

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Fiscal Policy

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BILL: CS/SB 7040

INTRODUCER: Fiscal Policy Committee and Commerce and Tourism Committee

SUBJECT: Federal Workforce Innovation and Opportunity Act

DATE: February 5, 2016

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Little</u>	<u>McKay</u>		<b>CM Submitted as Committee Bill</b>
1.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	<b>Recommend: Favorable</b>
2.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	<b>Fav/CS</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 7040 modifies Florida's current program for workforce services in order to implement the federal Workforce Innovation and Opportunity Act (WIOA) of 2014. The federal law requires coordination between core programs in the delivery of workforce services. The four core programs are those under the adult, dislocated worker, and youth programs; employment services under the Wagner-Peyser Employment Act; vocational rehabilitation services; and adult education and literacy activities. The bill deletes or replaces references to the federal Workforce Investment Act of 1998, which has been replaced by the WIOA.

The bill provides membership guidelines for the state workforce board, CareerSource Florida, Inc. (CareerSource), to include membership representation for each of the core programs and the vice chairperson of Enterprise Florida, Inc. The bill changes methods of measuring performance accountability and preparing the state plan in order to conform to federal law. The state plan must be based on a 4-year strategy and is required to include operational and strategic elements for the core programs.

The bill requires the Florida Department of Education to enter into a memorandum of understanding with CareerSource in order to ensure compliance with federal law. A local workforce development board is required to enter into a memorandum of understanding with each one-stop delivery partner regarding sharing of infrastructure costs by July 1, 2017. The Governor is authorized to establish policy guidelines to allocate infrastructure costs when an

agreement cannot be reached between a local workforce development board and a one-stop delivery partner.

To the extent that a one-stop delivery partner has not been participating in the one-stop delivery system or, if participating, has not been contributing funds to cover infrastructure costs, implementation of the WIOA will increase costs for that entity. The fiscal impact is indeterminate at this time.

CareerSource and the Department of Economic Opportunity will cover any costs to implement the WIOA within existing resources. See Section V for additional fiscal impacts.

The bill has an effective date of July 1, 2016.

## II. Present Situation:

### Florida's Workforce Development System

The federal Workforce Investment Act of 1998 (WIA) was passed by Congress in an effort to improve the quality of the nation's workforce through implementation of a comprehensive workforce investment system.<sup>1</sup> The WIA required each state to establish an investment board at the state level and workforce investment boards to represent local service areas.<sup>2</sup> The WIA also called for the delivery of workforce development services through a system of "one-stop" centers in local communities.<sup>3</sup> Some key principles of the WIA were to better integrate workforce services, empower individuals, provide universal access to participants, increase accountability, and improve youth programs.<sup>4</sup>

In response to the WIA, Florida established its current workforce development system under the Workforce Investment Act of 2000.<sup>5</sup> The act aimed to better connect the state's economic development strategies with its workforce development system and to implement the principles of the federal WIA.<sup>6</sup> Under the current workforce development system, the Department of Economic Opportunity (DEO), CareerSource Florida, Inc. (CareerSource), and 24 regional workforce boards (RWBs) act as partners in administering Florida's comprehensive system for the delivery of workforce strategies, services, and programs.

### *The Department of Economic Opportunity*

The DEO serves as Florida's lead workforce agency.<sup>7</sup> The DEO is responsible for the fiscal and administrative functions of the workforce development system.<sup>8</sup> Employment-related services

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<sup>1</sup> Workforce Investment Act of 1998, 29 U.S.C. 2801 (1998), *repealed effective July 1, 2015*, by Workforce Innovation and Opportunity Act, Pub. L. No. 113-128, s. 506, H.R. 803 (113th Cong.) (July 22, 2014) (codified at 29 U.S.C. 3101, et seq.).

<sup>2</sup> See 29 U.S.C. s. 2821 and 29 U.S.C. s. 2832 (1998).

<sup>3</sup> See 29 U.S.C. s. 2841 (1998).

<sup>4</sup> See 29 U.S.C. s. 2811 (1998). See also 65 F.R. 49294-01 (August 11, 2000).

<sup>5</sup> Chapter 2000-165, Laws of Fla.

<sup>6</sup> See s. 445.003, F.S.

<sup>7</sup> Primarily through the Division of Workforce Services. See s. 20.60, F.S.

<sup>8</sup> Section 445.009(3)(c), F.S.

programs are over 96 percent federally funded.<sup>9</sup> The DEO receives and distributes federal funds for employment-related programs to the RWBs and provides one-stop program support to the RWBs through guidance, training, and technical assistance. The DEO also monitors the RWBs and one-stop career centers to ensure compliance with federal and state requirements. The DEO is responsible for financial and performance reports, which are provided to the U.S. Department of Labor (USDOL) and other federal organizations.<sup>10</sup>

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

CareerSource is a not-for-profit corporation that serves as Florida's *state-level* workforce investment board.<sup>11</sup> CareerSource is responsible for developing and implementing a 5-year plan for the statewide workforce system and collaborates with the DEO, RWBs, and one-stop career centers to ensure that workforce services provided are consistent with state and local plans. CareerSource also provides state-level policy, planning, performance evaluation, and oversight of the delivery of workforce services.<sup>12</sup>

### ***Regional Workforce Boards***

Twenty-four RWBs deliver Florida's workforce development services through nearly 100 one-stop career centers.<sup>13</sup> One-stop career service centers provide Floridians access to workforce services, including job placement, career counseling, and skills training.<sup>14</sup> Collectively, the RWBs serve as Florida's *local* workforce investment board and operate under a charter approved by CareerSource.<sup>15</sup> Each RWB develops a local budget and oversees career centers within its region to establish the one-stop delivery system of workforce services.<sup>16</sup>

### **Federal Workforce Innovation and Opportunity Act of 2014**

In 2014, Congress passed the Workforce Innovation and Opportunity Act (WIOA), which superseded the WIA.<sup>17</sup> The WIOA requires each state to develop a single, unified plan for aligning workforce services by identifying and evaluating core workforce programs.<sup>18</sup> In general, the WIOA maintains the one-stop framework of the WIA, and encompasses provisions aimed at streamlining services, easing reporting requirements, and reducing administrative barriers.<sup>19</sup> The WIOA officially became effective on July 1, 2015, the first full program year after enactment.<sup>20</sup>

<sup>9</sup> Examples of federally funded, employment-related programs include Temporary Assistance to Needy Families, the Wagner-Peyser Act, and the WIA. Data from the Sunset Review Report for the Agency for Workforce Innovation (June 30, 2010), on file with the Commerce and Tourism Committee.

<sup>10</sup> Sections 20.60(5)(c) and (6), 445.003, and 445.007(3), F.S.

<sup>11</sup> Section 445.004(5)(a), F.S. Prior to 2014, CareerSource was known as Workforce Florida, Inc.

<sup>12</sup> Section 445.003(2), F.S., and *see s. 445.004*, F.S.

<sup>13</sup> Department of Economic Opportunity, *CareerSource Florida Center Directory*, <http://www.floridajobs.org/onestop/onestopdir/> (last visited Feb. 1, 2016).

<sup>14</sup> *See s. 445.009*, F.S.

<sup>15</sup> *See ss. 445.007(1) and 445.004(11)*, F.S.

<sup>16</sup> Section 445.007(12), F.S.

<sup>17</sup> Workforce Innovation and Opportunity Act, 29 U.S.C. 3101, et seq. (2014).

<sup>18</sup> 29 U.S.C. 3112(a).

<sup>19</sup> *See* 29 U.S.C. 3111.

<sup>20</sup> However, some provisions, such as those related to state unified planning and common performance accountability do not become effective until July 2016. The USDOL and U.S. Department of Education published proposed rules in April 2015. The rules are expected to be finalized in June 2016. Until the final rules are published, the law's specific implementation

### ***Core Programs***

The WIOA identifies four core programs that must coordinate and complement each other in a manner that ensures job seekers have access to needed resources.<sup>21</sup> The core programs are:

- Adult, dislocated worker, and youth programs;
- Employment services under the Wagner-Peyser Employment Act;
- Vocational rehabilitation services; and
- Adult education and literacy activities.

### ***Performance Measures***

In an effort to promote transparency and accountability, the WIOA created a single set of common measures to evaluate core programs. The WIOA requires performance reports to be provided at the state, local, and provider levels. The performance measures that now apply across all core programs are:<sup>22</sup>

- The percentage of participants in unsubsidized employment during the second and fourth quarters after exit;
- The median earnings of participants during the second quarter after exit;
- The percentage of participants who obtain a postsecondary credential or secondary school diploma within 1 year after exit;
- The achievement of measureable skill gains toward a credential or employment; and
- The effectiveness in serving employers.

### ***State Workforce Development Plan***

Using the common performance measures for core programs, the WIOA requires each state to develop and submit a unified state plan based on a 4-year strategy for workforce development. The state plan must describe an overall strategy for the core programs and how the strategy will meet needs for workers, job seekers, and employers. The WIOA also provides an option for states to submit a combined plan that outlines plans for the core programs along with additional workforce programs.<sup>23</sup> The WIOA requires each state to submit a unified or combined plan by March 3, 2016.<sup>24</sup>

### ***Regional Planning and Local Workforce Development Boards***

The WIOA requires states to identify regional planning areas for workforce development strategies. Within each area, a local workforce development board must be established. Each local workforce development board is required to coordinate planning and service delivery

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procedures and processes will remain unclear. See USDOL, WIOA, *FAQs: When will the final regulations for WIOA be published?* (January 21, 2016), available at <https://www.doleta.gov/WIOA/FAQs.cfm#q!225> (last visited Feb. 1, 2016).

<sup>21</sup> See 29 U.S.C. 3102(13).

<sup>22</sup> 29 U.S.C. 3141.

<sup>23</sup> See 29 U.S.C. 3111(d), 3112(b), and 3113.

<sup>24</sup> 29 U.S.C. 3112(c). However, the USDOL will consider plans submitted by April 1, 2016, as timely. USDOL, WIOA, *FAQs: When must states submit the first WIOA unified or combined state plan?* (January 21, 2016), available at <https://www.doleta.gov/WIOA/FAQs.cfm#q!224> (last visited Feb. 1, 2016).

strategies within their area. Formulated strategies are then used by the local workforce development board to develop and submit a local plan for the delivery of workforce services.<sup>25</sup>

### ***One-Stop Career Centers***

The WIOA aims to strengthen the one-stop delivery system by requiring each local area to have at least one comprehensive one-stop career center. A comprehensive one-stop career center provides physical access to services provided by core partners, as well as other mandatory partners.<sup>26</sup> The WIOA requires each partner to contribute to the funding of the infrastructure costs of the one-stop delivery system. If the local workforce development board and the one-stop partner fail to reach an agreement regarding infrastructure costs by July 1, 2016, the WIOA requires the Governor to allocate those costs.<sup>27</sup>

### ***Other Changes***

The WIOA touches on a number of additional areas that may change how local boards operate. Some of these changes include:

- Changes in terminology; for example, “regional workforce boards” are now called “local workforce development boards”;
- Changes in how funds may be used, including requiring more resources to be directed toward youth workforce activities;
- Changes in the minimum requirements of the state board membership; and
- Allowing greater access to other types of training, such as apprenticeship programs, incumbent worker training, and other customized training.

### **Florida’s State Plan Under the WIOA**

Florida’s state plan is due to the USDOL on March 3, 2016. The USDOL recommended that state workforce systems take actions to prepare for the full implementation of the law, including engaging with “core programs and other partners to begin strategic planning” and developing transition plans.<sup>28</sup>

### ***Florida’s WIOA Task Force***

To facilitate the needed preparations and planning, the Legislature created a 20-member task force to develop recommendations to implement the WIOA.<sup>29</sup> The task force, led by CareerSource, included members from the education, social services, criminal justice, and workforce development sectors. The task force was responsible for preparing recommendations for approval by the board of directors of CareerSource. Approved recommendations were

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<sup>25</sup> 29 U.S.C. 3121, 3122, and 3123.

<sup>26</sup> Other mandatory partners may include programs under the Older American Act, Welfare-to-Work, Trade Adjustment Assistance, Veterans Employment and Training, Department of Housing and Urban Development, Unemployment Insurance, Perkins Career and Technical Education Act, and the Community Service Block Grant Act. 29 U.S.C. 3151(b)(2).

<sup>27</sup> 29 U.S.C. 3151(c)(2)(A)(ii) and (h)(1)(a)(ii).

<sup>28</sup> U.S. Department of Labor, Employment and Training Administration, *Training and Employment Guidance Letter No. 19-14* (Feb. 19, 2015), available at [http://wdr.doleta.gov/directives/attach/TEGL/TEGL\\_19-14.pdf](http://wdr.doleta.gov/directives/attach/TEGL/TEGL_19-14.pdf) (last visited Jan 4, 2016).

<sup>29</sup> Chapter 2015-98, Laws of Fla.

submitted as part of a report to the Legislature and the Governor's Office.<sup>30</sup> CareerSource must implement the recommendations in the state plan required by the WIOA.

### III. Effect of Proposed Changes:

The bill makes necessary changes to Florida's existing workforce development laws to conform to the new federal guidelines under the WIOA. Specifically, the bill updates the language and references that conflict with the WIOA changes to state and local plans and responsibilities, the composition of state and local workforce development boards, timelines, local and regional collaboration, and the one-stop delivery system.

#### Workforce Innovation and Opportunity Act

**Sections 17, 22 – 26, 28, 34, 36, and 42** amend ss. 420.624, 433.1116, 445.003, 445.004, 445.006, 445.007, 445.009, 445.022, 445.025, and 985.622, F.S., respectively, to replace references to the WIA and regional workforce boards with references to the new federal statute, the WIOA, and local workforce development boards.

#### Local Workforce Development Boards

**Sections 1 – 16, 18 – 21, 27, 30 – 33, 35, 37 – 41, 43 – 51** amend 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, 427.013, 427.0155, 427.0157, 433.091, 445.0071, 445.014, 445.016, 445.017, 445.021, 445.024, 445.026, 445.030, 445.031, 445.048, 445.051, 1002.83, 1003.491, 1003.492, 1003.493, 1003.4935, 1003.52, 1004.93, 1006.261, and 1009.25, F.S., respectively, to replace references to “regional workforce boards” with the new term “local workforce development boards.”

#### State Workforce Development Plan

**Section 23** amends s. 445.003, F.S., to ensure that the delivery of Florida's workforce services are in compliance with the WIOA. The bill requires implementation of the WIOA through a 4-year plan, rather than a 5-year plan under the WIA, for the delivery of workforce services. The 4-year state plan will detail Florida's goals, objectives, and strategies for preparing an educated and skilled workforce. The bill maintains the requirement that mandatory and optional partners under the one-stop program be involved in designing the state plan. The bill deletes the choice for optional federal partners to integrate into the state plan in order to clarify that both federally mandated and optional federal partners must be fully integrated into the state plan.

The bill deletes the WIA-based references to optional partners and the Incumbent Worker Training (IWT) Program. The bill maintains priority guidelines for grant funding under the IWT program, but removes certain eligibility requirements for businesses applying to receive grant funding. Businesses that may not have been eligible to receive grant funding under current law may now be eligible to apply for IWT grants. The bill deletes an obsolete provision that granted

<sup>30</sup> CareerSource Florida, *Florida Workforce Innovation and Opportunity Act Implementation Recommendations*, available at [http://careersourceflorida.com/wp-content/uploads/2015/12/151201\\_CombinedAttachments.pdf](http://careersourceflorida.com/wp-content/uploads/2015/12/151201_CombinedAttachments.pdf) (last visited Jan. 4, 2016).

authority to CareerSource to negotiate and settle outstanding issues with the USDOL relating to the Job Training Partnership Act of 1982 (JTPA). The JTPA was repealed by the WIA in 1998.

The bill requires CareerSource and the Florida Department of Education to enter into a memorandum of understanding to ensure the state plan complies with the requirements of the WIOA. **Section 29** amends s. 445.07, F.S., to clarify that the DEO and the Florida Department of Education are jointly responsible for the preparation of the state annual economic security report of employment and earning outcomes.

**Section 24** amends s. 445.004, F.S., to provide membership guidelines for the state workforce board in order to comply with the WIOA. Specifically, the bill requires the board of directors of CareerSource to include the vice-chairperson of Enterprise Florida, Inc., and at least one member representing each of the WIOA partners. Other entities representing programs identified in the WIOA may also have representation on the board of directors as determined necessary by the Governor. The bill also revises performance accountability measures used to gauge performance of state and local workforce delivery services in order to comply with the WIOA. The bill deletes references to the WIA-based, outcome tier method of measuring performance accountability.

**Section 25** amends s. 445.006, F.S., to revise the structure and criteria of the state plan. The bill requires the state plan to incorporate strategic and operational planning elements and requires CareerSource to collaborate with state and local partners to develop the state plan for the delivery of workforce services. The bill authorizes the Governor to submit the state plan to the USDOL. The bill deletes references to WIA-based requirements for strategic and operational plans.

### **Regional Planning and Local Workforce Development Boards**

**Sections 26** amends s. 445.007, F.S., to revise membership requirements for local workforce development boards. CareerSource is required to establish regional planning areas by March 1, 2018, in order for those areas to prepare regional workforce development plans. In the interim, the 24 local workforce development boards also serve as the 24 regional planning areas for purposes of preparing the regional workforce development plan required by the WIOA.

**Section 28** amends s. 445.009, F.S., to require each local workforce development board to enter into a memorandum of understanding with each mandatory or optional partner participating in the one-stop delivery program that details the partner's required contribution to infrastructure costs. Pursuant to the WIOA, if the local workforce development board and the one-stop partners are unable to come to an agreement regarding infrastructure costs by July 1, 2017, the costs must be allocated pursuant to a policy established by the Governor.

### **Effective Date**

**Section 52** provides that the bill takes effect on July 1, 2016.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

A private organization may have to update any materials it produces or website it maintains to reference Florida's modified workforce delivery system under the WIOA. Any costs incurred are indeterminate, but expected to be minimal.

Businesses that may not have been eligible to receive grant funding under current law may now be eligible to apply for IWT grants.

## C. Government Sector Impact:

The WIOA requires each local workforce development board to enter into a memorandum of understanding with each mandatory or optional partner participating in the one-stop delivery system that details the partner's required contribution to infrastructure costs. To the extent that a partner has not been participating in the one-stop delivery system or, if participating, has not been contributing funds to cover infrastructure costs, implementation of the WIOA will increase costs for that entity. The fiscal impact is indeterminate at this time.

CareerSource and the Department of Economic Opportunity will cover any costs to implement the WIOA within existing resources.

A governmental organization may have to update any materials it produces or website it maintains to reference Florida's modified workforce delivery system under the WIOA. These costs are indeterminate, but expected to be minimal.

**VI. Technical Deficiencies:**

None.



**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 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, 443.1116, 445.003, 445.004, 445.006, 445.007, 445.0071, 445.009, 445.07, 445.014, 445.016, 445.017, 445.021, 445.022, 445.024, 445.025, 445.026, 445.030, 445.031, 445.048, 445.051, 985.622, 1002.83, 1003.491, 1003.492, 1003.493, 1003.4935, 1003.52, 1004.93, 1006.261, and 1009.25.

**IX. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Fiscal Policy on February 4, 2016:**

The committee substitute clarifies that the DEO and the Florida Department of Education are jointly responsible for the preparation of the state annual economic security report of employment and earning outcomes. The CS extends the deadline for the local workforce development board and the one-stop partners to come to an agreement about shared infrastructure costs; the agreement must be final by July 1, 2017, instead of July 1, 2017. The CS also corrects additional references to “regional board” with “local workforce development board.”

**B. Amendments:**

None.