

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7099      PCB EAC 15-01      Individuals with Disabilities

**SPONSOR(S):** Economic Affairs Committee, Oliva

**TIED BILLS:**                    **IDEN./SIM. BILLS:** CS/SB 1246

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Affairs Committee	18 Y, 0 N	Willson	Creamer
1) Transportation & Economic Development Appropriations Subcommittee	13 Y, 0 N	Proctor	Davis

### SUMMARY ANALYSIS

The bill creates the Florida Unique Abilities Partner program to recognize business entities that employ individuals who have a disability, contribute to organizations that support the independence of individuals who have a disability, or establish a program that contributes to the independence of individuals who have a disability.

The bill directs the Department of Economic Opportunity (DEO) to work in coordination with state agencies and Workforce Florida in creating the program. Businesses that receive the designation must annually re-certify that they continue to meet the criteria for the designation. The DEO must work with disability organizations to develop a logo for the program, and with VISIT Florida to market the program. The bill also requires the DEO to maintain a website that provides the public with a list of businesses that have been designated as a Florida Unique Abilities Partner, and businesses with the designation must be identified on the EmployFlorida Marketplace system. The DEO must report its progress in implementing the program to the Legislature by January 1, 2016.

The bill may have a negative \$200,000 fiscal impact to DEO during the first year and a \$100,000 recurring fiscal impact in subsequent years. The Florida House of Representatives proposed budget, HB 5001, contains a recurring appropriation of \$200,000 for the Florida Unique Abilities Partner program.

The bill has an effective date of July 1, 2015.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

According to the United States Census Bureau, individuals who have a disability make up approximately 13.4 percent of the population of Florida and 10.3 percent of the population between the ages of 18 and 64. Individuals who have a disability participate in the labor force at a lower rate than those who do not have a disability. Approximately 18.2 percent of individuals who have a disability in Florida are employed, while 60.5 percent of those in Florida who do not have a disability are engaged in employment.

##### **Proposed Changes**

In order to be designated a Florida Unique Abilities Partner; a business must submit an application to the DEO, indicating that the business would qualify for the designation due to its employment of individuals who have a disability, contributions to disability organizations, or establishment of a program that contributes to the independence of individuals who have a disability. At a minimum, to qualify for the designation, a business must:

- employ, in this state, at least one individual who has a disability for at least 9 months before applying for the designation;
- make a financial or in-kind contribution to a local or national disability organization of at least \$1,000, if the entity has 100 or fewer employees or at least \$5,000, if the entity has more than 100 employees; or
- Establish a program that contributes to the independence of individuals who have a disability.

In lieu of the application process, the DEO must also accept nominations from members of the local community regarding a business entity's qualification for designation as a Florida Unique Abilities Partner. Upon receipt of nomination and a determination by the DEO that the nominee meets the minimum requirements of the program based on the information provided in the nomination, the DEO must notify the nominated business and provide the business with the qualifying criteria asserted in the nomination. If a business does not decline the nomination within 30 days of receipt of the notification of the nomination, it will be designated a Florida Unique Abilities Partner.

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

A business must annually certify that it continues to meet the requirements to be designated a Florida Unique Abilities Partner. Failure to submit the annual certification will result in the removal of the business' designation. A business may elect to discontinue its use of the designation by notifying the DEO of such decision.

The bill directs the DEO, in partnership with the disability community, to develop a logo that may be used to identify a business that has been designated as a Florida Unique Abilities Partner. The DEO is responsible for developing guidelines for the use and display of the Florida Unique Abilities Partner Program logo. A business that has not received the designation or has elected to discontinue its designation may not display the logo.

The DEO must maintain a website available to the public that provides a list of businesses that have been designated as Florida Unique Abilities Partners, and provides information on the eligibility requirements for the designation. The website must also provide information to businesses on best practices to facilitate the inclusion of individuals who have a disability. The Agency for Persons with Disabilities must provide a link from its website to the DEO website on which the Florida Unique

Abilities Partners are listed. The DEO must indicate, on Employ Florida Marketplace, those employers that have been designated as a Florida Unique Partner.

The bill requires the DEO to provide to VISIT Florida, on a quarterly basis, a list of businesses that have been designated as Florida Unique Abilities Partners. VISIT Florida must consider using this information in the development of marketing campaigns that target individuals who have a disability or their families.

The DEO must report its progress in implementing the Florida Unique Abilities Program to the Legislature by January 1, 2016.

**B. SECTION DIRECTORY:**

Section 1. Creates an undesignated section of statute requiring the Department of Economic Opportunity, in consultation with other organizations, to create the Florida Unique Abilities Partner program.

Section 2. Provides an effective date of July 1, 2015.

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

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

1. Revenues:

None.

2. Expenditures:

The bill may have a negative \$200,000 fiscal impact to DEO during the first year and a \$100,000 recurring fiscal impact in subsequent years associated with the costs of developing, implementing, and administering the Florida Unique Abilities Partner program. Costs include staff time to develop the program, process applications, determine compliance, and designate businesses. Staff time would also be required to create, maintain, and update the website that is required by the bill.

The Florida House of Representatives proposed budget, HB 5001, contains a recurring appropriation of \$200,000 for the Florida Unique Abilities Partner program.

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

1. Revenues:

None.

2. Expenditures:

None.

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

With the designation as a Florida Unique Abilities Partner, a business may experience greater patronage by individuals who are supportive of businesses that employ those with a disability.

Local or national disability organizations may receive additional donations from businesses seeking a designation under the program.

**D. FISCAL COMMENTS:**

The bill may have an indeterminate negative fiscal impact to VISIT Florida as the number of businesses certified and transmitted by DEO which must be considered by VISIT Florida in the development and implementation of marketing campaigns cannot be estimated.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

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

The bill does not require a municipality or county to expend funds or to take 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:**

Under the Americans with Disabilities Act (ADA), employers are prohibited from inquiring about whether a person has a disability or the nature of a disability prior to employment. However, an employer may inquire about the applicant's ability to perform job-related functions. Upon employment, an employer may require a medical examination if it is required of all employees, is job-related, and consistent with business necessity. Any medical information obtained from the medical examination must be maintained in a separate file. If an employee requests a reasonable accommodation, an employer is permitted to request documentation sufficient to substantiate the need for the reasonable accommodation.

#### **B. RULE-MAKING AUTHORITY:**

The bill requires the DEO to adopt rules to administer the Florida Unique Abilities Partner program.

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

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**