

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: SB 848

INTRODUCER: Senator Richter

SUBJECT: Employment of Individuals with Disabilities

DATE: March 9, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peacock	McVaney	GO	Pre-meeting
2.			CM	
3.			AP	

I. Summary:

SB 848 creates the Employment First Act. The bill provides legislative intent and purpose regarding employment of individuals with disabilities. The bill requires the development and implementation of an interagency cooperative agreement among specified state agencies and organizations. The interagency cooperative agreement provides roles, responsibilities and objectives. The bill authorizes the parties to this interagency agreement to adopt rules.

II. Present Situation:

Section 110.112, F.S., declares that the policy of the state is to afford equal employment opportunities through programs of affirmative and positive action allowing for the full utilization of women and minorities.

Each executive agency is required to develop and implement an affirmative action plan;¹ establish annual goals in its affirmative action plan for ensuring full utilization of groups underrepresented in the agency's workforce as compared to relevant labor market;² and appoint an affirmative action-equal employment opportunity officer.³

¹ Section 110.112(2)(a), F.S.

² Section 110.112(2)(b), F.S.

³ Section 110.112(2)(c), F.S., provides that the duties of the affirmative action-equal employment opportunity officer include determining annual goals, monitoring agency compliance, and providing consultation to managers regarding progress, deficiencies, and appropriate corrective action.

The Department of Management Services is required to issue an annual workforce report⁴ and provide training to all supervisory personnel of executive agencies.⁵

III. Effect of Proposed Changes:

Section 1 provides a short title for this bill. This legislation is to be known as the “Employment First Act.” This section provides legislative intent and purpose which is to improve the employment outcomes for individuals with disabilities, to prioritize employment of individuals with disabilities, and to change the employment system to integrate individuals with disabilities into the workforce.

This section also requires an interagency cooperative agreement be developed among the following:

- Division of Vocational Rehabilitation of the Department of Education;
- Division of Blind Service of the Department of Education;
- Bureau of Exceptional Education and Student Services of the Department of Education;
- Agency for Person with Disabilities of the Department of Children and Families;
- Substance Abuse and Mental Health Program of the Department of Children and Families;
- Department of Economic Opportunity;
- Workforce Florida, Inc.;
- Florida Developmental Disabilities Council;
- Florida Association of Rehabilitation Facilities; and
- Other appropriate organizations.

Additionally, this interagency cooperative agreement shall outline the roles and responsibilities of the parties to the agreement.

The bill outlines the objectives of the interagency agreement that must include the following:

- Establishing commitment by state leadership to maximizing resources and coordination to improve employment outcomes for individuals with disabilities;
- Developing strategic goals and benchmarks to assist state agencies and organizations in the implementation of agreement;
- Identifying financing and contracting methods to help prioritize employment for individuals with disabilities by state agencies and organizations;
- Establish training methods to better integrate persons with disabilities into the workforce;
- Ensuring collaborative efforts between agencies;
- Promoting service innovations to better assist individuals with disabilities in the workplace; and
- Identifying accountability measures to ensure sustainability of agreement.

⁴ Section 110.112(2)(d), F.S., provides that the DMS annual workforce report shall include information relating to implementation, continuance, and updating the results of each executive agency’s affirmative action plan for the previous fiscal year.

⁵ Section 110.112(2)(e), F.S., provides that the training will be in the principals of equal employment opportunity and affirmative action, the development and implementation of affirmative action plans, and establishment of annual affirmative action goals.

The section authorizes the agencies and organizations that are party to the interagency cooperation agreement to adopt rules to implement the Employment First Act.

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

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:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

Section 1, Paragraph (4)(c) of the bill refers to the “Agency for Persons with Disabilities of the Department of Children and Families”. The Agency for Persons with Disabilities is a separate agency that is housed within the Department of Children and Families for administrative purposes only.⁶ Accordingly, the phrase “of the Department of Children and Families” should be stricken on page 2, lines 44-45, of the bill.

VII. Related Issues:

It appears that the rulemaking authorization in the bill is deficient and not necessary. Section 120.536, F.S., provides that:

⁶ Section 20.197, F.S.

A grant of rulemaking authority is necessary but not sufficient to allow an agency to adopt a rule; a specific law to be implemented is also required. An agency may adopt only rules that implement or interpret the specific powers and duties granted by the enabling statute. No agency shall have authority to adopt a rule only because it is reasonably related to the purpose of the enabling legislation and is not arbitrary and capricious or is within the agency's class of powers and duties, nor shall an agency have the authority to implement statutory provisions setting forth general legislative intent or policy. Statutory language granting rulemaking authority or generally describing the powers and functions of an agency shall be construed to extend no further than implementing or interpreting the specific powers and duties conferred by the enabling statute.⁷

The bill sets forth general legislative intent and policy for the employment of individuals with disabilities.

VIII. Statutes Affected:

This bill creates the Employment First Act.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

⁷ Also, see definitions of "invalid exercise of delegated legislative authority" and "rule" contained in ss. 120.52(8) and (16), F.S.