The bill also requires the responsible public entity to return the initial application fee if it does not review the unsolicited proposal.

The bill authorizes the Department of Management Services to accept and maintain copies of comprehensive agreements received from responsible public entities, for the purpose of sharing them with other responsible public entities.

The bill has an indeterminate fiscal impact on state and local governments. *See* Fiscal Comments section for further discussion.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Public-private partnerships (P3s) are contractual agreements formed between public entities and private sector entities that allow for greater private sector participation in the delivery and financing of public building and infrastructure projects.[1] Through these agreements, the skills and assets of each sector, public and private, are shared in delivering a service or facility for use by the general public. In addition to the sharing of resources, each party shares in the risks and reward potential in the delivery of the service or facility.[2]

Public-Private Partnerships Generally

Section 287.05712, F.S., governs the procurement process for P3s for public purpose projects. It authorizes a responsible public entity to enter into a P3 for a specified qualifying project if the responsible public entity determines the project is in the public's best interest.[3]

Section 287.05712(1)(j), F.S., defines "responsible public entity" as a county, municipality, school board, or any other political subdivision of the state; a public body corporate and politic; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.

Section 287.05712(1)(i), F.S., defines "qualifying project" as:

- A facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity;
- An improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector;
- A water, wastewater, or surface water management facility or other related infrastructure; or
- For projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects.

Procurement Procedures

Responsible public entities may receive unsolicited proposals or may solicit proposals for qualifying projects and may thereafter enter into a comprehensive agreement with a private entity for the building, upgrading, operation, ownership, or financing of facilities.[4] Responsible public entities may establish a reasonable application fee for the submission of unsolicited proposals. The fee must be sufficient to pay the costs of evaluating the proposals.[5]

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[1] *See* Federal Highway Administration, United States Department of Transportation, Innovative Program Delivery, *P3 Defined*, http://www.fhwa.dot.gov/ipd/p3/defined/index.htm (last visited Sept. 23, 2015).
[2] *Id.*
[3] Section 287.05712(4)(d), F.S.
[4] Section 287.05712(4), F.S.
[5] Section 287.05712(4)(a), F.S.

Unsolicited proposals from private entities must be accompanied by the following material and information, unless waived by the responsible public entity:

- A description of the qualifying project, including the conceptual design of the facilities or a conceptual plan for the provision of services, and a schedule for the initiation and completion of the qualifying project.
- A description of the method by which the private entity proposes to secure the necessary property interests that are required for the qualifying project.
- A description of the private entity's general plans for financing the qualifying project, including the sources of the private entity's funds and identification of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity.
- The name and address of a person who may be contacted for further information concerning the proposal.
- The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology for and circumstances that would allow changes to the user fees, lease payments, and other service payments over time.
- Any additional material or information the responsible public entity reasonably requests.[6]

If the responsible public entity receives an unsolicited proposal and intends to enter into a P3 agreement for the qualifying project, the responsible public entity must publish a notice in the Florida Administrative Register (FAR) and a newspaper of general circulation at least once a week for two weeks stating the entity has received a proposal and will accept other proposals for the same project.[7] The responsible public entity must establish a timeframe within which to accept other proposals that is at least 21 days, but not more than 120 days, after the initial date of publication.[8]

After the period for accepting proposals has expired, the responsible public entity must rank the proposals received in order of preference.[9] Next, the responsible public entity may begin negotiations for a comprehensive agreement with the highest-ranked firm. If negotiations with the highest-ranked firm are unsuccessful, the responsible public entity may terminate the negotiations and begin negotiations with each subsequent-ranked firm in order of preference.[10] The responsible public entity may reject all proposals at any point in the process.[11]

The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the requests, including, but not limited to, reasonable attorney fees and fees for financial and technical advisors or consultants and for other necessary advisors or consultants.[12]

The responsible public entity may approve a qualifying project if:

- There is a public need for or benefit derived from the project that the private entity proposes as the qualifying project.
- The estimated cost of the qualifying project is reasonable in relation to similar facilities.
- The private entity's plans will result in the timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project.[13]

Notice to Affected Local Jurisdictions

A responsible public entity must notify each affected local jurisdiction when considering a proposal for a qualifying project by furnishing a copy of the proposal to each affected local jurisdiction.[14] The affected

[6] Section 287.05712(5), F.S.
[7] Section 287.05712(4)(b), F.S.
[8] *Id.*
[9] Section 287.05712(6)(c), F.S.
[10] *Id.*
[11] *Id.*
[12] Section 287.05712(6)(f), F.S.
[13] Section 287.05712(6)(e), F.S.

local jurisdictions may, within 60 days, submit written comments to the responsible public entity.[15] The responsible public entity must consider the comments submitted by the affected local jurisdiction before entering into a comprehensive agreement with a private entity.[16] In addition, a responsible public entity must mail a copy of the notice that is published in the FAR to each local government in the affected area.[17]

Agreements

Interim Agreement

Before entering into a comprehensive agreement, the responsible public entity may enter into an interim agreement with the private entity, which does not obligate the responsible public entity to enter into a comprehensive agreement.[18] Interim agreements must be limited to provisions that:

- Authorize the private entity to commence activities for which it may be compensated related to the proposed qualifying project.
- Establish the process and timing of the negotiation of the comprehensive agreement.
- Contain any other provision related to any aspect of the development or operation of a qualifying project.[19]

Comprehensive Agreement

The responsible public entity and private entity must enter into a comprehensive agreement prior to developing or operating a qualifying project.[20] The comprehensive agreement must provide for:

- Delivery of performance and payment bonds, letters of credit, or other security in connection with the development or operation of the qualifying project.
- Review of plans and specifications for the project by the responsible public entity. This does not require the private entity to complete the design of the project prior to executing the comprehensive agreement.
- Inspection of the qualifying project by the responsible public entity.
- Maintenance of a policy or policies of public liability insurance.
- Monitoring the maintenance practices of the private entity to ensure the qualifying project is properly maintained.
- Filing of financial statements on a periodic basis.
- Procedures governing the rights and responsibilities of the responsible public entity and private entity in the event of a termination of the comprehensive agreement or a material default.
- User fees, lease payments, or service payments as may be established.
- Duties of the private entity, including the terms and conditions that the responsible public entity determines serve the public purpose of the qualifying project.[21]

The comprehensive agreement may include the following:

- An agreement by the responsible public entity to make grants or loans to the private entity from amounts received from the federal, state, or local government or an agency or instrumentality thereof.
- A provision under which each entity agrees to provide notice of default and cure rights for the benefit of the other entity.
- A provision that terminates the authority and duties of the private entity and dedicates the qualifying project to the responsible public entity.[22]

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[14] Section 287.05712(7)(a), F.S.
[15] Section 287.05712(7)(b), F.S.
[16] *Id.*
[17] Section 287.05712(4)(b), F.S.
[18] Section 287.05712(8), F.S.
[19] *Id.*
[20] Section 287.05712(9)(a), F.S.
[21] *Id.*

Fees
The comprehensive agreement may authorize the private entity to impose fees to members of the public for use of the facility.[23]

Financing
Section 287.05712(11), F.S., authorizes the use of multiple financing options for P3s. The options include the private entity obtaining private-source financing, the responsible public entity lending funds to the private entity, or the use of other innovative finance techniques associated with P3s.

Powers and Duties of the Private Entity
The private entity must develop, operate, and maintain the qualifying project in accordance with the comprehensive agreement. The private entity must cooperate with the responsible public entity in making best efforts to establish interconnection between the qualifying project and other facilities and infrastructure. The private entity must comply with the terms of the comprehensive agreement and any other lease or contract.[24]

Expiration or Termination of Agreements
Upon the expiration or termination of a comprehensive agreement, the responsible public entity may use revenues from the qualifying project to pay the current operation and maintenance costs of the qualifying project. If the private entity materially defaults, the compensation that is otherwise due to the private entity is payable to satisfy all financial obligations to investors and lenders on the qualifying project in the same way that is provided in the comprehensive agreement or any other agreement involving the qualifying project, if the costs of operating and maintaining the project are paid in the normal course. The full faith and credit of the responsible public entity may not be pledged to secure the financing of the private entity.[25]

Partnership for Public Facilities and Infrastructure Act Guidelines Task Force
Section 287.05712(3), F.S., creates the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force (task force). The task force was created to recommend guidelines for the Legislature to consider for purposes of creating a uniform P3 process across the state.[26] The seven-member task force was comprised of the Secretary of the Department of Management Services (department) and six members appointed by the Governor who represented the county government, municipal government, district school board, and business community.[27] The department provided administrative and technical support to the task force.[28]

In July 2014, the task force completed its duties and submitted a final report of its recommendations.[29] The task force was terminated on December 31, 2014.[30]

Public-Private Partnerships for State Universities
Section 1013.171, F.S., authorizes a state university board of trustees to enter into P3s for the construction of facilities and accommodations necessary and desirable to serve the needs and

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[22] Section 287.05712(9)(b), F.S.
[23] Section 287.05712(10), F.S.
[24] Section 287.05712(12)(a), F.S.
[25] Section 287.05712(13), F.S.
[26] Section 287.05712(3)(a), F.S.
[27] Section 287.05712(3)(b), F.S.
[28] Section 287.05712(3)(c), F.S.
[29] The task force report can be found online at: http://www.dms.myflorida.com/agency_administration/communications/partnership_for_public_facilities_infrastructure_act (last visited Sept. 23, 2015).
[30] Section 287.05712(3)(f), F.S.

purposes of the university. The Board of Governors has promulgated guidelines for the universities to use in reviewing and approving these P3s.[31]

EFFECT OF PROPOSED CHANGES

This bill incorporates many of the recommendations contained in the task force report, which include best practice recommendations as well as recommendations relating to needed clarification of s. 287.05712, F.S., which may facilitate the implementation of P3s.

Responsible Public Entity Definition

The bill expands the definition of "responsible public entity" to include state universities[32] and clarifies that it includes special districts, school districts rather than school boards, and Florida College System institutions.[33]

Task Force

The bill deletes the task force provisions, as the task force was terminated on December 31, 2014.

Application Fee

The bill provides that when a private entity submits an unsolicited proposal, the private entity must concurrently submit the initial application fee. The application fee must be paid by cash, cashier's check, or other noncancelable instrument. The bill provides that if the initial fee, as determined by the responsible public entity, is not sufficient to cover the costs associated with evaluating the unsolicited proposal, the responsible public entity must request in writing the additional amount required. If the private entity fails to pay the additional amount requested within 30 days of the notice, the responsible public entity may stop reviewing the proposal. The bill requires the responsible public entity to return the application fee if the responsible public entity does not evaluate the unsolicited proposal.[34]

Solicitation Timeframes

The bill provides flexibility to the responsible public entity for accepting proposals if an alternative timeframe is approved by majority vote of the entity's governing body.[35] It

Design Criteria Package

The bill requires a responsible public entity that solicits proposals to include in the solicitation a design criteria package prepared by a licensed architect, engineer, or landscape architect. The design criteria package must include performance-based criteria for the project.

School Projects

The bill removes the provision that requires a school board to obtain the approval of the local governing body. [36]

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[31] State University System of Florida Board of Governors, *Public-Private Partnership Guidelines*, *available at* http://www.flbog.edu/documents_regulations/guidelines/Public-Private%20Partnership%20Guidelines.pdf.

[32] The task force recommended adding state universities to the list of entities that are included in the definition of "responsible public entity." Partnership for Public Facilities and Infrastructure Act Guidelines Task Force, *Final Report and Recommendations* (July 2014), at 16.

[33] The task force recommended amending the definition of "responsible public entity" to reference school district, rather than board, as the district is the unit that provides public primary education. It also recommended clarifying that the definition includes both special districts and the Florida College System. *Id.* at 18.

[34] The task force recommended amending the fee provisions to ensure that the fees were related to actual, reasonable costs associated with reviewing an unsolicited proposal and not revenue generation. *Id.* at 9.

[35] The task force determined that increased flexibility may be necessary when dealing with complex proposals to ensure sufficient time is allowed for the receipt of competing proposals. *Id.* at 7.

[36] The task force recommended striking this provision because school boards are not subject to governance by a local governing body. *Id.* at 18.

Ownership by the Responsible Public Entity
The bill clarifies that the project will be owned by the responsible public entity upon expiration of the comprehensive agreement, rather than solely upon completion or termination of the agreement.[37]

Pricing or Financial Terms
The bill clarifies that any pricing or financial terms included in an unsolicited proposal must be specific as to when the pricing or terms expire.[38]

Notice to Affected Local Jurisdictions
The bill deletes the requirement that a responsible public entity notify each affected local jurisdiction of an unsolicited proposal by furnishing a copy of the proposal to each affected local jurisdiction when considering it.[39] The responsible public entity must still provide each affected local jurisdiction a copy of the notice published in the FAR concerning solicitations for a qualifying project.

Financing
The bill clarifies that a financing agreement may not require the responsible public entity to secure financing by a mortgage on, or security interest in, the real or tangible personal property of the responsible public entity in a manner that could result in the loss of the fee ownership of the property by the responsible public entity.[40]

The bill also deletes a provision that requires the responsible public entity to appropriate on a priority basis a contractual payment obligation from the government fund from which the qualifying project will be funded.[41] Current law raised concerns regarding infringement upon a responsible public entity's appropriation powers. Additionally, if the provision were to remain in current law, it is unclear how this provision would apply to state universities or Florida College System institutions.

Department of Management Services
The bill provides that the department may accept and maintain copies of comprehensive agreements received from responsible public entities for the purpose of sharing the comprehensive agreements with other responsible public entities.[42] Responsible public entities are not required to provide copies to the department; however, if a responsible public entity provides a copy, the responsible public entity must first redact any confidential or exempt information from the comprehensive agreement.

Construction
The bill clarifies that the P3 process must be construed as cumulative and supplemental to any other authority or power vested in the governing body of a county, municipality, district, or municipal hospital or health care system. The bill provides that the P3 process is an alternative method that may be used, but that it does not limit a county, municipality, district, or other political subdivision of the state in the acquisition, design, or construction of a public project pursuant to other statutory or constitutional authority.[43]

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[37] This change was recommended by the task force. *Id.* at 13-14.
[38] This change was recommended by the task force. *Id.* at 7.
[39] The report provided a discussion on the notice that is already provided to affected local jurisdictions through the permitting process and stated a mandatory P3 notice process could delay project timelines. *Id.* at 12.
[40] This change was recommended by the task force. *Id.* at 20.
[41] The report recommended the current provision regarding the appropriating of funds be revised, not deleted. *Id.* at 14-15. Even though the report recommended that the Legislature consider specifically authorizing the State University System to utilize P3s as a project delivery method, it does not specifically address the applicability of an appropriations requirement to universities. *Id.* at 16.
[42] The report recommended authorizing a state agency to provide assistance to responsible public entities concerning P3s. *Id.* at 11.
[43] The report discussed the need for flexibility in the creation of P3s and noted that clarification is needed to ensure that the process is considered supplemental and alternative to any other applicable statutory authority. *Id.* at 19.

Miscellaneous
The bill transfers and renumbers s. 287.05712, F.S., as s. 255.065, F.S., because chapter 255, F.S., relates to procurement of construction services and P3s are primarily construction-related projects.

The bill also makes other changes to provide for the consistent use of terminology and to provide clarity.

B. SECTION DIRECTORY:

Section 1. transfers, renumbers, and amends s. 287.05712, F.S., relating to public-private partnerships.

Section 2. provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may provide for more opportunities for the private sector to enter into contracts for construction services with state universities and local governments.

D. FISCAL COMMENTS:

The bill will have an insignificant negative fiscal impact on the Department of Management Services for the purpose of receiving comprehensive agreements and acting as a depository for such comprehensive agreements. According to the department, the costs should be absorbed within current resources.[44]

The bill has an indeterminate fiscal impact on universities and local governments that enter into P3s. State and local government expenditures would be based on currently unidentified P3s.

[44] Department of Management Services, Agency Analysis of House Bill 63, p. 5 (Feb. 11, 2015) (on file with the Government Operations Subcommittee). The provision of HB 95 authorizing the department to accept and maintain copies of comprehensive agreements from responsible public entities was also included in HB 63 from the 2015 Session.

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 expenditure 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.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

Additional rulemaking authority does not appear necessary to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issue: State Universities
On lines 699-724, the bill specifies that the P3 process in s. 287.05712, F.S., is cumulative and supplemental to any other authority or power vested in or exercised by the governing body of a county, municipality, special district, or municipal hospital or health care system. The bill also specifies that this section provides an alternative method and does not limit a county, municipality, special district, or other political subdivision of the state in the procurement or operation of a qualifying project pursuant to other statutory or constitutional authority. Because state universities currently have statutory authority to enter into P3s under s. 1013.171, F.S., the bill sponsor may want to consider including state universities in the lists of entities whose authority is not limited by the P3 process in ch. 287, F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to public-private partnerships; transferring, renumbering, and amending s. 287.05712, F.S.; revising definitions; deleting provisions creating the Public-Private Partnership Guidelines Task Force; requiring a private entity that submits an unsolicited proposal to pay an initial application fee and additional amounts if the fee does not cover certain costs; specifying payment methods; authorizing a responsible public entity to alter the statutory timeframe for accepting proposals for a qualifying project under certain circumstances; requiring a design criteria package to be submitted to a responsible public entity if such entity solicits specific proposals; deleting a provision that requires approval of the local governing body before a school board enters into a comprehensive agreement; revising the conditions necessary for a responsible public entity to approve a comprehensive agreement; deleting provisions relating to notice to affected local jurisdictions; providing that fees imposed by a private entity must be applied as set forth in the comprehensive agreement; authorizing a negotiated portion of revenues from fee-generating uses to be returned to the responsible public entity; restricting provisions in financing agreements that could result

in a responsible public entity's losing ownership of real or tangible personal property; deleting a provision that required a responsible public entity to comply with specific financial obligations; providing duties of the Department of Management Services relating to comprehensive agreements; revising provisions relating to construction of the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 287.05712, Florida Statutes, is transferred, renumbered as section 255.065, Florida Statutes, and amended to read:

255.065 ~~287.05712~~ Public-private partnerships.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Affected local jurisdiction" means a county, municipality, or special district in which all or a portion of a qualifying project is located.

(b) "Develop" means to plan, design, finance, lease, acquire, install, construct, or expand.

(c) "Fees" means charges imposed by the private entity of a qualifying project for use of all or a portion of such qualifying project pursuant to a comprehensive agreement.

(d) "Lease payment" means any form of payment, including a land lease, by a public entity to the private entity of a

qualifying project for the use of the project.

(e) "Material default" means a nonperformance of its duties by the private entity of a qualifying project which jeopardizes adequate service to the public from the project.

(f) "Operate" means to finance, maintain, improve, equip, modify, or repair.

(g) "Private entity" means any natural person, corporation, general partnership, limited liability company, limited partnership, joint venture, business trust, public benefit corporation, nonprofit entity, or other private business entity.

(h) "Proposal" means a plan for a qualifying project with detail beyond a conceptual level for which terms such as fixing costs, payment schedules, financing, deliverables, and project schedule are defined.

(i) "Qualifying project" means:

1. A facility or project that serves a public purpose, including, but not limited to, any ferry or mass transit facility, vehicle parking facility, airport or seaport facility, rail facility or project, fuel supply facility, oil or gas pipeline, medical or nursing care facility, recreational facility, sporting or cultural facility, or educational facility or other building or facility that is used or will be used by a public educational institution, or any other public facility or infrastructure that is used or will be used by the public at large or in support of an accepted public purpose or activity;

2. An improvement, including equipment, of a building that will be principally used by a public entity or the public at large or that supports a service delivery system in the public sector;

3. A water, wastewater, or surface water management facility or other related infrastructure; or

4. Notwithstanding any provision of this section, for projects that involve a facility owned or operated by the governing board of a county, district, or municipal hospital or health care system, or projects that involve a facility owned or operated by a municipal electric utility, only those projects that the governing board designates as qualifying projects pursuant to this section.

(j) "Responsible public entity" means a county, municipality, school district, special district, Florida College System institution, or state university ~~board~~, or any other political subdivision of the state; a public body corporate and politic; or a regional entity that serves a public purpose and is authorized to develop or operate a qualifying project.

(k) "Revenues" means the income, earnings, user fees, lease payments, or other service payments relating to the development or operation of a qualifying project, including, but not limited to, money received as grants or otherwise from the Federal Government, a public entity, or an agency or instrumentality thereof in aid of the qualifying project.

(l) "Service contract" means a contract between a

105 responsible public entity and the private entity which defines
106 the terms of the services to be provided with respect to a
107 qualifying project.
108 (2) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
109 that there is a public need for the construction or upgrade of
110 facilities that are used predominantly for public purposes and
111 that it is in the public's interest to provide for the
112 construction or upgrade of such facilities.
113 (a) The Legislature also finds that:
114 1. There is a public need for timely and cost-effective
115 acquisition, design, construction, improvement, renovation,
116 expansion, equipping, maintenance, operation, implementation, or
117 installation of projects serving a public purpose, including
118 educational facilities, transportation facilities, water or
119 wastewater management facilities and infrastructure, technology
120 infrastructure, roads, highways, bridges, and other public
121 infrastructure and government facilities within the state which
122 serve a public need and purpose, and that such public need may
123 not be wholly satisfied by existing procurement methods.
124 2. There are inadequate resources to develop new
125 educational facilities, transportation facilities, water or
126 wastewater management facilities and infrastructure, technology
127 infrastructure, roads, highways, bridges, and other public
128 infrastructure and government facilities for the benefit of
129 residents of this state, and that a public-private partnership
130 has demonstrated that it can meet the needs by improving the

schedule for delivery, lowering the cost, and providing other benefits to the public.

3. There may be state and federal tax incentives that promote partnerships between public and private entities to develop and operate qualifying projects.

4. A procurement under this section serves the public purpose of this section if such procurement facilitates the timely development or operation of a qualifying project.

(b) It is the intent of the Legislature to encourage investment in the state by private entities; to facilitate various bond financing mechanisms, private capital, and other funding sources for the development and operation of qualifying projects, including expansion and acceleration of such financing to meet the public need; and to provide the greatest possible flexibility to public and private entities contracting for the provision of public services.

~~(3) PUBLIC-PRIVATE PARTNERSHIP GUIDELINES TASK FORCE.—~~

~~(a) There is created the Partnership for Public Facilities and Infrastructure Act Guidelines Task Force for the purpose of recommending guidelines for the Legislature to consider for purposes of creating a uniform process for establishing public-private partnerships, including the types of factors responsible public entities should review and consider when processing requests for public-private partnership projects pursuant to this section.~~

~~(b) The task force shall be composed of seven members, as~~

~~follows:~~

~~1. The Secretary of Management Services or his or her designee, who shall serve as chair of the task force.~~

~~2. Six members appointed by the Governor, as follows:~~

~~a. One county government official.~~

~~b. One municipal government official.~~

~~c. One district school board member.~~

~~d. Three representatives of the business community.~~

~~(c) Task force members must be appointed by July 31, 2013. By August 31, 2013, the task force shall meet to establish procedures for the conduct of its business and to elect a vice chair. The task force shall meet at the call of the chair. A majority of the members of the task force constitutes a quorum, and a quorum is necessary for the purpose of voting on any action or recommendation of the task force. All meetings shall be held in Tallahassee, unless otherwise decided by the task force, and then no more than two such meetings may be held in other locations for the purpose of taking public testimony. Administrative and technical support shall be provided by the department. Task force members shall serve without compensation and are not entitled to reimbursement for per diem or travel expenses.~~

~~(d) In reviewing public-private partnerships and developing recommendations, the task force must consider:~~

~~1. Opportunities for competition through public notice and the availability of representatives of the responsible public~~

~~entity to meet with private entities considering a proposal.~~

~~2. Reasonable criteria for choosing among competing proposals.~~

~~3. Suggested timelines for selecting proposals and negotiating an interim or comprehensive agreement.~~

~~4. If an accelerated selection and review and documentation timelines should be considered for proposals involving a qualifying project that the responsible public entity deems a priority.~~

~~5. Procedures for financial review and analysis which, at a minimum, include a cost-benefit analysis, an assessment of opportunity cost, and consideration of the results of all studies and analyses related to the proposed qualifying project.~~

~~6. The adequacy of the information released when seeking competing proposals and providing for the enhancement of that information, if deemed necessary, to encourage competition.~~

~~7. Current exemptions from public records and public meetings requirements, if any changes to those exemptions are necessary, or if any new exemptions should be created in order to maintain the confidentiality of financial and proprietary information received as part of an unsolicited proposal.~~

~~8. Recommendations regarding the authority of the responsible public entity to engage the services of qualified professionals, which may include a Florida-registered professional or a certified public accountant, not otherwise employed by the responsible public entity, to provide an~~

~~independent analysis regarding the specifics, advantages, disadvantages, and long-term and short-term costs of a request by a private entity for approval of a qualifying project, unless the governing body of the public entity determines that such analysis should be performed by employees of the public entity.~~

~~(e) The task force must submit a final report of its recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2014.~~

~~(f) The task force is terminated December 31, 2014. The establishment of guidelines pursuant to this section or the adoption of such guidelines by a responsible public entity is not required for such entity to request or receive proposals for a qualifying project or to enter into a comprehensive agreement for a qualifying project. A responsible public entity may adopt guidelines so long as such guidelines are not inconsistent with this section.~~

(3)~~(4)~~ PROCUREMENT PROCEDURES.—A responsible public entity may receive unsolicited proposals or may solicit proposals for a qualifying project ~~projects~~ and may thereafter enter into a comprehensive ~~an~~ agreement with a private entity, or a consortium of private entities, for the building, upgrading, operating, ownership, or financing of facilities.

(a)1. The responsible public entity may establish a reasonable application fee for the submission of an unsolicited proposal under this section.

2. A private entity that submits an unsolicited proposal

to a responsible public entity must concurrently pay an initial application fee, as determined by the responsible public entity. Payment must be made by cash, cashier's check, or other noncancelable instrument. Personal checks may not be accepted.

3. If the initial application fee does not cover the responsible public entity's costs to evaluate the unsolicited proposal, the responsible public entity must request in writing the additional amounts required. The private entity must pay the requested additional amounts within 30 days after receipt of the notice. The responsible public entity may stop its review of the unsolicited proposal if the private entity fails to pay the additional amounts.

4. If the responsible public entity does not evaluate the unsolicited proposal, the responsible public entity must return the application fee ~~The fee must be sufficient to pay the costs of evaluating the proposal. The responsible public entity may engage the services of a private consultant to assist in the evaluation~~.

(b) The responsible public entity may request a proposal from private entities for a qualifying ~~public-private~~ project or, if the responsible public entity receives an unsolicited proposal for a qualifying ~~public-private~~ project and the responsible public entity intends to enter into a comprehensive agreement for the project described in the ~~such~~ unsolicited proposal, the responsible public entity shall publish notice in the Florida Administrative Register and a newspaper of general

circulation at least once a week for 2 weeks stating that the responsible public entity has received a proposal and will accept other proposals for the same project. The timeframe within which the responsible public entity may accept other proposals shall be determined by the responsible public entity on a project-by-project basis based upon the complexity of the qualifying project and the public benefit to be gained by allowing a longer or shorter period of time within which other proposals may be received; however, the timeframe for allowing other proposals must be at least 21 days, but no more than 120 days, after the initial date of publication. If approved by a majority vote of the responsible public entity's governing body, the responsible public entity may alter the timeframe for accepting proposals to more adequately suit the needs of the qualifying project. A copy of the notice must be mailed to each local government in the affected area.

(c) If the responsible public entity solicits proposals under this section, the solicitation must include a design criteria package prepared by an architect, engineer, or landscape architect licensed in this state which is sufficient to allow private entities to prepare a bid or a response. The design criteria package must specify performance-based criteria for the project, including the legal description of the site, with survey information; interior space requirements; material quality standards; schematic layouts and conceptual design criteria for the project, with budget estimates; design and

construction schedules; and site and utility requirements ~~A responsible public entity that is a school board may enter into a comprehensive agreement only with the approval of the local governing body~~.

(d) Before approving a comprehensive agreement ~~approval~~, the responsible public entity must determine that the proposed project:

1. Is in the public's best interest.

2. Is for a facility that is owned by the responsible public entity or for a facility for which ownership will be conveyed to the responsible public entity.

3. Has adequate safeguards in place to ensure that additional costs or service disruptions are not imposed on the public in the event of material default or cancellation of the comprehensive agreement by the responsible public entity.

4. Has adequate safeguards in place to ensure that the responsible public entity or private entity has the opportunity to add capacity to the proposed project or other facilities serving similar predominantly public purposes.

5. Will be owned by the responsible public entity upon completion, expiration, or termination of the comprehensive agreement and upon payment of the amounts financed.

(e) Before signing a comprehensive agreement, the responsible public entity must consider a reasonable finance plan that is consistent with subsection (9) ~~(11)~~; the qualifying project cost; revenues by source; available financing; major

assumptions; internal rate of return on private investments, if governmental funds are assumed in order to deliver a cost-feasible project; and a total cash-flow analysis beginning with the implementation of the project and extending for the term of the comprehensive agreement.

(f) In considering an unsolicited proposal, the responsible public entity may require from the private entity a technical study prepared by a nationally recognized expert with experience in preparing analysis for bond rating agencies. In evaluating the technical study, the responsible public entity may rely upon internal staff reports prepared by personnel familiar with the operation of similar facilities or the advice of external advisors or consultants who have relevant experience.

(4) ~~(5)~~ PROJECT APPROVAL REQUIREMENTS.—An unsolicited proposal from a private entity for approval of a qualifying project must be accompanied by the following material and information, unless waived by the responsible public entity:

(a) A description of the qualifying project, including the conceptual design of the facilities or a conceptual plan for the provision of services, and a schedule for the initiation and completion of the qualifying project.

(b) A description of the method by which the private entity proposes to secure the necessary property interests that are required for the qualifying project.

(c) A description of the private entity's general plans

for financing the qualifying project, including the sources of the private entity's funds and the identity of any dedicated revenue source or proposed debt or equity investment on behalf of the private entity.

(d) The name and address of a person who may be contacted for additional information concerning the proposal.

(e) The proposed user fees, lease payments, or other service payments over the term of a comprehensive agreement, and the methodology for and circumstances that would allow changes to the user fees, lease payments, and other service payments over time.

(f) Additional material or information that the responsible public entity reasonably requests.

Any pricing or financial terms included in an unsolicited proposal must be specific as to when the pricing or terms expire.

(5)~~(6)~~ PROJECT QUALIFICATION AND PROCESS.—

(a) The private entity, or the applicable party or parties of the private entity's team, must meet the minimum standards contained in the responsible public entity's guidelines for qualifying professional services and contracts for traditional procurement projects.

(b) The responsible public entity must:

1. Ensure that provision is made for the private entity's performance and payment of subcontractors, including, but not

limited to, surety bonds, letters of credit, parent company guarantees, and lender and equity partner guarantees. For the components of the qualifying project which involve construction performance and payment, bonds are required and are subject to the recordation, notice, suit limitation, and other requirements of s. 255.05.

2. Ensure the most efficient pricing of the security package that provides for the performance and payment of subcontractors.

3. Ensure that ~~provision is made for the transfer of the private entity's obligations if~~ the comprehensive agreement addresses termination upon ~~is terminated or~~ a material default of the comprehensive agreement ~~occurs~~.

(c) After the public notification period has expired in the case of an unsolicited proposal, the responsible public entity shall rank the proposals received in order of preference. In ranking the proposals, the responsible public entity may consider factors that include, but are not limited to, professional qualifications, general business terms, innovative design techniques or cost-reduction terms, and finance plans. The responsible public entity may then begin negotiations for a comprehensive agreement with the highest-ranked firm. If the responsible public entity is not satisfied with the results of the negotiations, the responsible public entity may terminate negotiations with the proposer and negotiate with the second-ranked or subsequent-ranked firms, in the order consistent with

this procedure. If only one proposal is received, the responsible public entity may negotiate in good faith, and if the responsible public entity is not satisfied with the results of the negotiations, the responsible public entity may terminate negotiations with the proposer. Notwithstanding this paragraph, the responsible public entity may reject all proposals at any point in the process until a contract with the proposer is executed.

(d) The responsible public entity shall perform an independent analysis of the proposed public-private partnership which demonstrates the cost-effectiveness and overall public benefit before the procurement process is initiated or before the contract is awarded.

(e) The responsible public entity may approve the development or operation of an educational facility, a transportation facility, a water or wastewater management facility or related infrastructure, a technology infrastructure or other public infrastructure, or a government facility needed by the responsible public entity as a qualifying project, or the design or equipping of a qualifying project that is developed or operated, if:

1. There is a public need for or benefit derived from a project of the type that the private entity proposes as the qualifying project.

2. The estimated cost of the qualifying project is reasonable in relation to similar facilities.

3. The private entity's plans will result in the timely acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project.

(f) The responsible public entity may charge a reasonable fee to cover the costs of processing, reviewing, and evaluating the request, including, but not limited to, reasonable attorney fees and fees for financial and technical advisors or consultants and for other necessary advisors or consultants.

(g) Upon approval of a qualifying project, the responsible public entity shall establish a date for the commencement of activities related to the qualifying project. The responsible public entity may extend the commencement date.

(h) Approval of a qualifying project by the responsible public entity is subject to entering into a comprehensive agreement with the private entity.

~~(7) NOTICE TO AFFECTED LOCAL JURISDICTIONS.—~~

~~(a) The responsible public entity must notify each affected local jurisdiction by furnishing a copy of the proposal to each affected local jurisdiction when considering a proposal for a qualifying project.~~

~~(b) Each affected local jurisdiction that is not a responsible public entity for the respective qualifying project may, within 60 days after receiving the notice, submit in writing any comments to the responsible public entity and indicate whether the facility is incompatible with the local~~

~~comprehensive plan, the local infrastructure development plan, the capital improvements budget, any development of regional impact processes or timelines, or other governmental spending plan. The responsible public entity shall consider the comments of the affected local jurisdiction before entering into a comprehensive agreement with a private entity. If an affected local jurisdiction fails to respond to the responsible public entity within the time provided in this paragraph, the nonresponse is deemed an acknowledgment by the affected local jurisdiction that the qualifying project is compatible with the local comprehensive plan, the local infrastructure development plan, the capital improvements budget, or other governmental spending plan.~~

(6) ~~(8)~~ INTERIM AGREEMENT.—Before or in connection with the negotiation of a comprehensive agreement, the responsible public entity may enter into an interim agreement with the private entity proposing the development or operation of the qualifying project. An interim agreement does not obligate the responsible public entity to enter into a comprehensive agreement. The interim agreement is discretionary with the parties and is not required on a qualifying project for which the parties may proceed directly to a comprehensive agreement without the need for an interim agreement. An interim agreement must be limited to provisions that:

(a) Authorize the private entity to commence activities for which it may be compensated related to the proposed

qualifying project, including, but not limited to, project planning and development, design, environmental analysis and mitigation, survey, other activities concerning any part of the proposed qualifying project, and ascertaining the availability of financing for the proposed facility or facilities.

(b) Establish the process and timing of the negotiation of the comprehensive agreement.

(c) Contain such other provisions related to an aspect of the development or operation of a qualifying project that the responsible public entity and the private entity deem appropriate.

(7) ~~(9)~~ COMPREHENSIVE AGREEMENT.—

(a) Before developing or operating the qualifying project, the private entity must enter into a comprehensive agreement with the responsible public entity. The comprehensive agreement must provide for:

1. Delivery of performance and payment bonds, letters of credit, or other security acceptable to the responsible public entity in connection with the development or operation of the qualifying project in the form and amount satisfactory to the responsible public entity. For the components of the qualifying project which involve construction, the form and amount of the bonds must comply with s. 255.05.

2. Review of the design for the qualifying project by the responsible public entity and, if the design conforms to standards acceptable to the responsible public entity, the

approval of the responsible public entity. This subparagraph does not require the private entity to complete the design of the qualifying project before the execution of the comprehensive agreement.

3. Inspection of the qualifying project by the responsible public entity to ensure that the private entity's activities are acceptable to the responsible public entity in accordance with the comprehensive agreement.

4. Maintenance of a policy of public liability insurance, a copy of which must be filed with the responsible public entity and accompanied by proofs of coverage, or self-insurance, each in the form and amount satisfactory to the responsible public entity and reasonably sufficient to ensure coverage of tort liability to the public and employees and to enable the continued operation of the qualifying project.

5. Monitoring by the responsible public entity of the maintenance practices to be performed by the private entity to ensure that the qualifying project is properly maintained.

6. Periodic filing by the private entity of the appropriate financial statements that pertain to the qualifying project.

7. Procedures that govern the rights and responsibilities of the responsible public entity and the private entity in the course of the construction and operation of the qualifying project and in the event of the termination of the comprehensive agreement or a material default by the private entity. The

procedures must include conditions that govern the assumption of the duties and responsibilities of the private entity by an entity that funded, in whole or part, the qualifying project or by the responsible public entity, and must provide for the transfer or purchase of property or other interests of the private entity by the responsible public entity.

8. Fees, lease payments, or service payments. In negotiating user fees, the fees must be the same for persons using the facility under like conditions and must not materially discourage use of the qualifying project. The execution of the comprehensive agreement or a subsequent amendment is conclusive evidence that the fees, lease payments, or service payments provided for in the comprehensive agreement comply with this section. Fees or lease payments established in the comprehensive agreement as a source of revenue may be in addition to, or in lieu of, service payments.

9. Duties of the private entity, including the terms and conditions that the responsible public entity determines serve the public purpose of this section.

(b) The comprehensive agreement may include:

1. An agreement by the responsible public entity to make grants or loans to the private entity from amounts received from the federal, state, or local government or an agency or instrumentality thereof.

2. A provision under which each entity agrees to provide notice of default and cure rights for the benefit of the other

entity, including, but not limited to, a provision regarding unavoidable delays.

3. A provision that terminates the authority and duties of the private entity under this section and dedicates the qualifying project to the responsible public entity or, if the qualifying project was initially dedicated by an affected local jurisdiction, to the affected local jurisdiction for public use.

(8) ~~(10)~~ FEES.—A comprehensive ~~An~~ agreement entered into pursuant to this section may authorize the private entity to impose fees to members of the public for the use of the facility. The following provisions apply to the comprehensive agreement:

(a) The responsible public entity may develop new facilities or increase capacity in existing facilities through a comprehensive agreement with a private entity ~~agreements with public-private partnerships~~.

(b) The comprehensive ~~public-private partnership~~ agreement must ensure that the facility is properly operated, maintained, or improved in accordance with standards set forth in the comprehensive agreement.

(c) The responsible public entity may lease existing fee-for-use facilities through a comprehensive ~~public-private partnership~~ agreement.

(d) Any revenues must be authorized by and applied in the manner set forth in ~~regulated by the responsible public entity pursuant to~~ the comprehensive agreement.

(e) A negotiated portion of revenues from fee-generating uses may ~~must~~ be returned to the responsible public entity over the life of the comprehensive agreement.

(9)~~(11)~~ FINANCING.—

(a) A private entity may enter into a private-source financing agreement between financing sources and the private entity. A financing agreement and any liens on the property or facility must be paid in full at the applicable closing that transfers ownership or operation of the facility to the responsible public entity at the conclusion of the term of the comprehensive agreement.

(b) The responsible public entity may lend funds to private entities that construct projects containing facilities that are approved under this section.

(c) The responsible public entity may use innovative finance techniques associated with a public-private partnership under this section, including, but not limited to, federal loans as provided in Titles 23 and 49 C.F.R., commercial bank loans, and hedges against inflation from commercial banks or other private sources. In addition, the responsible public entity may provide its own capital or operating budget to support a qualifying project. The budget may be from any legally permissible funding sources of the responsible public entity, including the proceeds of debt issuances. A responsible public entity may use the model financing agreement provided in s. 489.145(6) for its financing of a facility owned by a

responsible public entity. A financing agreement may not require the responsible public entity to indemnify the financing source, subject the responsible public entity's facility to liens in violation of s. 11.066(5), or secure financing of ~~by~~ the responsible public entity by a mortgage on, or security interest in, the real or tangible personal property of the responsible public entity in a manner that could result in the loss of the fee ownership of the property by the responsible public entity ~~with a pledge of security interest~~, and any such provision is void.

~~(d) A responsible public entity shall appropriate on a priority basis as required by the comprehensive agreement a contractual payment obligation, annual or otherwise, from the enterprise or other government fund from which the qualifying projects will be funded. This required payment obligation must be appropriated before other noncontractual obligations payable from the same enterprise or other government fund.~~

(10)~~(12)~~ POWERS AND DUTIES OF THE PRIVATE ENTITY.—

(a) The private entity shall:

1. Develop or operate the qualifying project in a manner that is acceptable to the responsible public entity in accordance with the provisions of the comprehensive agreement.

2. Maintain, or provide by contract for the maintenance or improvement of, the qualifying project if required by the comprehensive agreement.

3. Cooperate with the responsible public entity in making

best efforts to establish interconnection between the qualifying project and any other facility or infrastructure as requested by the responsible public entity in accordance with the provisions of the comprehensive agreement.

4. Comply with the comprehensive agreement and any lease or service contract.

(b) Each private facility that is constructed pursuant to this section must comply with the requirements of federal, state, and local laws; state, regional, and local comprehensive plans; the responsible public entity's rules, procedures, and standards for facilities; and such other conditions that the responsible public entity determines to be in the public's best interest and that are included in the comprehensive agreement.

(c) The responsible public entity may provide services to the private entity. An agreement for maintenance and other services entered into pursuant to this section must provide for full reimbursement for services rendered for qualifying projects.

(d) A private entity of a qualifying project may provide additional services for the qualifying project to the public or to other private entities if the provision of additional services does not impair the private entity's ability to meet its commitments to the responsible public entity pursuant to the comprehensive agreement.

(11) ~~(13)~~ EXPIRATION OR TERMINATION OF AGREEMENTS.—Upon the expiration or termination of a comprehensive agreement, the

responsible public entity may use revenues from the qualifying project to pay current operation and maintenance costs of the qualifying project. If the private entity materially defaults under the comprehensive agreement, the compensation that is otherwise due to the private entity is payable to satisfy all financial obligations to investors and lenders on the qualifying project in the same way that is provided in the comprehensive agreement or any other agreement involving the qualifying project, if the costs of operating and maintaining the qualifying project are paid in the normal course. Revenues in excess of the costs for operation and maintenance costs may be paid to the investors and lenders to satisfy payment obligations under their respective agreements. A responsible public entity may terminate with cause and without prejudice a comprehensive agreement and may exercise any other rights or remedies that may be available to it in accordance with the provisions of the comprehensive agreement. The full faith and credit of the responsible public entity may not be pledged to secure the financing of the private entity. The assumption of the development or operation of the qualifying project does not obligate the responsible public entity to pay any obligation of the private entity from sources other than revenues from the qualifying project unless stated otherwise in the comprehensive agreement.

(12)~~(14)~~ SOVEREIGN IMMUNITY.—This section does not waive the sovereign immunity of a responsible public entity, an

affected local jurisdiction, or an officer or employee thereof with respect to participation in, or approval of, any part of a qualifying project or its operation, including, but not limited to, interconnection of the qualifying project with any other infrastructure or project. A county or municipality in which a qualifying project is located possesses sovereign immunity with respect to the project, including, but not limited to, its design, construction, and operation.

(13) DEPARTMENT OF MANAGEMENT SERVICES.—

(a) A responsible public entity may provide a copy of its comprehensive agreement to the Department of Management Services. A responsible public entity must redact any confidential or exempt information from the copy of the comprehensive agreement before providing it to the Department of Management Services.

(b) The Department of Management Services may accept and maintain copies of comprehensive agreements received from responsible public entities for the purpose of sharing comprehensive agreements with other responsible public entities.

(c) This subsection does not require a responsible public entity to provide a copy of its comprehensive agreement to the Department of Management Services.

(14) ~~(15)~~ CONSTRUCTION.—

(a) This section shall be liberally construed to effectuate the purposes of this section.

(b) This section shall be construed as cumulative and supplemental to any other authority or power vested in or exercised by the governing body ~~board~~ of a county, municipality, special district, or municipal hospital or health care system including those contained in acts of the Legislature ~~establishing such public hospital boards or s. 155.40~~.

(c) This section does not affect any agreement or existing relationship with a supporting organization involving such governing body ~~board~~ or system in effect as of January 1, 2013.

(d) ~~(a)~~ This section provides an alternative method and does not limit a county, municipality, special district, or other political subdivision of the state in the procurement or operation of a qualifying project ~~acquisition, design, or construction of a public project~~ pursuant to other statutory or constitutional authority.

(e) ~~(b)~~ Except as otherwise provided in this section, this section does not amend existing laws by granting additional powers to, or further restricting, a local governmental entity from regulating and entering into cooperative arrangements with the private sector for the planning, construction, or operation of a facility.

(f) ~~(c)~~ This section does not waive any requirement of s. 287.055.

Section 2. This act shall take effect July 1, 2016.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Appropriations Committee

Representative Steube offered the following:

Amendment

Remove lines 93-94 and insert:

municipality, school district, special district, ~~board,~~ or any other

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 439 Mental Health Services in Criminal Justice System
SPONSOR(S): Children, Families & Seniors Subcommittee; McBurney & others
TIED BILLS: None **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	12 Y, 0 N	White	White
2) Children, Families & Seniors Subcommittee	11 Y, 0 N, As CS	McElroy	Brazzell
3) Appropriations Committee		Smith	Leznoff
4) Judiciary Committee			

SUMMARY ANALYSIS

To address mental health issues in the criminal justice system, Florida has multiple programs, some of which operate on a statewide basis, e.g., state-administered forensic and civil mental health programs, and others which are only available in certain counties or circuits, e.g., mental health courts and veterans' courts. This bill amends statute governing these programs by:

- Creating the Forensic Hospital Diversion Pilot Program in Duval, Broward, and Miami-Dade Counties, which is to be modeled after the Miami-Dade Forensic Alternative Center.
- Authorizing county court judges to order misdemeanants to involuntary outpatient placement if the misdemeanant meets the criteria for involuntary outpatient placement under s. 394.4655, F.S.;
- Creating statutory authority for each county to establish a mental health court program (MHCP) that provides pretrial intervention and post-adjudicatory programs.
- Authorizing courts to order adult offenders with mental illnesses to participate in pretrial intervention and post-adjudicatory programs and to admit juvenile offenders with mental illnesses into delinquency pretrial MHCPs.
- Expanding the definition of "veteran," for the purpose of eligibility for veterans' court, to include veterans who were discharged or released under a general discharge.
- Expanding the statutory authorization for certain offenders to transfer to a "problem-solving court" in another county to also include transfer to delinquency pretrial intervention programs.

The bill makes conforming changes to child welfare statutes to incorporate references to mental health treatment and mental health courts.

This bill has an indeterminate fiscal impact on local revenues and expenses.

This bill has an impact of $4,788,000 to the Department of Children and Family Services.

The bill takes effect July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Mental Health and Substance Use of Offenders in the Criminal Justice System

On any given day in Florida, it is estimated that there are 17,000 prison inmates, 15,000 jail detainees, and 40,000 individuals under correctional supervision who experience serious mental illness.[1] Each year, as many as 125,000 adults with mental illnesses or substance use disorders, who require immediate treatment, are arrested and booked into Florida jails.[2] Further, of the 150,000 juveniles who are referred to Florida's Department of Juvenile Justice each year, more than 70 percent have at least one mental health disorder.[3]

Between 2002 and 2010, the population of inmates with mental illnesses or substance use disorders in Florida increased from 8,000 to 17,000 inmates.[4] By 2020, the number of inmates with these types of disorders is expected to reach at least 35,000, with an average annual increase of 1,700 individuals.[5] Between 2002 and 2010 forensic commitments increased from 863 to 1,549 and are projected to reach 2,800 by 2016.[6]

The majority of individuals with serious mental illnesses or substance use disorders who become involved with the criminal justice system are charged with minor misdemeanor and low-level felony offenses that are often a direct result of their untreated condition.[7] These individuals are typically poor, uninsured, homeless, minorities who are experiencing co-occurring mental health or substance use disorders.[8]

To address mental health issues in the criminal justice system, Florida has multiple programs, some of which operate on a statewide basis, e.g., forensic and civil mental health programs, and others which are only available in certain counties or circuits, e.g., mental health courts and veterans' courts,

State Forensic System -- Mental Health Treatment for Criminal Defendants

Chapter 916, F.S., governs the state forensic system, which is a network of state facilities and community services for persons who have mental health issues and who are involved with the criminal justice system. Offenders who are charged with a felony and adjudicated incompetent to proceed[9] and offenders who are adjudicated not guilty by reason of insanity may be involuntarily committed to state civil[10] and forensic[11] treatment facilities by the circuit court,[12, 13] or in lieu of such commitment, may be

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[1] The Florida Senate, *Forensic Hospital Diversion Pilot Program, Interim Report 2011-106*, (Oct. 2010).
[2] *Id.* at p. 1.
[3] Florida Department of Children and Families, Agency Analysis of 2009 Senate Bill 2018 (Mar. 2, 2009).
[4] The Florida Senate, *supra* note 1, at 1.
[5] *Id.*
[6] *Id.* at p. 2.
[7] *Id.*
[8] *Id.*
[9] "Incompetent to proceed" means "the defendant does not have sufficient present ability to consult with her or his lawyer with a reasonable degree of rational understanding" or "the defendant has no rational, as well as factual, understanding of the proceedings against her or him." s. 916.12(1), F.S.
[10] A "civil facility" is: a mental health facility established within the Department of Children and Families (DCF) or by contract with DCF to serve individuals committed pursuant to chapter 394, F.S., and defendants pursuant to chapter 916, F.S., who do not require the security provided in a forensic facility; or an intermediate care facility for the developmentally disabled, a foster care facility, a group home facility, or a supported living setting designated by the Agency for Persons with Disabilities (APD) to serve defendants who do not require the security provided in a forensic facility. Section 916.106(4), F.S.
[11] A "forensic facility" is a separate and secure facility established within DCF or APD to service forensic clients. A separate and secure facility means a security-grade building for the purpose of separately housing persons who have mental illness from persons who have

released on conditional release by the circuit court if the person is not serving a prison sentence.[14] Conditional release is release into the community accompanied by outpatient care and treatment.[15] The committing court retains jurisdiction over the defendant while the defendant is under involuntary commitment or conditional release.[16]

The Department of Children and Families (DCF) oversees two state-operated forensic facilities, Florida State Hospital and North Florida Evaluation and Treatment Center, and two privately-operated, maximum security forensic treatment facilities, South Florida Evaluation and Treatment Center and Treasure Coast Treatment Center.

Miami-Dade Forensic Alternative Center

The Miami-Dade Forensic Alternative Center (MDFAC) opened in 2009 as a community-based, forensic commitment program. The intent of the program is to serve offenders who have mental illnesses or co-occurring mental illnesses and substance use disorders and who are involved in or at risk of entering state forensic mental health treatment facilities, prisons, jails, or state civil mental health treatment facilities. The MDFAC serves adults:

- Age 18 years or older;
- Who have been found by a court to be incompetent to proceed due to serious mental illness or not guilty by reason of insanity for a second or third degree felony; and
- Who do not have a significant history of violence.[17]

The MDFAC provides competency restoration and a continuum of care during commitment and after reentry into the community. It currently operates its 16-bed facility for a daily cost of $284.81 per bed.[18]

Between August 2009 and August 2010, a total of 111 individuals were accepted and admitted to the program.[19] As of 2010, 38 individuals either stepped down from forensic commitment or completed the program. Of those individuals, 27 remained actively linked to the MDFAC and 11 did not.[20] Of the 27 individuals, 19 individuals did not recidivate.[21] Of recidivating individuals, only one individual was charged with committing a new offense (misdemeanor petit theft), while seven were rebooked into jail for non-compliance with conditions of release.[22]

As a result of the MDFAC program:

- The average number of days to restore competency has been reduced, as compared to forensic treatment facilities. The MDFAC on average restored competency within 99.3 days, while forensic treatment facilities required an average of 138.9 days.[23]

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intellectual disabilities or autism and separately housing persons who have been involuntarily committed pursuant to chapter 916, F.S., from non-forensic residents. Section 916.106(10), F.S.

[12] "Court" is defined to mean the circuit court. s. 916.106, F.S.

[13] ss. 916.13, 916.15, and 916.302, F.S.

[14] Section 916.17(1), F.S.

[15] *Id.*

[16] Section 916.16(1), F.S.

[17] Florida Department of Children and Families, Agency Analysis of 2015 House Bill 7113, p. 2 (Mar. 19, 2015) .

[18] *Id.* at 2 and 4.

[19] Miami-Dade Forensic Alternative Ctr., *Pilot Program Status Report*, (Aug. 2010) (on file with the House Judiciary Comm.).

[20] *Id.* at 5-6.

[21] *Id.*

[22] *Id.* The individuals who remained linked to MDFAC services accounted for 11 jail bookings and spent a total of 85 days in jail after stepping down from forensic commitment; in contrast, of the 11 individuals who did not remain linked with the program, nine were rebooked for a total of 23 bookings resulting from new offenses and 15 resulting from technical violations. The nine individuals who recidivated accounted for 1,435 days in jail since stepping down from forensic commitment. *Id.*

[23] *Id.* "[I]ndividuals enrolled in MDFAC are not rebooked into the jail following restoration of competency. Instead, they remain at the treatment program where they are re-evaluated by court appointed experts while the treatment team develops a comprehensive transition plan for eventual step-down into a less restrictive community placement. When court hearings are held to determine competency and/or authorize step-down into community placements, individuals are brought directly to court by MDFAC staff. This not only reduces burdens on the county jail, but eliminates the possibility that individuals will decompensate while incarcerated and require subsequent readmission to state treatment facilities. It also ensures that individuals remain linked to the service provider through the

- The burden on local jails has been reduced, as individuals served by MDFAC are not returned to jail upon restoration of competency.[24]
- As individuals are not returned to jail, the individual's symptoms are prevented from worsening while incarcerated, which could possibly require readmission to state treatment facilities.[25]
- Individuals access treatment more quickly and efficiently because of the ongoing assistance, support, and monitoring following discharge from inpatient treatment and community re-entry.[26]
- Individuals in the program receive additional services not provided in the state treatment facilities, such as intensive services targeting competency restoration, as well as community-living and re-entry skills.[27]
- It is standard practice at MDFAC to provide assistance to all individuals in accessing federal entitlement benefits that pay for treatment and housing upon discharge.[28]

Mental Health Courts

Currently, the establishment of mental health courts in this state is not addressed in statute. Such courts, however, have been created in the majority of local jurisdictions for purposes of holding offenders accountable while connecting them to the treatment services necessary to address their mental illness.[29] Mental health courts typically share the following goals:

- To improve public safety by reducing criminal recidivism;
- To improve the quality of life of people with mental illnesses and to increase their participation in effective treatment; and
- To reduce court- and corrections-related costs through administrative efficiencies and often by providing an alternative to incarceration.[30]

As of March 2015, there were 27 mental health courts operating in 15 of the state's 20 judicial circuits.[31] Due to the fact that there is no statutory framework for these courts, eligibility criteria, program requirements, and other processes differ throughout the state. For example, to be eligible to participate in Alachua County's Mental Health Court, a defendant must be diagnosed with a mental illness or developmental disability and be arrested for certain misdemeanor or criminal traffic offenses.[32] Distinguishably, to be eligible to participate in Duval County's and Nassau County's Mental Health Courts, a defendant must have a mental health diagnosis of bipolar, schizophrenia, or anxiety and have been arrested for a misdemeanor or third or second degree felony.[33]

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community re-entry and re-integration process." *Id.* It should be noted, however, that individuals diverted to MDFAC have to meet certain criteria, which may result in participation in the program by individuals who present with less severe cases of mental illness or those with less serious charges going to MDFAC as compared to the population placed in state hospitals.

[24] MDFAC program staff provides ongoing assistance, support and monitoring following an individual's discharge from inpatient treatment and community re-entry. Additionally, individuals are less likely to return to state hospitals, emergency rooms, and other crisis settings. *Id.*

[25] Of the 44 individuals referred to MDFAC between 2009 and 2010, 23 percent had one or more previous admissions to a state forensic hospital for competency restoration and subsequent readmission to the Miami-Dade County Jail. *Id.*

[26] The Florida Senate, supra note 1, at 9.

[27] *Id.*

[28] *Id.*

[29] Florida Courts, *Mental Health Courts,* http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/mental-health-courts.stml (last visited Nov. 14, 2015).

[30] *Id.*

[31] *Id.*

[32] Office of the State Attorney Eighth Judicial Circuit, *Alachua County Mental Health Court*, http://sao8.org/Mental%20Health.htm (last visited Nov. 14, 2015).

[33] Fourth Judicial Circuit Courts of Florida, *Duval County Mental Health Court,* http://www.jud4.org/Court-Programs/Drug,-Mental-Health,-and-Veterans-Treatment-Courts/Mental-Health-Court-Programs/Duval-County-Mental-Health-Court.aspx (last visited Nov. 14, 2015); Fourth Judicial Circuit Courts of Florida, *Nassau County Mental Health Court,* http://www.jud4.org/Court-Programs/Drug,-Mental-Health,-and-Veterans-Treatment-Courts/Mental-Health-Court-Programs/Nassau-County-Mental-Health-Court.aspx (last visited Nov. 14, 2015).

Veterans' Courts

Veterans' courts are modeled after other specialty courts, such as drug courts and mental health courts. The goal of such courts is to provide treatment interventions to resolve underlying causes of criminal behavior to "reintegrate court participants into society, reduce future involvement with the criminal justice system, and promote public safety."[34]

Pursuant to s. 394.47891, F.S., the chief judge in each judicial circuit of this state is authorized to establish a Military Veterans and Servicemembers Court Program (hereafter referred to as "veterans' courts"). To be eligible for veterans' court, an individual must have been charged with a criminal offense, must have a military-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, and must be a:

- Servicemember, which means "any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces."[35]
- Veteran, which means "a person who served in the active military, naval, or air service and who was ***discharged or released under honorable conditions*** only or who later received an upgraded discharge under honorable conditions...."[36, 37] Typically, veterans who receive honorable or general discharges are eligible for VA benefits while veterans who receive dishonorable, bad conduct, or dishonorable discharges are not.[38]

A servicemember or veteran who meets the qualifications and agrees to participate may be placed in a pretrial diversion program if the offense charged is a misdemeanor or a felony other than a felony listed in s. 948.06(8)(c), F.S.,[39, 40] or a post-adjudicatory program for crimes committed on or after July 1, 2012.[41]

For a pretrial diversion program, a treatment intervention team must develop an individualized coordinated strategy for the servicemember or veteran which must be presented to the servicemember or veteran before he or she agrees to enter the program. The court retains jurisdiction in the case throughout the pretrial intervention period. At the end of the program, the court considers recommendations for disposition by the state attorney and the program administrator. If the veteran successfully completes the treatment program, the court must dismiss the criminal charges. If the court finds that the veteran did not successfully complete the program, the court may order the veteran to continue in education and treatment or authorize the state attorney to proceed with prosecution.[42]

For a post-adjudicatory program, the court may require a servicemember or veteran to participate in a treatment program capable of treating his or her mental illness, traumatic brain injury, substance abuse disorder, or psychological program as a condition of probation or community control.[43]

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[34] Office of Program Policy Analysis & Government Accountability, Research Memorandum, *State-Funded Veterans' Courts in Florida*, (Jan. 30, 2015).
[35] s. 250.01(19), F.S.
[36] s. 1.01(14), F.S. (emphasis added).
[37] ss. 394.47891, 948.08(7), 948.16(2)(a), and 948.21, F.S.
[38] Office of Program Policy Analysis & Government Accountability, *supra* note 34.
[39] ss. 948.08(7) and 948.16(2), F.S.
[40] The disqualifying offenses listed in s. 948.06(8)(c), F.S., include: (a) kidnapping, false imprisonment of a child under the age of 13, or luring or enticing a child; (b) murder, felony murder, or manslaughter; (c) aggravated battery; (d) sexual battery; (e) certain lewd or lascivious offenses; (f) robbery, carjacking, or home invasion robbery; (g) sexual performance by a child; (h) computer pornography, transmission of child pornography, or selling or buying of minors; (i) poisoning food or water; (j) abuse of a dead human body; (k) certain burglary offenses; (l) arson; (m) aggravated assault; (n) aggravated stalking; (o) aircraft piracy; (p) unlawful throwing, placing, or discharging of a destructive device or bomb; and (q) treason..
[41] s. 948.21, F.S.
[42] ss. 948.08(7)(b) and (c), and 948.16(2) and (3), F.S.
[43] s. 948.21, F.S.

As of March 2015, Florida had 22 veterans' courts operating in 13 circuits,[44] which includes courts in eight counties that received state general revenue funding for Fiscal Year 2015-2016.[45] Six counties in Florida received state general revenue funding for Fiscal Year 2014-2015, for veterans' courts.[46]

According to data from a January 2015, research memorandum drafted by the Office of Program Policy Analysis and Government Accountability, 45 participants graduated from the state-funded veterans' courts between July 2013 and October 2014. Fifty-two percent of the participants had felony charges, mainly third-degree felony offenses for grand theft, burglary, felony battery, and drug possession.[47] The remaining 48 percent had first and second degree misdemeanor charges, the most common of which were battery and driving under the influence. Sixty-two percent of the participants had a dual diagnosis of mental health issues and substance abuse.[48]

Transfer for Participation in a Problem-Solving Court

A "problem-solving court" is defined to mean specified drug courts, veterans' courts pursuant to ss. 394.47891, 948.08, 948.16, or 948.21, F.S., or mental health courts.[49] A person who eligible for participation in a problem-solving court shall have his or case transferred to a county other than that in which the charge arose if:

- Requested by the person or a court;
- The person agrees to the transfer;
- The authorized representative of the trial court consults with the authorized representative of the problem-solving court in the county to which transfer is desired; and
- Both representatives agree to the transfer.[50]

The jurisdiction to which the case has been transferred is required to dispose of the case.[51]

Involuntary Outpatient Placement

Involuntary outpatient placement, also known as assisted outpatient treatment, is a court ordered community-based treatment program for individuals with severe mental illness. These programs are designed to assist individuals with severe mental illness who have a history of treatment and medication noncompliance but do not require hospitalization. Involuntary outpatient treatment has shown to be effective in reducing the incidence and duration of hospitalization, homelessness, arrests and incarcerations, victimization, and violent episodes.[52] It has also been shown to increase treatment compliance and promotes long-term voluntary compliance, while reducing caregiver stress.[53]

There are strict legal requirements for individuals to be ordered into involuntary outpatient placement. The individual must be an adult with mental illness for whom all available, less restrictive alternatives that would offer an opportunity for improvement of his or her condition have been judged to be inappropriate or unavailable and who:[54]

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[44] Florida Courts, *Veterans Courts,* http://www.flcourts.org/resources-and-services/court-improvement/problem-solving-courts/veterans-court.stml (last visited Nov. 14, 2015).
[45] The following nine counties were appropriated recurring general revenue funds for Fiscal Year 2015-2016: Clay, Okaloosa, Pasco, Pinellas, and Escambia Counties each received $150,000; Leon County received $125,000; and Duval and Orange Counties each received $200,000. Senate Bill 2500-A (2015), Specific Appropriation 3169.
[46] The following seven counties were appropriated recurring general revenue funds for Fiscal Year 2014-2015: Clay, Okaloosa, Pasco, and Pinellas Counties each received $150,000; and Duval and Orange Counties each received $200,000. House Bill 5001 (2014), Specific Appropriation 3193.
[47] *Id.* at 5.
[48] Office of Program Policy Analysis & Government Accountability, *supra* note 34.
[49] s. 910.035(5)(a), F.S.
[50] s. 910.035(5)(b), F.S.
[51] s. 910.035(5)(f), F.S.
[52] Assisted Outpatient Treatment Laws, Treatment Advocacy Center. http://www.treatmentadvocacycenter.org/solution/assisted-outpatient-treatment-laws (last visited on December 9, 2015).
[53] Id.
[54] s. 394.4655(1) , F.S.

- Is unlikely to survive safely in the community without supervision;
- Has a history of lack of compliance with treatment for mental illness;
- Has within the preceding 36 months-
    - Been involuntarily committed to a treatment or receiving facility,
    - Received mental health treatment in a forensic or correctional facility, or
    - Engaged in acts of serious violent behavior toward self or others, or attempts at serious bodily harm to himself or herself or others;
- Is unlikely to voluntarily participate in the recommended treatment plan and has refused voluntary placement for treatment or is unable to determine for himself or herself whether placement is necessary;
- Is in need of involuntary outpatient placement in order to prevent a relapse or deterioration that would be likely to result in serious bodily harm to himself or herself or others, or a substantial harm to his or her well-being; and
- Is likely to benefit from involuntary outpatient placement.

Only circuit judges have the authority to order an individual into involuntary outpatient placement.[55] However, the court may not order DCF or the service provider to provide services if the program or service is not available in the patient's local community, if there is no space available in the program or service for the patient, or if funding is not available for the program or service.[56]

Child Welfare

DCF is responsible for the administration of Florida's child welfare program. The goals of the child welfare program are:[57]

- The prevention of separation of children from their families;
- The protection of children alleged to be dependent or dependent children including provision of emergency and long-term alternate living arrangements;
- The reunification of families who have had children placed in foster homes or institutions;
- The permanent placement of children who cannot be reunited with their families or when reunification would not be in the best interest of the child;
- The transition to self-sufficiency for older children who continue to be in foster care as adolescents;
- The preparation of young adults that exit foster care at age 18 to make the transition to self-sufficiency as adults; and
- The prevention and remediation of the consequences of substance abuse on families.[58]

To advance the goal of combating substance abuse in families, ss. 39.507, F.S., and 39.512, F.S., authorize dependency courts to order an individual undergo a substance abuse disorder assessment. The statutes additionally authorize a dependency court to order an individual to participate in and comply with a treatment-based drug court program.[59] Treatment-based drug court is an alternative to incarceration for defendants who enter the judicial system because of addiction and consists of an intensive, judicially monitored treatment program. [60]

[55] s. 394.455 (7), F.S.
[56] s. 394.4655(6)(b)2 , F.S.
[57] *Child Welfare*, Department of Children and Families. http://www.myflfamilies.com/service-programs/child-welfare (last visited on December 9, 2015).
[58] Section 39.001(6), F.S.
[59] Sections 39.507, F.S., and 39.512, F.S.
[60] *Drug Court*, First Judicial Circuit Court of Florida. http://www.firstjudicialcircuit.org/programs-and-services/drug-court (last visited on December 9, 2015).

Effect of Bill

Forensic Hospital Diversion Pilot Program

This bill creates s. 916.185, F.S., to establish the Forensic Hospital Diversion Pilot Program, which is to be modeled after the Miami-Dade Forensic Alternative Center. The intent of the pilot program is to serve offenders who have mental illnesses or co-occurring mental illnesses and substance use disorders and who are involved in or at risk of entering state forensic mental health treatment facilities, prisons, jails, or state civil mental health treatment facilities.

Under the bill, DCF is required to implement the pilot program in Duval, Broward, and Miami-Dade counties. The pilot program must include a comprehensive continuum of care and services that use evidence-based practices and best practices.[61] The DCF is authorized to request budget amendments to realign funds between mental health services and community substance abuse and mental health services in order to implement the pilot program.

Participation in the program is limited to persons who:

- Are 18 years of age and older;
- Are charged with a second or third degree felony;
- Do not have a significant history of violent criminal offenses;
- Have been adjudicated either incompetent to proceed to trial or not guilty by reason of insanity;
- Meet safety and treatment criteria established by DCF for placement in the community; and
- Would otherwise be admitted to a state mental health treatment facility.

The bill encourages the Florida Supreme Court, in conjunction with the Supreme Court Task Force on Substance Abuse and Mental Health in the Courts, to develop educational training for judges in the pilot program counties on the community forensic system.

The DCF is authorized to adopt rules to administer the section.

Mental Health Court Programs

The bill creates s. 394.47892, F.S., to authorize each county to fund a mental health court program (MHCP) under which defendants in the justice system who are assessed with a mental illness will be processed in a manner that appropriately addresses the severity of the mental illness through treatment services tailored to the participant. If a county chooses to fund a MHCP, it must secure funding from sources other than the state for costs not otherwise assumed by the state; however, counties may use funds for treatment and other services provided through state executive branch agencies and may provide, by interlocal agreement, for the collective funding of the programs.

The bill specifies that a MHCP may include:

- Pretrial intervention programs under ss. 948.08, 948.16, and 985.345, F.S.
- Post-adjudicatory mental health court programs under ss. 948.01 and 948.06, F.S.
- Review of the status of compliance or noncompliance of sentenced defendants in the program.

Under the bill, entry into a:

- Pretrial MHCP must be voluntary.
- Post-adjudicatory MHCP must be based on the sentencing court's assessment of:

[61] The bill defines the terms "best practices," "community forensic system," and "evidence-based practices" for purposes of the section in s. 916.185(2)(a)-(c), F.S., respectively.

- The defendant's criminal history, mental health screening outcome, amenability to the services of the program, total sentence points, and agreement to enter the program.
- The recommendation of the state attorney and the victim, if any.

If a defendant, while participating in a post-adjudicatory MHCP, is subject to a violation of probation or community control under s. 948.06, such violation must be heard by the judge presiding over the MHCP. The judge is authorized to dispose of the violation as he or she deems appropriate if the resulting sentence or conditions are lawful.

Contingent on annual appropriation, the bill requires each judicial circuit to establish at least one coordinator position for the MHCP and establishes the coordinator's duties and responsibilities.

Further, each circuit is required to annually report sufficient client-level and programmatic data to the Office of State Courts Administrator annually for the purposes of program evaluation. Client-level data include:

- Primary offenses that resulted in the mental health court referral or sentence;
- Treatment compliance;
- Completion status and reasons for failure to complete;
- Offenses committed during treatment and sanctions imposed;
- Frequency of court appearances; and
- Units of service.

Programmatic data include referral and screening procedures, eligibility criteria, type and duration of treatment offered, and residential treatment resources.

The bill also authorizes the chief judge of each judicial circuit to appoint an advisory committee for the MHCP and specifies who may serve on such committee.

Finally, the bill amends various sections of law, as described below, to authorize courts to order defendants into pretrial and post-adjudicatory MHCPs.

- Pretrial MHCPs
  - Section 948.08(8), F.S., is amended to authorize a defendant to be voluntarily admitted into a *felony pretrial MHCP*, upon motion of either party or the court, if the defendant has a mental illness, has not been convicted of a felony, and is charged with:
    - A nonviolent felony that includes a third degree felony violation of chapter 810[62] or any other felony offense that is not a forcible felony as defined in s. 776.08;
    - Resisting an officer with violence under s. 843.01, or battery on a law enforcement officer under s. 784.07, if the law enforcement officer and state attorney consent to the defendant's participation; or
    - Aggravated assault if the victim and state attorney consent to the defendant's participation.[63]
  - Section 948.16(3), is amended to authorize a defendant to be voluntarily admitted into a *misdemeanor pretrial MHCP,* upon motion of either party or the court, if the defendant has a mental illness.
  - Section 985.345(4), F.S., is amended to authorize a child to be voluntarily admitted to a *delinquency pretrial MHCP*, upon motion of either party or the court, if the child has a mental illness, has not been previously adjudicated for a felony, and is charged with:
    - A misdemeanor;

[62] Chapter 810, F.S., addresses burglary and trespass.

[63] The bill specifies that at the end of the pretrial intervention period, the court must consider the recommendations of the treatment provider and state attorney as to disposition of the pending charges. The court shall determine, by written finding, if the defendant has successfully completed program. If unsuccessful, the court may order the person to continue in education and treatment or order that the charges revert to normal channels for prosecution. If successful, the court shall dismiss the charges. s. 948.08(8)(b), F.S.

        - A nonviolent felony meaning a third degree felony violation of chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08;
        - Resisting an officer with violence under s. 843.01, F.S., or battery on a law enforcement officer under s. 784.07, F.S., if the law enforcement officer and state attorney consent to the child's participation; or
        - Aggravated assault, if the victim and state attorney consent to the child's participation.[64]
- Post-adjudicatory treatment based MHCPs
    - Section 948.01(8), F.S., is amended to authorize a court to place a defendant into a post-adjudicatory MHCP, as a condition of the defendant's probation or community control, and s. 948.06(2)(j), F.S., is amended to authorize a court to order the successful completion of post-adjudicatory MHCP when an offender admits that he or she has violated his or her community control or probation, if:
        - The offense is a nonviolent felony;[65]
        - The defendant is amenable to mental health treatment, including taking prescribed medications;
        - The defendant is otherwise qualified under s. 394.47892(4), based on his or her criminal history, mental health screening outcome, amenability to the services of the program, total sentence points, and agreement to enter the program, and the recommendation of the state attorney and the victim, if any; and
        - The defendant, after being fully advised of the purpose of the program, agrees to enter the program.[66]

Veterans' Courts

The bill amends ss. 394.47891, 948.08(7)(a), 948.16(2), and 948.21, F.S., to expand the pool of veterans who are eligible for veterans' courts from only those who have been discharged or released under honorable conditions to also include veterans who have been discharged or released under a general discharge. With respect to post-adjudication diversion programs imposed as a condition of probation or community control, the bill specifies in s. 948.21(2), F.S., that the expanded eligibility criteria for general discharges applies to crimes committed on or after July 1, 2016.

The bill also amends s. 948.06(2)(j), F.S., to permit a court to order an offender to a veterans' court program when the offender admits that he or she has violated his or her community control or probation if:

- The offense is a nonviolent felony;
- The offender is amenable to a veterans' court program;
- The offender, after being fully advised of the purpose of the program, agrees to enter the program; and
- The offender is otherwise qualified for a veterans' court program under s. 394.47891, F.S.[67]

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[64] The bill specifies that at the end of the delinquency pretrial intervention period, the court must consider the recommendations of the state attorney and the program administrator as to disposition of the pending charges. The court shall determine, by written finding, if the child has successfully completed the program. If unsuccessful, the court may order the child to continue in an education, treatment, or monitoring program if resources and funding are available or order that the charges revert to normal channels for prosecution. If successful, the court may dismiss the charges. If charges are dismissed, the child may, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. 943.0585, F.S. s. 985.345(5) and (6), F.S.

[65] The amendment defines the term "nonviolent felony" as "a third degree felony violation under chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08." It further specifies that, "[d]efendants charged with resisting an officer with violence under s. 843.01, battery on a law enforcement officer under s. 784.07, or aggravated assault may participate in the mental health court program if the court so orders after the victim is given his or her right to provide testimony or written statement to the court as provided in s. 921.143." ss. 948.01(8)(a),) and 948.06(2)(j)1., F.S.

[66] When a post-adjudicatory treat-based MCHP is ordered, the original sentencing court must relinquish jurisdiction of the defendant's case to the MHCP until the defendant is no longer active in the program, the case is returned to the sentencing court due to the defendant's termination from the program for failure to comply, or the defendant's sentence is completed. The Department of Corrections is authorized by the bill to establish designated mental health probation officers to support individuals under supervision of the MHCP. ss. 948.01(8)(b) and (c) and 948.06(2)(j)2., F.S.

Transfer to Participate in a Problem-Solving Court

The bill amends the definition of "problem-solving court" set forth in s. 910.035(5), F.S., to: (a) clarify that under existing law service members are included in "veterans' courts"; (b) make conforming changes for the bill's authorization of MHCPs by specifying the citations for the sections of law created or amended by the bill to reference mental health courts; and (c) add delinquency pretrial intervention court programs under s. 985.345, F.S.

Involuntary Outpatient Placement

Currently, only circuit court judges have the authority to order an individual into involuntary outpatient placement. The bill amends s. 394.4566, F.S., to authorize county court judges exercising original jurisdiction in a misdemeanor cases to order individuals into involuntary outpatient treatment if criteria is met.

Child Welfare

The bill makes conforming changes to child welfare statutes to incorporate references to mental health treatment and mental health courts.

B. SECTION DIRECTORY:

Section 1. Amending s. 39.001, F.S., relating to purposes and intent; personnel standards and screening.

Section 2. Amending s. 39.507, F.S., relating to adjudicatory hearings and orders of adjudication.

Section 3. Amending s. 39.521, F.S., relating to disposition hearings and powers of disposition.

Section 4. Amending s. 394.4655, F.S., relating to involuntary outpatient placement.

Section 5. Amending s. 394.4599, F.S., relating to notice.

Section 6. Amending s. 394.463, F.S., relating to involuntary examination.

Section 7. Amending s. 394.455, F.S., relating to definitions.

Section 8. Amending s. 394.4615, F.S., relating to clinical records and confidentiality.

Section 9. Amending s. 394.47891, F.S., relating to military veterans and servicemembers court programs.

Section 10. Creating s. 394.47892, F.S., relating to treatment-based mental health court programs.

Section 11. Amending s. 910.035(5), F.S., relating to transfer for participation in a problem-solving court.

Section 12. Creating s. 916.185, F.S., relating to the Forensic Hospital Diversion Pilot Program.

Section 13. Amending s. 948.001, F.S., relating to when a court may place a defendant on probation or into community control.

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[67] The provisions discussed in Footnotes 56 and 57 also apply when a court orders an offender to a veterans' court program for a violation of the offender's community control or probation. s. 948.06(2)(j), F.S.

Section 14. Amending s. 948.01, F.S., relating to when court may place defendant on probation or into community control.

Section 15. Amending s. 948.06, F.S., relating to violations of probation or community control.

Section 16. Amending s. 948.08, F.S., relating to felony pretrial intervention programs.

Section 17. Amending s. 948.16, F.S., relating to misdemeanor pretrial intervention programs.

Section 18. Amending s. 948.21, F.S., relating to conditions of community control or probation for military servicemembers and veterans.

Section 19. Amending s. 985.345, F.S., relating to delinquency pretrial intervention programs.

Section 20. Reenacting s. 397.334, F.S., for the purpose of incorporating the amendments made by this act to sections 948.01, F.S. and 948.06, F.S.

Section 21. Reenacting s. 948.06, F.S., for the purpose of incorporating the amendments made by this act to sections 948.012, F.S.

Section 22. Providing an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to have any impact on state revenues.

2. Expenditures:

   This bill has an indeterminate fiscal impact to state expenditures.

   Veterans' Courts

   This bill expands the definition of the term "veteran" for purposes of veterans' courts to include veterans who were discharged or released under a general discharge. This may increase the number of veterans eligible to participate in veterans' court programs, which could increase the costs associated with these programs; however, such costs will be limited by the amount of state funds appropriated to such programs. Additionally, such costs may be offset to the extent that the need for prison beds is reduced by placement in veterans' court programs.

   Forensic Hospital Diversion Pilot Program

   The proposed legislation authorizes three pilot programs in Duval, Broward and Miami-Dade Counties. Based on this calculation, the estimated annual cost of three additional pilot programs is $4,788,000 to fund all three pilot programs. The bill directs DCF to absorb the cost of the programs within existing resources through the use of budget amendments. The redirection of $4,788,000 from existing resources could impact the availability of resources to provide services in both community and forensic mental health programs.[68]

[68] The Department of Children and Families, *Agency Legislative Bill Analysis: HB439*, Dated December 8, 2015, on file with the House Appropriations Committee.

Mental Health Court Programs

An increased number of MHCPs will increase judicial and court workload on the front end because such programs require more hearings and monitoring; however, such increase may be mitigated by a decrease in recidivism which may be generated by additional MHCPs.[69]

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill has an indeterminate fiscal impact to local government revenues.

The bill encourages counties to establish mental health court programs, and establishes guidelines for those programs. The counties which choose to establish the programs will be required to fund it with alternate sources of funding from other than the State, unless expenses are pursuant to F.S. 29.004. Since it is the option of each county court to establish such a program, the impact on revenues, if any, cannot be determined at this time.

2. Expenditures:

This bill has an indeterminate fiscal impact to local government expenditures.

This bill changes the hearing and petitioning process for continuing an involuntary outpatient treatment order. The bill requires the petition be filed or hearing be held with the court which originally issued the order, instead of the circuit court as is currently required by F.S. 394.4655(7)(a)1. This may shift an indeterminate amount of workload to county criminal courts, from the circuit courts.

This bill expands the definition of the term "veteran" for purposes of veterans' courts to include veterans who were discharged or released under a general discharge. This may increase the number of veterans eligible to participate in veterans' court programs, which could increase the costs associated with these programs for counties that choose to fund such programs. Such costs may be offset, however, to the extent that the need for jail beds is reduced by placement in veterans' court programs. The precise effect cannot be determined because these programs are discretionary with the courts and are limited by available resources.[70]

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

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[69] Office of the State Courts Administrator, *HB 439 Judicial Impact Statement*, Dated December 1, 2015, on file with the House Appropriations Committee

[70] Id.

Additionally, this bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DCF to adopt rules to administer s. 916.185, F.S., which establishes the Forensic Hospital Diversion Pilot Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 2, 2015, the Children, Families & Seniors Subcommittee adopted three amendments to HB 439. The amendments:

- Made conforming changes to child welfare statutes to incorporate references to mental health treatment and mental health courts;
- Authorized criminal county courts to order misdemeanants to involuntary outpatient placement if the misdemeanant meets the criteria for involuntary outpatient placement under s. 394.4655, F.S.;
- Removed proposed language which authorized county courts to order the conditional release of misdemeanants for the purpose of competency restoration. Per DCF's analysis, the proposed language could have created a fiscal impact of approximately $74 million.
- Defined "mental health probation";
- Amended language to align with the language utilized in the Senate companion bill, CS/SB 604.

This analysis is drafted to the committee substitute as passed by the Children, Families & Seniors Subcommittee.

A bill to be entitled

An act relating to mental health services in the criminal justice system; amending ss. 39.001, 39.507, and 39.521, F.S.; conforming provisions to changes made by the act; amending s. 394.4655, F.S.; defining the terms "court" and "criminal county court" for purposes of involuntary outpatient placement; conforming provisions to changes made by act; amending ss. 394.4599 and 394.463, F.S.; conforming provisions to changes made by act; conforming cross-references; amending s. 394.455 and 394.4615, F.S.; conforming cross-references; amending s. 394.47891, F.S.; expanding eligibility for military veterans and servicemembers court programs; creating s. 394.47892, F.S.; amending s. 910.035, F.S.; revising the definition of the term "problem-solving court"; creating s. 916.185, F.S.; creating the Forensic Hospital Diversion Pilot Program; providing legislative findings and intent; providing definitions; requiring the Department of Children and Families to implement a Forensic Hospital Diversion Pilot Program in specified judicial circuits; authorizing the department to request specified budget amendments; providing for eligibility for the program; providing legislative intent concerning training; authorizing rulemaking; amending s. 948.001, F.S.;

defining the term "mental health probation"; amending ss. 948.01 and 948.06, F.S.; authorizing courts to order certain offenders on probation or community control to postadjudicatory mental health court programs; amending s. 948.08, F.S.; expanding eligibility requirements for certain pretrial intervention programs; providing for voluntary admission into a pretrial mental health court program; creating s. 916.185, F.S.; creating the Forensic Hospital Diversion Pilot Program; providing legislative findings and intent; providing definitions; requiring the Department of Children and Families to implement a Forensic Hospital Diversion Pilot Program in specified judicial circuits; providing for eligibility for the program; providing legislative intent concerning training; authorizing rulemaking; amending ss. 948.01 and 948.06, F.S.; providing for courts to order certain defendants on probation or community control to postadjudicatory mental health court programs; amending s. 948.08, F.S.; expanding eligibility requirements for certain pretrial intervention programs; providing for voluntary admission into pretrial mental health court program; amending s. 948.16, F.S.; expanding eligibility of veterans for a misdemeanor pretrial veterans' treatment intervention program; providing

eligibility of misdemeanor defendants for a misdemeanor pretrial mental health court program; amending s. 948.21, F.S.; expanding veterans' eligibility for participating in treatment programs while on court-ordered probation or community control; amending s. 985.345, F.S.; authorizing pretrial mental health court programs for certain juvenile offenders; providing for disposition of pending charges after completion of the pretrial intervention program; reenacting s. 397.334(3)(a) and (5), F.S., relating to treatment-based drug court programs, to incorporate the amendments made by the act to ss. 948.01 and 948.06, F.S., in references thereto; reenacting s. 948.012(2)(b), F.S., relating to split sentence probation or community control and imprisonment, to incorporate the amendment made by the act to s. 948.06, F.S., in a reference thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 39.001, Florida Statutes, is amended to read:

39.001 Purposes and intent; personnel standards and screening.—

(6) MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES.—

(a) The Legislature recognizes that early referral and comprehensive treatment can help combat mental illnesses and substance abuse disorders in families and that treatment is cost-effective.

(b) The Legislature establishes the following goals for the state related to mental illness and substance abuse treatment services in the dependency process:

1. To ensure the safety of children.

2. To prevent and remediate the consequences of mental illnesses and substance abuse disorders on families involved in protective supervision or foster care and reduce the occurrences of mental illnesses and substance abuse disorders, including alcohol abuse or related disorders, for families who are at risk of being involved in protective supervision or foster care.

3. To expedite permanency for children and reunify healthy, intact families, when appropriate.

4. To support families in recovery.

(c) The Legislature finds that children in the care of the state's dependency system need appropriate health care services, that the impact of mental illnesses and substance abuse disorders on health indicates the need for health care services to include treatment for mental health and substance abuse disorders for ~~services to~~ children and parents, where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to

provide these services, the state's dependency system must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related mental illness and substance abuse problems.

(d) It is the intent of the Legislature to encourage the use of the mental health court program model established under s. 394.47892 and the drug court program model established under ~~by~~ s. 397.334 and authorize courts to assess children and persons who have custody or are requesting custody of children where good cause is shown to identify and address mental illnesses and substance abuse disorders ~~problems~~ as the court deems appropriate at every stage of the dependency process. Participation in treatment, including a mental health court program or a treatment-based drug court program, may be required by the court following adjudication. Participation in assessment and treatment before ~~prior to~~ adjudication is ~~shall be~~ voluntary, except as provided in s. 39.407(16).

(e) It is therefore the purpose of the Legislature to provide authority for the state to contract with mental health service providers and community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency system, which will be fully implemented and used as resources permit.

(f) Participation in a mental health court program or a ~~the~~ treatment-based drug court program does not divest any public or private agency of its responsibility for a child or

adult, but is intended to enable these agencies to better meet their needs through shared responsibility and resources.

Section 2. Subsection (10) of section 39.507, Florida Statutes, is amended to read:

39.507 Adjudicatory hearings; orders of adjudication.—

(10) After an adjudication of dependency, or a finding of dependency where adjudication is withheld, the court may order a person who has custody or is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The assessment or evaluation must be administered by a qualified professional, as defined in s. 397.311. The court may also require such person to participate in and comply with treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under s. 394.47892 or a treatment-based drug court program established under s. 397.334. In addition to supervision by the department, the court, including the mental health court program or treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subsection may be

made only upon good cause shown. This subsection does not authorize placement of a child with a person seeking custody, other than the parent or legal custodian, who requires mental health or substance abuse disorder treatment.

Section 3. Paragraph (b) of subsection (1) of section 39.521, Florida Statutes, is amended to read:

39.521 Disposition hearings; powers of disposition.—

(1) A disposition hearing shall be conducted by the court, if the court finds that the facts alleged in the petition for dependency were proven in the adjudicatory hearing, or if the parents or legal custodians have consented to the finding of dependency or admitted the allegations in the petition, have failed to appear for the arraignment hearing after proper notice, or have not been located despite a diligent search having been conducted.

(b) When any child is adjudicated by a court to be dependent, the court having jurisdiction of the child has the power by order to:

1. Require the parent and, when appropriate, the legal custodian and the child to participate in treatment and services identified as necessary. The court may require the person who has custody or who is requesting custody of the child to submit to a mental health or substance abuse disorder assessment or evaluation. The assessment or evaluation must be administered by a qualified professional, as defined in s. 397.311. The court may also require such person to participate in and comply with

treatment and services identified as necessary, including, when appropriate and available, participation in and compliance with a mental health court program established under s. 394.47892 or a treatment-based drug court program established under s. 397.334. In addition to supervision by the department, the court, including the mental health court program or the treatment-based drug court program, may oversee the progress and compliance with treatment by a person who has custody or is requesting custody of the child. The court may impose appropriate available sanctions for noncompliance upon a person who has custody or is requesting custody of the child or make a finding of noncompliance for consideration in determining whether an alternative placement of the child is in the child's best interests. Any order entered under this subparagraph may be made only upon good cause shown. This subparagraph does not authorize placement of a child with a person seeking custody of the child, other than the child's parent or legal custodian, who requires mental health or substance abuse disorder treatment.

2. Require, if the court deems necessary, the parties to participate in dependency mediation.

3. Require placement of the child either under the protective supervision of an authorized agent of the department in the home of one or both of the child's parents or in the home of a relative of the child or another adult approved by the court, or in the custody of the department. Protective supervision continues until the court terminates it or until the

child reaches the age of 18, whichever date is first. Protective supervision shall be terminated by the court whenever the court determines that permanency has been achieved for the child, whether with a parent, another relative, or a legal custodian, and that protective supervision is no longer needed. The termination of supervision may be with or without retaining jurisdiction, at the court's discretion, and shall in either case be considered a permanency option for the child. The order terminating supervision by the department shall set forth the powers of the custodian of the child and shall include the powers ordinarily granted to a guardian of the person of a minor unless otherwise specified. Upon the court's termination of supervision by the department, no further judicial reviews are required, so long as permanency has been established for the child.

Section 4. Subsections (1) through (7) of section 394.4655, F.S., are renumbered as subsections (2) through (8), respectively, paragraph (b) of present subsection (3), paragraph (b) of present subsection (6), and paragraphs (a) and (c) of present subsection (7) are amended, and a new subsection (1) is added to that section, to read:

394.4655 Involuntary outpatient placement.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Court" means a circuit court or a criminal county court.

(b) "Criminal county court" means a county court

exercising its original jurisdiction in a misdemeanor case under s. 34.01.

(4)~~(3)~~ PETITION FOR INVOLUNTARY OUTPATIENT PLACEMENT.—

(b) Each required criterion for involuntary outpatient placement must be alleged and substantiated in the petition for involuntary outpatient placement. A copy of the certificate recommending involuntary outpatient placement completed by a qualified professional specified in subsection (3) ~~(2)~~ must be attached to the petition. A copy of the proposed treatment plan must be attached to the petition. Before the petition is filed, the service provider shall certify that the services in the proposed treatment plan are available. If the necessary services are not available in the patient's local community to respond to the person's individual needs, the petition may not be filed.

(7)~~(6)~~ HEARING ON INVOLUNTARY OUTPATIENT PLACEMENT.—

(b)1. If the court concludes that the patient meets the criteria for involuntary outpatient placement pursuant to subsection (2) ~~(1)~~, the court shall issue an order for involuntary outpatient placement. The court order shall be for a period of up to 6 months. The order must specify the nature and extent of the patient's mental illness. The order of the court and the treatment plan shall be made part of the patient's clinical record. The service provider shall discharge a patient from involuntary outpatient placement when the order expires or any time the patient no longer meets the criteria for involuntary placement. Upon discharge, the service provider

shall send a certificate of discharge to the court.

2. The court may not order the department or the service provider to provide services if the program or service is not available in the patient's local community, if there is no space available in the program or service for the patient, or if funding is not available for the program or service. A copy of the order must be sent to the Agency for Health Care Administration by the service provider within 1 working day after it is received from the court. After the placement order is issued, the service provider and the patient may modify provisions of the treatment plan. For any material modification of the treatment plan to which the patient or the patient's guardian advocate, if appointed, does agree, the service provider shall send notice of the modification to the court. Any material modifications of the treatment plan which are contested by the patient or the patient's guardian advocate, if appointed, must be approved or disapproved by the court consistent with subsection (3) ~~(2)~~.

3. If, in the clinical judgment of a physician, the patient has failed or has refused to comply with the treatment ordered by the court, and, in the clinical judgment of the physician, efforts were made to solicit compliance and the patient may meet the criteria for involuntary examination, a person may be brought to a receiving facility pursuant to s. 394.463. If, after examination, the patient does not meet the criteria for involuntary inpatient placement pursuant to s.

394.467, the patient must be discharged from the receiving facility. The involuntary outpatient placement order shall remain in effect unless the service provider determines that the patient no longer meets the criteria for involuntary outpatient placement or until the order expires. The service provider must determine whether modifications should be made to the existing treatment plan and must attempt to continue to engage the patient in treatment. For any material modification of the treatment plan to which the patient or the patient's guardian advocate, if appointed, does agree, the service provider shall send notice of the modification to the court. Any material modifications of the treatment plan which are contested by the patient or the patient's guardian advocate, if appointed, must be approved or disapproved by the court consistent with subsection (3) ~~(2)~~.

(8) ~~(7)~~ PROCEDURE FOR CONTINUED INVOLUNTARY OUTPATIENT PLACEMENT.—

(a)1. If the person continues to meet the criteria for involuntary outpatient placement, the service provider shall, before the expiration of the period during which the treatment is ordered for the person, file in the ~~circuit~~ court that issued the order for involuntary outpatient treatment a petition for continued involuntary outpatient placement.

2. The existing involuntary outpatient placement order remains in effect until disposition on the petition for continued involuntary outpatient placement.

3. A certificate shall be attached to the petition which includes a statement from the person's physician or clinical psychologist justifying the request, a brief description of the patient's treatment during the time he or she was involuntarily placed, and an individualized plan of continued treatment.

4. The service provider shall develop the individualized plan of continued treatment in consultation with the patient or the patient's guardian advocate, if appointed. When the petition has been filed, the clerk of the court shall provide copies of the certificate and the individualized plan of continued treatment to the department, the patient, the patient's guardian advocate, the state attorney, and the patient's private counsel or the public defender.

(c) Hearings on petitions for continued involuntary outpatient placement shall be before the ~~circuit~~ court that issued the order for involuntary outpatient treatment. The court may appoint a master to preside at the hearing. The procedures for obtaining an order pursuant to this paragraph shall be in accordance with subsection (7) ~~(6)~~, except that the time period included in paragraph (2)(e) ~~(1)(e)~~ is not applicable in determining the appropriateness of additional periods of involuntary outpatient placement.

Section 5. Paragraph (d) of subsection (2) of section 394.4599, Florida Statutes, is amended to read:

394.4599 Notice.—

(2) INVOLUNTARY ADMISSION.—

(d) The written notice of the filing of the petition for involuntary placement of an individual being held must contain the following:

1. Notice that the petition for:

a. Involuntary inpatient treatment pursuant to s. 394.467 has been filed with the circuit court in the county in which the individual is hospitalized and the address of such court; or

b. Involuntary outpatient treatment pursuant to s. 394.4655 has been filed with the criminal county court, as defined in s. 394.4655(1), or the circuit court, as applicable, in the county in which the individual is hospitalized and the address of such court.

2. Notice that the office of the public defender has been appointed to represent the individual in the proceeding, if the individual is not otherwise represented by counsel.

3. The date, time, and place of the hearing and the name of each examining expert and every other person expected to testify in support of continued detention.

4. Notice that the individual, the individual's guardian, guardian advocate, health care surrogate or proxy, or representative, or the administrator may apply for a change of venue for the convenience of the parties or witnesses or because of the condition of the individual.

5. Notice that the individual is entitled to an independent expert examination and, if the individual cannot afford such an examination, that the court will provide for one.

Section 6. Paragraphs (g) and (i) of subsection (2) of section 394.463, Florida Statutes, are amended to read:

394.463 Involuntary examination.—

(2) INVOLUNTARY EXAMINATION.—

(g) A person for whom an involuntary examination has been initiated who is being evaluated or treated at a hospital for an emergency medical condition specified in s. 395.002 must be examined by a receiving facility within 72 hours. The 72-hour period begins when the patient arrives at the hospital and ceases when the attending physician documents that the patient has an emergency medical condition. If the patient is examined at a hospital providing emergency medical services by a professional qualified to perform an involuntary examination and is found as a result of that examination not to meet the criteria for involuntary outpatient placement pursuant to s. 394.4655(2) ~~394.4655(1)~~ or involuntary inpatient placement pursuant to s. 394.467(1), the patient may be offered voluntary placement, if appropriate, or released directly from the hospital providing emergency medical services. The finding by the professional that the patient has been examined and does not meet the criteria for involuntary inpatient placement or involuntary outpatient placement must be entered into the patient's clinical record. Nothing in this paragraph is intended to prevent a hospital providing emergency medical services from appropriately transferring a patient to another hospital prior to stabilization, provided the requirements of s. 395.1041(3)(c)

have been met.

(i) Within the 72-hour examination period or, if the 72 hours ends on a weekend or holiday, no later than the next working day thereafter, one of the following actions must be taken, based on the individual needs of the patient:

1. The patient shall be released, unless he or she is charged with a crime, in which case the patient shall be returned to the custody of a law enforcement officer;

2. The patient shall be released, subject to the provisions of subparagraph 1., for voluntary outpatient treatment;

3. The patient, unless he or she is charged with a crime, shall be asked to give express and informed consent to placement as a voluntary patient, and, if such consent is given, the patient shall be admitted as a voluntary patient; or

4. A petition for involuntary placement shall be filed in the circuit court if ~~when outpatient or~~ inpatient treatment is deemed necessary or with the criminal county court, as defined in s. 394.4655(1), as applicable. If ~~When~~ inpatient treatment is deemed necessary, the least restrictive treatment consistent with the optimum improvement of the patient's condition shall be made available. When a petition is to be filed for involuntary outpatient placement, it shall be filed by one of the petitioners specified in s. 394.4655(4)(a) ~~394.4655(3)(a)~~. A petition for involuntary inpatient placement shall be filed by the facility administrator.

Section 7. Subsection (34) of section 394.455, Florida Statutes, is amended to read:

394.455 Definitions.—As used in this part, unless the context clearly requires otherwise, the term:

(34) "Involuntary examination" means an examination performed under s. 394.463 to determine if an individual qualifies for involuntary inpatient treatment under s. 394.467(1) or involuntary outpatient treatment under s. 394.4655(2) ~~394.4655(1)~~.

Section 8. Subsection (3) of section 394.4615, Florida Statutes, is amended to read:

394.4615 Clinical records; confidentiality.—

(3) Information from the clinical record may be released in the following circumstances:

(a) When a patient has declared an intention to harm other persons. When such declaration has been made, the administrator may authorize the release of sufficient information to provide adequate warning to the person threatened with harm by the patient.

(b) When the administrator of the facility or secretary of the department deems release to a qualified researcher as defined in administrative rule, an aftercare treatment provider, or an employee or agent of the department is necessary for treatment of the patient, maintenance of adequate records, compilation of treatment data, aftercare planning, or evaluation of programs.

For the purpose of determining whether a person meets the criteria for involuntary outpatient placement or for preparing the proposed treatment plan pursuant to s. 394.4655, the clinical record may be released to the state attorney, the public defender or the patient's private legal counsel, the court, and to the appropriate mental health professionals, including the service provider identified in s. 394.4655(7)(b)2. ~~394.4655(6)(b)2.~~, in accordance with state and federal law.

Section 9. Section 394.47891, Florida Statutes, is amended to read:

394.47891 Military veterans and servicemembers court programs.—The chief judge of each judicial circuit may establish a Military Veterans and Servicemembers Court Program under which veterans, as defined in s. 1.01, including veterans who were discharged or released under a general discharge, and servicemembers, as defined in s. 250.01, who are charged or convicted of a criminal offense and who suffer from a military-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem can be sentenced in accordance with chapter 921 in a manner that appropriately addresses the severity of the mental illness, traumatic brain injury, substance abuse disorder, or psychological problem through services tailored to the individual needs of the participant. Entry into any Military Veterans and Servicemembers Court Program must be based upon the sentencing court's

assessment of the defendant's criminal history, military service, substance abuse treatment needs, mental health treatment needs, amenability to the services of the program, the recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.

Section 10. Section 394.47892, Florida Statutes, is created to read:

394.47892 Mental health court programs.—

(1) Each county may fund a mental health court program under which a defendant in the justice system assessed with a mental illness shall be processed in such a manner as to appropriately address the severity of the identified mental illness through treatment services tailored to the individual needs of the participant. The Legislature intends to encourage the department, the Department of Corrections, the Department of Juvenile Justice, the Department of Health, the Department of Law Enforcement, the Department of Education, and other such agencies, local governments, law enforcement agencies, interested public or private entities, and individuals to support the creation and establishment of problem-solving court programs. Participation in a mental health court program does not relieve a public or private agency of its responsibility for a child or an adult, but enables such agency to better meet the child's or adult's needs through shared responsibility and resources.

(2) Mental health court programs may include pretrial

intervention programs as provided in ss. 948.08, 948.16, and 985.345, postadjudicatory mental health court programs as provided in ss. 948.01 and 948.06, and review of the status of compliance or noncompliance of sentenced defendants through a mental health court program.

(3) Entry into a pretrial mental health court program is voluntary.

(4)(a) Entry into a postadjudicatory mental health court program as a condition of probation or community control pursuant to s. 948.01 or s. 948.06 must be based upon the sentencing court's assessment of the defendant's criminal history, mental health screening outcome, amenability to the services of the program, and total sentence points; the recommendation of the state attorney and the victim, if any; and the defendant's agreement to enter the program.

(b) A defendant who is sentenced to a postadjudicatory mental health court program and who, while a mental health court program participant, is the subject of a violation of probation or community control under s. 948.06 shall have the violation of probation or community control heard by the judge presiding over the postadjudicatory mental health court program. After a hearing on or admission of the violation, the judge shall dispose of any such violation as he or she deems appropriate if the resulting sentence or conditions are lawful.

(5)(a) Contingent upon an annual appropriation by the Legislature, the state courts system shall establish, at a

minimum, one coordinator position in each mental health court program to coordinate the responsibilities of the participating agencies and service providers. Each coordinator shall provide direct support to the mental health court program by providing coordination between the multidisciplinary team and the judiciary, providing case management, monitoring compliance of the participants in the mental health court program with court requirements, and managing the collection of data for program evaluation and accountability.

(b) Each mental health court program shall collect sufficient client-level data and programmatic information for purposes of program evaluation. Client-level data includes primary offenses that resulted in the mental health court program referral or sentence, treatment compliance, completion status and reasons for failure to complete, offenses committed during treatment and the sanctions imposed, frequency of court appearances, and units of service. Programmatic information includes referral and screening procedures, eligibility criteria, type and duration of treatment offered, and residential treatment resources. The programmatic information and aggregate data on the number of mental health court program admissions and terminations by type of termination shall be reported annually by each mental health court program to the Office of the State Courts Administrator.

(6) If a county chooses to fund a mental health court program, the county must secure funding from sources other than

the state for those costs not otherwise assumed by the state pursuant to s. 29.004. However, this subsection does not preclude counties from using funds for treatment and other services provided through state executive branch agencies. Counties may provide, by interlocal agreement, for the collective funding of these programs.

(7) The chief judge of each judicial circuit may appoint an advisory committee for the mental health court program. The committee shall be composed of the chief judge, or his or her designee, who shall serve as chair; the judge or judges of the mental health court program, if not otherwise designated by the chief judge as his or her designee; the state attorney, or his or her designee; the public defender, or his or her designee; the mental health court program coordinator or coordinators; community representatives; treatment representatives; and any other persons who the chair deems appropriate.

Section 11. Paragraph (a) of subsection (5) of section 910.035, Florida Statutes, is amended to read:

910.035 Transfer from county for plea, sentence, or participation in a problem-solving court.—

(5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—

(a) For purposes of this subsection, the term "problem-solving court" means a drug court pursuant to s. 948.01, s. 948.06, s. 948.08, s. 948.16, or s. 948.20; a military veterans' and servicemembers' court pursuant to s. 394.47891, s. 948.08,

s. 948.16, or s. 948.21; ~~or~~ a mental health court program pursuant to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16; or a delinquency pretrial intervention court program pursuant to s. 985.345.

Section 12. Section 916.185, Florida Statutes, is created to read:

916.185 Forensic Hospital Diversion Pilot Program.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds that many jail inmates who have serious mental illnesses and who are committed to state forensic mental health treatment facilities for restoration of competency to proceed could be served more effectively and at less cost in community-based alternative programs. The Legislature further finds that many people who have serious mental illnesses and who have been discharged from state forensic mental health treatment facilities could avoid returning to the criminal justice and forensic mental health systems if they received specialized treatment in the community. Therefore, it is the intent of the Legislature to create the Forensic Hospital Diversion Pilot Program to serve offenders who have mental illnesses or co-occurring mental illnesses and substance use disorders and who are involved in or at risk of entering state forensic mental health treatment facilities, prisons, jails, or state civil mental health treatment facilities.

(2) DEFINITIONS.—As used in this section, the term:

(a) "Best practices" means treatment services that

incorporate the most effective and acceptable interventions available in the care and treatment of offenders who are diagnosed as having mental illnesses or co-occurring mental illnesses and substance use disorders.

(b) "Community forensic system" means the community mental health and substance use forensic treatment system, including the comprehensive set of services and supports provided to offenders involved in or at risk of becoming involved in the criminal justice system.

(c) "Evidence-based practices" means interventions and strategies that, based on the best available empirical research, demonstrate effective and efficient outcomes in the care and treatment of offenders who are diagnosed as having mental illnesses or co-occurring mental illnesses and substance use disorders.

(3) CREATION.—There is created a Forensic Hospital Diversion Pilot Program to provide competency-restoration and community-reintegration services in either a locked residential treatment facility when appropriate or a community-based facility based on considerations of public safety, the needs of the individual, and available resources.

(a) The department shall implement a Forensic Hospital Diversion Pilot Program modeled after the Miami-Dade Forensic Alternative Center, taking into account local needs and resources in Duval County, in conjunction with the Fourth Judicial Circuit in Duval County; in Broward County, in

conjunction with the Seventeenth Judicial Circuit in Broward County; and in Miami-Dade County, in conjunction with the Eleventh Judicial Circuit in Miami-Dade County.

(b) The department shall include a comprehensive continuum of care and services that use evidence-based practices and best practices to treat offenders who have mental health and co-occurring substance use disorders.

(c) The department and the corresponding judicial circuits shall implement this section. The department may request budget amendments pursuant to chapter 216 to realign funds between mental health services and community substance abuse and mental health services in order to implement this pilot program.

(4) ELIGIBILITY.—Participation in the Forensic Hospital Diversion Pilot Program is limited to offenders who:

(a) Are 18 years of age or older.

(b) Are charged with a felony of the second degree or a felony of the third degree.

(c) Do not have a significant history of violent criminal offenses.

(d) Are adjudicated incompetent to proceed to trial or not guilty by reason of insanity pursuant to this part.

(e) Meet public safety and treatment criteria established by the department for placement in a community setting.

(f) Otherwise would be admitted to a state mental health treatment facility.

(5) TRAINING.—The Legislature encourages the Florida

Supreme Court, in consultation and cooperation with the Florida Supreme Court Task Force on Substance Abuse and Mental Health Issues in the Courts, to develop educational training for judges in the pilot program areas which focuses on the community forensic system.

(6) RULEMAKING.—The department may adopt rules to administer this section.

Section 13. Subsections (6) through (13) of section 948.001, Florida Statutes, are renumbered as subsections (7) through (14), respectively, and a new subsection (6) is added to that section, to read:

948.001 Definitions.—As used in this chapter, the term:

(6) "Mental health probation" means a form of specialized supervision that emphasizes mental health treatment and working with treatment providers to focus on underlying mental health disorders and compliance with a prescribed psychotropic medication regimen in accordance with individualized treatment plans. Mental health probation shall be supervised by officers with restricted caseloads who are sensitive to the unique needs of individuals with mental health disorders, and who will work in tandem with community mental health case managers assigned to the defendant. Caseloads of such officers should be restricted to a maximum of 50 cases per officer in order to ensure an adequate level of staffing and supervision.

Section 14. Subsection (8) is added to section 948.01, Florida Statutes, to read:

948.01 When court may place defendant on probation or into community control.—

(8)(a) Notwithstanding s. 921.0024 and effective for offenses committed on or after July 1, 2016, the sentencing court may place the defendant into a postadjudicatory mental health court program if the offense is a nonviolent felony, the defendant is amenable to mental health treatment, including taking prescribed medications, and the defendant is otherwise qualified under s. 394.47892(4). The satisfactory completion of the program must be a condition of the defendant's probation or community control. As used in this subsection, the term "nonviolent felony" means a third degree felony violation under chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08. Defendants charged with resisting an officer with violence under s. 843.01, battery on a law enforcement officer under s. 784.07, or aggravated assault may participate in the mental health court program if the court so orders after the victim is given his or her right to provide testimony or written statement to the court as provided in s. 921.143.

(b) The defendant must be fully advised of the purpose of the mental health court program and the defendant must agree to enter the program. The original sentencing court shall relinquish jurisdiction of the defendant's case to the postadjudicatory mental health court program until the defendant is no longer active in the program, the case is returned to the

sentencing court due to the defendant's termination from the program for failure to comply with the terms thereof, or the defendant's sentence is completed.

(c) The Department of Corrections may establish designated and trained mental health probation officers to support individuals under supervision of the mental health court program.

Section 15. Paragraph (j) is added to subsection (2) of section 948.06, Florida Statutes, to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(2)

(j)1. Notwithstanding s. 921.0024 and effective for offenses committed on or after July 1, 2016, the court may order the offender to successfully complete a postadjudicatory mental health court program under s. 394.47892 or a military veterans and servicemembers court program under s. 394.47891 if:

a. The court finds or the offender admits that the offender has violated his or her community control or probation;

b. The underlying offense is a nonviolent felony. As used in this subsection, the term "nonviolent felony" means a third degree felony violation under chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08. Offenders charged with resisting an officer with violence under s. 843.01, battery on a law enforcement officer under s. 784.07,

or aggravated assault may participate in the mental health court program if the court so orders after the victim is given his or her right to provide testimony or written statement to the court as provided in s. 921.143;

c. The court determines that the offender is amenable to the services of a postadjudicatory mental health court program, including taking prescribed medications, or a military veterans and servicemembers court program;

d. The court explains the purpose of the program to the offender and the offender agrees to participate; and

e. The offender is otherwise qualified to participate in a postadjudicatory mental health court program under s. 394.47892(4) or a military veterans and servicemembers court program under s. 394.47891.

2. After the court orders the modification of community control or probation, the original sentencing court shall relinquish jurisdiction of the offender's case to the postadjudicatory mental health court program until the offender is no longer active in the program, the case is returned to the sentencing court due to the offender's termination from the program for failure to comply with the terms thereof, or the offender's sentence is completed.

Section 16. Subsection (8) of section 948.08, Florida Statutes, is renumbered as subsection (9), paragraph (a) of subsection (7) is amended, and a new subsection (8) is added to that section, to read:

948.08 Pretrial intervention program.—

(7)(a) Notwithstanding any provision of this section, a person who is charged with a felony, other than a felony listed in s. 948.06(8)(c), and identified as a veteran, as defined in s. 1.01, including a veteran who is discharged or released under a general discharge, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, is eligible for voluntary admission into a pretrial veterans' treatment intervention program approved by the chief judge of the circuit, upon motion of either party or the court's own motion, except:

1. If a defendant was previously offered admission to a pretrial veterans' treatment intervention program at any time before trial and the defendant rejected that offer on the record, the court may deny the defendant's admission to such a program.

2. If a defendant previously entered a court-ordered veterans' treatment program, the court may deny the defendant's admission into the pretrial veterans' treatment program.

(8)(a) Notwithstanding any provision of this section, a defendant is eligible for voluntary admission into a pretrial mental health court program established pursuant to s. 394.47892 and approved by the chief judge of the circuit for a period to be determined by the court, based on the clinical needs of the defendant, upon motion of either party or the court's own motion

if:

1. The defendant is identified as having a mental illness;

2. The defendant has not been convicted of a felony; and

3. The defendant is charged with:

a. A nonviolent felony that includes a third degree felony violation of chapter 810 or any other felony offense that is not a forcible felony as defined in s. 776.08;

b. Resisting an officer with violence under s. 843.01, if the law enforcement officer and state attorney consent to the defendant's participation;

c. Battery on a law enforcement officer under s. 784.07, if the law enforcement officer and state attorney consent to the defendant's participation; or

d. Aggravated assault, if the victim and state attorney consent to the defendant's participation.

(b) At the end of the pretrial intervention period, the court shall consider the recommendation of the program administrator and the recommendation of the state attorney as to disposition of the pending charges. The court shall determine, by written finding, whether the defendant has successfully completed the pretrial intervention program. If the court finds that the defendant has not successfully completed the pretrial intervention program, the court may order the person to continue in education and treatment, which may include a mental health program offered by a licensed service provider, as defined in s. 394.455, or order that the charges revert to normal channels for

prosecution. The court shall dismiss the charges upon a finding that the defendant has successfully completed the pretrial intervention program.

Section 17. Subsections (3) and (4) of section 948.16, Florida Statutes, are renumbered as subsections (4) and (5), respectively, paragraph (a) of subsection (2) and present subsection (4) of that section are amended, and a new subsection (3) is added to that section, to read:

948.16 Misdemeanor pretrial substance abuse education and treatment intervention program; misdemeanor pretrial veterans' treatment intervention program; misdemeanor pretrial mental health court program.—

(2)(a) A veteran, as defined in s. 1.01, including a veteran who is discharged or released under a general discharge, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, and who is charged with a misdemeanor is eligible for voluntary admission into a misdemeanor pretrial veterans' treatment intervention program approved by the chief judge of the circuit, for a period based on the program's requirements and the treatment plan for the offender, upon motion of either party or the court's own motion. However, the court may deny the defendant admission into a misdemeanor pretrial veterans' treatment intervention program if the defendant has previously entered a court-ordered veterans' treatment program.

(3) A defendant who is charged with a misdemeanor and identified as having a mental illness is eligible for voluntary admission into a misdemeanor pretrial mental health court program established pursuant to s. 394.47892, approved by the chief judge of the circuit, for a period to be determined by the court, based on the clinical needs of the defendant, upon motion of either party or the court's own motion.

(5)~~(4)~~ Any public or private entity providing a pretrial substance abuse education and treatment program or mental health court program under this section shall contract with the county or appropriate governmental entity. The terms of the contract shall include, but not be limited to, the requirements established for private entities under s. 948.15(3). This requirement does not apply to services provided by the Department of Veterans' Affairs or the United States Department of Veterans Affairs.

Section 18. Section 948.21, Florida Statutes, is amended to read:

948.21 Condition of probation or community control; military servicemembers and veterans.—

(1) Effective for a probationer or community controllee whose crime is ~~was~~ committed on or after July 1, 2012, and who is a veteran, as defined in s. 1.01, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, the court may, in addition

to any other conditions imposed, impose a condition requiring the probationer or community controllee to participate in a treatment program capable of treating the probationer's ~~probationer~~ or community controllee's mental illness, traumatic brain injury, substance abuse disorder, or psychological problem.

(2) Effective for a probationer or community controllee whose crime is committed on or after July 1, 2016, and who is a veteran, as defined in s. 1.01, including a veteran who is discharged or released under a general discharge, or servicemember, as defined in s. 250.01, who suffers from a military service-related mental illness, traumatic brain injury, substance abuse disorder, or psychological problem, the court may, in addition to any other conditions imposed, impose a condition requiring the probationer or community controllee to participate in a treatment program capable of treating the probationer or community controllee's mental illness, traumatic brain injury, substance abuse disorder, or psychological problem.

(3) The court shall give preference to treatment programs for which the probationer or community controllee is eligible through the United States Department of Veterans Affairs or the Florida Department of Veterans' Affairs. The Department of Corrections is not required to spend state funds to implement this section.

Section 19. Subsection (3) of section 985.345, Florida

Statutes, is amended, subsection (4) is renumbered as subsection (7) and amended, and new subsections (4) through (6) are added to that section, to read:

985.345 Delinquency pretrial intervention program.—

(3) At the end of the delinquency pretrial intervention period, the court shall consider the recommendation of the state attorney and the program administrator as to disposition of the pending charges. The court shall determine, by written finding, whether the child has successfully completed the delinquency pretrial intervention program. Notwithstanding the coordinated strategy developed by a drug court team pursuant to s. 397.334(4), if the court finds that the child has not successfully completed the delinquency pretrial intervention program, the court may order the child to continue in an education, treatment, or drug testing ~~urine monitoring~~ program if resources and funding are available or order that the charges revert to normal channels for prosecution. The court may dismiss the charges upon a finding that the child has successfully completed the delinquency pretrial intervention program.

(4) Notwithstanding any other provision of law, a child who has been identified as having a mental illness and who has not been previously adjudicated for a felony is eligible for voluntary admission into a delinquency pretrial mental health court program, established pursuant to s. 394.47892, approved by the chief judge of the circuit, for a period to be determined by the court, based on the clinical needs of the child, upon motion

of either party or the court's own motion if the child is charged with:

(a) A misdemeanor;

(b) A nonviolent felony; as defined in s. 948.01(8);

(c) Resisting an officer with violence under s. 843.01, if the law enforcement officer and state attorney consent to the child's participation;

(d) Battery on a law enforcement officer under 784.07, if the law enforcement officer and state attorney consent to the child's participation; or

(e) Aggravated assault, if the victim and state attorney consent to the child's participation.

(5) At the end of the delinquency pretrial intervention period, the court shall consider the recommendation of the state attorney and the program administrator as to disposition of the pending charges. The court shall determine, by written finding, whether the child has successfully completed the delinquency pretrial intervention program. If the court finds that the child has not successfully completed the delinquency pretrial intervention program, the court may order the child to continue in an education, treatment, or monitoring program if resources and funding are available or order that the charges revert to normal channels for prosecution. The court may dismiss the charges upon a finding that the child has successfully completed the delinquency pretrial intervention program.

(6) A child whose charges are dismissed after successful

completion of the mental health court program, if otherwise eligible, may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged under s. 943.0585.

(7)~~(4)~~ Any entity, whether public or private, providing pretrial substance abuse education, treatment intervention, drug testing, or a mental health court ~~and a urine monitoring~~ program under this section must contract with the county or appropriate governmental entity, and the terms of the contract must include, but need not be limited to, the requirements established for private entities under s. 948.15(3). It is the intent of the Legislature that public or private entities providing substance abuse education and treatment intervention programs involve the active participation of parents, schools, churches, businesses, law enforcement agencies, and the department or its contract providers.

Section 20. For the purpose of incorporating the amendments made by this act to sections 948.01 and 948.06, Florida Statutes, in references thereto, paragraph (a) of subsection (3) and subsection (5) of section 397.334, Florida Statutes, are reenacted to read:

397.334 Treatment-based drug court programs.—

(3)(a) Entry into any postadjudicatory treatment-based drug court program as a condition of probation or community control pursuant to s. 948.01, s. 948.06, or s. 948.20 must be based upon the sentencing court's assessment of the defendant's criminal history, substance abuse screening outcome, amenability

to the services of the program, total sentence points, the recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.

(5) Treatment-based drug court programs may include pretrial intervention programs as provided in ss. 948.08, 948.16, and 985.345, treatment-based drug court programs authorized in chapter 39, postadjudicatory programs as provided in ss. 948.01, 948.06, and 948.20, and review of the status of compliance or noncompliance of sentenced offenders through a treatment-based drug court program. While enrolled in a treatment-based drug court program, the participant is subject to a coordinated strategy developed by a drug court team under subsection (4). The coordinated strategy may include a protocol of sanctions that may be imposed upon the participant for noncompliance with program rules. The protocol of sanctions may include, but is not limited to, placement in a substance abuse treatment program offered by a licensed service provider as defined in s. 397.311 or in a jail-based treatment program or serving a period of secure detention under chapter 985 if a child or a period of incarceration within the time limits established for contempt of court if an adult. The coordinated strategy must be provided in writing to the participant before the participant agrees to enter into a treatment-based drug court program.

Section 21. For the purpose of incorporating the amendment made by this act to section 948.06, Florida Statutes, in a

reference thereto, paragraph (b) of subsection (2) of section 948.012, Florida Statutes, is reenacted to read:

948.012 Split sentence of probation or community control and imprisonment.—

(2) The court may also impose a split sentence whereby the defendant is sentenced to a term of probation which may be followed by a period of incarceration or, with respect to a felony, into community control, as follows:

(b) If the offender does not meet the terms and conditions of probation or community control, the court may revoke, modify, or continue the probation or community control as provided in s. 948.06. If the probation or community control is revoked, the court may impose any sentence that it could have imposed at the time the offender was placed on probation or community control. The court may not provide credit for time served for any portion of a probation or community control term toward a subsequent term of probation or community control. However, the court may not impose a subsequent term of probation or community control which, when combined with any amount of time served on preceding terms of probation or community control for offenses pending before the court for sentencing, would exceed the maximum penalty allowable as provided in s. 775.082. Such term of incarceration shall be served under applicable law or county ordinance governing service of sentences in state or county jurisdiction. This paragraph does not prohibit any other sanction provided by law.

Section 22. This act shall take effect July 1, 2016.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

Committee/Subcommittee hearing bill: Appropriations Committee
Representative McBurney offered the following:

Amendment (with title amendment)

Remove lines 620-636 and insert:

(a) The department may implement a Forensic Hospital Diversion Pilot Program modeled after the Miami-Dade Forensic Alternative Center, taking into account local needs and resources in Duval County, in conjunction with the Fourth Judicial Circuit in Duval County; in Broward County, in conjunction with the Seventeenth Judicial Circuit in Broward County; and in Miami-Dade County, in conjunction with the Eleventh Judicial Circuit in Miami-Dade County.

(b) If the department elects to create and implement the program the department shall include a comprehensive continuum of care and services that use evidence-based practices and best

practices to treat offenders who have mental health and co-occurring substance use disorders.

(c) The department and the corresponding judicial circuits may implement this section if existing resources are available to do so on a recurring basis. The department may request budget amendments pursuant to chapter 216 to realign funds between mental health services and community substance abuse and mental health services in order to implement this pilot program.

T I T L E A M E N D M E N T

Remove line 20 and insert:
definitions; authorizing the Department of Children and

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 527 Scrutinized Companies
SPONSOR(S): Workman, Moskowitz, Rader, and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/CS/SB 86

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	12 Y, 0 N	Moore	Williamson
2) Appropriations Committee		Delaney JHD	Leznoff
3) State Affairs Committee			

SUMMARY ANALYSIS

The State Board of Administration (SBA) has responsibility for oversight of the Florida Retirement System (FRS) Pension Plan investments and the FRS Investment Plan, which represent approximately $153.8 billion, or 87.1 percent, of the $176.5 billion in assets managed by the SBA. The SBA's ability to invest the FRS assets is governed by a "legal list" of the types of investments and the total percentage of funds that may be invested in each type. In 2007, the Legislature unanimously passed the Protecting Florida's Investment Act, which required the SBA to identify and divest of companies with certain business operations in Sudan or Iran.

Chapter 287, F.S., regulates state agency procurement of personal property and services. Depending on the cost and characteristics of the needed goods or services, agencies may utilize a variety of procurement methods. Current law prohibits a company with certain business operations in Sudan or Iran or that is engaged in business operations in Cuba or Syria from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local governmental entity for goods or services of $1 million or more.

The Boycott, Divestment, and Sanctions (BDS) Movement is a global campaign targeting Israel in an attempt to increase economic and political pressure on the country to comply with the movement's stated goals. The BDS Movement promotes the boycott, divestment, and sanction of Israel and has gained support from many academics, trade unions, political parties, and citizens around the world. However, opposition to the movement is widespread, and critics have claimed the movement is ineffective, immoral, based on false or biased information, and could end up harming the Palestinian cause. In response to the BDS Movement, some states have enacted legislation that condemns BDS activities.

The bill defines "boycott Israel" to mean refusing to deal with, terminating business activities with, or taking other actions intended to penalize, inflict economic harm, or otherwise limit commercial relations with Israel or persons or entities doing business in Israel or in Israeli-controlled territories for reasons other than business, investment, or commercial reasons

The bill requires the SBA to identify and create a list of all companies that boycott Israel in which the SBA, on behalf of the FRS trust fund, has direct or indirect holdings or could possibly have such holdings in the future. The SBA is prohibited from acquiring securities of companies on the list, with certain exceptions.

The bill also prohibits a company on the list from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local governmental entity for goods or services of $1 million or more, with certain exceptions.

The bill may have an indeterminate fiscal impact on the private sector, the state, and local governments. *See* Fiscal Comments section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

State Board of Administration

The State Board of Administration (SBA or board) is established by Art. IV, s. 4(e) of the State Constitution and is composed of the Governor, the Chief Financial Officer, and the Attorney General. The board members are commonly referred to as "Trustees." The SBA derives its powers to oversee state funds from Art. XII, s. 9 of the Constitution.

The SBA has responsibility for oversight of the Florida Retirement System (FRS) Pension Plan investments and the FRS Investment Plan,[1] which represent approximately $153.8 billion, or 87.1 percent, of the $176.5 billion in assets managed by the SBA, as of October 31, 2015.[2] The SBA also manages more than 30 other investment portfolios with combined assets of $22.9 billion, including the Florida Hurricane Catastrophe Fund, the Florida Lottery Fund, the Florida Pre-Paid College Plan, and various debt-service accounts for state bond issues.[3]

Investments

Investment decisions for the pension plan are made by fiduciaries hired by the state. Under Florida law, an SBA fiduciary charged with an investment decision must act as a prudent expert would under similar circumstances, taking into account all relevant substantive factors. A nine-member Investment Advisory Council provides recommendations on investment policy, strategy, and procedures.[4]

The SBA's ability to invest the FRS assets is governed by s. 215.47, F.S., which provides a "legal list" of the types of investments and the total percentage that may be invested in each type. Some "legal list" guidelines specific to the pension plan provide:

- No more than 80 percent of assets should be invested in domestic common stocks.
- No more than 75 percent of assets should be invested in internally managed common stocks.
- No more than 3 percent of equity assets should be invested in the equity securities of any one corporation, except to the extent a higher percentage of the same issue is included in a nationally recognized market index, based on market values, or except upon a specific finding by the board that such higher percentage is in the best interest of the fund.
- No more than 25 percent of assets should be invested in notes issued by FHA-insured or VA-guaranteed first mortgages on real property, or foreign government general obligations.
- No more than 35 percent of assets should be invested in foreign corporate or commercial securities or obligations.
- No more than 20 percent of assets should be invested in alternative investments.

Exchange-traded Funds

Exchange-traded funds (ETFs) are a type of investment product. ETFs offer investors a way to pool their money in a fund that makes investments in stocks, bonds, or other assets and, in return, to receive an interest in that investment pool. Unlike mutual funds, ETF shares are traded on a national

[1] Members in the FRS may elect to participate in the pension plan, which is a defined benefit plan, or the investment plan, which is a defined contribution plan.
[2] *See* State Board of Administration, *Performance Report to the Trustees*, October 31, 2015, *issued* December 15, 2015, p. 5-6, *available at* https://www.sbafla.com/fsb/Portals/Internet/Reports/20151031_Trustees_Performance_Reportrev.pdf.
[3] *Id.*
[4] Section 215.444, F.S.

stock exchange and at market prices that may or may not be the same as the net asset value of the shares.[5]

State Sponsors of Terrorism

Countries that are determined by the United States Secretary of State to have repeatedly provided support for acts of international terrorism are designated as "State Sponsors of Terrorism" and are subject to sanctions under the Export Administration Act, the Arms Export Control Act, and the Foreign Assistance Act.[6] The four main categories of sanctions resulting from designations under these acts are: restrictions on U.S. foreign assistance, a ban on defense exports and sales, certain controls over exports of dual use items, and miscellaneous financial and other restrictions.[7]

The three countries currently designated by the U.S. Secretary of State as "State Sponsors of Terrorism" are Iran, Sudan, and Syria.[8]

Divestment of Securities

Divestment of securities is one method of applying economic pressures to companies, groups, or countries whose practices are not condoned by shareholders. Divestment may be used in conjunction with or in lieu of other sanctioning methods, such as economic embargoes and diplomatic and military activities. Alternatively, divestment may be used as a protective device if a particular investment carries a high level of risk to the performance of a fund.

State Divestment Laws

The state has practiced divestment three times in modern history. From 1986 to 1993, the Legislature directed the SBA to divest of companies doing business with South Africa. From 1997 until 2001, the SBA made a decision to divest of 16 tobacco stocks due to pending litigation involving the state and those companies. In 2007, the Legislature unanimously passed the Protecting Florida's Investment Act (PFIA), which required the SBA to divest of companies with certain business operations in the countries of Sudan or Iran. The PFIA requires the SBA to assemble and publish a list of "Scrutinized Companies"[9] that have prohibited business operations in Sudan or Iran. Once a company

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[5] More information about ETFs can be found online at: http://www.nasdaq.com/investing/etfs/what-are-ETFs.aspx (last visited Jan. 13, 2016).

[6] U.S. Department of State, *State Sponsors of Terrorism*, http://www.state.gov/j/ct/list/c14151.htm (last visited Jan. 13, 2016).

[7] *Id.*

[8] *Id.*

[9] Section 215.473(1)(t), F.S., defines "scrutinized company" as a company that meets any of the following criteria:

1. The company has business operations that involve contracts with or provision of supplies or services to the government of Sudan, companies in which the government of Sudan has any direct or indirect equity share, consortiums or projects commissioned by the government of Sudan, or companies involved in consortiums or projects commissioned by the government of Sudan , and:

a. More than 10 percent of the company's revenues or assets linked to Sudan involve oil-related activities or mineral-extraction activities; less than 75 percent of the company's revenues or assets linked to Sudan involve contracts with or provision of oil-related or mineral-extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government; and the company has failed to take substantial action; or

b. More than 10 percent of the company's revenues or assets linked to Sudan involve power-production activities; less than 75 percent of the company's power-production activities include projects whose intent is to provide power or electricity to the marginalized populations of Sudan; and the company has failed to take substantial action.

2. The company is complicit in the Darfur genocide.

3. The company supplies military equipment within Sudan, unless it clearly shows that the military equipment cannot be used to facilitate offensive military actions in Sudan or the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict. Examples of safeguards include post-sale tracking of such equipment by the company, certification from a reputable and objective third party that such equipment is not being used by a party participating in armed conflict in Sudan, or sale of such equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

4. The company has business operations that involve contracts with or provision of supplies or services to the government of Iran, companies in which the government of Iran has any direct or indirect equity share, consortiums, or projects commissioned by the government of Iran, or companies involved in consortiums or projects commissioned by the government of Iran and:

a. More than 10 percent of the company's total revenues or assets are linked to Iran and involve oil-related activities or mineral-extraction activities; and the company has failed to take substantial action; or

is placed on the list, the SBA and its investment managers are prohibited from acquiring that company's securities and are required to divest the company's securities if the company does not cease the prohibited activities or take certain compensating actions involving petroleum or energy, oil or mineral extraction, power production, or military support activities.

Procurement of Commodities and Services

Chapter 287, F.S., regulates state agency[10] procurement of personal property and services. Depending on the cost and characteristics of the needed goods or services, agencies may utilize a variety of procurement methods that include:

- Single source contracts, which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid, which are used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- Requests for proposals, which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate, which are used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services. [11]

For contracts for commodities or services in excess of $35,000, agencies must utilize a competitive solicitation process.[12] However, specified contractual services and commodities are not subject to competitive solicitation requirements.[13]

The Department of Management Services (DMS) is statutorily designated as the central executive agency procurement authority and its responsibilities include overseeing agency implementation of the procurement process,[14] creating uniform agency procurement rules,[15] implementing the online procurement program,[16] and establishing state term contracts.[17] The agency procurement process is partly decentralized in that agencies, except in the case of state term contracts, may procure goods and services themselves in accordance with requirements set forth in statute and rule, rather than placing orders through DMS.

Prohibition against Contracting with Scrutinized Companies and Companies Engaged in Business Operations in Cuba or Syria

Current law prohibits a company that is on the Scrutinized Companies with Activities in Sudan List (Sudan List) or on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List (Iran List) or that is engaged in business operations in Cuba[18] or Syria from bidding on, submitting a

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b. The company has, with actual knowledge, on or after August 5, 1996, made an investment of $20 million or more, or any combination of investments of at least $10 million each, which in the aggregate equals or exceeds $20 million in any 12-month period, and which directly or significantly contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran.

[10] Section 287.012(1), F.S., defines the term "agency" as any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. "Agency" does not include the university and college boards of trustees or the state universities and colleges.

[11] *See ss.* 287.012(6) and 287.057(1), F.S.

[12] Section 287.057(1), F.S., requires all projects that exceed the Category Two threshold amount ($35,000) contained in s. 287.017, F.S., to be competitively procured.

[13] *See* s. 287.057(3)(e), F.S.

[14] *See* ss. 287.032 and 287.042, F.S.

[15] *See* ss. 287.032(2) and 287.042(3), (4), and (12), F.S.

[16] *See* s. 287.057(23), F.S.

[17] *See* ss. 287.042(2), 287.056, and 287.1345, F.S.

[18] The law prohibiting a company that is engaged in business operations in Cuba from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local governmental entity for goods or services of $1 million or more is known as the "Cuba Amendment" and was passed in 2012. In *Odebrecht Const., Inc. v. Secretary, Fla. Dep't of Transp.*, 715 F.3d 1268 (11th

proposal for, or entering into or renewing a contract with an agency or local governmental entity[19] for goods or services of $1 million or more.[20] A company that submits a bid or proposal for or enters into or renews such a contract must certify that the company is not on the Sudan List or the Iran List or that it does not have business operations in Cuba or Syria.[21] The certification must be submitted at the time a bid or proposal is submitted or before a contract is executed or renewed.[22] In addition, a contract for goods or services of $1 million or more entered into or renewed on or after July 1, 2012, must contain a provision that allows for the termination of the contract, at the option of the awarding body, if the company is found to have submitted a false certification, been placed on the Sudan List or the Iran List, or been engaged in business operations in Cuba or Syria.[23]

If an agency or local governmental entity determines that a company has submitted a false certification, it must provide the company with written notice, and the company has 90 days to respond in writing to such determination.[24] If the company fails to demonstrate that the determination of false certification was made in error, the awarding body must bring a civil action against the company.[25] If a civil action is brought and the court determines that the company submitted a false certification, the company must pay all reasonable attorney fees and costs (including costs for investigations that led to the finding of false certification).[26] In addition, a civil penalty equal to the greater of $2 million or twice the amount of the contract for which the false certification was submitted must be imposed.[27] The company is ineligible to bid on any contract with an agency or local governmental entity for three years after the date the agency or local governmental entity determined that the company submitted a false certification.[28] A civil action to collect the penalties must commence within three years after the date the false certification is submitted.[29]

An agency or local governmental entity is authorized to make a case-by-case exception to the contracting prohibition for a company on the Sudan List or the Iran List if all of the following occur:

- The scrutinized business operations[30] were made before July 1, 2011;
- The scrutinized business operations have not been expanded or renewed after July 1, 2011;
- The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company; and
- The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations.[31]

An agency or local governmental entity is also authorized to make a case-by-case exception to the contracting prohibition for a company engaged in business operations in Cuba or Syria if:

- The business operations were made before July 1, 2012;
- The business operations have not been expanded or renewed after July 1, 2012;

Cir. 2013), the Eleventh Circuit Court of Appeals affirmed an injunction prohibiting enforcement of the Cuba Amendment. The court found that the Cuba Amendment was preempted by extensive federal statutory and administrative sanctions and would undermine the President's discretionary authority concerning federal policy toward Cuba.

[19] Section 287.135(1)(c), F.S., defines "local governmental entity" as a county, municipality, special district, or other political subdivision of the state.

[20] Section 287.135(2), F.S.

[21] Section 287.135(5), F.S.

[22] *Id.*

[23] Section 287.135(3)(b), F.S.

[24] Section 287.135(5)(a), F.S.

[25] *Id.*

[26] *Id.*

[27] Section 287.135(5)(a)1., F.S.

[28] Section 287.135(5)(a)2., F.S.

[29] Section 287.135(5)(b), F.S.

[30] Section 215.473(1)(t), F.S., defines "scrutinized business operations" to mean business operations that result in a company becoming a scrutinized company.

[31] Section 287.135(4)(a)1., F.S.

- The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company; and
- The company has adopted, has publicized, and is implementing a formal plan to cease business operations and to refrain from engaging in any new business operations.[32]

In addition, an agency or local governmental entity may make an exception to the contracting prohibition for a company on the Sudan List, on the Iran List, or that is engaged in business operations in Cuba or Syria if one of the following occurs:

- The local governmental entity makes a public finding that, absent such an exemption, the local governmental entity would be unable to obtain the goods or services for which the contract is offered.
- For a contract with an executive agency, the Governor makes a public finding that, absent such an exemption, the agency would be unable to obtain the goods or services for which the contract is offered.
- For a contract with an office of a state constitutional officer other than the Governor, the state constitutional officer makes a public finding that, absent such an exemption, the office would be unable to obtain the goods or services for which the contract is offered.[33]

Section 287.135(8), F.S., specifies that the contracting prohibitions discussed above become inoperative on the date that federal law ceases to authorize the state to adopt and enforce such prohibitions.

Boycott, Divestment, and Sanctions against Israel

The Boycott, Divestment, and Sanctions (BDS) Movement is a global campaign targeting Israel in an attempt to increase economic and political pressure on the country to comply with the movement's stated goals, which are:

- Ending its occupation and colonization of all Arab lands occupied in June 1967 and dismantling the wall;
- Recognizing the fundamental rights of the Arab-Palestinian citizens of Israel to full equality; and
- Respecting, protecting, and promoting the rights of Palestinian refugees to return to their homes and properties as stipulated in UN Resolution 194.[34]

The BDS Movement promotes the boycott, divestment, and sanction of Israel and has gained support from many academics, trade unions, political parties, and citizens around the world.[35] However, opposition to the movement is widespread, and critics have claimed the movement is ineffective,[36] immoral,[37] based on false or biased information,[38] and could end up harming the Palestinian cause.[39]

In response to the BDS Movement, some states have enacted legislation that condemns BDS activities. In 2015, Illinois passed a law that requires state-funded retirement systems to divest of holdings in companies that boycott Israel under certain circumstances.[40] South Carolina also enacted

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[32] Section 287.135(4)(a)2., F.S.
[33] Section 287.135(4)(a)1., F.S.
[34] BDS Movement, *Introducing the BDS Movement*, http://bdsmovement.net/bdsintro (last visited Jan. 14, 2016).
[35] BDS Movement, *BDS in 2015: Seven ways our movement broke new ground against Israeli settler-colonialism and apartheid*, http://bdsmovement.net/2015/7-ways-our-movement-broke-new-ground-13634 (last visited Jan. 14, 2016).
[36] *Boycotting Israel: New pariah on the block*, THE ECONOMIST (Sept. 13, 2007), *available at* http://www.economist.com/node/9804231.
[37] Naftalia Balanson, *The Moral Argument Against BDS*, ZEEK (Nov. 29, 2010), *available at* http://zeek.forward.com/articles/117084/.
[38] *Hundreds in academic world sign anti-BDS petition*, JEWISH TELEGRAPHIC AGENCY (Sept. 22, 2014), *available at* http://www.jta.org/2014/09/22/news-opinion/united-states/hundreds-of-academics-sign-anti-bds-petition.
[39] *Chomsky says BDS tactics won't work, may be harmful to Palestinians*, THE JERUSALEM POST (July 3, 2014), *available at* http://www.jpost.com/Diplomacy-and-Politics/Chomsky-says-BDS-tactics-wont-work-may-be-harmful-to-Palestinians-361417.
[40] *Illinois Gov. Signs First Anti-BDS Bill Into Law*, THE WASHINGTON FREE BEACON (July 23, 2015), http://freebeacon.com/issues/ill-gov-signs-first-anti-bds-bill-into-law/.

anti-BDS legislation that prohibits the state or a political subdivision of the state from accepting a proposal from or procuring goods or services from a business that engages in the boycott of a person or an entity based on race, color, religion, gender, or national origin.[41] Other states, including Tennessee, Indiana, Pennsylvania, and New York, have passed resolutions condemning the BDS Movement. States considering anti-BDS legislation include Ohio, New York, and New Jersey.

In June of 2015, President Obama signed into law the first federal anti-BDS legislation. With respect to an agreement that is proposed to be entered into with the Transatlantic Trade and Investment Partnership countries, the law specifies that the principal negotiating objectives of the United States regarding commercial partnerships are the following:

- To discourage actions by potential trading partners that directly or indirectly prejudice or otherwise discourage commercial activity solely between the United States and Israel.
- To discourage politically motivated actions to boycott, divest from, or sanction Israel and to seek the elimination of politically motivated nontariff barriers on Israeli goods, services, or other commerce imposed on the State of Israel.
- To seek the elimination of state-sponsored unsanctioned foreign boycotts against Israel or compliance with the Arab League Boycott of Israel by prospective trading partners.

Effect of Proposed Changes

Prohibited Investments in Companies that Boycott Israel

The bill creates s. 215.4725, F.S., relating to prohibited investments by the SBA in companies that boycott Israel. It provides the following definitions:

- "Boycott Israel" or "boycott of Israel" means refusing to deal with, terminating business activities with, or taking other actions intended to penalize, inflict economic harm, or otherwise limit commercial relations with Israel or persons or entities doing business in Israel or in Israeli-controlled territories for reasons other than business, investment, or commercial reasons.
- "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, and parent companies, that exists for the purpose of making profit.
- "Direct holdings" in a company means all securities of that company that are held directly by the state board on behalf of the public fund or in an account or fund in which the state board, on behalf of the public fund, owns all shares or interests.
- "Indirect holdings" in a company means all securities of that company that are held in a commingled fund or other collective investment, such as a mutual fund, in which the state board, on behalf of the public fund, owns shares or interests together with other investors not subject to the newly created section or that are held in an index fund.
- "Public fund" means the System Trust Fund as defined in s. 121.021(36), F.S.[42]
- "Scrutinized companies" means companies that boycott Israel or engage in a boycott of Israel.
- "State board" means the SBA.
- "Trustees" means the Board of Trustees of the SBA.

[41] Miles Terry, *South Carolina: The First State in the Country to Stand with Israel Against the BDS Movement*, ACLJ, http://aclj.org/israel/south-carolina-the-first-state-in-the-country-to-stand-with-israel-against-the-bds-movement (last visited Jan 14, 2016).

[42] Section 121.021(36), F.S., defines "System Trust Fund" as the trust fund established in the State Treasury by ch. 121, F.S., for the purpose of holding and investing the contributions paid by FRS members and employers and paying the benefits to which members or their beneficiaries may become entitled.

By August 1, 2016, the SBA is required to make its best efforts to identify all scrutinized companies in which the SBA, on behalf of the public fund, has direct or indirect holdings or could possibly have such holdings in the future. The bill directs the SBA to use the following efforts to identify these companies:

- Reviewing and relying, as appropriate in the SBA's judgment, on publicly available information regarding companies that boycott Israel, including information provided by nonprofit organizations, research firms, international organizations, and government entities;
- Contacting asset managers contracted by the SBA, on behalf of the public fund, for information regarding companies that boycott Israel; and
- Contacting other institutional investors that prohibit such investments or that have engaged with companies that boycott Israel.

In addition, a statement by a company that it is participating in a boycott of Israel, or that it has initiated a boycott in response to a request for a boycott of Israel or in compliance with, or in furtherance of, calls for a boycott of Israel, may be considered by the SBA as evidence that a company is participating in a boycott of Israel.

Before its first meeting following the identification of scrutinized companies, the SBA must compile and make available the Scrutinized Companies that Boycott Israel List (Israel List). The SBA is required to update and make publicly available quarterly the Israel List based on evolving information from the sources used to compile the initial list as well as other sources.

The bill prohibits the SBA, on behalf of the public fund, from acquiring securities of companies on the Israel List. However, the following securities are excluded from the prohibition:

- Indirect holdings;
- Securities that are not publicly traded, which the bill deems indirect holdings;
- Alternative investments, as defined in s. 215.4401, F.S.,[43] which the bill deems indirect holdings; and
- ETFs.

For indirect holdings containing companies that boycott Israel, the SBA is required to submit letters to managers of the investment funds requesting that the managers consider removing such companies from the fund or create a similar fund having indirect holdings devoid of such companies. If the investment manager creates a similar fund, the SBA, on behalf of the public fund, is required to replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards.

The bill requires the SBA to immediately determine companies on the Israel List in which the SBA, on behalf of the public fund, owns direct or indirect holdings. For each company the SBA newly identifies after August 1, 2016, the SBA must send a written notice informing the company of its scrutinized company status and advising the company that it may become subject to investment prohibition. The notice must inform the company of the opportunity to clarify its activities regarding the boycott of Israel and encourage the company to cease the boycott within 90 days to avoid qualifying for investment prohibition. If, within 90 days after notification by the SBA, the company ceases a boycott of Israel, the company must be removed from the Israel List, and the investment prohibition may no longer apply to that company unless the company resumes a boycott of Israel.

Within 30 days after the Israel List is created, the SBA is required to file a report with each member of the trustees, the President of the Senate, and the Speaker of the House of Representatives that includes the Israel List. The report must be made available to the public.

[43] Section 215.4401(3)(a)1., F.S., defines "alternative investment" as an investment by the SBA in a private equity fund, venture fund, hedge fund, or distress fund or a direct investment in a portfolio company through an investment manager.

At each quarterly meeting of the trustees thereafter, the SBA must file a report, which must be made available to the public and to each member of the trustees, the President of the Senate, and the Speaker of the House of Representatives. This report must include the following:

- A summary of correspondence with companies identified as scrutinized companies;
- All prohibited investments;
- Any progress related to communicating with managers of indirect holdings that contain companies that boycott Israel; and
- A list of all publicly traded securities held directly by the public fund.

The SBA is required to adopt and incorporate the actions it takes to comply with the bill's investment prohibition into the SBA's investment policy statement as set forth in s. 215.475, F.S.[44]

Notwithstanding any other provision of the bill to the contrary, the SBA, on behalf of the public fund, may invest in certain scrutinized companies if clear and convincing evidence shows that the value of all the assets under management by the SBA, on behalf of the public fund, becomes equal to or less than 99.5 percent, or 50 basis points, of the hypothetical value of all assets under management by the SBA, on behalf of the public fund, assuming no investment prohibition for any scrutinized company had occurred. Cessation of the investment prohibition and any new investment in a scrutinized company is limited to the minimum steps necessary to avoid this contingency. For any cessation of the investment prohibition and new investment in a scrutinized company, the SBA must submit a written report to the trustees, the President of the Senate, and the Speaker of the House of Representatives in advance of the new investment. The report must be updated semiannually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease the investment prohibition in scrutinized companies.

Prohibition against Contracting with Companies that Boycott Israel

The bill amends current law to prohibit a company on the Israel List from bidding on, submitting a proposal for, or entering into or renewing a contract with an agency or local governmental entity for goods or services of $1 million or more. At the time a company submits a bid or proposal for such a contract or before the company enters into or renews such a contract, the company must certify that it is not on the Israel List.

Any contract with an agency or local governmental entity for goods or services of $1 million or more entered into or renewed on or after October 1, 2016, must contain a provision that allows for the termination of the contract by the awarding body if the company:

- Is found to have submitted a false certification; or
- Has been placed on the Israel List.

An agency or local governmental entity is authorized to make a case-by-case exception to the contracting prohibition for a company on the Israel List if all of the following occur:

- The scrutinized business operations were made before October 1, 2016;
- The scrutinized business operations have not been expanded or renewed after October 1, 2016;

[44] Section 215.475, F.S., entitled "Investment policy statement" provides:

(1) In making investments for the System Trust Fund pursuant to ss. 215.44-215.53, F.S., the board shall make no investment which is not in conformance with the Florida Retirement System Defined Benefit Plan Investment Policy Statement, hereinafter referred to as "the IPS," as developed by the executive director and approved by the board. The IPS must include, among other items, the investment objectives of the System Trust Fund; permitted types of securities in which the board may invest; and evaluation criteria necessary to measure the investment performance of the fund. As required from time to time, the executive director of the board may present recommended changes in the IPS to the board for approval.

(2) Prior to any recommended changes in the IPS being presented to the board, the executive director of the board shall present such changes to the Investment Advisory Council for review. The council shall present the results of its review to the board prior to the board's final approval of the IPS or changes in the IPS.

- The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company; and
- The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations.

An agency or local governmental entity is also authorized to make an exception to the contracting prohibition for a company on the Israel List if one of the following occurs:

- The local governmental entity makes a public finding that, absent such an exemption, the local governmental entity would be unable to obtain the goods or services for which the contract is offered.
- For a contract with an executive agency, the Governor makes a public finding that, absent such an exemption, the agency would be unable to obtain the goods or services for which the contract is offered.
- For a contract with an office of a state constitutional officer other than the Governor, the state constitutional officer makes a public finding that, absent such an exemption, the office would be unable to obtain the goods or services for which the contract is offered.

B. SECTION DIRECTORY:

Section 1. creates s. 215.4725, F.S., relating to prohibited investments by the SBA in companies that boycott Israel.

Section 2. amends s. 287.135, F.S., relating to the prohibition against contracting with scrutinized companies.

Section 3. provides an effective date of upon becoming a law except as expressly provided in the act.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has an indeterminate fiscal impact on the private sector. Companies that engage in a boycott of Israel may not be eligible to contract with the state and local governmental entities, which may have a negative fiscal impact on the company. In addition, the SBA may be prohibited from acquiring

securities in those companies as an asset of the FRS, which to a lesser degree may have a negative fiscal impact on those companies .[45]

D. FISCAL COMMENTS:

Prohibition on Contracting with Companies that Boycott Israel
The bill has an indeterminate fiscal impact on the state and local governments. State agencies and local governments will not be authorized to contract with certain companies that boycott Israel in certain instances. This prohibition may eliminate companies that otherwise would have been the least expensive source for certain goods or services.

Prohibition on Investing in Companies that Boycott Israel
There will be a recurring cost to the SBA to subscribe to appropriate services and for additional staff time necessary to comply with requirements of the bill related to companies that boycott Israel. However, such costs are expected to be less than $25,000 per year and can be absorbed within existing agency funds.[46]

The fiscal impact of prohibiting the SBA from acquiring securities of companies that boycott Israel as an asset of the FRS is indeterminate. According to the SBA, there is a potential for an impact on the employer contribution rates to the FRS, but such impact, if any, would be indiscernable, similar to other similar prohibitions currently in affect..[47]

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 expenditure 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.

2. Other:

Dormant Foreign Affairs Doctrine
The United States Constitution grants the federal government various powers related to foreign affairs, such as the power to declare war,[48] maintain a military,[49] enter into treaties and other international agreements,[50] regulate foreign commerce,[51] and to hear cases involving foreign states and citizens.[52] These grants of power have been interpreted to grant the federal government the exclusive power to act in the area of foreign affairs.[53] The federal government's exclusive authority to act in the area of foreign affairs is known as the dormant foreign affairs doctrine.

When a state law operates in the field of foreign affairs without federal authorization, a reviewing court might find the state law to be invalid as a violation of the dormant foreign affairs doctrine.[54]

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[45] State Board of Administration, Agency Analysis of 2016 House Bill 527, p. 4 (Dec. 16, 2015).
[46] *Id.*
[47] *Id.*
[48] Section 8, Art. I, U.S. Constitution.
[49] *Id.*
[50] Section 2, Art. II, U.S. Constitution.
[51] Section 8, Art. I, U.S. Constitution.
[52] Section 2, Art. III, U.S. Constitution.
[53] *Hines v. Davidowitz*, 312 U.S. 52, 63 (1941) (stating that the "Federal Government, representing as it does the collective interests of the forty-eight states, is entrusted with full and exclusive responsibility for the conduct of affairs with foreign sovereignties.").
[54] *Zschernig v. Miller*, 389 U.S. 429 (1968); *American Ins. Ass'n v. Garamendi*, 539 U.S. 396 (2003).

If the purpose of the bill is to impact foreign affairs,[55] or if the effects of the bill have a sufficiently serious impact on foreign policy,[56] the bill may be found in violation of the dormant foreign affairs doctrine.[57]

South Carolina and Illinois have both enacted anti-BDS laws that have not been challenged.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

[55] *Crosby v. National Foreign Trade Council*, 530 U.S. 363, 381 (2000) (pointing out that a congressional invocation of exclusively national powers with respect to addressing human rights violations in Burma precluded Massachusetts from restricting its agencies from purchasing goods or services from companies that did business with Burma; the case, however, was decided on the basis that a federal law preempted the state law.).

[56] *Clark v. Allen*, 331 U.S. 503, 517-518 (1947) (finding a state law that addressed the disposition of personal property of alien decedents valid, in spite of noting that the law would "have some incidental or indirect effect in foreign countries."); *Zschernig v. Miller*, 389 U.S. 429 (1968).

[57] Matthew Shaefer, *Constraints on State-Level Foreign Policy: (Re) Justifying, Refining, and Distinguishing the Dormant Foreign Affairs Doctrine*, 41 SETON HALL L. REV. 201, 237-239 (2011).

A bill to be entitled

An act relating to scrutinized companies; creating s. 215.4725, F.S.; providing definitions; requiring the State Board of Administration to identify all companies that are boycotting Israel or are engaged in a boycott of Israel in which the public fund owns direct or indirect holdings; requiring the state board to create and maintain a scrutinized companies list that names all such companies; requiring the state board to provide written notice to a company that is identified as a scrutinized company; specifying contents of the notice; specifying circumstances under which a company may be removed from the list; prohibiting the acquisition of certain securities of scrutinized companies; prescribing reporting requirements; requiring certain information to be included in the investment policy statement; authorizing the state board to invest in certain scrutinized companies if the value of all assets under management by the state board becomes equal to or less than a specified amount; requiring the state board to provide a written report to the Board of Trustees of the state board and the Legislature before such investment occurs; specifying required contents of the report; reenacting and amending s. 287.135, F.S., relating to the prohibition against contracting with

scrutinized companies; prohibiting a state agency or local governmental entity from contracting for goods and services that exceed a specified amount if the company has been placed on the Scrutinized Companies that Boycott Israel List; requiring inclusion of a contract provision that authorizes termination of a contract under certain circumstances; providing exceptions; requiring certification upon submission of a bid or proposal for a contract, or before a company enters into or renews a contract, with an agency or governmental entity that the company is not on the Scrutinized Companies that Boycott Israel List; providing that certain contracting prohibitions become inoperative if federal law ceases to authorize the states to enforce certain contracting prohibitions; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 215.4725, Florida Statutes, is created to read:

215.4725 Prohibited investments by the State Board of Administration; companies that boycott Israel.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Boycott Israel" or "boycott of Israel" means refusing to deal with, terminating business activities with, or taking

other actions that are intended to penalize, inflict economic harm, or otherwise limit commercial relations with Israel or persons or entities doing business in Israel or in Israeli-controlled territories for reasons other than business, investment, or commercial reasons. The term does not apply to decisions made during the course of a company's ordinary business or for other business, investment, or commercial reasons. A statement by a company that it is participating in a boycott of Israel, or that it has initiated a boycott in response to a request for a boycott of Israel or in compliance with, or in furtherance of, calls for a boycott of Israel, may be considered by the State Board of Administration to be evidence that a company is participating in a boycott of Israel.

(b) "Company" means a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, and parent companies, that exists for the purpose of making profit.

(c) "Direct holdings" in a company means all securities of that company that are held directly by the state board on behalf of the public fund or in an account or fund in which the state board, on behalf of the public fund, owns all shares or interests.

(d) "Indirect holdings" in a company means all securities of that company that are held in a commingled fund or other

collective investment, such as a mutual fund, in which the state board, on behalf of the public fund, owns shares or interests together with other investors not subject to this section or that are held in an index fund.

(e) "Public fund" means the System Trust Fund as defined in s. 121.021(36).

(f) "Scrutinized companies" means companies that boycott Israel or engage in a boycott of Israel.

(g) "State board" means the State Board of Administration.

(h) "Trustees" means the Board of Trustees of the State Board of Administration.

(2) IDENTIFICATION OF COMPANIES.—

(a) By August 1, 2016, the state board shall make its best efforts to identify all scrutinized companies in which the state board, on behalf of the public fund, has direct or indirect holdings or could possibly have such holdings in the future. Such efforts include:

1. To the extent that the state board finds it appropriate, reviewing and relying on publicly available information regarding companies that boycott Israel, including information provided by nonprofit organizations, research firms, international organizations, and government entities.

2. Contacting asset managers contracted by the state board, on behalf of the public fund, for information regarding companies that boycott Israel.

3. Contacting other institutional investors that prohibit

such investments or that have engaged with companies that boycott Israel.

(b) Before the first meeting of the state board following the identification of scrutinized companies in accordance with paragraph (a), the state board shall compile and make available the "Scrutinized Companies that Boycott Israel List."

(c) The state board shall update and make publicly available quarterly the Scrutinized Companies that Boycott Israel List based on evolving information from, among other sources, those listed in paragraph (a).

(3) REQUIRED ACTIONS.—The state board shall adhere to the following procedures for assembling companies on the Scrutinized Companies that Boycott Israel List.

(a) Engagement.—

1. The state board shall immediately determine the companies on the Scrutinized Companies that Boycott Israel List in which the state board, on behalf of the public fund, owns direct or indirect holdings.

2. For each company newly identified under this paragraph after August 1, 2016, the state board shall send a written notice informing the company of its scrutinized company status and that it may become subject to investment prohibition by the state board on behalf of the public fund. The notice must inform the company of the opportunity to clarify its activities regarding the boycott of Israel and encourage the company to cease the boycott of Israel within 90 days in order to avoid

qualifying for investment prohibition.

3. If, within 90 days after the state board's first engagement with a company pursuant to this paragraph, the company ceases a boycott of Israel, the company shall be removed from the Scrutinized Companies that Boycott Israel List, and this section shall cease to apply to that company unless that company resumes a boycott of Israel.

(b) Prohibition.—The state board, on behalf of the public fund, may not acquire securities of companies on the Scrutinized Companies that Boycott Israel List, except as provided in paragraph (c) and subsection (6).

(c) Excluded securities.—Notwithstanding this section, paragraph (b) does not apply to:

1. Indirect holdings. However, the state board shall submit letters to the managers of such investment funds containing companies that boycott Israel requesting that they consider removing such companies from the fund or create a similar fund having indirect holdings devoid of such companies. If the manager creates a similar fund, the state board, on behalf of the public fund, shall replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards. For the purposes of this section, an alternative investment, as the term is defined in s. 215.4401, and securities that are not publicly traded are deemed to be indirect holdings.

2. Exchange-traded funds.

(4) REPORTING.—

(a) The state board shall file a report with each member of the trustees, the President of the Senate, and the Speaker of the House of Representatives which includes the Scrutinized Companies that Boycott Israel List within 30 days after the list is created. This report shall be made available to the public.

(b) At each quarterly meeting of the trustees thereafter, the state board shall file a report, which shall be made available to the public and to each member of the trustees, the President of the Senate, and the Speaker of the House of Representatives, which includes:

1. A summary of correspondence with companies engaged by the state board under subparagraph (3)(a)2.

2. All prohibited investments under paragraph (3)(b).

3. Any progress made under paragraph (3)(c).

4. A list of all publicly traded securities held directly by the public fund.

(5) INVESTMENT POLICY STATEMENT OBLIGATIONS.—The state board's actions taken in compliance with this section, including all good faith determinations regarding companies as required by this act, shall be adopted and incorporated into the public fund's investment policy statement as provided in s. 215.475.

(6) INVESTMENT IN CERTAIN SCRUTINIZED COMPANIES.—Notwithstanding any other provision of this section, the state board, on behalf of the public fund, may invest in certain scrutinized companies if clear and convincing evidence shows

that the value of all assets under management by the state board, on behalf of the public fund, becomes equal to or less than 99.5 percent, or 50 basis points, of the hypothetical value of all assets under management by the state board, on behalf of the public fund, assuming no investment prohibition for any company had occurred under paragraph (3)(b). Cessation of the investment prohibition and any new investment in a scrutinized company is limited to the minimum steps necessary to avoid the contingency described in this subsection. For any cessation of the investment prohibition and new investment authorized by this subsection, the state board shall provide a written report to each member of the trustees, the President of the Senate, and the Speaker of the House of Representatives in advance of the new investment, updated semiannually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease the investment prohibition in scrutinized companies.

Section 2. Effective October 1, 2016, section 287.135, Florida Statutes, is reenacted and amended to read:

287.135 Prohibition against contracting with scrutinized companies.—

(1) In addition to the terms defined in ss. 287.012 and 215.473, as used in this section, the term:

(a) "Awarding body" means, for purposes of state contracts, an agency or the department, and for purposes of local contracts, the governing body of the local governmental

entity.

(b) "Business operations" means, for purposes specifically related to Cuba or Syria, engaging in commerce in any form in Cuba or Syria, including, but not limited to, acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, military equipment, or any other apparatus of business or commerce.

(c) "Local governmental entity" means a county, municipality, special district, or other political subdivision of the state.

(2) A company is ineligible to, and may not, bid on, submit a proposal for, or enter into or renew a contract with an agency or local governmental entity for goods or services of $1 million or more if ~~that~~, at the time of bidding or submitting a proposal for a new contract or renewal of an existing contract, the company:

(a) Is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725;

(b) Is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to s. 215.473;~~,~~ or

(c) Is engaged in business operations in Cuba or Syria~~, is ineligible for, and may not bid on, submit a proposal for, or enter into or renew a contract with an agency or local~~

~~governmental entity for goods or services of $1 million or more~~.

(3)~~(a)~~ Any contract with an agency or local governmental entity for goods or services of $1 million or more entered into or renewed on or after:

(a) July 1, 2011, through June 30, 2012, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have submitted a false certification as provided under subsection (5) or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List.

(b) ~~Any contract with an agency or local governmental entity for goods or services of $1 million or more entered into or renewed on or after~~ July 1, 2012, through September 30, 2016, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company is found to have submitted a false certification as provided under subsection (5), been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria.

(c) October 1, 2016, must contain a provision that allows for the termination of such contract at the option of the awarding body if the company:

1. Is found to have submitted a false certification as provided under subsection (5);

2. Has been placed on the Scrutinized Companies that Boycott Israel List;

3. Has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List; or

4. Has been engaged in business operations in Cuba or Syria.

(4) Notwithstanding subsection (2) or subsection (3), an agency or local governmental entity, on a case-by-case basis, may permit a company on the Scrutinized Companies that Boycott Israel List, the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or a company with business operations in Cuba or Syria, to be eligible for, bid on, submit a proposal for, or enter into or renew a contract for goods or services of $1 million or more under the conditions set forth in paragraph (a) or the conditions set forth in paragraph (b):

(a)1. With respect to a company on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, all of the following occur:

a. The scrutinized business operations were made before July 1, 2011.

b. The scrutinized business operations have not been expanded or renewed after July 1, 2011.

c. The agency or local governmental entity determines that

it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations.

2. With respect to a company engaged in business operations in Cuba or Syria, all of the following occur:

a. The business operations were made before July 1, 2012.

b. The business operations have not been expanded or renewed after July 1, 2012.

c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease business operations and to refrain from engaging in any new business operations.

3. With respect to a company on the Scrutinized Companies that Boycott Israel List, all of the following occur:

a. The scrutinized business operations were made before October 1, 2016.

b. The scrutinized business operations have not been expanded or renewed after October 1, 2016.

c. The agency or local governmental entity determines that it is in the best interest of the state or local community to contract with the company.

d. The company has adopted, has publicized, and is implementing a formal plan to cease scrutinized business operations and to refrain from engaging in any new scrutinized business operations.

(b) One of the following occurs:

1. The local governmental entity makes a public finding that, absent such an exemption, the local governmental entity would be unable to obtain the goods or services for which the contract is offered.

2. For a contract with an executive agency, the Governor makes a public finding that, absent such an exemption, the agency would be unable to obtain the goods or services for which the contract is offered.

3. For a contract with an office of a state constitutional officer other than the Governor, the state constitutional officer makes a public finding that, absent such an exemption, the office would be unable to obtain the goods or services for which the contract is offered.

(5) At the time a company submits a bid or proposal for a contract or before the company enters into or renews a contract with an agency or governmental entity for goods or services of $1 million or more, the company must certify that the company is not on the Scrutinized Companies that Boycott Israel List, the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or that it does not have business operations

in Cuba or Syria.

(a) If, after the agency or the local governmental entity determines, using credible information available to the public, that the company has submitted a false certification, the agency or local governmental entity shall provide the company with written notice of its determination. The company shall have 90 days following receipt of the notice to respond in writing and to demonstrate that the determination of false certification was made in error. If the company does not make such demonstration within 90 days after receipt of the notice, the agency or the local governmental entity shall bring a civil action against the company. If a civil action is brought and the court determines that the company submitted a false certification, the company shall pay the penalty described in subparagraph 1. and all reasonable attorney fees and costs, including any costs for investigations that led to the finding of false certification.

1. A civil penalty equal to the greater of $2 million or twice the amount of the contract for which the false certification was submitted shall be imposed.

2. The company is ineligible to bid on any contract with an agency or local governmental entity for 3 years after the date the agency or local governmental entity determined that the company submitted a false certification.

(b) A civil action to collect the penalties described in paragraph (a) must commence within 3 years after the date the false certification is submitted.

(6) Only the agency or local governmental entity that is a party to the contract may cause a civil action to be brought under this section. This section does not create or authorize a private right of action or enforcement of the penalties provided in this section. An unsuccessful bidder, or any other person other than the agency or local governmental entity, may not protest the award of a contract or contract renewal on the basis of a false certification.

(7) This section preempts any ordinance or rule of any agency or local governmental entity involving public contracts for goods or services of $1 million or more with a company engaged in scrutinized business operations.

(8) The contracting prohibitions in this section applicable to companies on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or to companies engaged in business operations in Cuba or Syria become ~~This section becomes~~ inoperative on the date that federal law ceases to authorize the states to adopt and enforce such ~~the~~ contracting prohibitions ~~of the type provided for in this section~~.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 919 Involuntary Admission to Residential Services
SPONSOR(S): Children, Families & Seniors Subcommittee, Wood
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	10 Y, 0 N, As CS	Tuszynski	Brazzell
2) Appropriations Committee		Pridgeon	Leznoff
3) Health & Human Services Committee			

SUMMARY ANALYSIS

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities. A developmental disability is defined as 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.

Persons with developmental disabilities reside in various types of residential settings. Some individuals with developmental disabilities live with family, some live in their own homes, while others may live in community-based residential facilities.

Section 393.11, F.S., creates the statutory framework for the involuntary admission of persons with intellectual disabilities that require residential services. The order for involuntary admission is of indeterminate duration and the person who has been involuntarily admitted to residential services may not be released from such order except by further order of the circuit court. The statute does not provide for any review of orders entered for involuntary admission.

In October of 2015, the U.S. Court of Appeals for the Eleventh Circuit ruled that s. 393.11, F.S., is constitutionally infirm because it does not require periodic review of continued involuntary commitment by a decision-maker with the duty to consider and authority to order release, and that such a statutory scheme is unconstitutional on its face.

HB 919 amends s. 393.11, F.S., and adds a review for persons involuntarily admitted to residential services. The bill requires APD to contract with a "qualified evaluator" to annually, unless otherwise ordered, conduct a review to determine the propriety of the continued involuntary admission.

The bill requires the agency to provide the completed annual review to the court, and that the court must complete an annual review hearing, unless a shorter review period was ordered at a previous hearing. The bill requires the court to review the report and determine whether the involuntary admission is still required and, if so, that the person is receiving adequate care, treatment, habilitation, and rehabilitation in the residential setting.

The bill requires the agency to give a copy of the review and reasonable notice of the hearing to the appropriate state's attorney, if appropriate, the person's attorney and guardian or guardian advocate, if appointed.

The bill defines a "qualified evaluator" as a licensed psychologist who has demonstrated to the court an expertise in the diagnosis, evaluation, and treatment of persons who have intellectual disabilities.

There is a negative fiscal impact of approximately $623,200.

The bill becomes effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Agency for Person with Disabilities

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities. A developmental disability is defined as 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.[1]

Individual Support Plans

Pursuant to s. 393.0651, F.S., APD must develop a support plan for each client receiving services from APD.[2] This support plan is developed with a support coordinator.[3] Each support plan must include the most appropriate, least restrictive, and most cost-beneficial environment for accomplishment of the objectives for client progress and a specification of all services authorized.[4] The client and his or her support coordinator must review and, if necessary, revise the support plan annually to review progress in achieving the objectives specified.[5]

Residential Facilities

Persons with developmental disabilities reside in various types of residential settings. Some individuals with developmental disabilities live with family, some live in their own homes, while others may live in community-based residential facilities.[6] Pursuant to s. 393.067, F.S., APD is charged with licensing community-based residential facilities that serve and assist individuals with developmental disabilities; these include foster care facilities, group home facilities, residential habilitation centers, and comprehensive transitional education programs.[7]

Involuntary Admission to Residential Services

Section 393.11, F.S., creates the statutory framework for the involuntary admission of persons with intellectual disabilities that require residential services.[8] Residential services include the care, treatment, habilitation, and rehabilitation the person is alleged to need.[9]

A petitioning commission may file a petition for involuntary admission to residential services.[10,11] The petitioning commission must file the petition in the circuit court of the county the person alleged to need

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[1] S. 393.063(9), F.S.
[2] S. 393.0651, F.S.
[3] S. 393.063(37), F.S., defines "Support Coordinator" as a person designated by APD to assist individuals and families in identifying their capacities, needs, and resources, as well as finding and gaining access to necessary supports and services; coordinating the necessary supports and services; advocating on behalf of the individual or family; maintaining relevant records; and monitoring and evaluating the delivery of supports and services to determine the extent to which they meet the needs and expectations identified by the individual, family, and others who participated in the development of the support plan.
[4] Id.
[5] S. 393.0651(7), F.S.
[6] S. 393.063(28) defines residential facility as a facility providing room and board and personal care for persons who have developmental disabilities.
[7] Agency for Persons with Disabilities, *Planning Resources*, accessible at: http://apd.myflorida.com/planning-resources/ (last accessed 11/11/15).
[8] S. 393.11(1), F.S.
[9] S. 393.11(1), F.S.

involuntary admission resides.[12] Once this petition is filed, the circuit court appoints a committee to examine the person being considered for involuntary admission.[13] This examining committee must file a report with the court, to include, but not limited to:

- The degree of the person's intellectual disability and whether the person is eligible for agency services;[14]
- Whether the person either:
  - Lacks sufficient capacity to consent for services from APD and lacks basic survival and self-care skills to such a degree that close supervision and habilitation in a residential setting is necessary to avoid a real and present threat of substantial harm; or
  - Is likely to physically injure others if allowed to remain at liberty;[15]
- Purpose to be served by the residential care;[16]
- A recommendation on the type of residential placement that would be most appropriate and least restrictive;[17] and
- The appropriate care, habilitation, and treatment.[18]

After this examining committee files their report with the court, the court holds a hearing to allow the person alleged to need involuntary admission to present evidence and cross-examine all witnesses.[19] The person alleged to need involuntary admission is entitled to representation by counsel at all stages of this proceeding.[20]

The court may not enter an order for involuntary admission unless it finds, by clear and convincing evidence, that:

- The person alleged to need involuntary admission is intellectually disabled or autistic;
- Placement in a residential setting is the least restrictive and most appropriate alternative to meet the person's needs, and;
- Because of the person's intellectual disability or autism, the person either:
  - Lacks sufficient capacity to consent for services from APD and lacks basic survival and self-care skills to such a degree that close supervision and habilitation in a residential setting is necessary to avoid a real and present threat of substantial harm; or
  - Is likely to physically injure others if allowed to remain at liberty.[21]

This order for involuntary admission is of indeterminate duration and the person who has been involuntarily admitted to residential services may not be released from such order except by further order of the circuit court.[22] The statute does not provide for any review of orders entered for involuntary admission. However, the statute does provide that any person involuntarily admitted to residential services may file a petition for writ of habeas corpus[23] to challenge their involuntary admittance.[24]

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[10] S. 393.11(2)(a)
[11] S. 393.11(2)(b), F.S., one of these persons must be a licensed physician in Florida.
[12] S. 393.11(2), F.S.
[13] S. 393.11(5), F.S.
[14] S. 393.11(5)(e)1., F.S.
[15] S. 393.11(5)(e)2., F.S.
[16] S. 393.11(5)(e)3., F.S.
[17] S. 393.11(5)(e)4., F.S.
[18] S. 393.11(5)(e)5., F.S.
[19] S. 393.11(7), F.S.
[20] S. 393.11(6), F.S.
[21] S. 393.11(8), F.S.
[22] S. 39..11(11), F.S.
[23] Latin for "you have the body" – a legal action, and constitutional right guaranteed by Art. I Sec. 9 of the U.S. Constitution, by means of which those detained may seek relief from alleged unlawful imprisonment.
[24] S. 39.11(13), F.S.

Involuntary Admission for Those Found Incompetent to Proceed to Trial

For individuals charged with a crime but found incompetent to proceed to trial due to an intellectual disability or autism, pursuant to s. 916.303, F.S., the process of involuntary admission is slightly different. If an individual remains incompetent for two years the charges shall be dismissed.[25] If the charges have been dismissed, and the individual is considered to lack sufficient capacity to apply for services or lacks the basic survival and self-care skills to provide for his or her well-being or is likely to injure others if allowed to remain at liberty, a petition to involuntarily admit the individual to residential services, pursuant to s. 393.11, F.S., shall be filed.[26]

Once a petition for involuntary admission to residential services is filed, all of the same procedures under s. 393.11, F.S., are followed. However, because this person has been found incompetent by a criminal court, there is the added ability to place the individual in a secure facility if there is a substantial likelihood that the individual will injure another person or continues to present a danger of escape.[27] If the committing court places the individual in a secure facility, that placement must be reviewed annually to determine whether the individual continues to meet the criteria for placement.[28]

J.R. v. Palmer

In 2004, J.R. was involuntarily admitted to nonsecure residential services under s. 39.11, F.S. The involuntary admission order does not include an end date for the involuntary admission.[29] In August of 2011, J.R. filed suit claiming his constitutional due process rights had been violated because s. 39.11, F.S., does not provide periodic review of his continued involuntary confinement by a decision-maker that has the authority to release him.[30] APD argued that within the annual review of the individual's support plan, under s. 393.0651, F.S., there is an implicit obligation to review the circumstances and petition the court if the circumstances have changed to the point that involuntary admission was no longer appropriate.[31]

In May of 2015, the Supreme Court of Florida, in an answer to two certified questions from the U.S. Court of Appeals for the Eleventh Circuit, ruled that:

- The annual support plan review, pursuant to s. 393.0651, F.S., does not contain an implicit requirement for APD to consider the continued propriety of an involuntary admission, under s. 393.11, F.S.
- There is no implicit requirement for APD to petition the circuit court for a person's release from involuntary admission under ss. 393.11 or 393.0651, F.S.

In October of 2015, the U.S. Court of Appeals for the Eleventh Circuit ruled that s. 393.11, F.S., is constitutionally infirm because it does not require periodic review of continued involuntary commitment by a decision-maker with the duty to consider and authority to order release, and that such a statutory scheme is unconstitutional on its face.[32]

Effect of Proposed Changes

HB 919 amends s. 393.11, F.S., and adds a review for persons involuntarily admitted to residential services. The bill requires APD to contract with a "qualified evaluator" to conduct an annual review, unless otherwise ordered, of persons involuntarily admitted to determine the propriety of the continued involuntary admission. The bill requires the agency to provide the completed annual review to the court,

[25] S. 916.303(1), F.S.
[26] S. 916.303(2), F.S.
[27] S. 916.303(3), F.S.
[28] Id.
[29] J.R. v. Palmer, SC13-1549 (2015)
[30] Id.
[31] Id.
[32] J.R. v. Hansen, No. 12-14212 (11th Cir. Oct. 15, 2015) *Hansen was the Director of APD when the case was originally filed.

and that the court must complete an annual review hearing, unless a shorter review period was ordered at a previous hearing. The bill requires the court to review the report and determine whether the involuntary admission is still required and, if so, that the person is receiving adequate care, treatment, habilitation, and rehabilitation in the residential setting.

The bill requires APD to provide a copy of the review and give reasonable notice of the hearing to the appropriate state's attorney, if applicable, the person's attorney and guardian or guardian advocate, if appointed.

The bill also defines a "qualified evaluator" as a licensed psychologist who has demonstrated to the court an expertise in the diagnosis, evaluation, and treatment of persons who have intellectual disabilities.

The bill becomes effective upon becoming law.

B. SECTION DIRECTORY:

Section 1: Amends s. 393.11, F.S., dealing with involuntary admission to residential services.
Section 2: Provides for an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   APD estimates that it will cost $623,200 to evaluate all persons currently involuntarily admitted. APD estimates there are 1,558 individuals that will need to be evaluated at a cost of $400 per evaluation.

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 affect county or municipal governments.

2. Other:

The U.S. Court of Appeals for the Eleventh Circuit ruled that s. 393.11, F.S., is constitutionally infirm because it does not require periodic review of continued involuntary commitment by a decision-maker with the duty to consider and authority to order release, and that such a statutory scheme is unconstitutional on its face. [33]

This bill remedies this constitutional infirmity by creating a periodic review of involuntary commitment by a decision-maker with the duty to consider and authority to order release.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 13, 2016, the Children, Families and Seniors Subcommittee adopted a strike all amendment. The amendment made the following changes:

- The title amendment designates the correct agency, the Agency for Persons with Disabilities;
- Allows the court to order a period of review that is different than annually;
- Requires the agency to provide a copy of the review and provide reasonable notice of the review hearing to the state's attorney, if applicable, the person's attorney and guardian or guardian advocate, if appointed; and
- Changes the effective date to "upon becoming law."

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute.

[33] J.R. v. Hansen, No. 12-14212 (11th Cir. Oct. 15, 2015) *Hansen was the Director of APD when the case was originally filed.

A bill to be entitled

An act relating to involuntary admission to residential services; amending s. 393.11, F.S.; requiring the Agency for Persons with Disabilities to contract with a qualified evaluator to conduct a review of the status of persons involuntarily admitted to residential services provided by the agency; requiring a review of such placements by the court at a hearing; requiring the agency to provide a copy of the review and reasonable notice of the hearing to specified persons; defining the term "qualified evaluator"; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (14) is added to section 393.11, Florida Statutes, to read:

393.11 Involuntary admission to residential services.—

(14) REVIEW OF CONTINUED INVOLUNTARY ADMISSION TO RESIDENTIAL SERVICES.—If a person is involuntarily admitted to residential services provided by the agency, the agency shall contract with a qualified evaluator to conduct a review annually, unless otherwise ordered, to determine the propriety of the person's continued involuntary admission to residential services based on the criteria in paragraph (8)(b). The review shall include an assessment of the most appropriate and least

restrictive type of residential placement for the person. A placement resulting from an involuntary admission to residential services must be reviewed by the court at a hearing annually, unless a shorter review period is ordered at a previous hearing. The agency shall provide to the court the completed reviews by the qualified evaluator. The review and hearing must determine whether the person continues to meet the criteria in paragraph (8)(b) and, if so, whether the person still requires involuntary placement in a residential setting and whether the person is receiving adequate care, treatment, habilitation, and rehabilitation in the residential setting. The agency shall provide a copy of the review and reasonable notice of the hearing to the appropriate state attorney, if applicable, the person's attorney, and the person's guardian or guardian advocate, if appointed. For purposes of this section, the term "qualified evaluator" means a licensed psychologist who has demonstrated to the court an expertise in the diagnosis, evaluation, and treatment of persons who have intellectual disabilities.

Section 2. This act shall take effect July 1, 2016.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	____

Committee/Subcommittee hearing bill: Appropriations Committee

Representative Wood offered the following:

Amendment

Between lines 45 and 46, insert:

Section 2. For the 2016-2017 fiscal year, the sum of $623,200 in nonrecurring funds from the General Revenue Fund is appropriated to the Agency for Persons with Disabilities for the purpose of implementing this act.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 953 Legislative Reauthorization of Agency Rulemaking Authority
SPONSOR(S): Eisnaugle and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Rulemaking Oversight & Repeal Subcommittee	12 Y, 0 N, As CS	Rubottom	Rubottom
2) Appropriations Committee		White CCW	Leznoff
3) State Affairs Committee			

SUMMARY ANALYSIS

Agency rulemaking authority must be specifically authorized by law. Under Florida's Administrative Procedures Act (ch. 120, F.S.), rules must be supported by a law granting rulemaking authority to the agency and a specific law being implemented by the rule. Laws authorizing rulemaking are typically codified in the Florida Statutes as permanent laws. Any rule that has an economic or regulatory cost impact in excess of $1 Million cannot go into effect until ratified by the legislature. Such ratifications occur by enacting of a general law.

House Bill 953 proposes to suspend any rulemaking authorized by law three years after the effective date of the authority. Rulemaking authority in force upon the bill's effective date will be suspended on July 1, 2019, unless re-authorized. If rulemaking is not reauthorized by general law prior to the suspension, rulemaking authority is suspended until reauthorized. The bill makes exceptions for emergency rules and rules necessary to maintain the financial or legal integrity of any financial obligation of the state or its agencies or political subdivisions.

The bill allows the Governor to issue a declaration of necessity, delaying any suspension for 90 days to allow the Legislature to convene and reauthorize necessary rulemaking. It also allows rulemaking proceedings to be undertaken pursuant to ch. 120, F.S., but delaying the effect of any rules until a suspension ends.

There may be an indeterminate but likely insignificant fiscal impact to the state.

The bill has an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Agency Rulemaking

Process and Ratification
Rulemaking is the executive application of constitutionally delegated legislative power to particularize public policy or regulate within guidelines set by the Legislature. The Florida Administrative Procedures Act (APA)[1] governs all rulemaking by state agencies except when specific legislation exempts its application.

A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of forms.[2] Rulemaking authority is delegated by the Legislature[3] through statute and authorizes an agency to "adopt, develop, establish, or otherwise create"[4] a rule. Agencies do not have discretion whether to engage in rulemaking.[5] To adopt a rule, an agency must have a general grant of authority to implement a specific law by rulemaking.[6] The grant of rulemaking authority itself need not be detailed.[7] The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.[8]

A notice of rule development initiates public input on a rule proposal.[9] The process may be facilitated by conducting public workshops or engaging in negotiated rulemaking.[10] An agency begins formal rulemaking by filing a notice of the proposed rule.[11] The notice is published by the Department of State in the Florida Administrative Register[12] and must provide certain information, including the text of the proposed rule, a summary of the agency's statement of estimated regulatory costs (SERC) if one is prepared,[13] and how a party may request a public hearing on the proposed rule. The SERC must include an economic analysis projecting a proposed rule's adverse effect on specified aspects of the state's economy or increase in regulatory costs.[14]

The economic analysis mandated for each SERC must analyze a rule's potential impact over the five-year period from when the rule goes into effect. First is the rule's likely adverse impact on economic

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[1] Chapter 120, Florida Statutes.
[2] Section 120.52(16); *Florida Department of Financial Services v. Capital Collateral Regional Counsel-Middle Region,* 969 So. 2d 527, 530 (Fla. 1st DCA 2007).
[3] *Southwest Florida Water Management District v. Save the Manatee Club, Inc.,* 773 So. 2d 594 (Fla. 1st DCA 2000).
[4] Section 120.52(17).
[5] Section 120.54(1)(a), F.S.
[6] Section 120.52(8) & s. 120.536(1), F.S.
[7] *Save the Manatee Club, Inc.,* supra at 599.
[8] *Sloban v. Florida Board of Pharmacy,*982 So. 2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.,* 794 So. 2d 696, 704 (Fla. 1st DCA 2001).
[9] Section 120.54(2)(a), F.S.
[10] Section 120.54(2)(c)-(d), F.S.
[11] Section 120.54(3)(a)1, F.S.
[12] Section 120.55(1)(b)2, F.S.
[13] Preparation of a SERC is required if the proposed rule will have an adverse impact on small business or if the proposed rule is likely to directly or indirectly increase regulatory costs in excess of $200,000 within one year of implementation of the rule. Alternatively, preparation of a SERC is triggered when a substantially affected person submits a good faith written proposal for a lower cost regulatory alternative which substantially accomplishes the objectives of the law being implemented. Section 120.541(1)(a), (b), F.S.
[14] Section 120.541(2)(a), F.S.

growth, private-sector job creation or employment, or private-sector investment.[15] Next, is the likely adverse impact on business competitiveness,[16] productivity, or innovation.[17] Finally, the analysis must discuss whether the rule is likely to increase regulatory costs, including any transactional costs.[18] If the analysis shows the projected impact of the proposed rule in any one of these areas will exceed $1 million in the aggregate for the five-year period, the rule cannot go into effect until ratified by the Legislature pursuant to s. 120.541(3), F.S.

Present law distinguishes between a rule being "adopted" and becoming enforceable or "effective."[19] A rule must be filed for adoption before it may go into effect[20] and cannot be filed for adoption until completion of the rulemaking process.[21] A rule projected to have a specific economic impact exceeding $1 million in the aggregate over five years[22] must be ratified by the Legislature before going into effect.[23] As a rule submitted under s. 120.541(3), F.S., becomes effective if ratified by the Legislature, a rule must be filed for adoption before being submitted for legislative ratification.

Proposed rules also must be formally reviewed by the Legislature's Joint Administrative Procedures Committee (JAPC)[24] which reviews rules to determine their validity, authority, sufficiency of form, consistency with legislative intent, reasonableness of regulatory cost estimates, and other matters.[25] An agency must formally respond to JAPC concerns or objections.[26]

There are presently tens of thousands of agency rules in force.[27] There are many hundreds of permanent statutes authorizing rules.[28] Once rulemaking is authorized, the authority is perpetual unless and until the Legislature enacts a change in law. Agencies and boards have been known to repeatedly reject sound advice provided by JAPC when exceeding their delegated authority.[29] Altering any such authority that may have receded in its conformity to the will of the people of Florida requires either the Governor's approval or passage notwithstanding a veto by a 2/3 vote of each legislative chamber. Thus, it is more difficult for the Legislature to withdraw delegated power from the executive than it is to give it.

Emergency Rulemaking

Florida's APA provides for emergency rulemaking by any procedure which is fair under the circumstances when an immediate danger to the public health, safety, or welfare requires emergency action. Emergency rules may not be effective for more than 90 days but may be renewed in specific circumstances when the agency has initiated rulemaking to adopt rules addressing the subject.[30]

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[15] Section 120.541(2)(a)1., F.S.
[16] This includes the ability of those doing business in Florida to compete with those doing business in other states or domestic markets.
[17] Section 120.541(2)(a) 2., F.S.
[18] Section 120.541(2)(a) 3., F.S.
[19] Section 120.54(3)(e)6. Before a rule becomes enforceable, thus "effective," the agency first must complete the rulemaking process and file the rule for adoption with the Department of State.
[20] Section 120.54(3)(e)6., F.S.
[21] Section 120.54(3)(e), F.S.
[22] Section 120.541(2)(a), F.S.
[23] Section 120.541(3), F.S.
[24] Section 120.54(3)(a)4., F.S.
[25] Section 120.545(1), F.S.
[26] Sections 120.54(3)(e)4. and 120.545(3), F.S.
[27] Florida Administrative Code.
[28] An informal review by the House Rulemaking and Regulation Subcommittee in 2011-12 identified in excess of 2500 rule authorizing provisions in Florida Statutes that have been cited as authority by agencies. There are other redundant and unnecessary provisions that are never used. See, section 11.
[29] See, for example, "Summary Final Order", Florida Medical Association, Inc, et al. vs. Department of Health, Board of Nursing, et al., Case 12-1545RP, accessed on January 11, 2016, at: https://www.doah.state.fl.us/ROS/2012/12001545.pdf.
[30] Section 120.54(4), F.S.

Effect of proposed changes

The bill suspends all existing rulemaking authority on July 1, 2019, and all new rulemaking authority three years after its enactment unless the Legislature reauthorizes the rulemaking authority. Any reauthorization will have a three-year life unless a different period is provided in the reauthorization.

The bill provides that reauthorization must be by general law. The Legislature can be expected to use general bills to reauthorize rulemaking by reference to chapter, agency or specific section of law, in a manner procedurally similar to the ratification of rules under s. 120.541(3), F.S.

By suspending the rule-authorizing laws, rather than repealing them or directing their expiration, reauthorization is not expected to require re-enactment of rulemaking authority but only a clear statement in law that a suspension is avoided or lifted. The bill allows for the Legislature to reauthorize currently existing rulemaking on its own schedule to avoid having to reauthorize all such rulemaking in the 2019 Regular Session.

The bill allows an agency to continue or initiate rulemaking proceedings during a suspension but no rule adopted during a suspension of authority may be effective unless ratified by the Legislature.

The bill makes exception for any emergency rulemaking or any rulemaking necessary to maintain the financial or legal integrity of any financial obligation of the state, its agencies or political subdivisions. This allows public health, safety and welfare to be protected and assures the reliability of state obligations such as bonds financing toll roads.

The bill supports the emergency rule exception to a rulemaking suspension by conforming the statutory grounds allowing renewal of an emergency rule.[31] Specifically, it allows renewal when a permanent rule is pending legislative ratification under any law. [32] It also clarifies that an emergency rule may be renewed pending ratification of a permanent rule or during a pre-adoption administrative rule challenge[33] only when the danger persists that justified emergency rulemaking.

Finally, the bill allows the Governor to issue a written declaration of public necessity delaying a suspension for 90 days, allowing the Legislature to convene and address the necessity. In the event the Legislature adjourns a Regular Session without reauthorizing needed rulemaking authority, the Governor would be able to confront the Legislature's neglect by issuing the declaration and calling a Special Session.

The bill expressly provides that all rules lawfully adopted remain in effect during any suspension of rulemaking authority under the bill's provisions.

B. SECTION DIRECTORY:

SECTION 1. amends s. 120.536, F.S., creating a new subsection (2) providing for suspension and reauthorization of rulemaking authority.

SECTION 2. amends s. 120.54(4)(c), F.S., allowing renewal of an emergency rule during pendency of a request for legislative ratification of the permanent rule on the subject.

SECTION 3. provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

[31] Section 120.54(4)(c), F.S.
[32] Such laws would include the provisions of the bill and s. 120.541(3), F.S.
[33] Section 120.56(2), F.S.

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to affect revenues of the state.

2. Expenditures:

   There may be an indeterminate but likely insignificant fiscal impact to the state. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to affect local government revenues.

2. Expenditures:

   The bill does not appear to impact local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

They bill does not appear to impact the private sector economy.

D. FISCAL COMMENTS:

Some state agencies have expressed concern about increased workload; however, it is anticipated that any increase in workload is insignificant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not appear to implicate the Mandates provision.

2. Other:

   N/A

B. RULE-MAKING AUTHORITY:

The bill regularly suspends rulemaking authority, unless reauthorized by general law, providing that no rule adopted during a suspension is effective without ratification by the Legislature. The bill also clarifies that the power to renew emergency rules during the pendency of a challenge to a proposed permanent rule or a request for ratification of such rule requires that the danger upon which the emergency rule is based must be continuing at the time of emergency rule renewal.

C. DRAFTING ISSUES OR OTHER COMMENTS:

N/A

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 20, 2016, the Rulemaking Oversight and Repeal Subcommittee adopted an amendment revising the emergency rulemaking provision to clarify that emergency rules may be renewed during the pendency of a ratification request regarding the permanent rule. This analysis is drafted to the bill as amended.

A bill to be entitled

An act relating to legislative reauthorization of agency rulemaking authority; amending s. 120.536, F.S.; providing for suspension of certain rulemaking authority after a specified period, until reauthorized by general law; providing for expiration of such reauthorization after a specified period; providing for suspension of rulemaking authority upon expiration of its reauthorization, until reauthorized by general law; requiring legislative ratification of rules adopted while rulemaking authority is suspended; authorizing the Governor to delay suspension of rulemaking authority for a specified period upon declaration of a public necessity; providing exceptions; providing applicability; amending s. 120.54, F.S.; revising circumstances under which emergency rules may be renewed; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsections (2) through (4) of section 120.536, Florida Statutes, are renumbered as subsections (3) through (5), respectively, and a new subsection (2) is added to that section to read:

120.536 Rulemaking authority; <u>reauthorization;</u> repeal;

challenge.—

(2)(a) Notwithstanding any other provision of law, and except as provided in paragraph (d), any new rulemaking authority is suspended 3 years after the effective date of the law authorizing rulemaking until reauthorized by general law. Any rulemaking authority effective on or before July 1, 2016, is suspended July 1, 2019, until reauthorized by general law.

(b) A reauthorization of rulemaking authority remains in effect for 3 years, unless another date is specified in the law reauthorizing rulemaking, after which the reauthorization expires and the rulemaking authority is suspended until reauthorized by general law.

(c) During the suspension of any rulemaking authority under this subsection, a rule may be adopted pursuant to such rulemaking authority but does not take effect unless ratified by the Legislature. Upon written declaration by the Governor of a public necessity, suspension of any rulemaking authority may be delayed for up to 90 days, allowing the Legislature an opportunity to reauthorize the rulemaking authority. A declaration of public necessity may be issued only once with respect to any suspension of rulemaking authority.

(d) This subsection does not apply to:

1. Emergency rulemaking pursuant to s. 120.54(4).

2. Rulemaking necessary to maintain the financial or legal integrity of any financial obligation of the state or its agencies or political subdivisions.

(e) Rules lawfully adopted remain in effect during any suspension of rulemaking authority under this subsection.

Section 2. Paragraph (c) of subsection (4) of section 120.54, Florida Statutes, is amended to read:

120.54 Rulemaking.—

(4) EMERGENCY RULES.—

(c) An emergency rule adopted under this subsection shall not be effective for a period longer than 90 days and shall not be renewable, except when the agency finds that the immediate danger remains and continues to require emergency action, the agency has initiated rulemaking to adopt rules addressing the subject of the emergency rule, and one of the following conditions has delayed implementation of the rules ~~either~~:

1. A challenge to the proposed rules has been filed and remains pending; or

2. The proposed rules have been filed for adoption and are awaiting ratification by the Legislature pursuant to any law requiring ratification for the rules to be effective ~~s. 120.541(3)~~.

Nothing in this paragraph prohibits the agency from adopting a rule or rules identical to the emergency rule through the rulemaking procedures specified in subsection (3).

Section 3. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 981 Administrative Procedures
SPONSOR(S): Richardson
TIED BILLS: **IDEN./SIM. BILLS:** SB 1226

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Rulemaking Oversight & Repeal Subcommittee	13 Y, 0 N	Stranburg	Rubottom
2) Appropriations Committee		White CCW	Leznoff
3) State Affairs Committee			

SUMMARY ANALYSIS

A Statement of Estimated Regulatory Cost (SERC) must be prepared during promulgation of agency rules that are expected to affect small business or have a significant economic impact. The bill revises the requirements for preparing a SERC to clarify for administrative agencies the time frame in which costs are to be evaluated for decision makers and affected constituencies to understand the economic and policy impacts of proposed rules. The bill creates s. 120.541(5), F.S., clarifying the time frame of impacts and costs that agencies must evaluate when preparing a SERC to include provisions that may not be implemented until five years or longer after implementation of the rule.

The bill may have an indeterminate but likely insignificant negative fiscal impact to the state.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Agency Rulemaking

One important aspect of the Administrative Procedure Act (APA)[1] is the emphasis on public notice and opportunity for participation in agency rulemaking. A rule is an agency statement of general applicability interpreting, implementing, or prescribing law or policy, including the procedure and practice requirements of an agency, as well as certain types of forms.[2] The APA provides specific requirements agencies must follow in order to adopt rules.[3]

With some exceptions,[4] required rulemaking begins with an agency publishing a notice of rule development in the Florida Administrative Register (F.A.R.).[5] If the agency conducts public rule development workshops,[6] the persons responsible for preparing the draft rule under consideration must be available to explain the proposal and respond to public questions or comments.[7]

Once the final form of the proposed rule is developed (whether the proposal creates a new rule or amends or repeals an existing rule), the agency must publish a notice of the proposed rule before it may be adopted.[8] The publication of this notice triggers certain deadlines for the rulemaking process.[9] Each notice must include the full text of the proposed rule and other additional information, such as a summary of the agency's statement of estimated regulatory costs (SERC) and the opportunity for anyone to provide the agency with information pertaining to the SERC or to propose a lower cost regulatory alternative to the proposed rule. The notice must also state the procedure to request a hearing on the proposed rule.[10]

Agency staff must be available to explain the proposed rule and respond to public questions or comments at a public rulemaking hearing. Material pertaining to the proposed rulemaking submitted to the agency between the date of publishing the notice of proposed rule and the end of the final public hearing must be considered by the agency and made a part of the rulemaking record.[11] If a person substantially affected by the proposed rule shows the proceeding does not provide adequate opportunity to protect those interests, and the agency concurs, the agency must suspend the rulemaking proceeding and convene a separate, more formal proceeding, including referring the matter

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[1] Ch. 120, F.S.
[2] Section 120.52(16), F.S.; *Florida Department of Financial Services v. Capital Collateral Regional Counsel-Middle Region,* 969 So. 2d 527, 530 (Fla. 1st DCA 2007).
[3] Section 120.54, F.S.
[4] Rule repeals do not require initial rule development. Section 120.54(2)(a), F.S. Emergency rulemaking proceeds separately under s. 120.54(4), F.S.
[5] Section 120.54(2)(a), F.S. The APA is silent on the initial, internal process an agency follows prior to initiating public rule development. *Adam Smith Enterprises, Inc. v. Dept. of Environmental Regulation*, 553 So. 2d 1260, 1265, n. 4 (Fla. 1st DCA 1990).
[6] An agency must conduct public workshops if so requested in writing by any affected person unless the agency head explains in writing why a workshop is not necessary. Section 120.52(c), F.S.
[7] Section 120.52(c), F.S.
[8] Section 120.54(3)(a)1., F.S.
[9] Persons affected by the proposed rule have 21 days from the date of publication to request a hearing on the proposed rule. Section 120.54(3)(c), F.S. Those wanting to submit a lower cost regulatory alternative to the proposed rule have the same 21 day time limit. Sections 120.54(3)(a)1., 120.541(1)(a), F.S. The agency must wait at least 28 days from the date of publication before filing the proposed rule for final adoption. Section 120.54(3)(a)2., (3)(e)1., F.S.
[10] Section 120.54(3)(a)1., F.S.
[11] Section 120.54(3)(c)1., F.S.

to the Division of Administrative Hearings (DOAH). Once the separate proceeding concludes, the rulemaking proceeding resumes.[12]

Subsequent to the final rulemaking hearing, if the agency makes any substantial change to the proposed rule, the agency must provide additional notice and publish a notice of change in the F.A.R. at least 21 days before the rule may be filed for adoption.[13] If the change increases the regulatory costs of the rule, the agency must revise its SERC.[14]

Statement of Estimated Regulatory Costs (SERC)

A SERC is an agency estimate of the potential impact of a proposed rule on the public, particularly the potential costs to the public of complying with the rule as well as to the agency and other governmental entities to implement the rule.[15] Agencies are encouraged to prepare a SERC before adopting, amending, or repealing any rule,[16] but are required to prepare a SERC if:

- The proposed rule will have an adverse impact on small businesses;[17]
- The proposed rule is likely to directly or indirectly increase aggregate regulatory costs by more than $200,000 in the first year after the rule is implemented;[18] or
- If a substantially affected person submits a proposal for a lower cost regulatory alternative to the proposed rule. The proposal must substantially accomplish the same objectives in the law being implemented by the agency.[19]

Each SERC at a minimum must contain the following elements:

- An economic analysis of the proposed rule's potential direct or indirect impacts,[20] including whether any of the following exceed an aggregate of $1,000,000 in the first five years after implementing the rule:
  - Any adverse impact on economic growth, private sector job creation or employment, or private sector investment;[21]
  - Any adverse impact on business competitiveness (including the ability to compete with businesses in other states or markets), productivity, or innovation;[22] or
  - Any likely increase in regulatory costs (including transactional costs). [23]
- A good faith estimate of the number and a general description of the individuals and entities required to comply with the rule.[24]
- A good faith estimate of the cost of implementing the rule to the agency and any other state or local governmental entities, including any anticipated impacts on state or local revenues.[25]
- A good faith estimate of the transactional costs members of the public and local governmental entities are likely to incur to comply with the rule.[26]

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[12] Section 120.54(3)(c)2., F.S.
[13] Section 120.54(3)(d)1., F.S.
[14] Section 120.541(1)(c), F.S.
[15] Section 120.541(2), F.S. Beginning in 1975, the APA required agencies to estimate the economic impact of proposed rules or explain why such an estimate could not be prepared. Ch. 75-191, s. 3, LOF, codified at 120.54(1), Fla. Stat. (1975).
[16] Section 120.54(3)(b)1., F.S.
[17] Sections 120.54(3)(b)1.a. & 120.541(1)(b), F.S.
[18] Sections 120.54(3)(b)1.b. & 120.541(1)(b), F.S.
[19] Section 120.541(1)(a), F.S. Upon the submission of the lower cost regulatory alternative, the agency must revise its initial SERC, or prepare one if not done previously, and either adopt the proposed alternative or state its reasons for rejecting the proposal.
[20] Section 120.541(2)(a), F.S.
[21] Section 120.541(2)(a)1., F.S.
[22] Section 120.541(2)(a)2., F.S.
[23] Section 120.541(2)(a)3., F.S.
[24] Section 120.541(2)(b), F.S.
[25] Section 120.541(2)(c), F.S.
[26] Section 120.541(2)(d), F.S. The definition of "transactional costs" is discussed later in this analysis.

- An analysis of the impact of the rule on small businesses, including the agency's explanation for not implementing alternatives which could reduce adverse impacts, and of the impact on small counties and small cities.[27]
- A description of each lower cost regulatory alternative submitted to the agency with a statement adopting the alternative or explaining the reasons for rejection.[28]

Additional information may be included if the agency determines such would be useful.[29] The agency's failure to prepare a SERC when required or failure to respond to a written proposed lower cost regulatory alternative[30] is a material failure to follow the APA rulemaking requirements.[31] Consequently, if challenged, the rule could be found to be an invalid exercise of delegated legislative authority.[32] Even when the agency properly prepares a SERC and responds to all proposed lower cost regulatory alternatives, the resulting rule could be challenged as an invalid exercise of delegated legislative authority if the rule imposes regulatory costs greater than a proposed alternative which substantially accomplishes the same result.[33]

The specific requirements of s. 120.541, F.S., were adopted in 1996 as part of the comprehensive revision of the APA.[34] The revisions resulted from the Final Report of the Commission appointed by the Governor to study and recommend improvements to the APA, particularly in rulemaking and making agencies more accountable to the Legislature and the public.[35] The Commission found the purpose for economic impact statements was to assist both the government and the public to understand the potential financial impacts of a rule before adoption, but "(t)he quality of economic analyses ... prepared by state agencies is inadequate, and existing law requirements ... are ineffective."[36] Although the Commission recommended a number of revisions to improve the evaluation of costs, which serve as the basis for the present statute, these recommendations provided little guidance on the actual cost components relevant to evaluating the potential impact of a proposed rule.[37]

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[27] Section 120.541(2)(e), F.S. This statute incorporates the definitions of "small city" and "small county" in ss. 120.52(18) & 120.52(19), F.S., respectively. The statute also incorporates the definition of "small business" in s. 288.703, F.S. *Compare*, s. 120.54(3)(b)2., F.S., which uses similar language requiring agencies to consider the impact of every proposed rule, amendment, or repeal on small businesses, small cities, and small counties but also permits agencies to rely on expanded versions of these definitions if necessary to more adapt the rule for more specific needs or problems. Section 120.54(3)(b)2.a., F.S., specifies 5 methods agencies must consider to reduce the rule's impact on small businesses, cities, and counties. If the agency determines the rule will affect defined small businesses, notice of the rule must be sent to the rules ombudsman in the Executive Office of the Governor. Section 120.54(3)(b)2.b.(I), F.S. The agency must adopt regulatory alternatives reducing impacts on small businesses timely offered by the rules ombudsman or provide JAPC a written explanation for failing to do so. Section 120.54(3)(b)2.b.(II), (III), F.S.

[28] Section 120.541(2)(g), F.S.

[29] Section 120.541(2)(f), F.S.

[30] The party submitting a proposal to the agency must designate it as a lower cost regulatory alternative or at a minimum discuss cost issues with the proposed rule in order to inform the agency of the purpose of the submittal. A party challenging the validity of a school board rule argued the board failed to prepare a SERC after receiving a lower cost regulatory alternative. The administrative law judge (ALJ) found the proposal submitted to the board neither referenced s. 120.541, F.S., nor asserted it would result in lower costs. The ALJ ruled the failure to demonstrate the proposal presented a lower cost alternative meant the agency was not informed of the purpose of the submission and thus had a duty to prepare a SERC or respond to a lower cost regulatory alternative. *RHC and Associates, Inc. v. Hillsborough County School Board*, Final Order, DOAH Case no. 02-3138RP at http://www.doah.state.fl.us/ALJ/searchDOAH/ (accessed 1/28/2014).

[31] Section 120.541(1)(e), F.S. Unlike other failures to follow the APA rulemaking requirements, this provision prevents the challenged agency from rebutting the presumed material failure by proving the substantial interests of the petitioner and the fairness of the proceedings were not impaired. Section 120.56(1)(c), F.S. This limitation applies only if the challenge is brought by a substantially affected person within one year from the rule going into effect. Section 120.541(1)(f), F.S.

[32] Section 120.52(8)(a), F.S.

[33] Section 120.52(8)(f), F.S. This type of challenge must be to the agency's rejection of a lower cost regulatory alternative and brought by a substantially affected person within a year of the rule going into effect. Section 120.541(1)(g), F.S.

[34] Ch.96-159, s. 11, LOF.

[35] *Final Report of the Governor's Administrative Procedure Act Review Commission*, 1 (Feb. 20, 1996), at http://japc.state.fl.us/research.cfm (accessed 1/29/2014).

[36] *Final Report of the Governor's APA Review Commission*, supra at 31.

[37] *Final Report of the Governor's APA Review Commission*, supra at 32.

For example, neither a definition nor examples of "regulatory costs" are found in the APA although the concept is important to an agency's economic analysis. "Transactional costs" are defined as direct costs of compliance, readily ascertainable based on standard business practices, including:

- Filing fees;
- Costs to obtain a license;
- Costs of equipment installed or used for rule compliance;
- Costs of procedures required for compliance;
- Additional operating costs;
- Costs for monitoring and reporting; and
- Any other necessary costs of compliance.[38]

The statute does not provide guidance or reference on how agencies are to identify and apply standard business practices in the development of required SERCs. As a result, some agencies with access to, and familiarity with, cost impact data from entities affected by specific rules provide comprehensive analyses of such impacts in SERCs.[39] Other agencies, less familiar with costs to individuals and entities to conduct the regulated activities and comply with specific rules, prepare SERCs which do not reflect the full impact of particular rules, particularly when a rule contains delayed impacts.[40]

Effect of Proposed Changes

The bill clarifies the time frame in which agencies must evaluate costs and impacts when preparing SERCs. The required economic analysis must still analyze the proposed rule's impact on regulatory costs, which will include all costs and impacts estimated in the SERC. The PCB creates s. 120.541(5), requiring agencies to estimate all impacts and costs for the first five years after full implementation of all provisions of the rule, not simply from the effective date of the proposed rule.

B. SECTION DIRECTORY:

Section 1. Amends s. 120.541, F.S., creating s. 120.541(5), F.S., revising the impacts and costs agencies must evaluate when preparing a SERC to include the impacts and costs of the first five years after full implementation of all provisions of a rule.

Section 2. Provides an effective date of July 1, 2016.

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[38] Section 120.541(2)(d), F.S.

[39] Presentations of Curt Kiser, General Counsel, and Bill McNulty, Economic Analyst, of the Public Service Commission, at scheduled meeting of Rulemaking Oversight & Repeal Subcommittee on November 5, 2013, at http://myfloridahouse.gov/VideoPlayer.aspx?eventID=2443575804_2013111059&committeeID=2727 (accessed 1/31/2014).

[40] Presentation of Dept. of Elder Affairs at scheduled meeting of RO&RS on March 27, 2013. *See*, 3-27-2013 Subcommittee Action Packet, 45-52. The agency was revising several rules in Ch. 58A-5, F.A.C., including increased training and testing requirements for administrators, managers, and staff of assisted living facilities (ALF). The SERC prepared by the agency initially concluded the proposed rules would increase regulatory costs by less than $1,000,000 over the first five years of implementation. However, as adduced by the Subcommittee during the agency's presentation, a number of cost factors were not considered in preparing the SERC, including the time and expense for testing to *all* applicants (not merely those passing the test), increased training and labor costs to ALFs, and even the costs of implementation and operation to the agency. The SERC also did not account for the delayed effective dates for some of the rules, resulting in the agency measuring cost impacts for the first 5 years from the initial effective date of some rules rather than a full 5 years for each rule. When questioned on these assumptions, the agency conceded the SERC should have indicated an overall cost impact exceeding $1,000,000 for the first 5 years of full implementation of all the subject rules. An audio recording of the meeting is at http://myfloridahouse.gov/FileStores/AdHoc/PodCasts/03_27_2013/Rulemaking_Oversight_Repeal_2013_03_27.mp3 (accessed 1/31/2014).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The bill may have an indeterminate but likely insignificant fiscal impact on state government. *See* FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill is expected to provide a better estimation of economic impacts of agency rules, a better opportunity of local government and private entities to participate in rulemaking and in estimating regulatory costs. In addition, more complete estimates of regulatory costs and economic impacts may bring more agency rules under the scrutiny of legislative ratification prior to their becoming effective.

D. FISCAL COMMENTS:

State agencies currently are required to comply with notice, publication, and hearing requirements for preparing SERCs. The bill adds to these requirements. Compliance with these additional requirements may require agencies to devote more resources to rulemaking, but the impact is likely insignificant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not appear to require counties or municipalities to take any action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not create any additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to administrative procedures; amending s. 120.541, F.S.; providing additional requirements for the calculation of estimated adverse impacts and regulatory costs; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) is added to section 120.541, Florida Statutes, to read:

120.541 Statement of estimated regulatory costs.—

(5) For purposes of subsections (2) and (3), adverse impacts and regulatory costs likely to occur within 5 years after implementation of the rule include adverse impacts and regulatory costs estimated to occur within 5 years after the effective date of the rule. However, if any provision of the rule is not fully implemented upon the effective date of the rule, the adverse impacts and regulatory costs associated with such provision must be adjusted to include any additional adverse impacts and regulatory costs estimated to occur within 5 years after implementation of such provision.

Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7053 PCB EDC 16-02 Child Care and Development Block Grant Program
SPONSOR(S): Education Committee, O'Toole
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee	16 Y, 0 N	Dehmer	Mizereck
1) Appropriations Committee		Heflin	Leznoff

SUMMARY ANALYSIS

Florida's Office of Early Learning (OEL) administers the Child Care and Development Fund (CCDF) and provides state-level administration for the school readiness program. On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014 was signed into law reauthorizing the CCDF for the first time since 1996. The new law requires that parents and the general public be provided better information about available child care choices and establishes health and safety requirements for school readiness program providers.

The bill implements the requirements of the Child Care and Development Block Grant (CCDBG) Act by:

- Increasing public information on, and background screening of, child care providers;
- Aligning eligibility requirements with the grant;
- Requiring inspection of, and standards for emergency preparedness plans for, school readiness program providers; and
- Requiring pre-service and in-service training for personnel of School Readiness program providers.

See fiscal impact on state government. Failure to adopt this bill will result in the loss of the state's draw-down of the 2015 federal dollars in the CCDBG which is estimated to be $273,745,303. To implement the Federal requirements of the reauthorized grant will require $614,755 of budget authority for personnel resources to perform the additional licensure, background screening, and public awareness requirements. The budget authority is being provided in the House proposed General Appropriations Act for Fiscal Year 2016-2017.

This bill takes effect July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Child Care and Development Block Grant (CCDBG)

The Office of Child Care (OCC) of the United States Department of Health and Human Services supports low-income working families by providing access to affordable, high-quality early care and afterschool programs. OCC administers the Child Care and Development Fund (CCDF) and works with state, territory and tribal governments to provide support for children and their families to promote family economic self-sufficiency and to help children succeed in school and life through affordable, high-quality early care and afterschool programs.[1]

School Readiness Program

Florida's Office of Early Learning (OEL)[2] is the designated lead agency for purposes of administering the CCDF Block Grant Trust Fund and provides state-level administration for the School Readiness program. The School Readiness program is a state-federal partnership between OEL and the Office of Child Care of the United States Department of Health and Human Services.[3] The School Readiness program receives funding from a mixture of state and federal sources, including the federal CCDF, the federal Temporary Assistance for Needy Families (TANF) block grant, general revenue and other state funds.[4] The school readiness program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities.

The program utilizes a variety of providers to deliver program services, such as licensed and unlicensed child care providers and public and nonpublic schools.[5] The Florida Department of Children and Families' Office of Child Care Regulation (DCF), as the agency responsible for the state's child care provider licensing program, regulates child care providers that provide early learning programs.[6]

The program is administered at the county or regional level by early learning coalitions (ELC).[7]

In order to be eligible to deliver the School Readiness program, a provider must be:

- A licensed child care facility;
- A licensed or registered family day care home (FDCH);
- A licensed large family child care home (LFCCH);
- A public school or non-public school;

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[1] Office of Child Care, *What We Do,* at http://www.acf.hhs.gov/programs/occ/about/what-we-do (last visited Nov. 13, 2015).

[2] In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education (DOE).The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the School Readiness program and the Voluntary Prekindergarten Education Program. Section 1, 2013-252, L.O.F., *codified as* s. 1001.213, F.S.

[3] Part VI, ch. 1002, F.S.; 42 U.S.C. ss. 618 & 9858-9858q.

[4] Specific Appropriation 88, s. 2, ch. 2014-51, L.O.F.

[5] Section 1002.88(1)(a), F.S.

[6] *See* ss. 402.301-319, F.S., and Part VI, ch. 1002, F.S.

[7] *Sections 1002.83-1002.85, F.S.* There are currently 30 ELCs, but 31 is the maximum permitted by law. Section 1002.83(1), F.S.; *see* Florida's Office of Early Learning, *Early Learning Coalition Directory* (Feb. 5, 2014), http://www.floridaearlylearning.com/sites/www/Uploads/files/Parents/CoalitionDirectory.pdf.

- A license-exempt faith-based child care provider;
- A before-school or after-school program; or
- An informal child care provider authorized in the state's CCDF plan.[8]

On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014 was signed into law reauthorizing the CCDF for the first time since 1996. The new law prescribes health and safety requirements for School Readiness program providers and requires better information to parents and the general public about available child care choices.[9]

While Florida's school readiness programs meet many of the new federal requirements, there are specific requirements of the grant that will necessitate changes to Florida law which include:

- Screening for child care staff to include searches of the National Sex Offender Registry, as well as searches of state criminal records, sex offender registry and child abuse and neglect registry of any state in which the child care personnel resided during the preceding 5 years.[10]
- Posting of monitoring and inspection reports through electronic means.[11]
- Providing parents and the general public, information, via a website, regarding:
    - The availability of child care services to promote informed child care choices;
    - The process for licensing child care providers;
    - The conducting of background screening;
    - The monitoring and inspection of child care providers; and
    - The offenses that would prevent individuals and entities from serving as child care providers in the state.[12]
- Inspecting license-exempt providers receiving CCDBG funds for compliance with health, safety, and fire standards.[13]
- Requiring disaster preparedness plan to include procedures for staff and volunteer emergency preparedness training and practice drills.[14]
- Certifying in the state plan, compliance with the child abuse reporting requirements of the Child Abuse Prevention and Treatment Act.[15]

Effect of Proposed Changes

Under current law all child care personnel must be of good moral character based upon screening conducted pursuant to chapter 435 using the level 2 standards.[16] The level 2 screening standards include "a statewide criminal history records check through the Department of Law Enforcement, national criminal history checks through the Federal Bureau of Investigation, and may include local criminal records check through local law enforcement agencies."[17] The screening also includes a search of the National Crime Information Center database[18] which consists of 21 files, including the

[8] Section 1002.88(1)(a), F.S. Generally speaking, informal child care is care provided by a relative. *See* Florida's Office of Early Learning, *Florida's Child Care and Development Fund State Plan FFY 2014-15,* at 71 (Oct. 1, 2013), *available at* http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015_CCDF_Plan_%20Optimized.pdf.
[9] Office of Child Care, *CCDF Reauthorization,* at http://www.acf.hhs.gov/programs/occ/ccdf-reauthorization (last visited Nov. 13, 2015).
[10] Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658H(b)
[11] Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(C)
[12] Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(C)
[13] Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(K).
[14] Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(U).
[15] Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658E(c)(2)(L).
[16] Section 402.305(2)(a), F.S.
[17] Section 435.04(1)(a), F.S.
[18] Letter, Florida Department of Law Enforcement, Criminal Justice Information Center (April 20, 2015).

National Sex Offender Registry.[19] To implement the federal requirements of the grant, the bill clarifies that screenings for child care providers must include employment history checks over the previous 5 years and searches of the state criminal records, the sex offender registry, and the child abuse and neglect registry of any state in which the individual resided during the preceding 5 years. The bill also provides the Office of Early Learning with access to records of the child abuse, abandonment, or neglect registry for employment screening and approval of providers who receive school readiness funding. Each child care facility, family day care home, and large family day care home must annually submit an affidavit of compliance with s. 39.201, F.S., regarding the mandatory reporting of child abuse, abandonment, or neglect.

A provider who receives school readiness funding may not employ a person who has been convicted of:

- Any felony offense relating to:
  - Domestic violence;
  - Murder;
  - Manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, firefighter, an emergency medical technician or paramedic;
  - Aggravated assault;
  - Aggravated battery;
  - Kidnapping;
  - Luring or enticing a child;
  - Leading, taking, enticing or removing a minor beyond state limits; or concealing the location of a minor, with criminal intent pending custody proceedings, pending dependency proceeding or proceeding concerning alleged abuse or neglect of a minor;
  - Sexual battery;
  - Sexual activity with or solicitation of a child by a person in familial or custodial authority;
  - Unlawful sexual activity with certain minors;
  - Female genital mutilation;
  - Arson;
  - Incest;
  - Child abuse, aggravated child abuse or neglect of a child;
  - Contributing to the delinquency or dependency of a child;
  - Sexual performance by a child;
    Sexual misconduct in juvenile justice programs;

- Any misdemeanor offense prohibited under:
  - Section 784.03, F.S., relating to battery of a minor;
  - Section 787.025 F.S., relating to luring or enticing a child;

- Any criminal act committed in another state or under federal law which, if committed in Florida, constitutes an offense listed above.

To increase public information on available child care options, DCF and local licensing agencies must include within their current dissemination of information on child care:

- Health and safety standards for school readiness providers;
- Monitoring and inspection reports;
- Location and contact information for school readiness providers;
- Data on the number of deaths, serious injuries, and instances of substantiated child abuse in the child care setting;

[19] *See* Federal Bureau of Investigation, *National Crime Information Center*, https://www.fbi.gov/about-us/cjis/ncic (last visited November 24, 2015).

- Research and best practices in child development; and
- Resources regarding social and emotional development, parent and family engagement, health eating, and physical activity.

Currently, child care providers must provide basic health and safety of its premises and facilities and compliance with requirements for age-appropriate immunizations of children. Licensed providers may satisfy this requirement through compliance with current licensing standards for child care facilities, large family child care homes, or family day care homes. Faith-based child care providers, informal child care providers and nonpublic schools exempt from licensure satisfy this requirement by posting a health and safety checklist adopted by OEL.

Under the grant, all school readiness program providers must meet a minimum level of health and safety and receive at least one annual inspection. Consequently, the bill authorizes OEL to enter into a memorandum of understanding with DCF and local licensing agencies to conduct inspections and verify compliance with requirements of the federal grant by all providers who receive school readiness funding. DCF or the local licensing agency, as applicable, will conduct inspections to determine compliance with the school readiness program provider standards through exercise of their discretionary power to enforce compliance with the laws. The authority to inspect includes access to facilities, personnel, and records. A school readiness program provider that refuses entry or inspection shall have its provider contract terminated.

School readiness providers must:

- Provide more information to the public to promote informed child care choices.
- Provide training on child care development research and best practices and cardiopulmonary resuscitation training.
- Provide an appropriate group size as well as an appropriate staff-to-child ratio.
- Employ child care personnel who have satisfied the screening requirements of chapter 402, and fulfilled the training requirements of OEL.

The OEL must:

- Establish pre-service and in-service training requirements that, at a minimum, address:
  - School Readiness child development standards;
  - Health and safety standards; and
  - Social-emotional behavior intervention models.
- Establish standards for emergency preparedness plans for school readiness providers.
- Develop and implement strategies to increase the supply and improve the quality of child care services for children in underserved and impoverished areas along with areas where children have disabilities and require care during non-traditional hours.
- Establish group sizes.
- Establish staff-to-child ratios that do not exceed those defined[20] in current statute for licensing standards of child care facilities.[21]
- Establish eligibility criteria for the school readiness program consistent with state and federal law.
- Establish a sliding fee scale that provides for a parent copayment that is not a barrier to families receiving school readiness program services.

Once a child is determined eligible for the school readiness program, the child remains eligible for a period of twelve months. Consequently, the bill repeals the requirement that each early learning coalition redetermine eligibility twice per year for an additional 50 percent the coalition's enrollment.

[20] *See* Sections 402.302(8) and (11), F.S.
[21] *See* Section 402.305(4), F.S.

A parent of a child enrolled in the school readiness program must notify the coalition within 10 day of any change in employment status or failure to maintain attendance at a job training or educational program in accordance with program requirements. If a child from a working family becomes ineligible due to a parent's unemployment or nonattendance at a job training or education program, the parent has 90 days to reestablish employment or resume attendance at a job training or education program. The child remains eligible during the 90 day period. In addition, the bill authorizes coalitions to temporarily waive the copayment for a child whose family income is at or below the federal poverty level.

B. SECTION DIRECTORY:

Section 1. Amends s. 39.202, F.S., providing the Office of Early Learning with access to records of the child abuse registry to approve providers who receive school readiness funding.

Section 2. Amends s. 402.302, F.S., revising the definition of screening.

Section 3. Amends s. 402.306, F.S., requiring the Department of Children and Families and local licensing agencies to disseminate, through electronic means, additional child care information to families and the public.

Section 4. Amends s. 402.311, F.S., authorizing the department to conduct inspections of child care facilities.

Section 5. Amends s. 402.319, F.S., requiring all providers to submit an affidavit of compliance with the mandatory reporting requirements of the child abuse, abandonment, or neglect registry.

Section 6. Amends s. 435.07, F.S., prohibiting an individual with certain offenses from working with child care providers who receive school readiness funding.

Section 7. Amends s. s. 1002.82, F.S., revising the powers and duties of the Office of Early Leaning.

Section 8. Amends s. 1002.84, F.S., repealing requirement for redetermination of child eligibility.

Section 9. Amends s. 1002.87, F.S., revising eligibility criteria for participation in the school readiness program.

Section 10. Amends s. 1002.88, F.S., revising provider eligibility.

Section 11. Amends s. 1002.89, F.S., revising requirements for the school readiness program.

Section 12. Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Failure to adopt this bill will result in the loss of the state's draw-down of the federal dollars in the CCDBG. The federal draw down of the CCDBG for the 2015 federal fiscal year is estimated to be $273,745,303. Due to the overlap in the state and federal fiscal years, budget authority for the CCDBG in the 2015-2016 General Appropriations Act is higher than the federal draw down amount, totaling $374,111,331.

2. Expenditures:

   To implement the additional licensure, background screening, and public awareness requirements of the reauthorized grant, it's estimated the DCF will require $614,755 in budget authority from the Federal Grants Trust Fund to comply with the new requirements of the federal Child Care Development Block Grant Act of 2014. Of the total, this issue reflects $533,941 in the Family Safety budget entity. The reauthorization defines health and safety requirements for child care providers, outlines eligibility practices and provides transparent information about child care choices to the general public. This issue funds nine Other Personal Services positions including seven Family Services Counselors, one Family Services Counselor Supervisor, and one Senior Attorney to support the increased workload associated with these new requirements. The budget authority is being provided in the House proposed General Appropriations Act for Fiscal Year 2016-2017.

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 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 December 3, 2015, the Education Committee adopted one amendment and reported the bill favorably. The amendment clarified that the staff-to-child ratios established by the OEL shall not exceed those defined in law for child care providers under the jurisdiction of the Department of Children and Families. The bill analysis is drafted to the proposed committee bill as amended.

A bill to be entitled

An act relating to the Child Care and Development Block Grant Program; amending s. 39.201, F.S.; providing an exception from a prohibition against the use of information in the Department of Children and Families central abuse hotline for employment screening of certain child care personnel; amending s. 39.202, F.S.; expanding the list of entities that have access to child abuse records for purposes of approving providers of school readiness services; amending s. 402.302, F.S.; revising the definition of the term "screening" for purposes of child care licensing requirements; amending s. 402.306, F.S.; requiring the Department of Children and Families and local licensing agencies to electronically post certain information relating to child care and school readiness providers; amending s. 402.311, F.S.; requiring school readiness program providers to provide the department or local licensing agencies with access to facilities, personnel, and records for inspection purposes; amending s. 402.319, F.S.; requiring certain child care providers to submit an affidavit of compliance with certain mandatory reporting requirements; amending s. 435.07, F.S.; providing criteria for disqualification from employment with a school readiness program provider;

amending s. 1002.82, F.S.; revising the duties of the Office of Early Learning of the Department of Education; requiring the office to coordinate with the Department of Children and Families and local licensing agencies for inspections of school readiness program providers; amending s. 1002.84, F.S.; revising provisions relating to determination of child eligibility for school readiness programs; revising requirements for determining parent copayments for participation in the program; amending s. 1002.87, F.S.; revising school readiness program eligibility requirements for parents; amending s. 1002.88, F.S.; revising requirements for school readiness program providers; amending s. 1002.89, F.S.; providing for additional uses of funds for school readiness programs; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (6) of section 39.201, Florida Statutes, is amended to read:

39.201 Mandatory reports of child abuse, abandonment, or neglect; mandatory reports of death; central abuse hotline.—

(6) Information in the central abuse hotline may not be used for employment screening, except as provided in s. 39.202(2)(a) and (h) or s. 402.302(15). Information in the

central abuse hotline and the department's automated abuse information system may be used by the department, its authorized agents or contract providers, the Department of Health, or county agencies as part of the licensure or registration process pursuant to ss. 402.301-402.319 and ss. 409.175-409.176.

Section 2. Paragraph (a) of subsection (2) of section 39.202, Florida Statutes, is amended to read:

39.202 Confidentiality of reports and records in cases of child abuse or neglect.—

(2) Except as provided in subsection (4), access to such records, excluding the name of the reporter which shall be released only as provided in subsection (5), shall be granted only to the following persons, officials, and agencies:

(a) Employees, authorized agents, or contract providers of the department, the Department of Health, the Agency for Persons with Disabilities, the Office of Early Learning, or county agencies responsible for carrying out:

1. Child or adult protective investigations;

2. Ongoing child or adult protective services;

3. Early intervention and prevention services;

4. Healthy Start services;

5. Licensure or approval of adoptive homes, foster homes, child care facilities, facilities licensed under chapter 393, ~~or~~ family day care homes, ~~or informal child care~~ providers who receive school readiness funding under part VI of chapter 1002, or other homes used to provide for the care and welfare of

children; or

6. Services for victims of domestic violence when provided by certified domestic violence centers working at the department's request as case consultants or with shared clients.

Also, employees or agents of the Department of Juvenile Justice responsible for the provision of services to children, pursuant to chapters 984 and 985.

Section 3. Subsection (15) of section 402.302, Florida Statutes, is amended to read:

402.302 Definitions.—As used in this chapter, the term:

(15) "Screening" means the act of assessing the background of child care personnel, in accordance with state and federal law, and volunteers and includes, but is not limited to:~~,~~

(a) Employment history checks, including documented attempts to contact each employer that employed the applicant within the preceding 5 years and documentation of the findings.

(b) A search of the criminal history records, sexual predator and sexual offender registry, and child abuse and neglect registry of any state in which the applicant resided during the preceding 5 years.

A fingerprint-based identification system is required for purposes of ~~local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this subsection,~~ statewide criminal records checks through

the Department of Law Enforcement~~,~~ and federal criminal records checks through the Federal Bureau of Investigation.

Section 4. Subsection (3) of section 402.306, Florida Statutes, is amended to read:

402.306 Designation of licensing agency; dissemination by the department and local licensing agency of information on child care.—

(3) The department and local licensing agencies, or the designees thereof, shall be responsible for coordination and dissemination of information on child care to the community and shall make available through electronic means ~~upon request~~ all licensing standards and procedures, health and safety standards for school readiness providers, monitoring and inspection reports, and ~~in addition to~~ the names and addresses of licensed child care facilities, school readiness program providers, and, where applicable pursuant to s. 402.313, licensed or registered family day care homes. This information shall also include the number of deaths, serious injuries, and instances of substantiated child abuse that have occurred in child care settings each year; research and best practices in child development; and resources regarding social-emotional development, parent and family engagement, healthy eating, and physical activity.

Section 5. Section 402.311, Florida Statutes, is amended to read:

402.311 Inspection.—

(1) A licensed child care facility shall accord to the department or the local licensing agency, whichever is applicable, the privilege of inspection, including access to facilities and personnel and to those records required in s. 402.305, at reasonable times during regular business hours, to ensure compliance with ~~the provisions of~~ ss. 402.301-402.319. The right of entry and inspection shall also extend to any premises which the department or local licensing agency has reason to believe are being operated or maintained as a child care facility without a license, but no such entry or inspection of any premises shall be made without the permission of the person in charge thereof unless a warrant is first obtained from the circuit court authorizing such entry or inspection ~~same~~. Any application for a license or renewal made pursuant to this act or the advertisement to the public for the provision of child care as defined in s. 402.302 shall constitute permission for any entry or inspection of the premises for which the license is sought in order to facilitate verification of the information submitted on or in connection with the application. In the event a licensed facility refuses permission for entry or inspection to the department or local licensing agency, a warrant shall be obtained from the circuit court authorizing entry or inspection before ~~same prior to~~ such entry or inspection. The department or local licensing agency may institute disciplinary proceedings pursuant to s. 402.310~~,~~ for such refusal.

(2) A school readiness program provider shall accord to

the department or the local licensing agency, whichever is applicable, the privilege of inspection, including access to facilities, personnel, and records, to verify compliance with the requirements of s. 1002.88. Entry, inspection, and issuance of an inspection report by the department or the local licensing agency to verify compliance with the requirements of s. 1002.88 is an exercise of a discretionary power to enforce compliance with the laws duly enacted by a governmental body.

(3) The department's issuance, transmittal, or publication of an inspection report resulting from an inspection under this section does not constitute agency action subject to chapter 120.

Section 6. Subsection (3) is added to section 402.319, Florida Statutes, to read:

402.319 Penalties.—

(3) Each child care facility, family day care home, and large family day care home shall annually submit an affidavit of compliance with s. 39.201.

Section 7. Paragraph (c) is added to subsection (4) of section 435.07, Florida Statutes, to read:

435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this chapter, regardless of whether those disqualifying offenses are listed in this chapter or other laws.

(4)

(c) A person is ineligible for employment with a provider that receives school readiness funding under part VI of chapter 1002 if the person has been convicted of:

1. A felony offense prohibited under any of the following statutes:

a. Chapter 741, relating to domestic violence.

b. Section 782.04, relating to murder.

c. Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, aggravated manslaughter of a child, or aggravated manslaughter of an officer, a firefighter, an emergency medical technician, or a paramedic.

d. Section 784.021, relating to aggravated assault.

e. Section 784.045, relating to aggravated battery.

f. Section 787.01, relating to kidnapping.

g. Section 787.025, relating to luring or enticing a child.

h. Section 787.04(2), relating to leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending custody proceedings.

i. Section 787.04(3), relating to leading, taking, enticing, or removing a minor beyond the state limits, or concealing the location of a minor, with criminal intent pending dependency proceedings or proceedings concerning alleged abuse

or neglect of a minor.

j. Section 794.011, relating to sexual battery.

k. Former s. 794.041, relating to sexual activity with or solicitation of a child by a person in familial or custodial authority.

l. Section 794.05, relating to unlawful sexual activity with certain minors.

m. Section 794.08, relating to female genital mutilation.

n. Section 806.01, relating to arson.

o. Section 826.04, relating to incest.

p. Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

q. Section 827.04, relating to contributing to the delinquency or dependency of a child.

r. Section 827.071, relating to sexual performance by a child.

s. Section 985.701, relating to sexual misconduct in juvenile justice programs.

2. A misdemeanor offense prohibited under any of the following statutes:

a. Section 784.03, relating to battery, if the victim of the offense was a minor.

b. Section 787.025, relating to luring or enticing a child.

3. A criminal act committed in another state or under federal law which, if committed in this state, constitutes an

offense prohibited under any statute listed in subparagraph 1. or subparagraph 2.

Section 8. Paragraph (i) of subsection (2) of section 1002.82, Florida Statutes, is amended, and paragraphs (s) through (x) are added to that subsection, to read:

1002.82 Office of Early Learning; powers and duties.—

(2) The office shall:

(i) Enter into a memorandum of understanding with local licensing agencies and ~~Develop, in coordination with~~ the Child Care Services Program Office of the Department of Children and Families for inspections of school readiness program providers that are registered family day care homes or are not subject to licensure or registration by the Department of Children and Families to monitor and verify compliance with the health and safety checklist adopted by the office. The provider contract of a school readiness program provider that refuses permission for entry or inspection shall be terminated. The~~, and adopt a~~ health and safety checklist may ~~to be completed by license-exempt providers that does~~ not exceed the requirements of s. 402.305 and the Child Care and Development Fund pursuant to 45 C.F.R. part 98.

(s) Develop and implement strategies to increase the supply and improve the quality of child care services for infants and toddlers, children with disabilities, children who receive care during nontraditional hours, children in underserved areas, and children in areas that have significant

concentrations of poverty and unemployment.

(t) Establish preservice and inservice training requirements that address, at a minimum, school readiness child development standards, health and safety requirements, and social-emotional behavior intervention models, which may include positive behavior intervention and support models.

(u) Establish standards for emergency preparedness plans for school readiness program providers.

(v) Establish group sizes.

(w) Establish staff-to-children ratios that do not exceed the requirements of s. 402.302(8) or (11) or s. 402.305(4), as applicable, for school readiness program providers.

(x) Establish eligibility criteria, including limitations based on income and family assets, in accordance with s. 1002.87 and federal law.

Section 9. Subsections (7) and (8) of section 1002.84, Florida Statutes, are amended to read:

1002.84 Early learning coalitions; school readiness powers and duties.—Each early learning coalition shall:

(7) Determine child eligibility pursuant to s. 1002.87 and provider eligibility pursuant to s. 1002.88. ~~At a minimum,~~ Child eligibility must be redetermined annually. ~~Redetermination must also be conducted twice per year for an additional 50 percent of a coalition's enrollment through a statistically valid random sampling.~~ A coalition must document the reason ~~why~~ a child is no longer eligible for the school readiness program according to

the standard codes prescribed by the office.

(8) Establish a parent sliding fee scale that provides for ~~requires~~ a parent copayment that is not a barrier to families receiving ~~to participate in the~~ school readiness program services. Providers are required to collect the parent's copayment. A coalition may, on a case-by-case basis, waive the copayment for an at-risk child or temporarily waive the copayment for a child whose family's income is at or below the federal poverty level and whose family experiences a natural disaster or an event that limits the parent's ability to pay, such as incarceration, placement in residential treatment, or becoming homeless, or an emergency situation such as a household fire or burglary, or while the parent is participating in parenting classes. A parent may not transfer school readiness program services to another school readiness program provider until the parent has submitted documentation from the current school readiness program provider to the early learning coalition stating that the parent has satisfactorily fulfilled the copayment obligation.

Section 10. Subsections (4), (5), and (6) of section 1002.87, Florida Statutes, are amended to read:

1002.87 School readiness program; eligibility and enrollment.—

(4) The parent of a child enrolled in the school readiness program must notify the coalition or its designee within 10 days after any change in employment status, income, or family size or

failure to maintain attendance at a job training or educational program in accordance with program requirements. ~~Upon notification by the parent, the child's eligibility must be reevaluated.~~

(5) A child whose eligibility priority category requires the child to be from a working family ceases to be eligible for the school readiness program if a parent with whom the child resides does not reestablish employment or resume attendance at a job training or educational program within 90 ~~60~~ days after becoming unemployed or ceasing to attend a job training or educational program.

(6) Eligibility for each child must be reevaluated annually. Upon reevaluation, a child may not continue to receive school readiness program services if he or she has ceased to be eligible under this section. A child who is ineligible due to a parent's job loss or cessation of education or job training shall continue to receive school readiness program services for at least 3 months to enable the parent to obtain employment.

Section 11. Paragraphs (c), (d), and (e) of subsection (1) of section 1002.88, Florida Statutes, are amended to read:

1002.88 School readiness program provider standards; eligibility to deliver the school readiness program.—

(1) To be eligible to deliver the school readiness program, a school readiness program provider must:

(c) Provide basic health and safety of its premises and facilities and compliance with requirements for age-appropriate

immunizations of children enrolled in the school readiness program.

1. For a provider that is licensed ~~child care facility, a large family child care home, or a licensed family day care home~~, compliance with s. 402.305, s. 402.3131, or s. 402.313 and this subsection, as verified pursuant to s. 402.311, satisfies this requirement.

2. For a provider that is a registered family day care home or is not subject to licensure or registration by the Department of Children and Families, compliance with this subsection, as verified pursuant to s. 402.311, satisfies this requirement. Upon verification pursuant to s. 402.311, the provider ~~For a public or nonpublic school, compliance with s. 402.3025 or s. 1003.22 satisfies this requirement. A faith-based child care provider, an informal child care provider, or a nonpublic school, exempt from licensure under s. 402.316 or s. 402.3025,~~ shall annually post ~~complete~~ the health and safety checklist adopted by the office~~, post the checklist~~ prominently on its premises in plain sight for visitors and parents~~,~~ and shall annually submit the checklist ~~it annually~~ to its local early learning coalition.

(d) Provide an appropriate group size and staff-to-children ratio~~, pursuant to s. 402.305(4) or s. 402.302(8) or (11), as applicable, and as verified pursuant to s. 402.311~~.

(e) Employ child care personnel, as defined in s. 402.302(3), who have satisfied the screening requirements of

chapter 402 and fulfilled the training requirements of the office ~~Provide a healthy and safe environment pursuant to s. 402.305(5), (6), and (7), as applicable, and as verified pursuant to s. 402.311~~.

Section 12. Subsections (6) and (7) of section 1002.89, Florida Statutes, are amended to read:

1002.89 School readiness program; funding.—

(6) Costs shall be kept to the minimum necessary for the efficient and effective administration of the school readiness program with the highest priority of expenditure being direct services for eligible children. However, no more than 5 percent of the funds described in subsection (5) may be used for administrative costs and no more than 22 percent of the funds described in subsection (5) may be used in any fiscal year for any combination of administrative costs, quality activities, and nondirect services as follows:

(a) Administrative costs as described in 45 C.F.R. s. 98.52, which shall include monitoring providers using the standard methodology adopted under s. 1002.82 to improve compliance with state and federal regulations and law pursuant to the requirements of the statewide provider contract adopted under s. 1002.82(2)(m).

(b) Activities to improve the quality of child care as described in 45 C.F.R. s. 98.51, which shall be limited to the following:

1. Developing, establishing, expanding, operating, and

coordinating resource and referral programs specifically related to the provision of comprehensive consumer education to parents and the public to promote informed child care choices specified in 45 C.F.R. s. 98.33 ~~regarding participation in the school readiness program and parental choice~~.

2. Awarding grants and providing financial support to school readiness program providers and their staff to assist them in meeting applicable state requirements for child care performance standards, implementing developmentally appropriate curricula and related classroom resources that support curricula, providing literacy supports, and providing continued professional development and training. Any grants awarded pursuant to this subparagraph shall comply with ~~the requirements of~~ ss. 215.971 and 287.058.

3. Providing training, ~~and~~ technical assistance, and financial support to ~~for~~ school readiness program providers, staff, and parents on standards, child screenings, child assessments, child development research and best practices, developmentally appropriate curricula, character development, teacher-child interactions, age-appropriate discipline practices, health and safety, nutrition, first aid, cardiopulmonary resuscitation, the recognition of communicable diseases, and child abuse detection, ~~and~~ prevention, and reporting.

4. Providing, from among the funds provided for the activities described in subparagraphs 1.-3., adequate funding

for infants and toddlers as necessary to meet federal requirements related to expenditures for quality activities for infant and toddler care.

5. Improving the monitoring of compliance with, and enforcement of, applicable state and local requirements as described in and limited by 45 C.F.R. s. 98.40.

6. Responding to Warm-Line requests by providers and parents ~~related to school readiness program children~~, including providing developmental and health screenings to school readiness program children.

(c) Nondirect services as described in applicable Office of Management and Budget instructions are those services not defined as administrative, direct, or quality services that are required to administer the school readiness program. Such services include, but are not limited to:

1. Assisting families to complete the required application and eligibility documentation.

2. Determining child and family eligibility.

3. Recruiting eligible child care providers.

4. Processing and tracking attendance records.

5. Developing and maintaining a statewide child care information system.

As used in this paragraph, the term "nondirect services" does not include payments to school readiness program providers for direct services provided to children who are eligible under s.

1002.87, administrative costs as described in paragraph (a), or quality activities as described in paragraph (b).

(7) Funds appropriated for the school readiness program may not be expended for the purchase or improvement of land; for the purchase, construction, or permanent improvement of any building or facility; or for the purchase of buses. However, funds may be expended for minor remodeling and upgrading of child care facilities which is necessary for the administration of the program and to ensure that providers meet state and local child care standards, including applicable health and safety requirements.

Section 13. This act shall take effect July 1, 2016.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Appropriations Committee
Representative O'Toole offered the following:

Amendment (with title amendment)

Remove lines 101-106 and insert:

An applicant must submit a full set of fingerprints to the department or to a vendor, entity, or agency authorized by s. 943.053(13). The department, vendor, entity, or agency shall forward the fingerprints to ~~local criminal records checks through local law enforcement agencies, fingerprinting for all purposes and checks in this subsection, statewide criminal records checks through~~ the Department of Law Enforcement~~, and federal criminal records checks through~~ for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for national processing. Fingerprint submission must be in compliance with the requirement in s. 435.12

Section 4. Section 402.3057, Florida Statutes, is repealed.

T I T L E A M E N D M E N T

Remove line 13 and insert:
licensing requirements; repealing s. 402.3057, F.S.; repealing s. 409.1757, F.S.; amending s. 402.306, F.S.;

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Appropriations Committee
Representative O'Toole offered the following:

Amendment

Remove lines 184-186 and insert:

(c) Disqualification from employment under this chapter may not be removed from, nor may an exemption be granted to, any current or prospective child care personnel of a provider receiving school readiness funding under part VI of ch. 1002, and such individuals are disqualified from employment as child care personnel with such providers regardless of any prior exemptions from disqualification, if the person has been registered as a sex offender as described in 42 U.S.C. s. 9858f(c)(1)(C) or has been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been

sealed or expunged for, any offense prohibited under any of the following provisions of state law or similar law of another jurisdiction:

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Appropriations Committee
Representative O'Toole offered the following:

Amendment

Remove lines 246-248 and insert:

to monitor and verify compliance with s. 1002.88 and the health and

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Appropriations Committee
Representative O'Toole offered the following:

Amendment (with directory amendment)

Between lines 309 and 310, insert:

(1) ~~Effective August 1, 2013, or upon reevaluation of eligibility for children currently served, whichever is later, each~~ Each early learning coalition shall give priority for participation in the school readiness program as follows:

(c) Priority shall be given next to a child from birth to the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. who is from a working family that is economically disadvantaged, and may include such child's eligible siblings, beginning with the school year in which the sibling is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. until the beginning of the

school year in which the sibling is eligible to begin 6th grade, provided that the first priority for funding an eligible sibling is local revenues available to the coalition for funding direct services. ~~However, a child eligible under this paragraph ceases to be eligible if his or her family income exceeds 200 percent of the federal poverty level.~~

(f) Priority shall be given next to a child who is younger than 13 years of age from a working family that is economically disadvantaged. A child who is eligible under this paragraph whose sibling is enrolled in the school readiness program under paragraph (c) shall be given priority over other children who are eligible under this paragraph. ~~However, a child eligible under this paragraph ceases to be eligible if his or her family income exceeds 200 percent of the federal poverty level.~~

D I R E C T O R Y A M E N D M E N T

Remove line 306 and insert:

Section 10. Subsections (1), (4), (5), and (6) of section

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7065 PCB EDTS 16-01 Workforce Development
SPONSOR(S): Economic Development & Tourism Subcommittee, Drake
TIED BILLS: **IDEN./SIM. BILLS:** SB 7040

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Development & Tourism Subcommittee	13 Y, 0 N, As CS	Lukis	Duncan
1) Appropriations Committee		Proctor	Leznoff
2) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill modifies Florida's workforce development system to begin the process of the state's implementation of the federal Workforce Innovation and Opportunity Act (WIOA). Specifically, the bill:

- replaces the name of the previous federal law, WIA, with that of the current law, WIOA, and amends other references and nomenclature throughout the Florida statutes to reflect the terminology and workforce assistance structure contemplated by WIOA;
- specifies that the Incumbent Worker Training Program administration should comply with WIOA;
- changes the state five year plan requirement required under WIA to a new four year state plan (to implement WIOA) and amends the process for creating and amending the state's workforce development strategy;
- requires a memorandum of understanding (MOU) between CareerSource and the Department of Education (DOE) to ensure requirements of WIOA are met in compliance with the state plan;
- requires local workforce development boards to enter into an MOU with each mandatory or optional partner that participates in the one-stop delivery system, which details the partner's required contribution to infrastructure costs as required in WIOA; and
- requires the Department of Economic Opportunity to consult with DOE on the preparation of the "economic security report of employment and earning outcomes" for degrees or certificates earned at public postsecondary educational institutions.
- expands the CareerSource Board to include representation from Enterprise, Florida, Inc., the Division of Career and Adult Education of DOE, and other entities as determined to be necessary;
- uses "performance accountability measures" established by contract between CareerSource and core program partners to assess performance of the state's workforce system strategy; and
- aligns the requirements of local workforce development board membership and structure to the requirements of WIOA.

The bill appears to have an indeterminate but likely minimal impact on state expenditures. Initial implementation costs will be absorbed through CareerSource's federal funding. See fiscal comments for additional detail.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Florida's Workforce System

Background

Like all states, Florida's workforce system is organized pursuant to federal law.[1] Federal workforce laws provide structural requirements for workforce programs and partners, and investment and support in employment services, workforce development activities, job training, adult education, and vocational training throughout the country.[2]

Although there have been changes over the years, the law that formed the basis for Florida's current workforce system (and other states' workforce systems) is the Workforce Investment Act of 1998 (WIA), which Florida lawmakers largely implemented under the Workforce Innovation Act of 2000 (Act).[3]

Under the Act, four primary entities (or group of entities) are tasked with administering Florida's workforce system: CareerSource Florida, Inc. (CareerSource), the Department of Economic Opportunity (DEO), the state's 24 Regional Workforce Boards (RWBs), and the state's numerous "one-stop career centers."[4] As discussed below, each works together and has overlapping responsibilities.[5]

CareerSource Florida, Inc.

CareerSource, a nonprofit corporation administratively housed within DEO, is the "principal workforce policy organization for the state."[6] CareerSource works in conjunction with DEO and provides state-level workforce policy and planning, and evaluates the performance of various workforce related programs.[7] CareerSource also oversees various activities implemented by the RWBs.[8] CareerSource is governed by a board of directors, the majority of which must be representatives from the private sector appointed by the Governor.[9]

Department of Economic Opportunity

DEO assists CareerSource in developing and disseminating policies and provides technical assistance to CareerSource and the RWBs.[10] Additionally, among other statutorily required responsibilities related to Florida's workforce, DEO prepares and submits a budget request for workforce development, ensures that the state appropriately administers federal and state workforce funding, and implements the state's reemployment assistance program.[11] DEO also serves as the administrative agency designated for receipt of federal workforce development grants.[12]

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[1] *See* s. 445.003, F.S.
[2] Library of Congress, 113th Congress (2013-2014), H.R. 803 Section 102 – Workforce Innovation and Opportunity Act, Congress.gov, *available at* https://www.congress.gov/bill/113th-congress/house-bill/803/text (last visited Dec. 8, 2015).
[3] Ch. 445, F.S.
[4] *See id.*
[5] *See id.*
[6] Section 445.004(1)-(2), F.S.
[7] *See* s. 445.004, F.S.
[8] *See* s. 445.004(4)-(11), F.S.
[9] Section 445.004(3), F.S.
[10] *See id.*; *see also* DEO's workforce tab on its website at: http://floridajobs.org/workforce-board-resources (last visited Feb. 5, 2015).
[11] Section 20.60(5)-(6), F.S.
[12] Section 20.60(6), F.S.

Regional Workforce Boards and One-Stop Career Centers

The RWBs, which take policy directives from CareerSource and program and fiscal directives from DEO[13], develop local workforce plans and directly oversee workforce development activities within the RWBs' regions.[14] The RWBs also designate within their jurisdictions "one-stop delivery system" operators.[15] One-stop delivery systems, which contain one-stop career centers, serve as the state's primary structures for customer-service strategy to offer every Floridian workforce services.[16] Any public or private entity that is eligible to provide services under any state or federal workforce program approved by CareerSource may be designated as a one-stop delivery system operator.[17]

The one-stop career centers directly deliver employment services to job seekers and employers and carry-out certain state and federal workforce programs.[18] Services may include, but are not limited to the following:

- job search, referral, and placement assistance;
- career counseling and educational planning;
- child care and transportation assistance;
- adult education and basic skills training;
- technical training leading to a certification or degree;
- claim filing for reemployment assistance; and
- temporary income, health, nutritional, and housing assistance.[19]

There are over 100 one-stop career centers throughout the state.[20]

In addition to and in concert with CareerSource, DEO, the RWBs and one-stop career centers, many partner organizations, programs, and entities, both state and federal, play a major role in the day to day assistance and development of Florida's workforce system.[21]

State Plan

All of the entities and partners that participate in Florida's workforce system currently do so according to a five-year strategic plan developed by CareerSource in conjunction with such entities and partners.[22] The strategic plan must be updated by January 1 of each year, must include criteria for allocating workforce resources to RWBs,[23] and must include strategies for the following:

- fulfilling the workforce system goals and strategies prescribed by law[24];

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[13] Section 20.60(5)(c), F.S.
[14] *See* s. 445.007, F.S.
[15] Section 445.009(2), F.S.
[16] *See* s. 445.009, F.S.
[17] Section 445.009(2), F.S.
[18] Section 445.009, F.S.
[19] Section 445.009(1), F.S.
[20] CareerSource Service Center Directory at: http://www.floridajobs.org/onestop/onestopdir/ (last visited on Dec. 22, 2015).
[21] *See* Workforce Florida, Inc., Five Year Strategic Plan (2010-2015), p. 8 #7. (Strategic plan is on file with House staff.) See also: CareerSource Workforce Programs at: http://www.floridajobs.org/office-directory/division-of-workforce-services/workforce-programs. Last visited, Dec. 22, 2015.
[22] Section 445.003(2), F.S.
[23] Section 445.006(4), F.S.
[24] Section. 445.004(10), F.S.: "The workforce development strategy for the state shall be designed by CareerSource Florida, Inc. The strategy must include efforts that enlist business, education, and community support for students to achieve long-term career goals, ensuring that young people have the academic and occupational skills required to succeed in the workplace. The strategy must also assist employers in upgrading or updating the skills of their employees and assisting workers to acquire the education or training needed to secure a better job with better wages. The strategy must assist the state's efforts to attract and expand job-creating businesses offering high-paying, high-demand occupations."

- aggregating, integrating, and leveraging workforce system resources;
- coordinating the activities of federal, state, and local workforce system partners;
- addressing the workforce needs of small businesses; and
- fostering the participation of rural communities and distressed urban cores in the workforce system.[25]

Further, CareerSource must establish an *operational* plan to implement the state strategic plan.[26] CareerSource must submit the operational plan to the Governor and the Legislature along with the strategic plan and reflect the allocation of resources as appropriated by the Legislature.

As a component of the operational plan, CareerSource must develop a workforce marketing plan, with the goal of educating individuals inside and outside the state about Florida's employment market conditions.[27] The operational plan must also include performance measures, measurement criteria, and contract guidelines with respect to participants in the welfare transition program[28] and strategies that are designed to prevent or reduce the need for a person to receive public assistance.[29]

Performance Review

Florida law requires CareerSource to establish, in collaboration with the RWBs and in consultation with the Office of Program Policy Analysis and Government Accountability (OPPAGA), uniform measures and standards to gauge the performance of the state's workforce development strategy. The measures and standards must be organized into three "outcome tiers".[30]

- The first tier "must be organized to provide benchmarks for system-wide outcomes."[31]
- The second tier "must be organized to provide a set of benchmark outcomes for the strategic components of the workforce development strategy."[32]
- The third tier "must be the operational output measures to be used by the agency implementing programs, which may be specific to federal requirements."[33]

By December 1 of each year, CareerSource has to provide the Legislature with a report detailing the performance of Florida's workforce development system, as reflected in the three-tier system.[34] The report also must benchmark Florida outcomes for all tiers as compared with other states that collect data similarly.[35]

In addition, the Auditor General may conduct an audit of CareerSource, or the programs or entities created by CareerSource.[36] OPPAGA may also review the systems and controls related to performance outcomes and quality of services offered by CareerSource and its partners.[37]

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[25] Section 445.006(1), F.S.
[26] Section 445.006(2), F.S.
[27] *Id.*
[28] Section 445.006(3), F.S.
[29] Section 445.006(6), F.S.
[30] Section 445.004(9), F.S.
[31] *Id.*
[32] *Id.*
[33] *Id.*
[34] *Id.*
[35] *Id.*
[36] Section 445.004(8).
[37] *Id.*

Economic Security Report

In tune with requiring an organized performance review of Florida's workforce system, Florida law also requires DEO to prepare, or contract with an entity to prepare, an annual economic security report of employment and earning outcomes for degrees or certificates earned at public post-secondary educational institutions.[38] The report must be clear and accessible to the public, available online, and include the following:

- data on the employment of graduates of a degree or certificate program from a public postsecondary educational institution the year after and five years after the degree or certificate is earned by number and percentage; and
- data on the earnings of graduates of a degree or certificate program from a public postsecondary educational institution the year after earning the degree or certificate.[39]

The Workforce Innovation and Opportunity Act (2014)[40]

Background

On July 22, 2014, the President of the United States signed into law a new federal workforce law to replace WIA: the Workforce Innovation and Opportunity Act (WIOA).[41]

WIOA maintains the broad framework of WIA (i.e., it maintains a centralized structure of power with a statewide workforce board and a form of regional boards and one-stop centers), but includes provisions aimed at unifying workforce system partners and providers, streamlining programs, easing reporting requirements, and reducing administrative barriers.

The Federal Register Online lays out the major changes in WIOA:[42]

- WIOA requires a single state four-year plan that governs workforce programs as one system and connects strategic needs with service strategies.
- WIOA streamlines the governing bodies that establish state, regional and local workforce investment priorities by reducing the size of state and local workforce boards and assigning them additional responsibilities.
- WIOA creates a common performance accountability system and information system for job seekers and the public. WIOA also ensures that Federal investments in employment, education, and training programs are evidence-based and data-driven, and accountable to participants and the public.
- WIOA promotes alignment of workforce development programs with regional economic development strategies to meet the needs of local and regional employers.
- WIOA helps jobseekers and employers acquire the services they need in one-stop centers and online by clarifying the roles and responsibilities of the one-stop partner programs, adding the Temporary Assistance for Needy Families "TANF" program as a required one-stop partner

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[38] Section 445.07(1), F.S.
[39] Section 445.07(2), F.S.
[40] As used here and throughout this analysis, information related to WIOA stems from both the text of the law as well as the proposed rules, through which the United States Department of Labor will implement WIOA. The proposed rules are available at https://www.federalregister.gov/articles/2015/04/16/2015-05530/workforce-innovation-and-opportunity-act-notice-of-proposed-rulemaking#h-13. Last visited December 29, 2015.
[41] Library of Congress, 113th Congress (2013-2014), H.R. 803 – Workforce Innovation and Opportunity Act, Congress.gov, *available at* https://www.congress.gov/bill/113th-congress/house-bill/803/actions (last visited Dec 8, 2015).
[42] Federal Register, Workforce Innovation and Opportunity Act; Notice of Proposed Rulemaking. Supplementary Information: III. B. Major Changes From Current Workforce Investment Act of 1998. Available at: https://www.federalregister.gov/articles/2015/04/16/2015-05530/workforce-innovation-and-opportunity-act-notice-of-proposed-rulemaking#h-13. Last visited, December 21, 2015.

(unless the Governor objects), requiring competitive selection of one-stop operators, and requiring the use by the one-stop system of a common one-stop delivery identifier or brand.

- WIOA stresses physical and programmatic accessibility, including the use of accessible technology to increase individuals with disabilities' access to high quality workforce services.
- WIOA emphasizes services to disconnected youth to prepare them for successful employment by increasing required spending on out-of-school youth programs and work-based training activities at the local level including on-the-job training and summer jobs. WIOA also increases out-of-school youths' access to WIOA services, including pre-apprenticeship programs that result in registered apprenticeships.
- WIOA ensures the workforce system is job-driven—matching employers with skilled individuals. In doing so, WIOA requires local boards (discussed below) to promote the use of industry and sector partnerships that include key stakeholders in an industry cluster or sector that work with public entities to identify and address the workforce needs of multiple employers.

Additionally, WIOA requires robust relationships across programs and with businesses, economic development, education and training institutions, including community colleges and career and technical education, local entities, and supportive services agencies.[43]

Planning Regions, Local Workforce Development Areas, One-Stop Centers, and the State Plan

WIOA's "planning regions", "local workforce development areas", one-stop centers, and the four-year state plan warrant additional review.

WIOA Planning Regions and Local Workforce Development Areas

WIOA requires states to identify planning regions that consist of one or more local workforce development areas. [44] Local workforce development areas, governed by a local board, serve as jurisdictions for the administration of workforce development activities and execution of federal workforce programs.[45]

According to the proposed WIOA regulations, the purpose of planning regions is to "align workforce development activities and resources with larger regional economic development areas and available resources to provide coordinated and efficient services to both job seekers and employers."[46] The regulations also recognize that regional cooperation may lower cost and increase the effectiveness of service delivery to businesses and/or industries that span more than one local workforce development area or that cross state borders.[47]

According to WIOA, states should consider the following factors in determining planning regions:

- consistency with labor market areas in the state;
- consistency with regional economic development areas in the state;
- availability of federal and non-federal resources necessary to effectively administer activities under subtitle B and other applicable WIOA provisions, including whether the areas have the appropriate institutions of higher education and area career and technical education schools; and

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[43] *Id.*

[44] Federal Register, Workforce Innovation and Opportunity Act; Notice of Proposed Rulemaking, Section by Section Analysis, Subpart B, Section 679.200, Published April 16, 2015, available at: https://www.federalregister.gov/articles/2015/04/16/2015-05530/workforce-innovation-and-opportunity-act-notice-of-proposed-rulemaking.

[45] *Id.*

[46] *Id.*

[47] CareerSource Florida, Inc., Florida Workforce Innovation and Opportunity Act, Implementation Recommendations, page 7. Available at: http://careersourceflorida.com/wp-content/uploads/2015/11/151120_CombinedAttachments.pdf. Last visited: December 29, 2015.

- input from local elected officials.[48]

Once the state determines its planning regions, local workforce development boards and local elected officials in those regions will use regional economic data to form a regional plan that results in the establishment of regional strategies for service delivery and sector strategies for in-demand industry sectors or occupations for the region.[49] The plan should identify ways in which the region will coordinate services and the establishment of administrative cost arrangements, including the pooling of funds for administrative costs as appropriate.[50]

Changes to the structure and operation of one-stop centers

WIOA identifies "one-stop required partner programs" that include a variety of federally funded employment and training programs administered by a number of federal agencies including the United States Department of Labor, United States Department of Education and the United States Department of Health and Human Services.[51] Some required programs are also "core" programs, which must be part of the state plan.[52]

According to WIOA, the required partner programs should be delivered through the one-stop system and contribute to the costs of one-stop infrastructure.[53] The required one-stop career center partner programs identified under WIOA are the following:

- WIOA Adult, Dislocated Worker and Youth programs (core);
- Wagner-Peyser Employment Service (core);
- Adult Education and Literacy (core);
- Vocational Rehabilitation (core);
- Title V of Older Americans Act (Senior Community Service Employment Program);
- Perkins Career and Technical Educational (CTE) programs;
- Trade Adjustment Assistance (TAA);
- Veterans Employment and Training;
- Community Services Block Grant (CSBG) employment programs;
- HUD employment programs;
- Unemployment Insurance;
- Second Chance Act; and
- Temporary Assistance to Needy Families (TANF).[54]

WIOA also identifies various additional partner programs that may be part of a local one-stop delivery system.[55] These include the following:

- Social Security Administration employment and training programs;
- Florida Small Business Development Center Network;
- Supplemental Nutrition Assistance Program (SNAP) employment and training programs;

[48] *Id.*
[49] *Id.*
[50] *Id.*
[51] *Id.* at 8.
[52] *Id.* at 11.
[53] *Id.* at 8.
[54] *Id.*
[55] *Id.*

- Vocational Rehabilitation special projects and demonstrations;
- National and Community Service Act programs; and
- other federal, state or local programs.[56]

The WIOA one-stop career center required programs provide the funding and authorization for delivery of a host of employment and training services.[57] Each program has its own rules and regulations; however, the vision of WIOA is that these required programs have a coordinated and integrated service delivery structure to facilitate improved outcomes and customer experiences for both employers and job seekers.[58] To that end, WIOA specifically identifies the following roles and responsibilities of required partner programs:

1) provide access through the one-stop delivery system to such program or activities, including career services;
2) use a portion of the funds available for the program and activities to maintain the one-stop delivery system, including payment of the infrastructure costs of one-stop centers;
3) enter into a local memorandum of understanding with the local board, relating to the operation of the one-stop system;
4) participate in the operation of the one-stop system consistent with the terms of the memorandum of understanding and legal requirements; and
5) provide representation on the state board to the extent provided under WIOA.[59]

One-stop center cost sharing under WIOA

WIOA Section 121 outlines the requirements for the establishment of one-stop delivery systems.[60] This section states that infrastructure costs must be shared by all of the required partners in the system.[61] Infrastructure costs are defined as non-personnel costs that are necessary for the general operation of the one-stop career center, including:

- rental costs of facilities;
- costs of utilities and maintenance;
- equipment, including assessment related products and assistive technology for individuals with disabilities; and
- technology to facilitate access to the one-stop career center, including one-stop planning and outreach activities.[62]

In each local workforce development area, the local workforce development board, chief elected officials and one-stop career center partners are charged with agreeing on a methodology for determining the infrastructure cost contributions.[63] These agreements will be captured in memorandums of understanding among the local board and the one-stop career center partners.[64]

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[56] *Id.* at 8-9.
[57] *Id.* at 9.
[58] *Id.*
[59] *Id.*
[60] *Id.*
[61] *Id.* at 9-10.
[62] CareerSource Florida, Inc., Florida Workforce Innovation and Opportunity Act, Implementation Recommendations, page 10. Available at: http://careersourceflorida.com/wp-content/uploads/2015/11/151120_CombinedAttachments.pdf. Last visited: December 29, 2015.
[63] *Id.*
[64] *Id.*

To be eligible for infrastructure funds, one-stop career centers must be certified by local boards as meeting criteria regarding the effectiveness and the physical and programmatic accessibility of the center in accordance with the Americans with Disabilities Act of 1990, and continuous improvement of one-stop career centers and the one-stop delivery system. This certification must occur every three years.[65]

WIOA leaves the negotiation of infrastructure cost sharing to the local workforce development area.[66] If local officials are unable to reach consensus, an infrastructure funding methodology determined by the Governor that is based upon the following WIOA guidelines must be used.[67]

- Adult, Dislocated Worker and Youth shall not exceed 3 percent of the federal funds provided to the state.[68]
- Vocational Rehabilitation shall not exceed the following:
  - .75 percent of the federal funds provided to the state in the second full program year;
  - 1 percent of the federal funds provided to the state in the third full program year;
  - 1.25 percent of the federal funds provided to the state in the fourth full program year; and
  - 1.5 percent of the federal funds provided to the state in the fifth full program year and in each succeeding year.[69]
- Other partners shall not exceed 1.5 percent of the federal funds provided to the state.[70]

State four year plan: "Combined" vs. "Unified"

WIOA requires a single, "Unified State Plan" covering all core programs authorized under the law, which include the following:

- Adult, Dislocated Worker and Youth workforce investment activities in title I, subtitle B;
- Adult Education and Literacy activities in title II;
- employment service activities authorized by the Wagner-Peyser Act and title III; and
- vocational rehabilitation services in title IV and title I of the Rehabilitation Act of 1973.[71]

WIOA also provides an option for states to submit a "Combined Plan" that includes the core programs listed above in addition to plans for one or more of the following workforce programs:

- Career and technical education programs authorized by the Perkins Act Temporary Assistance for Needy Families programs authorized under part A of title IV of the Social Security Act;
- employment and training programs authorized under section 6(d)(4) of the Food and Nutrition Act;
- work programs authorized under section 6(o) of the Food and Nutrition Act;
- trade adjustment assistance activities and NAFTA-TAA;
- veterans' activities authorized under Chapter 41 of title 38 United States Code;
- programs authorized under state unemployment compensation laws;
- Senior Community Service Employment Programs under title V of the Older Americans Act;

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[65] *Id.*
[66] *Id.*
[67] *Id.*
[68] *Id.*
[69] *Id.*
[70] *Id.*
[71] *Id.* at 11.

- employment and training activities carried out by the Department of Housing and Urban Development;
- employment and training activities carried out under the Community Services Block Grant Act; and
- reintegration of offenders programs authorized under section 212 of the Second Chance Act.[72]

Under WIOA, states are required to submit unified or combined plans by March 2016.[73] The plan must describe the state's overall strategy for workforce development and how the strategy meets identified needs for workers, job seekers and employers.[74] In turn, local plans must describe how services provided at the local level are aligned to regional market needs.[75]

Florida's Workforce Innovation and Opportunity Task Force

Chapter 2015-98, Laws of Florida, created the Workforce Innovation and Opportunity Task Force (Task Force) to "develop recommendations for the state's implementation of the federal Workforce Innovation and Opportunity Act."

The Task Force consisted of the following members:

- the President of CareerSource, Florida, Inc., who is required to serve as a member and the chair of the Task Force; and
- the Executive Director of the Department of Economic Opportunity or his or her designee;
- the Commissioner of Education or his or her designee;
- the Chancellor of the State University System or his or her designee;
- the Chancellor of the Florida College System or his or her designee;
- the Chancellor of the Division of Career and Adult Education of the Department of Education or his or her designee;
- the director of the Division of Vocational Rehabilitation of the Department of Education or his or her designee;
- the director of the Division of Blind Services of the Department of Education or his or her designee;
- the director of the Agency for Persons with Disabilities or his or her designee;
- the Secretary of Elderly Affairs or his or her designee;
- the Secretary of Children and Families or his or her designee;
- the Secretary of Juvenile Justice or his or her designee;
- the Secretary of Corrections or his or her designee;
- the president of Enterprise Florida, Inc., or his or her designee;
- the president of the Florida Workforce Development Association, Inc., and two of his or her designees from regional workforce boards, one of whom must be a representative of a rural regional workforce board;
- the statewide director of the Florida Small Business Development Center Network or his or her designee;

[72] *Id.* at 11-12.
[73] *Id.* at 12.
[74] *Id.*
[75] *Id.*

- the president of the Florida Association of Postsecondary Schools and Colleges, Inc., or his or her designee; and
- the president of the Independent Colleges and Universities of Florida, Inc., or his or her designee.[76]

The members of the Task Force met six times[77] over several months to learn about WIOA, deliberate on how best to implement WIOA in Florida, and ultimately develop recommendations, which were submitted to CareerSource's board of directors (Board). [78] The Board considered and approved the Task Force's recommendations at its November 4, 2015 meeting.[79] As required, CareerSource subsequently submitted a report, which included the approved recommendations to the Governor, Senate President, and the Speaker of the House of Representatives on November 24, 2015. The following questions and bullet points lay out the Task Force's recommendations as set forth in the report.[80]

How should Florida's Workforce Innovation and Opportunity Act planning regions be organized?[81]

- The Task Force members presented a variety of regional structures that are currently utilized to serve customers throughout Florida. Because regional planning has the greatest implications for the CareerSource Florida network, much discussion surrounded the impact on the existing local workforce development areas (currently known as regional workforce boards or workforce regions).
- Recommendations submitted through the Task Force process encouraged continuing conversations within the CareerSource Florida Network after the Task Force completed its work. At the September 21, 2015 CareerSource board meeting, the Florida Workforce Development Association (FWDA) and CareerSource proposed a joint recommendation to designate the existing 24 local workforce development areas as WIOA regional planning areas in the first WIOA state plan submitted in March 2016. This plan will specify that the 24 local boards would engage chief elected officials, community and business leaders, economic developers and others in public meetings and hearings leading to recommended regional planning areas for endorsement by the CareerSource Florida board of directors to the Governor for inclusion within the March 2018 update to the March 2016 State Workforce Development Strategic Plan.[82]

What should be included in a comprehensive one-stop career center?[83]

- One-stop career centers should be inclusive while providing flexibility as it relates to the levels of participation from required partners. The Task Force proposed that CareerSource Florida work with DEO and the core partners to develop a certification tool that provides for a uniform expectation of the levels of service for career centers. The first draft of this tool will be reviewed with the CareerSource Florida Strategic Policy Council in October, while also receiving input from required partners.

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[76] Chapter 2015-98, s. 60(2), L.O.F. The members of the Task Force serve without compensation but are entitled to reimbursement for per diem and travel expenses in accordance with s. 112.061, F.S. Such per diem and travel expenses incurred by a member of the Task Force must be paid from funds budgeted to the state agency or entity that the member represents.

[77] Two webinars and four in-person meetings: April 29 Webinar, May 14 Meeting, June 11 Meeting, July 16 Meeting, August 6 Meeting, August 27 Webinar

[78] CareerSource Florida, Inc., Florida Workforce Innovation and Opportunity Act, Implementation Recommendations, *available at:* http://careersourceflorida.com/wp-content/uploads/2015/11/151120_CombinedAttachments.pdf. Last visited: December 29, 2015.

[79] By law, the recommendations had to be presented to and approved by the board of directors of CareerSource and ultimately sent in a report to the Governor, the President of the Florida Senate, and the Speaker of the Florida House of Representatives by December 1, 2015. Chapter 2015-98, s. 60(2), L.O.F.

[80] *Id.* at 7-15.

[81] *Id.* at 7-8.

[82] *Id.*

[83] *Id.* at 8-9. Materials related to recommendations regarding this topic are included in Attachments 3, 4, and 5 of the Implementation Recommendations.

How should WIOA-required one-stop career center partners share infrastructure costs?[84]

- Task Force members representing the Department of Education Divisions of Blind Services and Vocational Rehabilitation recommended that infrastructure cost sharing be determined by the Department of Education at the state level pursuant to WIOA requirements. For the core program of Adult Education, it was recommended that infrastructure cost negotiations should occur at the local level, where appropriations are made via school districts, and be responsive to the needs of the local workforce development area. Pursuant to requirements set forth in WIOA, CareerSource can assist in local negotiations when an agreement cannot otherwise be reached.
- It was also recommended that Perkins Act funding, although a required career center partner and subject to cost sharing, would not contribute toward infrastructure cost at this time based on the pending federal reauthorization of the program and the need for additional time to explore partnerships with the CareerSource Florida network. Chancellor Rod Duckworth remarked during the Task Force's July 16 meeting that the goal would be to integrate the program, its functions, and infrastructure cost sharing into a combined workforce plan in the future. This was the only required career center partner who submitted a recommendation to delay infrastructure cost sharing.

Which programs and entities should be included in Florida's workforce development system (combined or unified planning)?[85]

- Optional combined planning partners should be able to voluntarily participate in workforce development planning as part of Florida's WIOA strategic state plan if they choose. This approach would not require any program or entity to participate in workforce planning other than the required core programs.
- During the Task Force meetings, there were no recommendations to include optional planning partners. Instead, the Task Force discussed submitting an initial unified plan that provides a timeline to incorporate combined planning partners in outlying years. The initial plan would recognize Florida's intention to move toward a combined plan with a staged approach. This would allow for alignment of current planning timeframes, cross training on program collaboration opportunities, and better integration of reporting mechanisms necessary in a combined plan.

Since WIOA requires common measurement and planning for the core programs, what governance or organizational structure would lead to the best outcomes?[86]

- While WIOA contemplates state and local workforce development board membership participation from the core programs, additional career center partners and potential combined planning partners should be encouraged to participate. Specifically, the Florida Agency for Persons with Disabilities, the Florida Department of Corrections and the Florida Small Business Development Center Network should serve on the CareerSource Florida Board.
- This recommendation seeks to examine and refine state and local workforce development board makeup to include partners that will lead Florida to a more comprehensive workforce development system.
- Board participation also would provide for those core programs to report their performance accountability measures to the CareerSource Board and to local workforce development boards. Utilizing a mechanism similar to that employed between CareerSource and DEO,

[84] *Id.* at 9-11. Materials related to recommendations regarding this topic are included in Attachments 3, 4, and 5 of the Implementation Recommendations.
[85] *Id.* at 11-12. Materials related to recommendations regarding this topic are included in Attachments 3, 4, and 5 of the Implementation Recommendations.
[86] *Id.* at 12-13. Materials related to recommendations regarding this topic are included in Attachments 4 and 5 of the Implementation Recommendations.

performance expectations could be set via a memorandum of understanding and reported quarterly to the CareerSource Board through the programs' board representatives.

How can Florida's workforce development system better share information, systems and/or customers?[87]

- Resources can best be utilized by integrating existing systems to provide for a common intake and reporting system. Each core program partner and optional partner uses a technology system unique to its constituency, in which all information may not be necessary for intake and reporting for Florida's workforce development system. It follows that Florida's approach should be to align current systems for WIOA compliance, rather than advocating a new information system for all partners.
- Furthermore, some Task Force members recommended that the Employ Florida Marketplace, Florida's job-matching system, should be integrated, as a requirement, into career services available through state college and state university career centers. The Florida College System supports career services utilizing all tools available, including Employ Florida Marketplace.

What can Florida's workforce development system do to best serve individuals with obstacles to employment?[88]

- The Task Force recommended that career centers employ universal design principles in their operations, including such requirements in a career center certification tool. It emphasized the importance of universal design for online or technology-oriented resources. It was also suggested that maintaining the integrity of systems for unique constituent populations would be important to be sure job seekers with disabilities are provided every opportunity to be successful. Enhanced board membership that would include the partner programs serving these populations would allow more opportunities for those with specialized needs to be considered in decision making.

What resources or relationships do you need to implement WIOA?[89]

- Most Task Force recommendations on this topic centered on process-oriented needs such as memorandums of understanding developed and negotiated at the state level that outline roles and responsibilities. State-level memorandums of understanding could be explored for Department of Education programs as necessary.
- The Task Force recognized that special provisions for lease arrangements in which opportunities for co-location are explored may need to be included in state law along with appropriate partner decision-making processes.
- Enhanced data-sharing arrangements between partners should be explored as necessary to facilitate reporting.

Other Recommendations:[90]

- Change state law references from regional workforce board to local workforce development board.
- Utilize WIOA resources to promote registered apprenticeships.
- Cross-train individuals who interface with job seekers on core programs.

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[87] *Id.* at 13. Materials related to recommendations regarding this topic are included in Attachments 3, 4, and 5 of the Implementation Recommendations.
[88] *Id.* at 14. Materials related to recommendations regarding this topic are included in Attachments 3, 4, and 5 of the Implementation Recommendations.
[89] *Id.* at 14-15. Materials related to recommendations regarding this topic are included in Attachments 4 and 5 of the Implementation Recommendations.
[90] *Id* at 15.

- Provide after-hours access to job seekers through expanded career center hours.
- Align state law governing local workforce development board structure to WIOA.

Upon completion of its work the WIOA Task Force disbanded on September 8, 2015.[91] However, CareerSource must incorporate the Task Force's recommendations into the state's plan required by WIOA.[92]

Next Steps in WIOA Implementation

CareerSource continues to utilize information and data gathered from its workforce development partners and the Task Force's recommendations to finalize Florida's four-year state plan, which must be submitted to the United States Department of Labor by March 2016.[93] As the state's implementation of WIOA proceeds, additional modifications to the state workforce development system CareerSource may be requested for consideration by the Legislature.

Effect of Proposed Changes

The bill updates and amends the Florida statutes to reflect the federal change in law from WIA to WIOA and the Task Force's recommendations. Specifically, the bill:

- replaces the name of the old federal law (WIA) with that of the new law (WIOA), and amends other references and nomenclature throughout the Florida statutes to reflect the new terminology and workforce assistance structure contemplated by WIOA;[94]
- specifies that the Incumbent Worker Training Program administration should comply with WIOA;
- changes the current state five year plan requirement (used to implement WIA) to a new four year state plan (to implement WIOA);
- requires a memorandum of understanding (MOU) between CareerSource and the Department of Education (DOE) to ensure requirements of WIOA are met in compliance with the state plan;
- removes language that relates to optional federal partners' integration with the state plan to comply with WIOA;
- adopts a Task Force recommendation to expand CareerSource's board to include the vice chairperson of the board of directors of Enterprise Florida, Inc., and one member representing each of the WIOA partners, including the Division of Career and Adult Education, and other entities representing programs identified in WIOA as determined necessary;
- adopts a Task Force recommendation to replace the current "tiers" system used to gauge performance of the state's workforce system strategy, in favor of "performance accountability measures" that are set by contract between CareerSource and core program partners and are reported on by one-stop partners to the Board;
- amends the process for creating and modifying the state's workforce development strategy;
- adopts a Task Force recommendation to align the requirements of local workforce development board membership and structure to the requirements of WIOA;

[91] E-mail from April Money, Director of Government Relations for CareerSource Florida, Inc., to House Staff on Monday, December 7, 2015 at 4:52 pm. E-mail on file with House Staff. Chapter 2015-98, s. 60(5), L.O.F., provides that the Task Force: "is abolished June 30, 2016, *or at an earlier date as provided by the task force."* (Emphasis added.)
[92] Chapter 2015-98, s. 60(4), L.O.F.
[93] Library of Congress, 113th Congress (2013-2014), H.R. 803 Section 102 – Workforce Innovation and Opportunity Act, Congress.gov, *available at* https://www.congress.gov/bill/113th-congress/house-bill/803/text (last visited Dec. 8, 2015).
[94] For example, "regional workforce board" is changed to "local workforce development board."

- requires local workforce development boards to enter into an MOU with each mandatory or optional partner that participates in the one-stop delivery system, which details the partner's required contribution to infrastructure costs as required in WIOA;
- updates a reference to the public assistance information system used by the Department of Children and Families; and
- requires DEO to consult with DOE on the preparation of the "economic security report of employment and earning outcomes" for degrees or certificates earned at public postsecondary educational institutions.

B. SECTION DIRECTORY:

Section 1: Amends s. 20.60, F.S., changing "regional workforce board" to "local workforce development board."

Section 2: Amends s. 212.08, F.S., changing "regional workforce board" to "local workforce development board."

Section 3: Amends s. 220.183, F.S., changing "regional workforce board" to "local workforce development board."

Section 4: Amends s. 250.10, F.S., changing "regional workforce board" to "local workforce development board."

Section 5: Amends s. 288.047, F.S., changing "regional workforce board" to "local workforce development board."

Section 6: Amends s. 290.0056, F.S., changing "regional workforce board" to "local workforce development board."

Section 7: Amends s. 322.34, F.S., changing "regional workforce board" to "local workforce development board."

Section 8: Amends s. 341.052, F.S., changing "regional workforce board" to "local workforce development board."

Section 9: Amends s. 414.045, F.S., changing "regional workforce board" to "local workforce development board."

Section 10: Amends s. 414.065, F.S., changing "regional workforce board" to "local workforce development board."

Section 11: Amends s. 414.085, F.S., changing "regional workforce board" to "local workforce development board."

Section 12: Amends s. 414.095, F.S., changing "regional workforce board" to "local workforce development board."

Section 13: Amends s. 414.105, F.S., changing "regional workforce board" to "local workforce development board."

Section 14: Amends s. 414.106, F.S., changing "regional workforce board" to "local workforce development board."

Section 15: Amends s. 414.295, F.S., changing "regional workforce board" to "local workforce development board."

Section 16: Amends s. 420.623, F.S., changing "regional workforce board" to "local workforce development board."

Section 17: Amends s. 420.624, F.S., changing "Workforce Investment Act" to "Workforce Innovation and Opportunity Act."

Section 18: Amends s. 427.013, F.S., changing "regional workforce board" to "local workforce development board."

Section 19: Amends s. 427.0155, F.S., changing "regional workforce board" to "local workforce development board."

Section 20: Amends s. 427.0157, F.S., changing "regional workforce board" to "local workforce development board."

Section 21: Amends s. 443.091, F.S., changing "regional workforce board" to "local workforce development board."

Section 22: Amends s. 443.1116, F.S., changing "Workforce Investment Act" to "Workforce Innovation and Opportunity Act."

Section 23: Amends s. 445.003, F.S., providing for the implementation of the federal Workforce Innovation and Opportunity Act through a 4-year plan; removing language relating to optional federal partners integration with the state plan; clarifying that Incumbent Worker Training program administration should comply with WIOA; removing language related to the negotiation and settlement of issues with the United States Department of Labor; requiring an MOU between CareerSource Florida, Inc., and the Department of Education to ensure requirements of WIOA are met in compliance with the state plan; and conforming provisions to changes made by WIOA.

Section 24: Amends s. 445.004, F.S., specifying new membership requirements for the CareerSource Florida, Inc., board of directors; changing the method by which the state will gauge its workforce performance; and conforming provisions to WIOA nomenclature.

Section 25: Amends s. 445.006, F.S., updating the structure and requirements of the state plan to comply with WIOA and conforming provisions to changes made by WIOA.

Section 26: Amends s. 445.007, F.S., requiring local workforce development board structure and membership to comply with WIOA; establishing regional planning areas to comply with WIOA; and conforming provisions to WIOA nomenclature.

Section 27: Amends s. 445.0071, F.S., changing "regional workforce board" to "local workforce development board."

Section 28: Amends s. 445.009, F.S., directing the one-stop system to comply with WIOA; requiring local workforce development boards to enter into a memorandum of understanding with each mandatory or optional partner detailing each partner's required contribution to infrastructure costs; updating a reference to the public assistance information system used by the Department of Children and Families; and conforming provisions to WIOA nomenclature.

Section 29: Amends s. 445.014, F.S., changing "regional workforce board" to "local workforce development board."

Section 30: Amends s. 445.016, F.S., changing "regional workforce board" to "local workforce development board."

Section 31: Amends s. 445.017, F.S., changing "regional workforce board" to "local workforce development board."

Section 32: Amends s. 445.021, F.S., changing "regional workforce board" to "local workforce development board."

Section 33: Amends s. 445.022, F.S., changing "regional workforce board" to "local workforce development board."

Section 34: Amends s. 445.024, F.S., changing "regional workforce board" to "local workforce development board."

Section 35: Amends s. 445.025, F.S., changing "regional workforce board" to "local workforce development board" and "Workforce Investment Act" to "Workforce Innovation and Opportunity Act."

Section 36: Amends s. 445.026, F.S., changing "regional workforce board" to "local workforce development board."

Section 37: Amends s. 445.030, F.S., changing "regional workforce board" to "local workforce development board."

Section 38: Amends s. 445.031, F.S., changing "regional workforce board" to "local workforce development board."

Section 39: Amends s. 445.048, F.S., changing "regional workforce board" to "local workforce development board."

Section 40: Amends s. 445.051, F.S., changing "regional workforce board" to "local workforce development board."

Section 41: Amends s. 445.07, F.S., requiring DEO to consult with DOE on the preparation of a certain report.

Section 42: Amends s. 985.622, F.S., changing "Workforce Investment Act" to "Workforce Innovation and Opportunity Act."

Section 43: Amends s. 1002.83, F.S., changing "regional workforce board" to "local workforce development board."

Section 44: Amends s. 1003.491, F.S., changing "regional workforce board" to "local workforce development board."

Section 45: Amends s. 1003.492, F.S., changing "regional workforce board" to "local workforce development board."

Section 46: Amends s. 1003.493, F.S., changing "regional workforce board" to "local workforce development board."

Section 47: Amends s. 1003.4935, F.S., changing "regional workforce board" to "local workforce development board."

Section 48: Amends s. 1003.52, F.S., changing "regional workforce board" to "local workforce development board."

Section 49: Amends s. 1004.93, F.S., changing "regional workforce board" to "local workforce development board."

Section 50: Amends s. 1006.261, F.S., changing "regional workforce board" to "local workforce development board."

Section 51: Amends s. 1009.25, F.S., changing "regional workforce board" to "local workforce development board."

Section 52: Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

According to CareerSource, costs for the first year of WIOA implementation (FY 2016-17) will be absorbed through the state's federal funding. Costs to participating agencies, which are projected to be minimal will be managed within the respective agency budgets.[95]

As the state's implementation of WIOA proceeds, additional indeterminate costs may be incurred in future years for data sharing and information technology projects in order to improve the collaboration amongst the various workforce development system partners.[96]

[95] E-mail correspondence from April Money, Director of Governmental Relations, CareerSource Florida, Inc. E-mail received January 8, 2016 at 9:03 am. E-mail on file with House staff.
[96] *Id.*

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

   None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

   None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 13, 2016, the Economic Development and Tourism Subcommittee adopted one amendment to the bill. The technical amendment replaced the term "regional" with "local" as it pertains to workforce development boards.

This analysis has been updated to reflect the amendment.

A bill to be entitled

An act relating to workforce development; amending ss. 20.60, 212.08, 220.183, 250.10, 288.047, 290.0056, 322.34, 341.052, 414.045, 414.065, 414.085, 414.095, 414.105, 414.106, 414.295, 420.623, 420.624, 427.013, 427.0155, 427.0157, 443.091 and 443.1116, F.S.; conforming provisions to changes made by the act; amending s. 445.003, F.S.; revising provisions related to the federal Workforce Investment Act of 1998; providing for implementation of the federal Workforce Innovation and Opportunity Act; providing and revising plan requirements; deleting the authority of CareerSource Florida, Inc., to negotiate and settle certain issues with the United States Department of Labor; requiring CareerSource Florida, Inc., to enter into a memorandum of understanding with the Department of Education for certain purposes; conforming provisions to changes made by the act; amending s. 445.004, F.S.; providing membership requirements for the board of directors of CareerSource Florida, Inc.; requiring CareerSource Florida, Inc., in collaboration with specified boards, agencies, and providers, to establish certain uniform performance accountability measures; conforming provisions to changes made by the act; amending s. 445.006, F.S.; requiring CareerSource Florida, Inc., in collaboration with specified

partners, to develop a state plan for workforce development; requiring the state plan to include a strategic plan and an operational plan; revising requirements related to the plans; conforming provisions to changes made by the act; amending s. 445.007, F.S.; revising local workforce development board membership requirements; requiring CareerSource Florida, Inc., to establish regional planning areas subject to certain requirements; requiring local workforce development boards and specified officials to prepare a regional workforce development plan; conforming provisions to changes made by the act; amending s. 445.0071, F.S.; conforming provisions to changes made by the act; amending s. 445.009, F.S.; requiring a local workforce development board to enter into a memorandum of understanding with each mandatory or optional partner for certain purposes; providing that costs will be allocated pursuant to a policy established by the Governor under certain conditions; revising the systems that may be accessed with the one-stop delivery system; conforming provisions to changes made by the act; amending ss. 445.014, 445.016, 445.017, 445.021, 445.022, 445.024, 445.025, 445.026, 445.030, 445.031, 445.048, and 445.051, F.S.; conforming provisions to changes made by the act; amending s. 445.07, F.S.; requiring the Department of

Education to consult with the Department of Economic Opportunity in preparing, or contracting with an entity to prepare, certain economic security reports; amending ss. 985.622, 1002.83, 1003.491, 1003.492, 1003.493, 1003.4935, 1003.52, 1004.93, 1006.261, and 1009.25, F.S.; conforming provisions to changes made by the act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (5) of section 20.60, Florida Statutes, is amended to read:

20.60 Department of Economic Opportunity; creation; powers and duties.—

(5) The divisions within the department have specific responsibilities to achieve the duties, responsibilities, and goals of the department. Specifically:

(c) The Division of Workforce Services shall:

1. Prepare and submit a unified budget request for workforce development in accordance with chapter 216 for, and in conjunction with, CareerSource Florida, Inc., and its board.

2. Ensure that the state appropriately administers federal and state workforce funding by administering plans and policies of CareerSource Florida, Inc., under contract with CareerSource Florida, Inc. The operating budget and midyear amendments thereto must be part of such contract.

a. All program and fiscal instructions to local ~~regional~~ workforce development boards shall emanate from the Department of Economic Opportunity pursuant to plans and policies of CareerSource Florida, Inc., which shall be responsible for all policy directions to the local ~~regional~~ workforce development boards.

b. Unless otherwise provided by agreement with CareerSource Florida, Inc., administrative and personnel policies of the Department of Economic Opportunity apply.

3. Implement the state's reemployment assistance program. The Department of Economic Opportunity shall ensure that the state appropriately administers the reemployment assistance program pursuant to state and federal law.

4. Assist in developing the 5-year statewide strategic plan required by this section.

Section 2. Paragraph (p) of subsection (5) of section 212.08, Florida Statutes, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this chapter.

(5) EXEMPTIONS; ACCOUNT OF USE.—

(p) Community contribution tax credit for donations.—

1. Authorization.—Persons who are registered with the

department under s. 212.18 to collect or remit sales or use tax and who make donations to eligible sponsors are eligible for tax credits against their state sales and use tax liabilities as provided in this paragraph:

a. The credit shall be computed as 50 percent of the person's approved annual community contribution.

b. The credit shall be granted as a refund against state sales and use taxes reported on returns and remitted in the 12 months preceding the date of application to the department for the credit as required in sub-subparagraph 3.c. If the annual credit is not fully used through such refund because of insufficient tax payments during the applicable 12-month period, the unused amount may be included in an application for a refund made pursuant to sub-subparagraph 3.c. in subsequent years against the total tax payments made for such year. Carryover credits may be applied for a 3-year period without regard to any time limitation that would otherwise apply under s. 215.26.

c. A person may not receive more than $200,000 in annual tax credits for all approved community contributions made in any one year.

d. All proposals for the granting of the tax credit require the prior approval of the Department of Economic Opportunity.

e. The total amount of tax credits which may be granted for all programs approved under this paragraph, s. 220.183, and s. 624.5105 is $18.4 million in the 2015-2016 fiscal year, $21.4

million in the 2016-2017 fiscal year, and $21.4 million in the 2017-2018 fiscal year for projects that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households and $3.5 million annually for all other projects. As used in this paragraph, the term "person with special needs" has the same meaning as in s. 420.0004 and the terms "low-income person," "low-income household," "very-low-income person," and "very-low-income household" have the same meanings as in s. 420.9071.

f. A person who is eligible to receive the credit provided in this paragraph, s. 220.183, or s. 624.5105 may receive the credit only under one section of the person's choice.

2. Eligibility requirements.—

a. A community contribution by a person must be in the following form:

(I) Cash or other liquid assets;

(II) Real property;

(III) Goods or inventory; or

(IV) Other physical resources identified by the Department of Economic Opportunity.

b. All community contributions must be reserved exclusively for use in a project. As used in this sub-subparagraph, the term "project" means activity undertaken by an eligible sponsor which is designed to construct, improve, or substantially rehabilitate housing that is affordable to low-

income households or very-low-income households; designed to provide housing opportunities for persons with special needs; designed to provide commercial, industrial, or public resources and facilities; or designed to improve entrepreneurial and job-development opportunities for low-income persons. A project may be the investment necessary to increase access to high-speed broadband capability in a rural community that had an enterprise zone designated pursuant to chapter 290 as of May 1, 2015, including projects that result in improvements to communications assets that are owned by a business. A project may include the provision of museum educational programs and materials that are directly related to a project approved between January 1, 1996, and December 31, 1999, and located in an area which was in an enterprise zone designated pursuant to s. 290.0065 as of May 1, 2015. This paragraph does not preclude projects that propose to construct or rehabilitate housing for low-income households or very-low-income households on scattered sites or housing opportunities for persons with special needs. With respect to housing, contributions may be used to pay the following eligible special needs, low-income, and very-low-income housing-related activities:

(I) Project development impact and management fees for special needs, low-income, or very-low-income housing projects;

(II) Down payment and closing costs for persons with special needs, low-income persons, and very-low-income persons;

(III) Administrative costs, including housing counseling

and marketing fees, not to exceed 10 percent of the community contribution, directly related to special needs, low-income, or very-low-income projects; and

(IV) Removal of liens recorded against residential property by municipal, county, or special district local governments if satisfaction of the lien is a necessary precedent to the transfer of the property to a low-income person or very-low-income person for the purpose of promoting home ownership. Contributions for lien removal must be received from a nonrelated third party.

c. The project must be undertaken by an "eligible sponsor," which includes:

(I) A community action program;

(II) A nonprofit community-based development organization whose mission is the provision of housing for persons with specials needs, low-income households, or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons;

(III) A neighborhood housing services corporation;

(IV) A local housing authority created under chapter 421;

(V) A community redevelopment agency created under s. 163.356;

(VI) A historic preservation district agency or organization;

(VII) A local ~~regional~~ workforce development board;

(VIII) A direct-support organization as provided in s.

1009.983;

(IX) An enterprise zone development agency created under s. 290.0056;

(X) A community-based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose bylaws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;

(XI) Units of local government;

(XII) Units of state government; or

(XIII) Any other agency that the Department of Economic Opportunity designates by rule.

A contributing person may not have a financial interest in the eligible sponsor.

d. The project must be located in an area which was in an enterprise zone designated pursuant to chapter 290 as of May 1, 2015, or a Front Porch Florida Community, unless the project increases access to high-speed broadband capability in a rural community that had an enterprise zone designated pursuant to chapter 290 as of May 1, 2015, but is physically located outside the designated rural zone boundaries. Any project designed to construct or rehabilitate housing for low-income households or very-low-income households or housing opportunities for persons with special needs is exempt from the area requirement of this

sub-subparagraph.

e.(I) If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households are received for less than the annual tax credits available for those projects, the Department of Economic Opportunity shall grant tax credits for those applications and grant remaining tax credits on a first-come, first-served basis for subsequent eligible applications received before the end of the state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households are received for more than the annual tax credits available for those projects, the Department of Economic Opportunity shall grant the tax credits for those applications as follows:

(A) If tax credit applications submitted for approved projects of an eligible sponsor do not exceed $200,000 in total, the credits shall be granted in full if the tax credit applications are approved.

(B) If tax credit applications submitted for approved projects of an eligible sponsor exceed $200,000 in total, the amount of tax credits granted pursuant to sub-sub-sub-subparagraph (A) shall be subtracted from the amount of

available tax credits, and the remaining credits shall be granted to each approved tax credit application on a pro rata basis.

(II) If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households are received for less than the annual tax credits available for those projects, the Department of Economic Opportunity shall grant tax credits for those applications and shall grant remaining tax credits on a first-come, first-served basis for subsequent eligible applications received before the end of the state fiscal year. If, during the first 10 business days of the state fiscal year, eligible tax credit applications for projects other than those that provide housing opportunities for persons with special needs or homeownership opportunities for low-income households or very-low-income households are received for more than the annual tax credits available for those projects, the Department of Economic Opportunity shall grant the tax credits for those applications on a pro rata basis.

3. Application requirements.—

a. An eligible sponsor seeking to participate in this program must submit a proposal to the Department of Economic Opportunity which sets forth the name of the sponsor, a description of the project, and the area in which the project is

located, together with such supporting information as is prescribed by rule. The proposal must also contain a resolution from the local governmental unit in which the project is located certifying that the project is consistent with local plans and regulations.

b. A person seeking to participate in this program must submit an application for tax credit to the Department of Economic Opportunity which sets forth the name of the sponsor, a description of the project, and the type, value, and purpose of the contribution. The sponsor shall verify, in writing, the terms of the application and indicate its receipt of the contribution, and such verification must accompany the application for tax credit. The person must submit a separate tax credit application to the Department of Economic Opportunity for each individual contribution that it makes to each individual project.

c. A person who has received notification from the Department of Economic Opportunity that a tax credit has been approved must apply to the department to receive the refund. Application must be made on the form prescribed for claiming refunds of sales and use taxes and be accompanied by a copy of the notification. A person may submit only one application for refund to the department within a 12-month period.

4. Administration.—

a. The Department of Economic Opportunity may adopt rules necessary to administer this paragraph, including rules for the

approval or disapproval of proposals by a person.

b. The decision of the Department of Economic Opportunity must be in writing, and, if approved, the notification shall state the maximum credit allowable to the person. Upon approval, the Department of Economic Opportunity shall transmit a copy of the decision to the department.

c. The Department of Economic Opportunity shall periodically monitor all projects in a manner consistent with available resources to ensure that resources are used in accordance with this paragraph; however, each project must be reviewed at least once every 2 years.

d. The Department of Economic Opportunity shall, in consultation with the statewide and regional housing and financial intermediaries, market the availability of the community contribution tax credit program to community-based organizations.

5. Expiration.—This paragraph expires June 30, 2018; however, any accrued credit carryover that is unused on that date may be used until the expiration of the 3-year carryover period for such credit.

Section 3. Paragraph (c) of subsection (2) of section 220.183, Florida Statutes, is amended to read:

220.183 Community contribution tax credit.—

(2) ELIGIBILITY REQUIREMENTS.—

(c) The project must be undertaken by an "eligible sponsor," defined here as:

1. A community action program;

2. A nonprofit community-based development organization whose mission is the provision of housing for persons with special needs or low-income or very-low-income households or increasing entrepreneurial and job-development opportunities for low-income persons;

3. A neighborhood housing services corporation;

4. A local housing authority, created pursuant to chapter 421;

5. A community redevelopment agency, created pursuant to s. 163.356;

6. A historic preservation district agency or organization;

7. A local ~~regional~~ workforce development board;

8. A direct-support organization as provided in s. 1009.983;

9. An enterprise zone development agency created pursuant to s. 290.0056;

10. A community-based organization incorporated under chapter 617 which is recognized as educational, charitable, or scientific pursuant to s. 501(c)(3) of the Internal Revenue Code and whose bylaws and articles of incorporation include affordable housing, economic development, or community development as the primary mission of the corporation;

11. Units of local government;

12. Units of state government; or

13. Such other agency as the Department of Economic Opportunity may, from time to time, designate by rule.

In no event shall a contributing business firm have a financial interest in the eligible sponsor.

Section 4. Paragraph (l) of subsection (2) of section 250.10, Florida Statutes, is amended to read:

250.10 Appointment and duties of the Adjutant General.—

(2) The Adjutant General shall:

(l) Subject to annual appropriations, administer youth About Face programs and adult Forward March programs at sites to be selected by the Adjutant General. Both programs must provide schoolwork assistance, focusing on the skills needed to master basic high school competencies and functional life skills, including teaching students to work effectively in groups; providing basic instruction in computer skills; teaching basic problem-solving, decisionmaking, and reasoning skills; teaching how the business world and free enterprise work through computer simulations; and teaching home finance and budgeting and other daily living skills.

1. About Face is a summer and year-round after-school life-preparation program for economically disadvantaged and at-risk youths from 13 through 17 years of age. The program must provide training in academic study skills, and the basic skills that businesses require for employment consideration.

2. Forward March is a job-readiness program for

economically disadvantaged participants who are directed to Forward March by the local ~~regional~~ workforce development boards. The Forward March program shall provide training on topics that directly relate to the skills required for real-world success. The program shall emphasize functional life skills, computer literacy, interpersonal relationships, critical-thinking skills, business skills, preemployment and work maturity skills, job-search skills, exploring careers activities, how to be a successful and effective employee, and some job-specific skills. The program also shall provide extensive opportunities for participants to practice generic job skills in a supervised work setting. Upon completion of the program, Forward March shall return participants to the local ~~regional~~ workforce development boards for placement in a job placement pool.

Section 5. Subsection (8) of section 288.047, Florida Statutes, is amended to read:

288.047 Quick-response training for economic development.—

(8) The Quick-Response Training Program is created to provide assistance to participants in the welfare transition program. CareerSource Florida, Inc., may award quick-response training grants and develop applicable guidelines for the training of participants in the welfare transition program. In addition to a local economic development organization, grants must be endorsed by the applicable <u>local</u> ~~regional~~ workforce <u>development</u> board.

(a) Training funded pursuant to this subsection may not exceed 12 months, and may be provided by the local community college, school district, local ~~regional~~ workforce development board, or the business employing the participant, including on-the-job training. Training will provide entry-level skills to new workers, including those employed in retail, who are participants in the welfare transition program.

(b) Participants trained pursuant to this subsection must be employed at a job paying at least $6 per hour.

(c) Funds made available pursuant to this subsection may be expended in connection with the relocation of a business from one community to another if approved by CareerSource Florida, Inc.

Section 6. Subsection (2) of section 290.0056, Florida Statutes, is amended to read:

290.0056 Enterprise zone development agency.—

(2) When the governing body creates an enterprise zone development agency, that body shall appoint a board of commissioners of the agency, which shall consist of not fewer than 8 or more than 13 commissioners. The governing body may appoint at least one representative from each of the following: the local chamber of commerce; local financial or insurance entities; local businesses and, where possible, businesses operating within the nominated area; the residents residing within the nominated area; nonprofit community-based organizations operating within the nominated area; the local

~~regional~~ workforce development board; the local code enforcement agency; and the local law enforcement agency. The terms of office of the commissioners shall be for 4 years, except that, in making the initial appointments, the governing body shall appoint two members for terms of 3 years, two members for terms of 2 years, and one member for a term of 1 year; the remaining initial members shall serve for terms of 4 years. A vacancy occurring during a term shall be filled for the unexpired term. The importance of including individuals from the nominated area shall be considered in making appointments. Further, the importance of minority representation on the agency shall be considered in making appointments so that the agency generally reflects the gender and ethnic composition of the community as a whole.

Section 7. Paragraph (c) of subsection (9) of section 322.34, Florida Statutes, is amended to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

(9)

(c) Notwithstanding s. 932.703(1)(c) or s. 932.7055, when the seizing agency obtains a final judgment granting forfeiture of the motor vehicle under this section, 30 percent of the net proceeds from the sale of the motor vehicle shall be retained by the seizing law enforcement agency and 70 percent shall be deposited in the General Revenue Fund for use by local ~~regional~~ workforce development boards in providing transportation

services for participants of the welfare transition program. In a forfeiture proceeding under this section, the court may consider the extent that the family of the owner has other public or private means of transportation.

Section 8. Subsection (1) of section 341.052, Florida Statutes, is amended to read:

341.052 Public transit block grant program; administration; eligible projects; limitation.—

(1) There is created a public transit block grant program which shall be administered by the department. Block grant funds shall only be provided to "Section 9" providers and "Section 18" providers designated by the United States Department of Transportation and community transportation coordinators as defined in chapter 427. Eligible providers must establish public transportation development plans consistent, to the maximum extent feasible, with approved local government comprehensive plans of the units of local government in which the provider is located. In developing public transportation development plans, eligible providers must solicit comments from local ~~regional~~ workforce development boards established under chapter 445. The development plans must address how the public transit provider will work with the appropriate local ~~regional~~ workforce development board to provide services to participants in the welfare transition program. Eligible providers must provide information to the local ~~regional~~ workforce development board serving the county in which the provider is located regarding

the availability of transportation services to assist program participants.

Section 9. Subsection (2) of section 414.045, Florida Statutes, is amended to read:

414.045 Cash assistance program.—Cash assistance families include any families receiving cash assistance payments from the state program for temporary assistance for needy families as defined in federal law, whether such funds are from federal funds, state funds, or commingled federal and state funds. Cash assistance families may also include families receiving cash assistance through a program defined as a separate state program.

(2) Oversight by the board of directors of CareerSource Florida, Inc., and the service delivery and financial planning responsibilities of the local ~~regional~~ workforce development boards apply to the families defined as work-eligible cases in paragraph (1)(a). The department shall be responsible for program administration related to families in groups defined in paragraph (1)(b), and the department shall coordinate such administration with the board of directors of CareerSource Florida, Inc., to the extent needed for operation of the program.

Section 10. Paragraphs (a), (d), and (e) of subsection (4) of section 414.065, Florida Statutes, are amended to read:

414.065 Noncompliance with work requirements.—

(4) EXCEPTIONS TO NONCOMPLIANCE PENALTIES.—Unless

otherwise provided, the situations listed in this subsection shall constitute exceptions to the penalties for noncompliance with participation requirements, except that these situations do not constitute exceptions to the applicable time limit for receipt of temporary cash assistance:

(a) Noncompliance related to child care.—Temporary cash assistance may not be terminated for refusal to participate in work activities if the individual is a single parent caring for a child who has not attained 6 years of age, and the adult proves to the local ~~regional~~ workforce development board an inability to obtain needed child care for one or more of the following reasons, as defined in the Child Care and Development Fund State Plan required by 45 C.F.R. part 98:

1. Unavailability of appropriate child care within a reasonable distance from the individual's home or worksite.

2. Unavailability or unsuitability of informal child care by a relative or under other arrangements.

3. Unavailability of appropriate and affordable formal child care arrangements.

(d) Noncompliance related to medical incapacity.—If an individual cannot participate in assigned work activities due to a medical incapacity, the individual may be excepted from the activity for a specific period, except that the individual shall be required to comply with the course of treatment necessary for the individual to resume participation. A participant may not be excused from work activity requirements unless the participant's

medical incapacity is verified by a physician licensed under chapter 458 or chapter 459, in accordance with procedures established by rule of the department. An individual for whom there is medical verification of limitation to participate in work activities shall be assigned to work activities consistent with such limitations. Evaluation of an individual's ability to participate in work activities or development of a plan for work activity assignment may include vocational assessment or work evaluation. The department or a local ~~regional~~ workforce development board may require an individual to cooperate in medical or vocational assessment necessary to evaluate the individual's ability to participate in a work activity.

(e) Noncompliance related to outpatient mental health or substance abuse treatment.—If an individual cannot participate in the required hours of work activity due to a need to become or remain involved in outpatient mental health or substance abuse counseling or treatment, the individual may be exempted from the work activity for up to 5 hours per week, not to exceed 100 hours per year. An individual may not be excused from a work activity unless a mental health or substance abuse professional recognized by the department or local ~~regional~~ workforce development board certifies the treatment protocol and provides verification of attendance at the counseling or treatment sessions each week.

Section 11. Paragraph (d) of subsection (1) of section 414.085, Florida Statutes, is amended to read:

414.085 Income eligibility standards.—

(1) For purposes of program simplification and effective program management, certain income definitions, as outlined in the food assistance regulations at 7 C.F.R. s. 273.9, shall be applied to the temporary cash assistance program as determined by the department to be consistent with federal law regarding temporary cash assistance and Medicaid for needy families, except as to the following:

(d) An incentive payment to a participant authorized by a local ~~regional~~ workforce development board shall not be considered income.

Section 12. Subsection (1) of section 414.095, Florida Statutes, is amended to read:

414.095 Determining eligibility for temporary cash assistance.—

(1) ELIGIBILITY.—An applicant must meet eligibility requirements of this section before receiving services or temporary cash assistance under this chapter, except that an applicant shall be required to register for work and engage in work activities in accordance with s. 445.024, as designated by the local ~~regional~~ workforce development board, and may receive support services or child care assistance in conjunction with such requirement. The department shall make a determination of eligibility based on the criteria listed in this chapter. The department shall monitor continued eligibility for temporary cash assistance through periodic reviews consistent with the

food assistance eligibility process. Benefits may ~~shall~~ not be denied to an individual solely based on a felony drug conviction, unless the conviction is for trafficking pursuant to s. 893.135. To be eligible under this section, an individual convicted of a drug felony must be satisfactorily meeting the requirements of the temporary cash assistance program, including all substance abuse treatment requirements. Within the limits specified in this chapter, the state opts out of the provision of s. 115, Pub. L. No. 104-193, ~~s. 115,~~ that eliminates eligibility for temporary cash assistance and food assistance for any individual convicted of a controlled substance felony.

Section 13. Subsections (3) and (10) of section 414.105, Florida Statutes, are amended to read:

414.105 Time limitations of temporary cash assistance.—Except as otherwise provided in this section, an applicant or current participant shall receive temporary cash assistance for no more than a lifetime cumulative total of 48 months, unless otherwise provided by law.

(3) The department, in cooperation with CareerSource Florida, Inc., shall establish a procedure for approving hardship exemptions and for reviewing hardship cases at least once every 2 years. Local ~~Regional~~ workforce development boards may assist in making these determinations.

(10) A member of the staff of the local ~~regional~~ workforce development board shall interview and assess the employment prospects and barriers of each participant who is within 6

months of reaching the 48-month time limit. The staff member shall assist the participant in identifying actions necessary to become employed prior to reaching the benefit time limit for temporary cash assistance and, if appropriate, shall refer the participant for services that could facilitate employment.

Section 14. Section 414.106, Florida Statutes, is amended to read:

414.106 Exemption from public meetings law.—That portion of a meeting held by the department, CareerSource Florida, Inc., or a local ~~regional~~ workforce development board or local committee created pursuant to s. 445.007 at which personal identifying information contained in records relating to temporary cash assistance is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution if the information identifies a participant, a participant's family, or a participant's family or household member.

Section 15. Subsection (1) of section 414.295, Florida Statutes, is amended to read:

414.295 Temporary cash assistance programs; public records exemption.—

(1) Personal identifying information of a temporary cash assistance program participant, a participant's family, or a participant's family or household member, except for information identifying a parent who does not live in the same home as the child, which is held by the department, the Office of Early Learning, CareerSource Florida, Inc., the Department of Health,

the Department of Revenue, the Department of Education, or a local ~~regional~~ workforce development board or local committee created pursuant to s. 445.007 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such confidential and exempt information may be released for purposes directly connected with:

(a) The administration of the temporary assistance for needy families plan under Title IV-A of the Social Security Act, as amended, by the department, the Office of Early Learning, CareerSource Florida, Inc., the Department of Military Affairs, the Department of Health, the Department of Revenue, the Department of Education, a local ~~regional~~ workforce development board or local committee created pursuant to s. 445.007, or a school district.

(b) The administration of the state's plan or program approved under Title IV-B, Title IV-D, or Title IV-E of the Social Security Act, as amended, or under Title I, Title X, Title XIV, Title XVI, Title XIX, Title XX, or Title XXI of the Social Security Act, as amended.

(c) An investigation, prosecution, or criminal, civil, or administrative proceeding conducted in connection with the administration of any of the plans or programs specified in paragraph (a) or paragraph (b) by a federal, state, or local governmental entity, upon request by that entity, if such request is made pursuant to the proper exercise of that entity's duties and responsibilities.

(d) The administration of any other state, federal, or federally assisted program that provides assistance or services on the basis of need, in cash or in kind, directly to a participant.

(e) An audit or similar activity, such as a review of expenditure reports or financial review, conducted in connection with the administration of plans or programs specified in paragraph (a) or paragraph (b) by a governmental entity authorized by law to conduct such audit or activity.

(f) The administration of the reemployment assistance program.

(g) The reporting to the appropriate agency or official of information about known or suspected instances of physical or mental injury, sexual abuse or exploitation, or negligent treatment or maltreatment of a child or elderly person receiving assistance, if circumstances indicate that the health or welfare of the child or elderly person is threatened.

(h) The administration of services to elderly persons under ss. 430.601-430.606.

Section 16. Paragraph (e) of subsection (1) of section 420.623, Florida Statutes, is amended to read:

420.623 Local coalitions for the homeless.—

(1) ESTABLISHMENT.—The department shall establish local coalitions to plan, network, coordinate, and monitor the delivery of services to the homeless. Appropriate local groups and organizations involved in providing services for the

homeless and interested business groups and associations shall be given an opportunity to participate in such coalitions, including, but not limited to:

(e) Local ~~Regional~~ workforce development boards.

Section 17. Subsection (8) of section 420.624, Florida Statutes, is amended to read:

420.624 Local homeless assistance continuum of care.—

(8) Continuum of care plans must promote participation by all interested individuals and organizations and may not exclude individuals and organizations on the basis of race, color, national origin, sex, handicap, familial status, or religion. Faith-based organizations must be encouraged to participate. To the extent possible, these components should be coordinated and integrated with other mainstream health, social services, and employment programs for which homeless populations may be eligible, including Medicaid, State Children's Health Insurance Program, Temporary Assistance for Needy Families, Food Assistance Program, and services funded through the Mental Health and Substance Abuse Block Grant, the Workforce Innovation and Opportunity ~~Investment~~ Act, and the welfare-to-work grant program.

Section 18. Subsection (27) of section 427.013, Florida Statutes, is amended to read:

427.013 The Commission for the Transportation Disadvantaged; purpose and responsibilities.—The purpose of the commission is to accomplish the coordination of transportation

services provided to the transportation disadvantaged. The goal of this coordination is to assure the cost-effective provision of transportation by qualified community transportation coordinators or transportation operators for the transportation disadvantaged without any bias or presumption in favor of multioperator systems or not-for-profit transportation operators over single operator systems or for-profit transportation operators. In carrying out this purpose, the commission shall:

(27) Ensure that local community transportation coordinators work cooperatively with local ~~regional~~ workforce development boards established in chapter 445 to provide assistance in the development of innovative transportation services for participants in the welfare transition program.

Section 19. Subsection (9) of section 427.0155, Florida Statutes, is amended to read:

427.0155 Community transportation coordinators; powers and duties.—Community transportation coordinators shall have the following powers and duties:

(9) Work cooperatively with local ~~regional~~ workforce development boards established in chapter 445 to provide assistance in the development of innovative transportation services for participants in the welfare transition program.

Section 20. Subsection (7) of section 427.0157, Florida Statutes, is amended to read:

427.0157 Coordinating boards; powers and duties.—The purpose of each coordinating board is to develop local service

needs and to provide information, advice, and direction to the community transportation coordinators on the coordination of services to be provided to the transportation disadvantaged. The commission shall, by rule, establish the membership of coordinating boards. The members of each board shall be appointed by the metropolitan planning organization or designated official planning agency. The appointing authority shall provide each board with sufficient staff support and resources to enable the board to fulfill its responsibilities under this section. Each board shall meet at least quarterly and shall:

(7) Work cooperatively with local ~~regional~~ workforce development boards established in chapter 445 to provide assistance in the development of innovative transportation services for participants in the welfare transition program.

Section 21. Paragraphs (b) and (c) of subsection (1) of section 443.091, Florida Statutes, are amended to read:

443.091 Benefit eligibility conditions.—

(1) An unemployed individual is eligible to receive benefits for any week only if the Department of Economic Opportunity finds that:

(b) She or he has completed the department's online work registration and subsequently reports to the one-stop career center as directed by the local ~~regional~~ workforce development board for reemployment services. This requirement does not apply to persons who are:

1. Non-Florida residents;

2. On a temporary layoff;

3. Union members who customarily obtain employment through a union hiring hall;

4. Claiming benefits under an approved short-time compensation plan as provided in s. 443.1116; or

5. Unable to complete the online work registration due to illiteracy, physical or mental impairment, a legal prohibition from using a computer, or a language impediment. If a person is exempted from the online work registration under this subparagraph, then the filing of his or her claim constitutes registration for work.

(c) To make continued claims for benefits, she or he is reporting to the department in accordance with this paragraph and department rules. Department rules may not conflict with s. 443.111(1)(b), which requires that each claimant continue to report regardless of any pending appeal relating to her or his eligibility or disqualification for benefits.

1. For each week of unemployment claimed, each report must, at a minimum, include the name, address, and telephone number of each prospective employer contacted, or the date the claimant reported to a one-stop career center, pursuant to paragraph (d).

2. The department shall offer an online assessment aimed at identifying an individual's skills, abilities, and career aptitude. The skills assessment must be voluntary, and the

department shall allow a claimant to choose whether to take the skills assessment. The online assessment shall be made available to any person seeking services from a local ~~regional~~ workforce development board or a one-stop career center.

a. If the claimant chooses to take the online assessment, the outcome of the assessment shall be made available to the claimant, local ~~regional~~ workforce development board, and one-stop career center. The department, local workforce development board, or one-stop career center shall use the assessment to develop a plan for referring individuals to training and employment opportunities. Aggregate data on assessment outcomes may be made available to CareerSource Florida, Inc., and Enterprise Florida, Inc., for use in the development of policies related to education and training programs that will ensure that businesses in this state have access to a skilled and competent workforce.

b. Individuals shall be informed of and offered services through the one-stop delivery system, including career counseling, the provision of skill match and job market information, and skills upgrade and other training opportunities, and shall be encouraged to participate in such services at no cost to the individuals. The department shall coordinate with CareerSource Florida, Inc., the local workforce development boards, and the one-stop career centers to identify, develop, and use best practices for improving the skills of individuals who choose to participate in skills upgrade and

other training opportunities. The department may contract with an entity to create the online assessment in accordance with the competitive bidding requirements in s. 287.057. The online assessment must work seamlessly with the Reemployment Assistance Claims and Benefits Information System.

Section 22. Paragraph (c) of subsection (5) of section 443.1116, Florida Statutes, is amended to read:

443.1116 Short-time compensation.—

(5) ELIGIBILITY REQUIREMENTS FOR SHORT-TIME COMPENSATION BENEFITS.—

(c) The department may not deny short-time compensation benefits to an individual who is otherwise eligible for these benefits for any week because such individual is participating in an employer-sponsored training or a training under the Workforce Innovation and Opportunity ~~Investment~~ Act to improve job skills when the training is approved by the department.

Section 23. Section 445.003, Florida Statutes, is amended to read:

445.003 Implementation of the federal Workforce Innovation and Opportunity ~~Investment~~ Act ~~of 1998~~.—

(1) WORKFORCE INNOVATION AND OPPORTUNITY ~~INVESTMENT~~ ACT PRINCIPLES.—The state's approach to implementing the federal Workforce Innovation and Opportunity ~~Investment~~ Act ~~of 1998~~, Pub. L. No. 113-128 ~~105-220~~, should have six elements:

(a) Streamlining services.—Florida's employment and training programs must be coordinated and consolidated at

locally managed one-stop delivery system centers.

(b) Empowering individuals.—Eligible participants will make informed decisions, choosing the qualified training program that best meets their needs.

(c) Universal access.—Through a one-stop delivery system, every Floridian will have access to employment services.

(d) Increased accountability.—The state, localities, and training providers will be held accountable for their performance.

(e) Local board and private sector leadership.—Local workforce development boards will focus on strategic planning, policy development, and oversight of the local system, choosing local managers to direct the operational details of their one-stop delivery system centers.

(f) Local flexibility and integration.—Localities will have exceptional flexibility to build on existing reforms. Unified planning will free local groups from conflicting micromanagement, while waivers and WorkFlex will allow local innovations.

(2) FOUR-YEAR ~~FIVE-YEAR~~ PLAN.—CareerSource Florida, Inc., shall prepare and submit a 4-year ~~5-year~~ plan, consistent with the requirements of the Workforce Innovation and Opportunity Act ~~which must include secondary career education, to fulfill the early implementation requirements of Pub. L. No. 105-220 and applicable state statutes~~. Mandatory and optional federal partners shall be fully involved in designing the plan's one-

stop delivery system strategy. The plan must ~~shall~~ clearly define each program's statewide duties and role relating to the system. ~~Any optional federal partner may immediately choose to fully integrate its program's plan with this plan, which shall, notwithstanding any other state provisions, fulfill all their state planning and reporting requirements as they relate to the one-stop delivery system.~~ The plan must detail a process that would fully integrate all federally mandated and optional partners ~~by the second year of the plan. All optional federal program partners in the planning process shall be mandatory participants in the second year of the plan~~.

(3) FUNDING.—

(a) Title I, Workforce Innovation and Opportunity ~~Investment~~ Act ~~of 1998~~ funds; Wagner-Peyser funds; and NAFTA/Trade Act funds will be expended based on the 4-year ~~5-year~~ plan of CareerSource Florida, Inc. The plan must ~~shall~~ outline and direct the method used to administer and coordinate various funds and programs that are operated by various agencies. The following provisions apply to these funds:

1. At least 50 percent of the Title I funds for Adults and Dislocated Workers which are passed through to local ~~regional~~ workforce development boards shall be allocated to and expended on Individual Training Accounts unless a local ~~regional~~ workforce development board obtains a waiver from CareerSource Florida, Inc. Tuition, books, and fees of training providers and other training services prescribed and authorized by the

Workforce Innovation and Opportunity ~~Investment~~ Act ~~of 1998~~ qualify as Individual Training Account expenditures.

2. Fifteen percent of Title I funding shall be retained at the state level and dedicated to state administration and shall be used to design, develop, induce, and fund innovative Individual Training Account pilots, demonstrations, and programs. Of such funds retained at the state level, $2 million shall be reserved for the Incumbent Worker Training Program created under subparagraph 3. Eligible state administration costs include the costs of~~:~~ funding for the board and staff of CareerSource Florida, Inc.; operating fiscal, compliance, and management accountability systems through CareerSource Florida, Inc.; conducting evaluation and research on workforce development activities; and providing technical and capacity building assistance to local workforce development areas ~~regions~~ at the direction of CareerSource Florida, Inc. Notwithstanding s. 445.004, such administrative costs may not exceed 25 percent of these funds. An amount not to exceed 75 percent of these funds shall be allocated to Individual Training Accounts and other workforce development strategies for other training designed and tailored by CareerSource Florida, Inc., including, but not limited to, programs for incumbent workers, displaced homemakers, nontraditional employment, and enterprise zones. CareerSource Florida, Inc., shall design, adopt, and fund Individual Training Accounts for distressed urban and rural communities.

3. The Incumbent Worker Training Program is created for the purpose of providing grant funding for continuing education and training of incumbent employees at existing Florida businesses. The program will provide reimbursement grants to businesses that pay for preapproved, direct, training-related costs.

a. The Incumbent Worker Training Program will be administered by CareerSource Florida, Inc., which may, at its discretion, contract with a private business organization to serve as grant administrator.

b. The program shall be administered pursuant to s. 134(d)(4) of the Workforce Innovation and Opportunity Act ~~To be eligible for the program's grant funding, a business must have been in operation in Florida for a minimum of 1 year prior to the application for grant funding; have at least one full-time employee; demonstrate financial viability; and be current on all state tax obligations~~. Priority for funding shall be given to businesses with 25 employees or fewer, businesses in rural areas, businesses in distressed inner-city areas, businesses in a qualified targeted industry, businesses whose grant proposals represent a significant upgrade in employee skills, or businesses whose grant proposals represent a significant layoff avoidance strategy.

c. All costs reimbursed by the program must be preapproved by CareerSource Florida, Inc., or the grant administrator. The program may not reimburse businesses for trainee wages, the

purchase of capital equipment, or the purchase of any item or service that may possibly be used outside the training project. A business approved for a grant may be reimbursed for preapproved, direct, training-related costs including tuition, fees, books and training materials, and overhead or indirect costs not to exceed 5 percent of the grant amount.

d. A business that is selected to receive grant funding must provide a matching contribution to the training project, including, but not limited to, wages paid to trainees or the purchase of capital equipment used in the training project; must sign an agreement with CareerSource Florida, Inc., or the grant administrator to complete the training project as proposed in the application; must keep accurate records of the project's implementation process; and must submit monthly or quarterly reimbursement requests with required documentation.

e. All Incumbent Worker Training Program grant projects shall be performance-based with specific measurable performance outcomes, including completion of the training project and job retention. CareerSource Florida, Inc., or the grant administrator shall withhold the final payment to the grantee until a final grant report is submitted and all performance criteria specified in the grant contract have been achieved.

f. CareerSource Florida, Inc., may establish guidelines necessary to implement the Incumbent Worker Training Program.

g. No more than 10 percent of the Incumbent Worker Training Program's total appropriation may be used for overhead

or indirect purposes.

4. At least 50 percent of Rapid Response funding shall be dedicated to Intensive Services Accounts and Individual Training Accounts for dislocated workers and incumbent workers who are at risk of dislocation. CareerSource Florida, Inc., shall also maintain an Emergency Preparedness Fund from Rapid Response funds, which will immediately issue Intensive Service Accounts, Individual Training Accounts, and other federally authorized assistance to eligible victims of natural or other disasters. At the direction of the Governor, these Rapid Response funds shall be released to local ~~regional~~ workforce development boards for immediate use after events that qualify under federal law. Funding shall also be dedicated to maintain a unit at the state level to respond to Rapid Response emergencies and to work with state emergency management officials and local ~~regional~~ workforce development boards. All Rapid Response funds must be expended based on a plan developed by CareerSource Florida, Inc., and approved by the Governor.

(b) The administrative entity for Title I, Workforce Innovation and Opportunity ~~Investment~~ Act ~~of 1998~~ funds, and Rapid Response activities is the Department of Economic Opportunity, which shall provide direction to local ~~regional~~ workforce development boards regarding Title I programs and Rapid Response activities pursuant to the direction of CareerSource Florida, Inc.

(4) FEDERAL REQUIREMENTS, EXCEPTIONS AND REQUIRED

MODIFICATIONS.—

(a) CareerSource Florida, Inc., may provide indemnification from audit liabilities to local ~~regional~~ workforce development boards that act in full compliance with state law and board policy.

~~(b) CareerSource Florida, Inc., may negotiate and settle all outstanding issues with the United States Department of Labor relating to decisions made by CareerSource Florida, Inc., any predecessor workforce organization, and the Legislature with regard to the Job Training Partnership Act, making settlements and closing out all JTPA program year grants.~~

(b) ~~(c)~~ CareerSource Florida, Inc., may make modifications to the state's plan, policies, and procedures to comply with federally mandated requirements that in its judgment must be complied with to maintain funding provided pursuant to Pub. L. No. 113-128 ~~105-220~~. The board shall provide written notice to the Governor, the President of the Senate, and the Speaker of the House of Representatives within 30 days after any such changes or modifications.

(c) CareerSource Florida, Inc., shall enter into a memorandum of understanding with the Department of Education to ensure that federally mandated requirements of Pub. L. No. 113-128 are met and comply with the state plan for workforce development.

(5) LONG-TERM CONSOLIDATION OF WORKFORCE DEVELOPMENT.—CareerSource Florida, Inc., may recommend workforce-related

divisions, bureaus, units, programs, duties, commissions, boards, and councils for elimination, consolidation, or privatization.

Section 24. Subsections (3), (4), (5), (9), (11), and (12) of section 445.004, Florida Statutes, are amended to read:

445.004 CareerSource Florida, Inc.; creation; purpose; membership; duties and powers.—

(3)(a) CareerSource Florida, Inc., shall be governed by a board of directors, whose membership and appointment must be consistent with Title I, s. 101(b), Pub. L. No. 113-128 ~~105-220, Title I, s. 111(b)~~. Members described in Title I, s. 101(b)(1)(C)(iii)(I)(aa), Pub. L. No. 113-128 ~~105-220, Title I, s. 111(b)(1)(C)(vi)~~ shall be nonvoting members. The number of directors shall be determined by the Governor, who shall consider the importance of minority, gender, and geographic representation in making appointments to the board. When the Governor is in attendance, he or she shall preside at all meetings of the board of directors.

(b) The board of directors of CareerSource Florida, Inc., shall be chaired by a board member designated by the Governor pursuant to Pub. L. No. 113-128 ~~105-220~~. A member may not serve more than two terms.

(c) Members appointed by the Governor may serve no more than two terms and must be appointed for 3-year terms. However, in order to establish staggered terms for board members, the Governor shall appoint or reappoint one-third of the board

members for 1-year terms, one-third of the board members for 2-year terms, and one-third of the board members for 3-year terms beginning July 1, 2016 ~~2005~~. Subsequent appointments or reappointments shall be for 3-year terms, except that a member appointed to fill a vacancy on the board shall be appointed to serve only the remainder of the term of the member whom he or she is replacing, and may be appointed for a subsequent 3-year term. Private sector representatives of businesses, appointed by the Governor pursuant to Pub. L. No. 113-128 ~~105-220~~, shall constitute a majority of the membership of the board. Private sector representatives shall be appointed from nominations received by the Governor, including, but not limited to, those nominations made by the President of the Senate and the Speaker of the House of Representatives. Private sector appointments to the board must be representative of the business community of this state; no fewer than one-half of the appointments must be representative of small businesses, and at least five members must have economic development experience. Members appointed by the Governor serve at the pleasure of the Governor and are eligible for reappointment.

(d) The board shall include the vice chair of the board of directors of Enterprise Florida, Inc., one member representing each of the Workforce Innovation and Opportunity Act partners, including the Division of Career and Adult Education of the Department of Education, and other entities representing programs identified and determined necessary in the federal

Workforce Innovation and Opportunity Act.

(e)~~(d)~~ A member of the board of directors of CareerSource Florida, Inc., may be removed by the Governor for cause. Absence from three consecutive meetings results in automatic removal. The chair of CareerSource Florida, Inc., shall notify the Governor of such absences.

(f)~~(e)~~ Representatives of businesses appointed to the board of directors may not include providers of workforce services.

(4)(a) The president of CareerSource Florida, Inc., shall be hired by the board of directors of CareerSource Florida, Inc., and shall serve at the pleasure of the Governor in the capacity of an executive director and secretary of CareerSource Florida, Inc.

(b) The board of directors of CareerSource Florida, Inc., shall meet at least quarterly and at other times upon the call of its chair. The board and its committees, subcommittees, or other subdivisions may use any method of telecommunications to conduct meetings, including establishing a quorum through telecommunications, if the public is given proper notice of the telecommunications meeting and is given reasonable access to observe and, if appropriate, participate.

(c) A majority of the total current membership of the board of directors of CareerSource Florida, Inc., constitutes a quorum.

(d) A majority of those voting is required to organize and

conduct the business of the board, except that a majority of the entire board of directors is required to adopt or amend the bylaws.

(e) Except as delegated or authorized by the board of directors of CareerSource Florida, Inc., individual members have no authority to control or direct the operations of CareerSource Florida, Inc., or the actions of its officers and employees, including the president.

(f) Members of the board of directors of CareerSource Florida, Inc., and its committees serve without compensation, but these members, the president, and the employees of CareerSource Florida, Inc., may be reimbursed for all reasonable, necessary, and actual expenses pursuant to s. 112.061.

(g) The board of directors of CareerSource Florida, Inc., may establish an executive committee consisting of the chair and at least six additional board members selected by the chair, one of whom must be a representative of organized labor. The executive committee and the president have such authority as the board delegates to them, except that the board of directors may not delegate to the executive committee authority to take action that requires approval by a majority of the entire board of directors.

(h) The chair may appoint committees to fulfill the board's responsibilities, to comply with federal requirements, or to obtain technical assistance, and must incorporate members

of local ~~regional~~ workforce development boards into its structure.

(i) Each member of the board of directors who is not otherwise required to file a financial disclosure pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 must file disclosure of financial interests pursuant to s. 112.3145.

(5) CareerSource Florida, Inc., shall have all the powers and authority not explicitly prohibited by statute which are necessary or convenient to carry out and effectuate its purposes as determined by statute, Pub. L. No. 113-128 ~~105-220~~, and the Governor, as well as its functions, duties, and responsibilities, including, but not limited to, the following:

(a) Serving as the state's Workforce Development ~~Investment~~ Board pursuant to Pub. L. No. 113-128 ~~105-220~~. Unless otherwise required by federal law, at least 90 percent of workforce development funding must go toward direct customer service.

(b) Providing oversight and policy direction to ensure that the following programs are administered by the department in compliance with approved plans and under contract with CareerSource Florida, Inc.:

1. Programs authorized under Title I of the Workforce Innovation and Opportunity ~~Investment~~ Act ~~of 1998~~, Pub. L. No. 113-128 ~~105-220~~, with the exception of programs funded directly by the United States Department of Labor under Title I, s. 167.

2. Programs authorized under the Wagner-Peyser Act of

1933, as amended, 29 U.S.C. ss. 49 et seq.

3. Activities authorized under Title II of the Trade Act of 2002, as amended, 19 U.S.C. ss. 2272 et seq., and the Trade Adjustment Assistance Program.

4. Activities authorized under 38 U.S.C. chapter 41, including job counseling, training, and placement for veterans.

5. Employment and training activities carried out under funds awarded to this state by the United States Department of Housing and Urban Development.

6. Welfare transition services funded by the Temporary Assistance for Needy Families Program, created under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended, Pub. L. No. 104-193, and Title IV, s. 403, of the Social Security Act, as amended.

7. Displaced homemaker programs, provided under s. 446.50.

8. The Florida Bonding Program, provided under s. 164(a)(1), Pub. L. No. 97-300~~, s. 164(a)(1)~~.

9. The Food Assistance Employment and Training Program, provided under the Food and Nutrition Act of 2008, 7 U.S.C. ss. 2011-2032; the Food Security Act of 1988, Pub. L. No. 99-198; and the Hunger Prevention Act, Pub. L. No. 100-435.

10. The Quick-Response Training Program, provided under ss. 288.046-288.047. Matching funds and in-kind contributions that are provided by clients of the Quick-Response Training Program shall count toward the requirements of s. 288.904, pertaining to the return on investment from activities of

Enterprise Florida, Inc.

11. The Work Opportunity Tax Credit, provided under the Tax and Trade Relief Extension Act of 1998, Pub. L. No. 105-277, and the Taxpayer Relief Act of 1997, Pub. L. No. 105-34.

12. Offender placement services, provided under ss. 944.707-944.708.

(c) The department may adopt rules necessary to administer the provisions of this chapter which relate to implementing and administering the programs listed in paragraph (b) as well as rules related to eligible training providers and auditing and monitoring subrecipients of the workforce system grant funds.

(d) Contracting with public and private entities as necessary to further the directives of this section. All contracts executed by CareerSource Florida, Inc., must include specific performance expectations and deliverables. All CareerSource Florida, Inc., contracts, including those solicited, managed, or paid by the department pursuant to s. 20.60(5)(c) are exempt from s. 112.061, but shall be governed by subsection (1).

(e) Notifying the Governor, the President of the Senate, and the Speaker of the House of Representatives of noncompliance by the department or other agencies or obstruction of the board's efforts by such agencies. Upon such notification, the Executive Office of the Governor shall assist agencies to bring them into compliance with board objectives.

(f) Ensuring that the state does not waste valuable

training resources. The board shall direct that all resources, including equipment purchased for training Workforce Innovation and Opportunity ~~Investment~~ Act clients, be available for use at all times by eligible populations as first priority users. At times when eligible populations are not available, such resources shall be used for any other state-authorized education and training purpose. CareerSource Florida, Inc., may authorize expenditures to award suitable framed certificates, pins, or other tokens of recognition for performance by a local ~~regional~~ workforce development board, its committees and subdivisions, and other units of the workforce system. CareerSource Florida, Inc., may also authorize expenditures for promotional items, such as t-shirts, hats, or pens printed with messages promoting the state's workforce system to employers, job seekers, and program participants. However, such expenditures are subject to federal regulations applicable to the expenditure of federal funds.

(g) Establishing a dispute resolution process for all memoranda of understanding or other contracts or agreements entered into between the department and local ~~regional~~ workforce development boards.

(h) Archiving records with the Bureau of Archives and Records Management of the Division of Library and Information Services of the Department of State.

(9) CareerSource Florida, Inc., in collaboration with the local ~~regional~~ workforce development boards and appropriate

state agencies and local public and private service providers ~~and in consultation with the Office of Program Policy Analysis and Government Accountability~~, shall establish uniform performance accountability measures that apply across the core programs ~~and standards~~ to gauge the performance of the state and local workforce development areas in achieving the workforce development strategy. ~~These measures and standards must be organized into three outcome tiers.~~

(a) The performance accountability measures for the core programs shall consist of the primary indicators of performance, any additional indicators of performance, and a state adjusted level of performance for each indicator pursuant to Title I, s. 116(b), Pub. L. No. 113-128.

(b) The performance accountability measures for each local workforce development area shall consist of the primary indicators of performance, any additional indicators of performance, and a local level of performance for each indicator pursuant to Pub. L. No. 113-128. The local level of performance shall be determined by the local workforce development board, the chief elected official, and the Governor pursuant to Title I, s. 116(c), Pub. L. No. 113-128.

(c) Performance accountability measures shall be used to generate performance reports pursuant to Title I, s. 116(d), Pub. L. No. 113-128.

~~(a) The first tier of measures must be organized to provide benchmarks for systemwide outcomes. CareerSource~~

~~Florida, Inc., shall, in collaboration with the Office of Program Policy Analysis and Government Accountability, establish goals for the tier one outcomes. Systemwide outcomes may include employment in occupations demonstrating continued growth in wages; continued employment after 3, 6, 12, and 24 months; reduction in and elimination of public assistance reliance; job placement; employer satisfaction; and positive return on investment of public resources.~~

~~(b) The second tier of measures must be organized to provide a set of benchmark outcomes for the strategic components of the workforce development strategy. Cost per entered employment, earnings at placement, retention in employment, job placement, and entered employment rate must be included among the performance outcome measures.~~

~~(c) The third tier of measures must be the operational output measures to be used by the agency implementing programs, which may be specific to federal requirements. The tier-three measures must be developed by the agencies implementing programs, which may consult with CareerSource Florida, Inc., in this effort. Such measures must be reported to CareerSource Florida, Inc., by the appropriate implementing agency.~~

~~(d) Regional differences must be reflected in the establishment of performance goals and may include job availability, unemployment rates, average worker wage, and available employable population.~~

~~(e) Job placement must be reported pursuant to s. 1008.39.~~

~~Positive outcomes for providers of education and training must be consistent with ss. 1008.42 and 1008.43.~~

(d) ~~(f)~~ The performance accountability ~~uniform~~ measures of success that are adopted by CareerSource Florida, Inc., or the local ~~regional~~ workforce development boards must be developed in a manner that provides for an equitable comparison of the relative success or failure of any service provider in terms of positive outcomes.

~~(g) By December 1 of each year, CareerSource Florida, Inc., shall provide the Legislature with a report detailing the performance of Florida's workforce development system, as reflected in the three-tier measurement system. The report also must benchmark Florida outcomes for all tiers as compared with other states that collect data similarly.~~

(11) The workforce development system must use a charter-process approach aimed at encouraging local design and control of service delivery and targeted activities. CareerSource Florida, Inc., shall be responsible for granting charters to local ~~regional~~ workforce development boards that have a membership consistent with the requirements of federal and state law and have developed a plan consistent with the state's workforce development strategy. The plan must specify methods for allocating the resources and programs in a manner that eliminates unwarranted duplication, minimizes administrative costs, meets the existing job market demands and the job market demands resulting from successful economic development

activities, ensures access to quality workforce development services for all Floridians, allows for pro rata or partial distribution of benefits and services, prohibits the creation of a waiting list or other indication of an unserved population, serves as many individuals as possible within available resources, and maximizes successful outcomes. As part of the charter process, CareerSource Florida, Inc., shall establish incentives for effective coordination of federal and state programs, outline rewards for successful job placements, and institute collaborative approaches among local service providers. Local decisionmaking and control shall be important components for inclusion in this charter application.

(12) CareerSource Florida, Inc., shall enter into agreement with Space Florida and collaborate with vocational institutes, community colleges, colleges, and universities in this state~~,~~ to develop a workforce development strategy to implement the workforce provisions of s. 331.3051.

Section 25. Section 445.006, Florida Statutes, is amended to read:

445.006 State plan ~~Strategic and operational plans~~ for workforce development.—

(1) CareerSource Florida, Inc., in conjunction with state and local partners in the workforce system, shall develop a state ~~strategic~~ plan ~~that produces skilled employees for employers in the state~~. The state ~~strategic~~ plan shall be used to implement the strategic goals for preparing an educated and

skilled workforce. The state plan shall consist of a strategic plan and an operational plan ~~updated or modified by January 1 of each year~~.

(2) CareerSource Florida, Inc., shall establish a strategic plan, which must be updated or modified by January 1 every 2 years.

(a) The strategic plan shall include strategic planning elements pursuant to Title I, s. 102, Pub. L. No. 113-128. The strategic plan must include, but need not be limited to, strategies for:

1.~~(a)~~ Fulfilling the workforce system goals and strategies prescribed in s. 445.004;

2.~~(b)~~ Aggregating, integrating, and leveraging workforce system resources;

3.~~(c)~~ Coordinating the activities of federal, state, and local workforce system partners;

4.~~(d)~~ Addressing the workforce needs of small businesses; and

5.~~(e)~~ Fostering the participation of rural communities and distressed urban cores in the workforce system.

(b)~~(4)~~ The strategic plan must include criteria for allocating workforce resources to local ~~regional~~ workforce development boards. With respect to allocating funds to serve customers of the welfare transition program, such criteria may include weighting factors that indicate the relative degree of difficulty associated with securing and retaining employment

placements for specific subsets of the welfare transition caseload.

(3) ~~(2)~~ CareerSource Florida, Inc., shall establish an operational plan to implement the ~~state~~ strategic goals for preparing an educated and skilled workforce ~~plan~~. The operational plan shall be submitted to the Governor and the Legislature along with the strategic plan. The operational plan shall include operational planning elements pursuant to Title I, s. 102, Pub. L. No. 113-128. ~~and must reflect the allocation of resources as appropriated by the Legislature to specific responsibilities enumerated in law. As a component of the operational plan required under this section, CareerSource Florida, Inc., shall develop a workforce marketing plan, with the goal of educating individuals inside and outside the state about the employment market and employment conditions in the state. The marketing plan must include, but need not be limited to, strategies for:~~

~~(a) Distributing information to secondary and postsecondary education institutions about the diversity of businesses in the state, specific clusters of businesses or business sectors in the state, and occupations by industry which are in demand by employers in the state;~~

~~(b) Distributing information about and promoting use of the Internet-based job matching and labor market information system authorized under s. 445.011; and~~

~~(c) Coordinating with Enterprise Florida, Inc., to ensure~~

~~that workforce marketing efforts complement the economic development marketing efforts of the state.~~

~~(3) The operational plan must include performance measures, standards, measurement criteria, and contract guidelines in the following areas with respect to participants in the welfare transition program:~~

~~(a) Work participation rates, by type of activity;~~

~~(b) Caseload trends;~~

~~(c) Recidivism;~~

~~(d) Participation in diversion and relocation assistance programs;~~

~~(e) Employment retention;~~

~~(f) Wage growth; and~~

~~(g) Other issues identified by the board of directors of CareerSource Florida, Inc.~~

~~(5)(a) The operational plan may include a performance-based payment structure to be used for all welfare transition program customers which takes into account:~~

~~1. The degree of difficulty associated with placement and retention;~~

~~2. The quality of the placement with respect to salary, benefits, and opportunities for advancement; and~~

~~3. The employee's retention in the placement.~~

~~(b) The payment structure may provide for bonus payments of up to 10 percent of the contract amount to providers that achieve notable success in achieving contract objectives,~~

~~including, but not limited to, success in diverting families in which there is an adult who is subject to work requirements from receiving cash assistance and in achieving long-term job retention and wage growth with respect to welfare transition program customers. A service provider shall be paid a maximum of one payment per service for each participant during any given 6-month period.~~

~~(6)(a) The operational plan must include strategies that are designed to prevent or reduce the need for a person to receive public assistance, including:~~

~~1. A teen pregnancy prevention component that includes, but is not limited to, a plan for implementing the Teen Pregnancy Prevention Community Initiative within each county of the services area in which the teen birth rate is higher than the state average;~~

~~2. A component that encourages community-based welfare prevention and reduction initiatives that increase support provided by noncustodial parents to their welfare-dependent children and are consistent with program and financial guidelines developed by CareerSource Florida, Inc., and the Commission on Responsible Fatherhood. These initiatives may include improved paternity establishment, work activities for noncustodial parents, programs aimed at decreasing out-of-wedlock pregnancies, encouraging involvement of fathers with their children which includes court-ordered supervised visitation, and increasing child support payments;~~

~~3. A component that encourages formation and maintenance of two-parent families through, among other things, court-ordered supervised visitation;~~

~~4. A component that fosters responsible fatherhood in families receiving assistance; and~~

~~5. A component that fosters the provision of services that reduce the incidence and effects of domestic violence on women and children in families receiving assistance.~~

~~(b) Specifications for welfare transition program services that are to be delivered include, but are not limited to:~~

~~1. Initial assessment services prior to an individual being placed in an employment service, to determine whether the individual should be referred for relocation, up-front diversion, education, or employment placement. Assessment services shall be paid on a fixed unit rate and may not provide educational or employment placement services.~~

~~2. Referral of participants to diversion and relocation programs.~~

~~3. Preplacement services, including assessment, staffing, career plan development, work orientation, and employability skills enhancement.~~

~~4. Services necessary to secure employment for a welfare transition program participant.~~

~~5. Services necessary to assist participants in retaining employment, including, but not limited to, remedial education, language skills, and personal and family counseling.~~

~~6. Desired quality of job placements with regard to salary, benefits, and opportunities for advancement.~~

~~7. Expectations regarding job retention.~~

~~8. Strategies to ensure that transition services are provided to participants for the mandated period of eligibility.~~

~~9. Services that must be provided to the participant throughout an education or training program, such as monitoring attendance and progress in the program.~~

~~10. Services that must be delivered to welfare transition program participants who have a deferral from work requirements but wish to participate in activities that meet federal participation requirements.~~

~~11. Expectations regarding continued participant awareness of available services and benefits.~~

Section 26. Section 445.007, Florida Statutes, is amended to read:

445.007 Local ~~Regional~~ workforce development boards.—

(1) One local ~~regional~~ workforce development board shall be appointed in each designated service delivery area and shall serve as the local workforce development ~~investment~~ board pursuant to Pub. L. No. 113-128 ~~105-220~~. The membership of the board shall be consistent with Pub. L. No. 113-128 ~~105-220~~, Title I, s. 107(b) ~~117(b) but may not exceed the minimum membership required in Pub. L. No. 105-220, Title I, s. 117(b)(2)(A) and in this subsection. Upon approval by the Governor, the chief elected official may appoint additional~~

~~members above the limit set by this subsection. If a public education or training provider is represented on the board, a representative of a private nonprofit provider and a representative of a private for-profit provider must also be appointed to the board. The board shall include one nonvoting representative from a military installation if a military installation is located within the region and the appropriate military command or organization authorizes such representation. It is the intent of the Legislature that membership of a regional workforce board include persons who are current or former recipients of welfare transition assistance as defined in s. 445.002(2) or workforce services as provided in s. 445.009(1) or that such persons be included as ex officio members of the board or of committees organized by the board~~. The importance of minority and gender representation shall be considered when making appointments to the board. The board, its committees, subcommittees, and subdivisions, and other units of the workforce system, including units that may consist in whole or in part of local governmental units, may use any method of telecommunications to conduct meetings, including establishing a quorum through telecommunications, provided that the public is given proper notice of the telecommunications meeting and reasonable access to observe and, when appropriate, participate. Local ~~Regional~~ workforce development boards are subject to chapters 119 and 286 and s. 24, Art. I of the State Constitution. If the local ~~regional~~ workforce development board

enters into a contract with an organization or individual represented on the board of directors, the contract must be approved by a two-thirds vote of the board, a quorum having been established, and the board member who could benefit financially from the transaction must abstain from voting on the contract. A board member must disclose any such conflict in a manner that is consistent with the procedures outlined in s. 112.3143. Each member of a local ~~regional~~ workforce development board who is not otherwise required to file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 shall file a statement of financial interests pursuant to s. 112.3145. The executive director or designated person responsible for the operational and administrative functions of the local ~~regional~~ workforce development board who is not otherwise required to file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 shall file a statement of financial interests pursuant to s. 112.3145.

(2)(a) The local ~~regional~~ workforce development board shall elect a chair from among the representatives described in Title I, s. 107(b)(2)(A), Pub. L. No. 113-128 ~~105-220, Title I, s. 117(b)(2)(A)(i)~~ to serve for a term of no more than 2 years and shall serve no more than two terms.

(b) The Governor may remove a member of the board, the executive director of the board, or the designated person responsible for the operational and administrative functions of

the board for cause. As used in this paragraph, the term "cause" includes, but is not limited to, engaging in fraud or other criminal acts, incapacity, unfitness, neglect of duty, official incompetence and irresponsibility, misfeasance, malfeasance, nonfeasance, or lack of performance.

(3) The Department of Economic Opportunity, under the direction of CareerSource Florida, Inc., shall assign staff to meet with each local ~~regional~~ workforce development board annually to review the board's performance and to certify that the board is in compliance with applicable state and federal law.

(4) In addition to the duties and functions specified by CareerSource Florida, Inc., and by the interlocal agreement approved by the local county or city governing bodies, the local ~~regional~~ workforce development board shall have the following responsibilities:

(a) Develop, submit, ratify, or amend the local plan pursuant to Title I, s. 108, Pub. L. No. 113-128 ~~105-220, Title I, s. 118~~, and the provisions of this act.

(b) Conclude agreements necessary to designate the fiscal agent and administrative entity. A public or private entity, including an entity established pursuant to s. 163.01, which makes a majority of the appointments to a local ~~regional~~ workforce development board may serve as the board's administrative entity if approved by CareerSource Florida, Inc., based upon a showing that a fair and competitive process was

used to select the administrative entity.

(c) Complete assurances required for the charter process of CareerSource Florida, Inc., and provide ongoing oversight related to administrative costs, duplicated services, career counseling, economic development, equal access, compliance and accountability, and performance outcomes.

(d) Oversee the one-stop delivery system in its local area.

(5) CareerSource Florida, Inc., shall implement a training program for the local ~~regional~~ workforce development boards to familiarize board members with the state's workforce development goals and strategies.

(6) The local ~~regional~~ workforce development board shall designate all local service providers and may not transfer this authority to a third party. Consistent with the intent of the Workforce Innovation and Opportunity ~~Investment~~ Act, local ~~regional~~ workforce development boards should provide the greatest possible choice of training providers to those who qualify for training services. A local ~~regional~~ workforce development board may not restrict the choice of training providers based upon cost, location, or historical training arrangements. However, a board may restrict the amount of training resources available to any one client. Such restrictions may vary based upon the cost of training in the client's chosen occupational area. The local ~~regional~~ workforce development board may be designated as a one-stop operator and

direct provider of intake, assessment, eligibility determinations, or other direct provider services except training services. Such designation may occur only with the agreement of the chief elected official and the Governor as specified in 29 U.S.C. s. 2832(f)(2). CareerSource Florida, Inc., shall establish procedures by which a local ~~regional~~ workforce development board may request permission to operate under this section and the criteria under which such permission may be granted. The criteria shall include, but need not be limited to, a reduction in the cost of providing the permitted services. Such permission shall be granted for a period not to exceed 3 years for any single request submitted by the local ~~regional~~ workforce development board.

(7) Local ~~Regional~~ workforce development boards shall adopt a committee structure consistent with applicable federal law and state policies established by CareerSource Florida, Inc.

(8) The importance of minority and gender representation shall be considered when appointments are made to any committee established by the local ~~regional~~ workforce development board.

(9) For purposes of procurement, local ~~regional~~ workforce development boards and their administrative entities are not state agencies and are exempt from chapters 120 and 287. The local ~~regional~~ workforce development boards shall apply the procurement and expenditure procedures required by federal law and policies of the Department of Economic Opportunity and CareerSource Florida, Inc., for the expenditure of federal,

state, and nonpass-through funds. The making or approval of smaller, multiple payments for a single purchase with the intent to avoid or evade the monetary thresholds and procedures established by federal law and policies of the Department of Economic Opportunity and CareerSource Florida, Inc., is grounds for removal for cause. Local ~~Regional~~ workforce development boards, their administrative entities, committees, and subcommittees, and other workforce units may authorize expenditures to award suitable framed certificates, pins, or other tokens of recognition for performance by units of the workforce system. Local ~~Regional~~ workforce development boards; their administrative entities, committees, and subcommittees; and other workforce units may authorize expenditures for promotional items, such as t-shirts, hats, or pens printed with messages promoting Florida's workforce system to employers, job seekers, and program participants. However, such expenditures are subject to federal regulations applicable to the expenditure of federal funds. All contracts executed by local ~~regional~~ workforce development boards must include specific performance expectations and deliverables.

(10) State and federal funds provided to the local ~~regional~~ workforce development boards may not be used directly or indirectly to pay for meals, food, or beverages for board members, staff, or employees of local ~~regional~~ workforce development boards, CareerSource Florida, Inc., or the Department of Economic Opportunity except as expressly

authorized by state law. Preapproved, reasonable, and necessary per diem allowances and travel expenses may be reimbursed. Such reimbursement shall be at the standard travel reimbursement rates established in s. 112.061 and shall be in compliance with all applicable federal and state requirements. CareerSource Florida, Inc., shall develop a statewide fiscal policy applicable to the state board and all local ~~regional~~ workforce development boards, to hold both the state and local ~~regional~~ workforce development boards strictly accountable for adherence to the policy and subject to regular and periodic monitoring by the Department of Economic Opportunity, the administrative entity for CareerSource Florida, Inc. Boards are prohibited from expending state or federal funds for entertainment costs and recreational activities for board members and employees as these terms are defined by 2 C.F.R. part 230.

(11) To increase transparency and accountability, a local ~~regional~~ workforce development board must comply with the requirements of this section before contracting with a member of the board or a relative, as defined in s. 112.3143(1)(c), of a board member or of an employee of the board. Such contracts may not be executed before or without the approval of CareerSource Florida, Inc. Such contracts, as well as documentation demonstrating adherence to this section as specified by CareerSource Florida, Inc., must be submitted to the Department of Economic Opportunity for review and recommendation according to criteria to be determined by CareerSource Florida, Inc. Such

a contract must be approved by a two-thirds vote of the board, a quorum having been established; all conflicts of interest must be disclosed before the vote; and any member who may benefit from the contract, or whose relative may benefit from the contract, must abstain from the vote. A contract under $25,000 between a local ~~regional~~ workforce development board and a member of that board or between a relative, as defined in s. 112.3143(1)(c), of a board member or of an employee of the board is not required to have the prior approval of CareerSource Florida, Inc., but must be approved by a two-thirds vote of the board, a quorum having been established, and must be reported to the Department of Economic Opportunity and CareerSource Florida, Inc., within 30 days after approval. If a contract cannot be approved by CareerSource Florida, Inc., a review of the decision to disapprove the contract may be requested by the local ~~regional~~ workforce development board or other parties to the disapproved contract.

(12) Each local ~~regional~~ workforce development board shall develop a budget for the purpose of carrying out the duties of the board under this section, subject to the approval of the chief elected official. Each local ~~regional~~ workforce development board shall submit its annual budget for review to CareerSource Florida, Inc., no later than 2 weeks after the chair approves the budget.

(13) CareerSource Florida, Inc., shall establish regional planning areas in accordance with Title I, s. 106(a)(2), Pub. L.

No. 113-128, by March 1, 2018. Local workforce development boards and chief elected officials within an identified regional planning area shall prepare a regional workforce development plan as required under Title I, s. 106(c)(2), Pub. L. No. 113-128.

Section 27. Subsections (4) and (5) of section 445.0071, Florida Statutes, are amended to read:

445.0071 Florida Youth Summer Jobs Pilot Program.—

(4) GOVERNANCE.—

(a) The pilot program shall be administered by the local ~~regional~~ workforce development board in consultation with CareerSource Florida, Inc.

(b) The local ~~regional~~ workforce development board shall report to CareerSource Florida, Inc., the number of at-risk and disadvantaged children who enter the program, the types of work activities they participate in, and the number of children who return to school, go on to postsecondary school, or enter the workforce full time at the end of the program. CareerSource Florida, Inc., shall report to the Legislature by November 1 of each year on the performance of the program.

(5) FUNDING.—

(a) The local ~~regional~~ workforce development board shall, consistent with state and federal laws, use funds appropriated specifically for the pilot program to provide youth wage payments and educational enrichment activities. The local ~~regional~~ workforce development board and local communities may

obtain private or state and federal grants or other sources of funds in addition to any appropriated funds.

(b) Program funds shall be used as follows:

1. No less than 85 percent of the funds shall be used for youth wage payments or educational enrichment activities. These funds shall be matched on a one-to-one basis by each local community that participates in the program.

2. No more than 2 percent of the funds may be used for administrative purposes.

3. The remainder of the funds may be used for transportation assistance, child care assistance, or other assistance to enable a program participant to enter or remain in the program.

(c) The local ~~regional~~ workforce development board shall pay a participating employer an amount equal to one-half of the wages paid to a youth participating in the program. Payments shall be made monthly for the duration that the youth participant is employed as documented by the employer and confirmed by the local ~~regional~~ workforce development board.

Section 28. Subsections (2) through (7), paragraphs (b), (c), and (d) of subsection (8), paragraph (b) of subsection (9), and subsection (10) of section 445.009, Florida Statutes, are amended to read:

445.009 One-stop delivery system.—

(2)(a) Subject to a process designed by CareerSource Florida, Inc., and in compliance with Pub. L. No. 113-128 ~~105-~~

~~220~~, local ~~regional~~ workforce development boards shall designate one-stop delivery system operators.

(b) A local ~~regional~~ workforce development board may designate as its one-stop delivery system operator any public or private entity that is eligible to provide services under any state or federal workforce program that is a mandatory or discretionary partner in the local workforce development area's ~~region's~~ one-stop delivery system if approved by CareerSource Florida, Inc., upon a showing by the local ~~regional~~ workforce development board that a fair and competitive process was used in the selection. As a condition of authorizing a local ~~regional~~ workforce development board to designate such an entity as its one-stop delivery system operator, CareerSource Florida, Inc., must require the local ~~regional~~ workforce development board to demonstrate that safeguards are in place to ensure that the one-stop delivery system operator will not exercise an unfair competitive advantage or unfairly refer or direct customers of the one-stop delivery system to services provided by that one-stop delivery system operator. A local ~~regional~~ workforce development board may retain its current one-stop career center operator without further procurement action if the board has an established one-stop career center that has complied with federal and state law.

(c) The local workforce development board must enter into a memorandum of understanding with each mandatory or optional partner participating in the one-stop delivery system which

details the partner's required contribution to infrastructure costs, as required by s. 121(h), Pub. L. No. 113-128. If the local workforce development board and the one-stop partner are unable to come to an agreement regarding infrastructure costs by July 1, 2016, the costs shall be allocated pursuant to a policy established by the Governor.

(3) Local ~~Regional~~ workforce development boards shall enter into a memorandum of understanding with the Department of Economic Opportunity for the delivery of employment services authorized by the federal Wagner-Peyser Act. This memorandum of understanding must be performance based.

(a) Unless otherwise required by federal law, at least 90 percent of the Wagner-Peyser funding must go into direct customer service costs.

(b) Employment services must be provided through the one-stop delivery system, under the guidance of one-stop delivery system operators. One-stop delivery system operators shall have overall authority for directing the staff of the workforce system. Personnel matters shall remain under the ultimate authority of the department. However, the one-stop delivery system operator shall submit to the department information concerning the job performance of employees of the department who deliver employment services. The department shall consider any such information submitted by the one-stop delivery system operator in conducting performance appraisals of the employees.

(c) The department shall retain fiscal responsibility and

accountability for the administration of funds allocated to the state under the Wagner-Peyser Act. An employee of the department who is providing services authorized under the Wagner-Peyser Act shall be paid using Wagner-Peyser Act funds.

(4) One-stop delivery system partners shall enter into a memorandum of understanding pursuant to Title I, s. 121, Pub. L. No. 113-128 ~~105-220, Title I, s. 121~~, with the local ~~regional~~ workforce development board. Failure of a local partner to participate cannot unilaterally block the majority of partners from moving forward with their one-stop delivery system, and CareerSource Florida, Inc., pursuant to s. 445.004(5)(e), may make notification of a local partner that fails to participate.

(5) To the extent possible, local ~~regional~~ workforce development boards shall include as partners in the local one-stop delivery system entities that provide programs or activities designed to meet the needs of homeless persons.

(6)(a) To the extent possible, core services, as defined by Pub. L. No. 113-128 ~~105-220~~, shall be provided electronically, using existing systems. These electronic systems shall be linked and integrated into a comprehensive service system to simplify access to core services by:

1. Maintaining staff to serve as the first point of contact with the public seeking access to employment services who are knowledgeable about each program located in each one-stop delivery system center as well as related services. An initial determination of the programs for which a customer is

likely to be eligible and any referral for a more thorough eligibility determination must be made at this first point of contact; and

2. Establishing an automated, integrated intake screening and eligibility process where customers will provide information through a self-service intake process that may be accessed by staff from any participating program.

(b) To expand electronic capabilities, CareerSource Florida, Inc., working with local ~~regional~~ workforce development boards, shall develop a centralized help center to assist local ~~regional~~ workforce development boards in fulfilling core services, minimizing the need for fixed-site one-stop delivery system centers.

(c) To the extent feasible, core services shall be accessible through the Internet. Through this technology, core services shall be made available at public libraries, public and private educational institutions, community centers, kiosks, neighborhood facilities, and satellite one-stop delivery system sites. Each local ~~regional~~ workforce development board's web page shall serve as a portal for contacting potential employees by integrating the placement efforts of universities and private companies, including staffing services firms, into the existing one-stop delivery system.

(7) Intensive services and training provided pursuant to Pub. L. No. 113-128 ~~105-220~~, shall be provided to individuals through Intensive Service Accounts and Individual Training

Accounts. CareerSource Florida, Inc., shall develop an implementation plan, including identification of initially eligible training providers, transition guidelines, and criteria for use of these accounts. Individual Training Accounts must be compatible with Individual Development Accounts for education allowed in federal and state welfare reform statutes.

(8)

(b) For each approved training program, local ~~regional~~ workforce development boards, in consultation with training providers, shall establish a fair-market purchase price to be paid through an Individual Training Account. The purchase price must be based on prevailing costs and reflect local economic factors, program complexity, and program benefits, including time to beginning of training and time to completion. The price shall ensure the fair participation of public and nonpublic postsecondary educational institutions as authorized service providers and shall prohibit the use of unlawful remuneration to the student in return for attending an institution. Unlawful remuneration does not include student financial assistance programs.

(c) CareerSource Florida, Inc., shall periodically review Individual Training Account pricing schedules developed by local ~~regional~~ workforce development boards and present findings and recommendations for process improvement to the President of the Senate and the Speaker of the House of Representatives.

(d) To the maximum extent possible, training providers

shall use funding sources other than the funding provided under Pub. L. No. 113-128 ~~105-220~~. CareerSource Florida, Inc., shall develop a system to encourage the leveraging of appropriated resources for the workforce system and shall report on such efforts as part of the required annual report.

(9)

(b) The network shall assure that a uniform method is used to determine eligibility for and management of services provided by agencies that conduct workforce development activities. The Department of Management Services shall develop strategies to allow access to the databases and information management systems of the following systems in order to link information in those databases with the one-stop delivery system:

1. The Reemployment Assistance Program under chapter 443.

2. The public employment service described in s. 443.181.

3. The public assistance information system used by the Department of Children and Families ~~FLORIDA System~~ and the components related to temporary cash assistance, food assistance, and Medicaid eligibility.

4. The Student Financial Assistance System of the Department of Education.

5. Enrollment in the public postsecondary education system.

6. Other information systems determined appropriate by CareerSource Florida, Inc.

(10) To the maximum extent feasible, the one-stop delivery

system may use private sector staffing services firms in the provision of workforce services to individuals and employers in the state. Local ~~Regional~~ workforce development boards may collaborate with staffing services firms in order to facilitate the provision of workforce services. Local ~~Regional~~ workforce development boards may contract with private sector staffing services firms to design programs that meet the employment needs of the local workforce development area ~~region~~. All such contracts must be performance-based and require a specific period of job tenure prior to payment.

Section 29. Subsections (1) and (3) of section 445.014, Florida Statutes, are amended to read:

445.014 Small business workforce service initiative.—

(1) Subject to legislative appropriation, CareerSource Florida, Inc., shall establish a program to encourage local ~~regional~~ workforce development boards to establish one-stop delivery systems that maximize the provision of workforce and human-resource support services to small businesses. Under the program, a local ~~regional~~ workforce development board may apply, on a competitive basis, for funds to support the provision of such services to small businesses through the local workforce development area's ~~region's~~ one-stop delivery system.

(3) CareerSource Florida, Inc., shall establish guidelines governing the administration of this program and shall establish criteria to be used in evaluating applications for funding. Such criteria must include, but need not be limited to, a showing

that the local workforce development ~~regional~~ board has in place a detailed plan for establishing a one-stop delivery system designed to meet the workforce needs of small businesses and for leveraging other funding sources in support of such activities.

Section 30. Subsection (3) of section 445.016, Florida Statutes, is amended to read:

445.016 Untried Worker Placement and Employment Incentive Act.—

(3) Incentive payments may be made to for-profit or not-for-profit agents selected by local ~~regional~~ workforce development boards who successfully place untried workers in full-time employment for 6 months with an employer after the employee successfully completes a probationary placement of no more than 6 months with that employer. Full-time employment that includes health care benefits will receive an additional incentive payment.

Section 31. Subsections (3), (4), and (5) of section 445.017, Florida Statutes, are amended to read:

445.017 Diversion.—

(3) Before finding an applicant family eligible for up-front diversion services, the local ~~regional~~ workforce development board must determine that all requirements of eligibility for diversion services would likely be met.

(4) The local ~~regional~~ workforce development board shall screen each family on a case-by-case basis for barriers to obtaining or retaining employment. The screening shall identify

barriers that, if corrected, may prevent the family from receiving temporary cash assistance on a regular basis. Assistance to overcome a barrier to employment is not limited to cash, but may include vouchers or other in-kind benefits.

(5) The family receiving up-front diversion must sign an agreement restricting the family from applying for temporary cash assistance for 3 months, unless an emergency is demonstrated to the local ~~regional~~ workforce development board. If a demonstrated emergency forces the family to reapply for temporary cash assistance within 3 months after receiving a diversion payment, the diversion payment shall be prorated over an 8-month period and deducted from any temporary assistance for which the family is eligible.

Section 32. Subsections (2) and (3) of section 445.021, Florida Statutes, are amended to read:

445.021 Relocation assistance program.—

(2) The relocation assistance program shall involve five steps by the local ~~regional~~ workforce development board, in cooperation with the Department of Children and Families:

(a) A determination that the family is receiving temporary cash assistance or that all requirements of eligibility for diversion services would likely be met.

(b) A determination that there is a basis for believing that relocation will contribute to the ability of the applicant to achieve self-sufficiency. For example, the applicant:

1. Is unlikely to achieve economic self-sufficiency at the

current community of residence;

2. Has secured a job that provides an increased salary or improved benefits and that requires relocation to another community;

3. Has a family support network that will contribute to job retention in another community;

4. Is determined, pursuant to criteria or procedures established by the board of directors of CareerSource Florida, Inc., to be a victim of domestic violence who would experience reduced probability of further incidents through relocation; or

5. Must relocate in order to receive education or training that is directly related to the applicant's employment or career advancement.

(c) Establishment of a relocation plan that includes such requirements as are necessary to prevent abuse of the benefit and provisions to protect the safety of victims of domestic violence and avoid provisions that place them in anticipated danger. The payment to defray relocation expenses shall be determined based on criteria approved by the board of directors of CareerSource Florida, Inc. Participants in the relocation program shall be eligible for diversion or transitional benefits.

(d) A determination, pursuant to criteria adopted by the board of directors of CareerSource Florida, Inc., that a community receiving a relocated family has the capacity to provide needed services and employment opportunities.

(e) Monitoring the relocation.

(3) A family receiving relocation assistance for reasons other than domestic violence must sign an agreement restricting the family from applying for temporary cash assistance for a period of 6 months, unless an emergency is demonstrated to the local ~~regional~~ workforce development board. If a demonstrated emergency forces the family to reapply for temporary cash assistance within such period, after receiving a relocation assistance payment, repayment must be made on a prorated basis and subtracted from any regular payment of temporary cash assistance for which the applicant may be eligible.

Section 33. Section 445.022, Florida Statutes, is amended to read:

445.022 Retention Incentive Training Accounts.—To promote job retention and to enable upward job advancement into higher skilled, higher paying employment, the board of directors of CareerSource Florida, Inc., and the local ~~regional~~ workforce development boards may assemble a list of programs and courses offered by postsecondary educational institutions which may be available to participants who have become employed to promote job retention and advancement.

(1) The board of directors of CareerSource Florida, Inc., may establish Retention Incentive Training Accounts (RITAs) to use Temporary Assistance to Needy Families (TANF) block grant funds specifically appropriated for this purpose. RITAs must complement the Individual Training Account required by the

federal Workforce Innovation and Opportunity ~~Investment~~ Act ~~of 1998~~, Pub. L. No. 113-128 ~~105-220~~.

(2) RITAs may pay for tuition, fees, educational materials, coaching and mentoring, performance incentives, transportation to and from courses, child care costs during education courses, and other such costs as the local ~~regional~~ workforce development boards determine are necessary to effect successful job retention and advancement.

(3) Local ~~Regional~~ workforce development boards shall retain only those courses that continue to meet their performance standards as established in their local plan.

(4) Local ~~Regional~~ workforce development boards shall report annually to the Legislature on the measurable retention and advancement success of each program provider and the effectiveness of RITAs, making recommendations for any needed changes or modifications.

Section 34. Subsections (4) and (5) of section 445.024, Florida Statutes, are amended to read:

445.024 Work requirements.—

(4) PRIORITIZATION OF WORK REQUIREMENTS.—Local ~~Regional~~ workforce development boards shall require participation in work activities to the maximum extent possible, subject to federal and state funding. If funds are projected to be insufficient to allow full-time work activities by all program participants who are required to participate in work activities, local ~~regional~~ workforce development boards shall screen participants and

assign priority based on the following:

(a) In accordance with federal requirements, at least one adult in each two-parent family shall be assigned priority for full-time work activities.

(b) Among single-parent families, a family that has older preschool children or school-age children shall be assigned priority for work activities.

(c) A participant who has access to child care services may be assigned priority for work activities.

(d) Priority may be assigned based on the amount of time remaining until the participant reaches the applicable time limit for program participation or may be based on requirements of a case plan.

Local ~~Regional~~ workforce development boards may limit a participant's weekly work requirement to the minimum required to meet federal work activity requirements. Local ~~Regional~~ workforce development boards may develop screening and prioritization procedures based on the allocation of resources, the availability of community resources, the provision of supportive services, or the work activity needs of the service area.

(5) USE OF CONTRACTS.—Local ~~Regional~~ workforce development boards shall provide work activities, training, and other services, as appropriate, through contracts. In contracting for work activities, training, or services, the following applies:

(a) A contract must be performance-based. Payment shall be tied to performance outcomes that include factors such as, but not limited to, diversion from cash assistance, job entry, job entry at a target wage, job retention, and connection to transition services rather than tied to completion of training or education or any other phase of the program participation process.

(b) A contract may include performance-based incentive payments that may vary according to the extent to which the participant is more difficult to place. Contract payments may be weighted proportionally to reflect the extent to which the participant has limitations associated with the long-term receipt of welfare and difficulty in sustaining employment. The factors may include the extent of prior receipt of welfare, lack of employment experience, lack of education, lack of job skills, and other factors determined appropriate by the local ~~regional~~ workforce development board.

(c) Notwithstanding the exemption from the competitive sealed bid requirements provided in s. 287.057(3)(e) for certain contractual services, each contract awarded under this chapter must be awarded on the basis of a competitive sealed bid, except for a contract with a governmental entity as determined by the local ~~regional~~ workforce development board.

(d) Local ~~Regional~~ workforce development boards may contract with commercial, charitable, or religious organizations. A contract must comply with federal requirements

with respect to nondiscrimination and other requirements that safeguard the rights of participants. Services may be provided under contract, certificate, voucher, or other form of disbursement.

(e) The administrative costs associated with a contract for services provided under this section may not exceed the applicable administrative cost ceiling established in federal law. An agency or entity that is awarded a contract under this section may not charge more than 7 percent of the value of the contract for administration unless an exception is approved by the local ~~regional~~ workforce development board. A list of any exceptions approved must be submitted to the board of directors of CareerSource Florida, Inc., for review, and the board may rescind approval of the exception.

(f) Local ~~Regional~~ workforce development boards may enter into contracts to provide short-term work experience for the chronically unemployed as provided in this section.

(g) A tax-exempt organization under s. 501(c) of the Internal Revenue Code of 1986 which receives funds under this chapter must disclose receipt of federal funds on any advertising, promotional, or other material in accordance with federal requirements.

Section 35. Section 445.025, Florida Statutes, is amended to read:

445.025 Other support services.—Support services shall be provided, if resources permit, to assist participants in

complying with work activity requirements outlined in s. 445.024. If resources do not permit the provision of needed support services, the local ~~regional~~ workforce development board may prioritize or otherwise limit provision of support services. This section does not constitute an entitlement to support services. Lack of provision of support services may be considered as a factor in determining whether good cause exists for failing to comply with work activity requirements but does not automatically constitute good cause for failing to comply with work activity requirements, and does not affect any applicable time limit on the receipt of temporary cash assistance or the provision of services under chapter 414. Support services shall include, but need not be limited to:

(1) TRANSPORTATION.—Transportation expenses may be provided to any participant when the assistance is needed to comply with work activity requirements or employment requirements, including transportation to and from a child care provider. Payment may be made in cash or tokens in advance or through reimbursement paid against receipts or invoices. Transportation services may include, but are not limited to, cooperative arrangements with the following: public transit providers; community transportation coordinators designated under chapter 427; school districts; churches and community centers; donated motor vehicle programs, van pools, and ridesharing programs; small enterprise developments and entrepreneurial programs that encourage participants to become

transportation providers; public and private transportation partnerships; and other innovative strategies to expand transportation options available to program participants.

(a) Local ~~Regional~~ workforce development boards may provide payment for vehicle operational and repair expenses, including repair expenditures necessary to make a vehicle functional; vehicle registration fees; driver license fees; and liability insurance for the vehicle for a period of up to 6 months. Request for vehicle repairs must be accompanied by an estimate of the cost prepared by a repair facility registered under s. 559.904.

(b) Transportation disadvantaged funds as defined in chapter 427 do not include support services funds or funds appropriated to assist persons eligible under the Workforce Innovation and Opportunity Act ~~Job Training Partnership Act~~. It is the intent of the Legislature that local ~~regional~~ workforce development boards consult with local community transportation coordinators designated under chapter 427 regarding the availability and cost of transportation services through the coordinated transportation system prior to contracting for comparable transportation services outside the coordinated system.

(2) ANCILLARY EXPENSES.—Ancillary expenses such as books, tools, clothing, fees, and costs necessary to comply with work activity requirements or employment requirements may be provided.

(3) MEDICAL SERVICES.—A family that meets the eligibility requirements for Medicaid shall receive medical services under the Medicaid program.

(4) PERSONAL AND FAMILY COUNSELING AND THERAPY.—Counseling may be provided to participants who have a personal or family problem or problems caused by substance abuse that is a barrier to compliance with work activity requirements or employment requirements. In providing these services, local ~~regional~~ workforce development boards shall use services that are available in the community at no additional cost. If these services are not available, local ~~regional~~ workforce development boards may use support services funds. Personal or family counseling not available through Medicaid may not be considered a medical service for purposes of the required statewide implementation plan or use of federal funds.

Section 36. Subsection (5) of section 445.026, Florida Statutes, is amended to read:

445.026 Cash assistance severance benefit.—An individual who meets the criteria listed in this section may choose to receive a lump-sum payment in lieu of ongoing cash assistance payments, provided the individual:

(5) Provides employment and earnings information to the local ~~regional~~ workforce development board, so that the local ~~regional~~ workforce development board can ensure that the family's eligibility for severance benefits can be evaluated.

Such individual may choose to accept a one-time, lump-sum payment of $1,000 in lieu of receiving ongoing cash assistance. Such payment shall only count toward the time limitation for the month in which the payment is made in lieu of cash assistance. A participant choosing to accept such payment shall be terminated from cash assistance. However, eligibility for Medicaid, food assistance, or child care shall continue, subject to the eligibility requirements of those programs.

Section 37. Subsections (2) and (4) of section 445.030, Florida Statutes, are amended to read:

445.030 Transitional education and training.—In order to assist former recipients of temporary cash assistance who are working or actively seeking employment in continuing their training and upgrading their skills, education, or training, support services may be provided for up to 2 years after the family is no longer receiving temporary cash assistance. This section does not constitute an entitlement to transitional education and training. If funds are not sufficient to provide services under this section, the board of directors of CareerSource Florida, Inc., may limit or otherwise prioritize transitional education and training.

(2) Local ~~Regional~~ workforce development boards may authorize child care or other support services in addition to services provided in conjunction with employment. For example, a participant who is employed full time may receive child care services related to that employment and may also receive

additional child care services in conjunction with training to upgrade the participant's skills.

(4) A local ~~Regional~~ workforce development board may enter into an agreement with an employer to share the costs relating to upgrading the skills of participants hired by the employer. For example, a local ~~regional~~ workforce development board may agree to provide support services such as transportation or a wage subsidy in conjunction with training opportunities provided by the employer.

Section 38. Section 445.031, Florida Statutes, is amended to read:

445.031 Transitional transportation.—In order to assist former recipients of temporary cash assistance in maintaining and sustaining employment or educational opportunities, transportation may be provided, if funds are available, for up to 2 years after the participant is no longer in the program. This does not constitute an entitlement to transitional transportation. If funds are not sufficient to provide services under this section, local ~~regional~~ workforce development boards may limit or otherwise prioritize transportation services.

(1) Transitional transportation must be job or education related.

(2) Transitional transportation may include expenses identified in s. 445.025, paid directly or by voucher, as well as a vehicle valued at not more than $8,500 if the vehicle is needed for training, employment, or educational purposes.

Section 39. Subsection (1), paragraph (b) of subsection (4), and subsection (5) of section 445.048, Florida Statutes, are amended to read:

445.048 Passport to Economic Progress program.—

(1) AUTHORIZATION.—Notwithstanding any law to the contrary, CareerSource Florida, Inc., in conjunction with the Department of Children and Families and the Department of Economic Opportunity, shall implement a Passport to Economic Progress program consistent with the provisions of this section. CareerSource Florida, Inc., may designate local ~~regional~~ workforce development boards to participate in the program. Expenses for the program may come from appropriated revenues or from funds otherwise available to a local ~~regional~~ workforce development board which may be legally used for such purposes. CareerSource Florida, Inc., must consult with the applicable local ~~regional~~ workforce development boards and the applicable local offices of the Department of Children and Families which serve the program areas and must encourage community input into the implementation process.

(4) INCENTIVES TO ECONOMIC SELF-SUFFICIENCY.—

(b) CareerSource Florida, Inc., in cooperation with the Department of Children and Families and the Department of Economic Opportunity, shall offer performance-based incentive bonuses as a component of the Passport to Economic Progress program. The bonuses do not represent a program entitlement and are contingent on achieving specific benchmarks prescribed in

the self-sufficiency plan. If the funds appropriated for this purpose are insufficient to provide this financial incentive, the board of directors of CareerSource Florida, Inc., may reduce or suspend the bonuses in order not to exceed the appropriation or may direct the local workforce development ~~regional~~ boards to use resources otherwise given to the local workforce development board ~~regional workforce~~ to pay such bonuses if such payments comply with applicable state and federal laws.

(5) EVALUATIONS AND RECOMMENDATIONS.—CareerSource Florida, Inc., in conjunction with the Department of Children and Families, the Department of Economic Opportunity, and the local ~~regional~~ workforce development boards, shall conduct a comprehensive evaluation of the effectiveness of the program operated under this section. Evaluations and recommendations for the program shall be submitted by CareerSource Florida, Inc., as part of its annual report to the Legislature.

Section 40. Paragraph (b) of subsection (2), paragraph (d) of subsection (4), and subsections (6) and (7) of section 445.051, Florida Statutes, are amended to read:

445.051 Individual development accounts.—

(2) As used in this section, the term:

(b) "Qualified entity" means:

1. A not-for-profit organization described in s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, and exempt from taxation under s. 501(a) of such code; or

2. A state or local government agency acting in

cooperation with an organization described in subparagraph 1. For purposes of this section, a local ~~regional~~ workforce development board is a government agency.

(4)

(d) Eligible participants may receive matching funds for contributions to the individual development account, pursuant to the strategic plan for workforce development. When not restricted to the contrary, matching funds may be paid from state and federal funds under the control of the local ~~regional~~ workforce development board, from local agencies, or from private donations.

(6) CareerSource Florida, Inc., shall establish procedures for local ~~regional~~ workforce development boards to include in their annual program and financial plan an application to offer an individual development account program as part of their TANF allocation. These procedures must include, but need not be limited to, administrative costs permitted for the fiduciary organization and policies relative to identifying the match ratio and limits on the deposits for which the match will be provided in the application process. CareerSource Florida, Inc., shall establish policies and procedures necessary to ensure that funds held in an individual development account are not withdrawn except for one or more of the qualified purposes described in this section.

(7) Fiduciary organizations shall be the local ~~regional~~ workforce development board or other community-based

organizations designated by the local ~~regional~~ workforce development board to serve as intermediaries between individual account holders and financial institutions holding accounts. Responsibilities of such fiduciary organizations may include marketing participation, soliciting matching contributions, counseling program participants, and conducting verification and compliance activities.

Section 41. Subsection (1) of section 445.07, Florida Statutes, is amended to read:

445.07 Economic security report of employment and earning outcomes.—

(1) Beginning December 31, 2013, and annually thereafter, the Department of Economic Opportunity, in consultation with the Department of Education, shall prepare, or contract with an entity to prepare, an economic security report of employment and earning outcomes for degrees or certificates earned at public postsecondary educational institutions.

Section 42. Paragraph (a) of subsection (1) of section 985.622, Florida Statutes, is amended to read:

985.622 Multiagency plan for career and professional education (CAPE).—

(1) The Department of Juvenile Justice and the Department of Education shall, in consultation with the statewide Workforce Development Youth Council, school districts, providers, and others, jointly develop a multiagency plan for career and professional education (CAPE) that establishes the curriculum,

goals, and outcome measures for CAPE programs in juvenile justice education programs. The plan must be reviewed annually, revised as appropriate, and include:

(a) Provisions for maximizing appropriate state and federal funding sources, including funds under the Workforce Innovation and Opportunity Act ~~Workforce Investment Act~~ and the Perkins Act.

Section 43. Paragraph (c) of subsection (4) of section 1002.83, Florida Statutes, is amended to read:

1002.83 Early learning coalitions.—

(4) Each early learning coalition must include the following member positions; however, in a multicounty coalition, each ex officio member position may be filled by multiple nonvoting members but no more than one voting member shall be seated per member position. If an early learning coalition has more than one member representing the same entity, only one of such members may serve as a voting member:

(c) A local ~~regional~~ workforce development board executive director or his or her permanent designee.

Section 44. Subsections (2) and (3) and paragraph (b) of subsection (4) of section 1003.491, Florida Statutes, are amended to read:

1003.491 Florida Career and Professional Education Act.—The Florida Career and Professional Education Act is created to provide a statewide planning partnership between the business and education communities in order to attract, expand, and

retain targeted, high-value industry and to sustain a strong, knowledge-based economy.

(2) Each district school board shall develop, in collaboration with local ~~regional~~ workforce development boards, economic development agencies, and postsecondary institutions approved to operate in the state, a strategic 3-year plan to address and meet local ~~and regional~~ workforce demands. If involvement of a local ~~regional~~ workforce development board or an economic development agency in the strategic plan development is not feasible, the local school board, with the approval of the Department of Economic Opportunity, shall collaborate with the most appropriate local ~~regional~~ business leadership board. Two or more school districts may collaborate in the development of the strategic plan and offer career-themed courses, as defined in s. 1003.493(1)(b), or a career and professional academy as a joint venture. The strategic plan must describe in detail provisions for the efficient transportation of students, the maximum use of shared resources, access to courses aligned to state curriculum standards through virtual education providers legislatively authorized to provide part-time instruction to middle school students, and an objective review of proposed career and professional academy courses and other career-themed courses to determine if the courses will lead to the attainment of industry certifications included on the Industry Certified Funding List pursuant to rules adopted by the State Board of Education. Each strategic plan shall be reviewed,

updated, and jointly approved every 3 years by the local school district, local ~~regional~~ workforce development boards, economic development agencies, and state-approved postsecondary institutions.

(3) The strategic 3-year plan developed jointly by the local school district, local ~~regional~~ workforce development boards, economic development agencies, and state-approved postsecondary institutions shall be constructed and based on:

(a) Research conducted to objectively determine local ~~and regional~~ workforce needs for the ensuing 3 years, using labor projections of the United States Department of Labor and the Department of Economic Opportunity;

(b) Strategies to develop and implement career academies or career-themed courses based on those careers determined to be high-wage, high-skill, and high-demand;

(c) Strategies to provide shared, maximum use of private sector facilities and personnel;

(d) Strategies that ensure instruction by industry-certified faculty and standards and strategies to maintain current industry credentials and for recruiting and retaining faculty to meet those standards;

(e) Strategies to provide personalized student advisement, including a parent-participation component, and coordination with middle grades to promote and support career-themed courses and education planning as required under s. 1003.4156;

(f) Alignment of requirements for middle school career

planning under s. 1003.4156(1)(e), middle and high school career and professional academies or career-themed courses leading to industry certification or postsecondary credit, and high school graduation requirements;

(g) Provisions to ensure that career-themed courses and courses offered through career and professional academies are academically rigorous, meet or exceed appropriate state-adopted subject area standards, result in attainment of industry certification, and, when appropriate, result in postsecondary credit;

(h) Plans to sustain and improve career-themed courses and career and professional academies;

(i) Strategies to improve the passage rate for industry certification examinations if the rate falls below 50 percent;

(j) Strategies to recruit students into career-themed courses and career and professional academies which include opportunities for students who have been unsuccessful in traditional classrooms but who are interested in enrolling in career-themed courses or a career and professional academy. School boards shall provide opportunities for students who may be deemed as potential dropouts to enroll in career-themed courses or participate in career and professional academies;

(k) Strategies to provide sufficient space within academies to meet workforce needs and to provide access to all interested and qualified students;

(l) Strategies to implement career-themed courses or

career and professional academy training that lead to industry certification in juvenile justice education programs;

(m) Opportunities for high school students to earn weighted or dual enrollment credit for higher-level career and technical courses;

(n) Promotion of the benefits of the Gold Seal Bright Futures Scholarship;

(o) Strategies to ensure the review of district pupil-progression plans and to amend such plans to include career-themed courses and career and professional academy courses and to include courses that may qualify as substitute courses for core graduation requirements and those that may be counted as elective courses;

(p) Strategies to provide professional development for secondary certified school counselors on the benefits of career and professional academies and career-themed courses that lead to industry certification; and

(q) Strategies to redirect appropriated career funding in secondary and postsecondary institutions to support career academies and career-themed courses that lead to industry certification.

(4) The State Board of Education shall establish a process for the continual and uninterrupted review of newly proposed core secondary courses and existing courses requested to be considered as core courses to ensure that sufficient rigor and relevance is provided for workforce skills and postsecondary

education and aligned to state curriculum standards.

(b) The curriculum review committee shall review newly proposed core courses electronically. Each proposed core course shall be approved or denied within 30 days after submission by a district school board or local ~~regional~~ workforce development board. All courses approved as core courses for purposes of middle school promotion and high school graduation shall be immediately added to the Course Code Directory. Approved core courses shall also be reviewed and considered for approval for dual enrollment credit. The Board of Governors and the Commissioner of Education shall jointly recommend an annual deadline for approval of new core courses to be included for purposes of postsecondary admissions and dual enrollment credit the following academic year. The State Board of Education shall establish an appeals process in the event that a proposed course is denied which shall require a consensus ruling by the Department of Economic Opportunity and the Commissioner of Education within 15 days.

Section 45. Paragraph (a) of subsection (3) of section 1003.492, Florida Statutes, is amended to read:

1003.492 Industry-certified career education programs.—

(3) The State Board of Education shall use the expertise of CareerSource Florida, Inc., and the Department of Agriculture and Consumer Services to develop and adopt rules pursuant to ss. 120.536(1) and 120.54 for implementing an industry certification process.

(a) For nonfarm occupations, industry certification must be based upon the highest available national standards for specific industry certification to ensure student skill proficiency and to address emerging labor market and industry trends. A local ~~regional~~ workforce development board or a school principal may apply to CareerSource Florida, Inc., to request additions to the approved list of industry certifications based on high-skill, high-wage, and high-demand job requirements in the local ~~regional~~ economy.

Section 46. Subsection (1) and paragraph (d) of subsection (4) of section 1003.493, Florida Statutes, are amended to read:

1003.493 Career and professional academies and career-themed courses.—

(1)(a) A "career and professional academy" is a research-based program that integrates a rigorous academic curriculum with an industry-specific curriculum aligned directly to priority workforce needs established by the local ~~regional~~ workforce development board or the Department of Economic Opportunity. Career and professional academies shall be offered by public schools and school districts. The Florida Virtual School is encouraged to develop and offer rigorous career and professional courses as appropriate. Students completing career and professional academy programs must receive a standard high school diploma, the highest available industry certification, and opportunities to earn postsecondary credit if the academy partners with a postsecondary institution approved to operate in

the state.

(b) A "career-themed course" is a course, or a course in a series of courses, that leads to an industry certification identified in the CAPE Industry Certification Funding List pursuant to rules adopted by the State Board of Education. Career-themed courses have industry-specific curriculum aligned directly to priority workforce needs established by the local ~~regional~~ workforce development board or the Department of Economic Opportunity. School districts shall offer at least two career-themed courses, and each secondary school is encouraged to offer at least one career-themed course. The Florida Virtual School is encouraged to develop and offer rigorous career-themed courses as appropriate. Students completing a career-themed course must be provided opportunities to earn postsecondary credit if the credit for the career-themed course can be articulated to a postsecondary institution approved to operate in the state.

(4) Each career and professional academy and secondary school providing a career-themed course must:

(d) Provide instruction in careers designated as high-skill, high-wage, and high-demand by the local ~~regional~~ workforce development board, the chamber of commerce, economic development agencies, or the Department of Economic Opportunity.

Section 47. Subsection (1) of section 1003.4935, Florida Statutes, is amended to read:

1003.4935 Middle grades career and professional academy

courses and career-themed courses.—

(1) Beginning with the 2011-2012 school year, each district school board, in collaboration with local ~~regional~~ workforce development boards, economic development agencies, and state-approved postsecondary institutions, shall include plans to implement a career and professional academy or a career-themed course, as defined in s. 1003.493(1)(b), in at least one middle school in the district as part of the strategic 3-year plan pursuant to s. 1003.491(2). The strategic plan must provide students the opportunity to transfer from a middle school career and professional academy or a career-themed course to a high school career and professional academy or a career-themed course currently operating within the school district. Students who complete a middle school career and professional academy or a career-themed course must have the opportunity to earn an industry certificate and high school credit and participate in career planning, job shadowing, and business leadership development activities.

Section 48. Paragraph (a) of subsection (1) of section 1003.52, Florida Statutes, is amended to read:

1003.52 Educational services in Department of Juvenile Justice programs.—

(1) The Department of Education shall serve as the lead agency for juvenile justice education programs, curriculum, support services, and resources. To this end, the Department of Education and the Department of Juvenile Justice shall each

designate a Coordinator for Juvenile Justice Education Programs to serve as the point of contact for resolving issues not addressed by district school boards and to provide each department's participation in the following activities:

(a) Training, collaborating, and coordinating with district school boards, local ~~regional~~ workforce development boards, and local youth councils, educational contract providers, and juvenile justice providers, whether state operated or contracted.

Annually, a cooperative agreement and plan for juvenile justice education service enhancement shall be developed between the Department of Juvenile Justice and the Department of Education and submitted to the Secretary of Juvenile Justice and the Commissioner of Education by June 30. The plan shall include, at a minimum, each agency's role regarding educational program accountability, technical assistance, training, and coordination of services.

Section 49. Paragraph (a) of subsection (3) and paragraph (e) of subsection (4) of section 1004.93, Florida Statutes, are amended to read:

1004.93 Adult general education.—

(3)(a) Each district school board or Florida College System institution board of trustees shall negotiate with the local ~~regional~~ workforce development board for basic and functional literacy skills assessments for participants in the

welfare transition employment and training programs. Such assessments shall be conducted at a site mutually acceptable to the district school board or Florida College System institution board of trustees and the local ~~regional~~ workforce development board.

(4)

(e) A district school board or a Florida College System institution board of trustees may negotiate a contract with the local ~~regional~~ workforce development board for specialized services for participants in the welfare transition program, beyond what is routinely provided for the general public, to be funded by the local ~~regional~~ workforce development board.

Section 50. Paragraph (b) of subsection (1) of section 1006.261, Florida Statutes, is amended to read:

1006.261 Use of school buses for public purposes.—

(1)

(b) Each district school board may enter into agreements with local ~~regional~~ workforce development boards for the provision of transportation services to participants in the welfare transition program. Agreements must provide for reimbursement in full or in part for the proportionate share of fixed and operating costs incurred by the district school board attributable to the use of buses in accordance with the agreement.

Section 51. Paragraph (e) of subsection (1) of section 1009.25, Florida Statutes, is amended to read:

1009.25 Fee exemptions.—

(1) The following students are exempt from the payment of tuition and fees, including lab fees, at a school district that provides workforce education programs, Florida College System institution, or state university:

(e) A student enrolled in an employment and training program under the welfare transition program. The local ~~regional~~ workforce development board shall pay the state university, Florida College System institution, or school district for costs incurred for welfare transition program participants.

Section 52. This act shall take effect July 1, 2016.