The Florida Senate

Interim Project Report 2000-18 *September 1999*

Committee on Commerce and Economic Opportunities Senator George Kirkpatrick, Chairman

DEVOLUTION OF EMPLOYMENT SERVICES

SUMMARY

The federal Wagner-Peyser Act (the Act) provides for establishment, in cooperation with the states, of a national employment system designed to respond to the needs of job seekers and employers. The U.S. Department of Labor (USDOL) has maintained that the delivery of employment services under the Act must be executed by merit-staffed employees, and a federal court has upheld this interpretation.

With the recent passage of the federal Workforce Investment Act (WIA), an emphasis has been placed on development of a one-stop center system for the provision of a wide variety of workforce development services. Although retaining both a separate authorization and funding stream, employment services under the Wagner-Peyser Act are required to be part of this new one-stop environment. In the wake of WIA, the Florida Senate in 1999 considered a provision authorizing regional workforce development boards (RWDBs or regional boards) to contract for the delivery, through one-stop center operators, of employment services under the Wagner-Peyser Act. However, amid concerns expressed about the merit-staffing requirement and other factors, the provision was not included in the final legislation adopted by the Legislature.

Differences in terminology used in federal WIA regulations versus correspondence from the regional office of the USDOL have raised questions regarding the extent to which merit-staffed local governments, such as employees of public school districts and community colleges, may be designated by regional boards to deliver employment services funded under the Wagner-Peyser Act.

Comments from a survey of regional boards suggest that, in the absence of privatization, many boards support being delegated the authority to contract for employment services with entities other than FDLES, but that such delegation may not solve problems currently experienced at the local level.

BACKGROUND

The Wagner-Peyser Act

Enacted in 1933, the Wagner-Peyser Act (the Act) provides for the establishment of a national employment system and cooperation with the states to promote the system (29 U.S.C. ss. 49-49l-1 (1998), *amended by* Pub. L. No. 105-220 (1998), ss. 301-311). Through its secretary, the U.S. Department of Labor (USDOL) is designated to coordinate the state public employment services throughout the country. One method by which the Act mandates that the USDOL increase the usefulness of employment services among the states is by developing and prescribing "minimum standards of efficiency." The USDOL has interpreted the term to include the requirement that the delivery of employment services under the Act is to be executed by merit-staffed employees.

What Are Employment Services?

Under the Act, funds are allocated to each state to plan and administer a labor exchange program that most effectively responds to the needs of the state's employers and job seekers. Federal regulations require each state to administer a labor exchange system that has the following capacities: to assist job seekers in finding employment; to assist employers in filling jobs; to facilitate the match between job seekers and employers; to participate in a system for clearing labor between the states; and to meet the work test requirements of the state unemployment compensation system. (*See* 20 C.F.R. s. 652.3.) Employment services applicable under the Act include:

- job search and placement services to job seekers including counseling, testing, occupational and

labor market information, assessment, and referral to employers;
- appropriate recruitment services and special technical services for employers;
- evaluation of programs;
- developing linkages between services funded under this Act and related federal or state legislation, including the provision of labor exchange services at educational sites;
- providing services for workers who have received notice of permanent layoff or impending layoff, or workers in occupations that are experiencing limited demand due to technological change, impact of imports, or plant closures;
- developing and providing labor market and occupational information;
- developing a management information system and compiling and analyzing reports therefrom; and
- administering the work test for the state unemployment compensation system and providing job finding and placement services for unemployment insurance claimants.

(29 U.S.C. s. 49f(a).)

Impact of Workforce Investment Act

In August 1998, the federal Workforce Investment Act (WIA) was signed into law (Pub. L. No. 105-220), representing a sea change in federal policy governing job training and other workforce development activities. WIA is grounded upon seven principles, including better integration of services, individual empowerment, universal access, increased accountability, strong roles for local workforce partners and the private sector, state and local flexibility, and improved youth programs.

WIA requires each state to establish a state workforce investment board, as well as boards representing local service areas. With respect to funding, WIA specifies three federal funding streams to the states: adults, dislocated workers, and youth.

A core component of WIA is the emphasis on the delivery of workforce development services through a system of "one-stop" centers in local communities throughout the state. WIA prescribes the programs and activities that are required to be part of each one-stop center and authorizes each local workforce board to select a one-stop operator through a competitive process or designate a consortia that includes at least three of the federal one-stop partners to operate the center.

Role of Wagner-Peyser Act in WIA

Amendments to Wagner-Peyser comprise one of the five titles of WIA; however, Wagner-Peyser retains separate authorization, as well as a separate funding stream. WIA does require that the public labor exchange services authorized under Wagner-Peyser be part of the one-stop system. In addition, WIA integrates the detailed state plans required under Wagner-Peyser, into the five-year state strategic plan required under the new federal act.

WIA Implementation: Federal & Florida Actions

In April 1999, the USDOL issued an interim final rule governing implementation of WIA. (*See* 64 Fed. Reg. 18661-18710, April 15, 1999.) The interim final rule became effective on May 17, 1999; however, public comments on the rule were invited for submission through July 14, 1999. Any changes in the rule stemming from public comments are expected to be published as a final rule in December 1999.

In a number of respects, Florida was "ahead of the curve" in terms of WIA implementation. As a result of action taken by the Legislature in 1996, Florida had by statute established the state Workforce Development Board (WDB) (also commonly referred to as the Jobs and Education Partnership) of Enterprise Florida, Inc., as the entity responsible for overseeing all workforce development activities. In addition, Florida had provided for the chartering of regional workforce development boards (RWDBs or regional boards) and for the establishment of one-stop career centers. (*See* ch. 96-404, L.O.F.)

Motivated in part by the passage of WIA, during the 1999 session, the Legislature sought to further refine the state's workforce development system. The measure ultimately adopted (ch. 99-251, L.O.F.), among other provisions, prescribed one-stop partners in addition to those required under WIA, specified that the composition of the state WDB and regional boards must be consistent with WIA, and authorized the state board to contract with an administrative entity for disbursement of WIA funds.

Senate Proposal to Alter Wagner-Peyser Delivery

As part of the evolution of its workforce development package, the Senate considered a provision which specified that regional workforce development boards

would assume responsibility and contract for the delivery, through one-stop career center operators, of employment services funded through Wagner-Peyser. (*See* s. 3, CS/CS/SB 252, 1st Eng.) This provision raised several compliance and fiscal impact concerns and ultimately was not included in the Legislature's final workforce development measure. The Executive Office of the Governor and the Florida Department of Labor and Employment Security (FDLES) raised issues relating to loss of administration funds for the department, federal compliance issues, funding allocation, disruption of services, and program linkages.

In an April 27, 1999, letter to the Florida Secretary of Labor, the administrator of USDOL Region IV in Atlanta cautioned that the provision could violate federal requirements that the state agency designated with administrative responsibility for Wagner-Peyser, which in Florida is FDLES, retain responsibility for all funds authorized under the act. The USDOL stated that the state agency's responsibility included maintaining merit staffing in connection with Wagner-Peyser services. According to the letter, Wagner-Peyser funded staff providing services must be merit staff.

In that correspondence, the USDOL did acknowledge that certain employment service administrative functions funded by Wagner-Peyser Act dollars may be delegated to the regional workforce development boards. Specifically, the USDOL stated:

> The State agency may, however, act to delegate certain [Wagner-Peyser] Act administrative authority to local workforce development boards, including the authority to contract for the delivery of [Wagner-Peyser] Act services through other merit-staffed local governments on behalf of the State agency. These merit-staffed local governments include local and special purpose units of government, school districts, intermediate school districts, public community colleges or public colleges or universities.

(Letter from Toussaint L. Hayes to Mary B. Hooks (April 27, 1999), p. 3.)

The Legislature ultimately did not adopt the provision authorizing the regional boards to contract through the one-stop center operators for the delivery of employment services under Wagner-Peyser. Instead, the final language directed the boards to enter into a memorandum of understanding with FDLES governing the delivery of such services by the department. (*See* s. 52, ch. 99-251, L.O.F.) In light of these developments, however, the Senate President assigned the Committee on Commerce and Economic Opportunities a 1999 interim project entitled *Devolution of Employment Services*.

Delivery of Employment Services in Florida

It should be noted that the "one-stop" concept is not new in Florida. Since 1991, Florida has been at the forefront of efforts to provide a myriad of employment services at one location. With the passage of both the Workforce Florida Act of 1996 (ss. 446.601-446.607, F.S.) and the Work and Gain Economic Self-sufficiency (WAGES) Act (ss. 414.015-414.45, F.S.), Florida has set forth an integrated system to coordinate the exchange of labor. In many ways, Florida's system is consistent with WIA. More specifically, Florida's workforce development strategy is centered around the strategic components of High Skill/High Wages, School-to-Work, and Welfare-to-Work, with workforce development services provided through a system of One-Stop Career Centers.

As the agency designated with administrative responsibility under the Wagner-Peyser Act, FDLES works through its Employment Security Program to address the needs of current and future workers by working with federal, state, local, and private partners to achieve a comprehensive workforce development system for Florida. The Department's Division of Jobs and Benefits field offices were the precursors of the one-stop centers located in Florida. Serving as points of contact for customers, the Jobs and Benefits/One-Stop Career Centers maintain contact with employers, actively seek and compile job orders, and screen and test prospective job applicants as part of their programs.

The information compiled from these activities provides the database for job vacancies listed on the state's electronic job bank, America's Job Bank, and America's Talent Bank. These services are available to both job seekers and employers. The information is also contributed to provide employers job and labor market information through America's Career InfoNet and integrated education and training information through America's Learning Exchange. Electronic listing, tracking, and recording of the placement outcome for every worker referred and every employer served is maintained on an automated system developed and built by FDLES. While FDLES

continues to maintain the statewide computer system that collects and provides information necessary for the production of numerous reports, it also currently services, uses, and maintains the electronic job banks which are a part of the state and national employment systems.

Florida has received more than $35 million in Wagner-Peyser funds for each of the past several years. According to FDLES, it has budgeted a total of 373.81 full time equivalent (FTE) positions for the 1999-2000 Program Year (PY) that are directly funded by Wagner-Peyser Act funds. Approximately 11 percent of the total positions funded under the Wagner-Peyser Act are in the state and six regional offices, while the remaining positions, representing 89 percent of the total, are allotted to local Jobs & Benefits/One-Stop Career Centers.

Exhibit 1:
Program Year 1999-2000
Wagner-Peyser Direct Funded Positions
Summary by Organizational Level

Area	FTEs	% to Total
State Office	15.00	4.01
Regional Offices	27.13	7.26
Local Offices	331.68	88.73
Total	373.81	100.00

Note: Positions funded through State, Department, and Division indirect assessments are not included.

(Source: Florida Department of Labor and Employment Security)

METHODOLOGY

The objective of this project was to collaboratively develop an implementation plan, for consideration by the Legislature, governing devolution to the local level of certain employment services currently provided by the FDLES, and to provide recommendations on statutory changes necessary to effectuate such a plan. Development of an implementation plan included identification of the specific services that may be performed at the local level consistent with federal law. This involved a review of applicable statutes, regulations, case law, program data, and correspondence with the USDOL to ensure compliance and to identify necessary revisions. To further assist in the fulfillment of this project, committee staff convened a staff-level working group of workforce development partners, including the FDLES, the State WDB, and a representative of a RWDB, to assist in the formation of the implementation plan, particularly using the group's expertise to raise issues and offer options for the devolution of employment services to the local level. Upon the initial meeting of the working group, however, it was clear guidance from the USDOL would be imperative before the group could develop a plan. Because of scheduling conflicts and related problems in securing USDOL participation directly in a meeting of the working group, committee staff maintained additional written correspondence with USDOL. Finally, executive directors of the 24 regional boards were surveyed on a means of facilitating the transition for delivery of such employment services.

FINDINGS

The Michigan Experience

The state of Michigan has already dealt with the issue of alternative delivery of employment services under Wagner-Peyser. For more than 60 years, Michigan Employment Services offices were staffed with civil service or merit-staffed personnel. In 1997, by executive order, the Governor of Michigan reorganized the state's Employment Security Agency, the state's agency designated with administrative responsibility under the Wagner-Peyser Act in Michigan. The order required that the agency provide employment services "via Workforce Development Boards (WDBs) in the same manner the state's other workforce development programs are provided, including federal Job Training Partnership Act programs, federal School-to-Work, federal One-Stop and Work First." The new plan required the WDBs to contract with private entities to provide employment services.

When Michigan submitted this modified state plan to the USDOL, the USDOL refused to approve the modification based, in part, upon the assertion that the Act requires merit staffing in the delivery of employment services. Further, the USDOL gave notice to Michigan that if it implemented its proposed employment services plan without the approval of the USDOL, the state would be sanctioned. Such sanctions included decertification and the withholding of Wagner-Peyser Act funds. Michigan answered the notice by filing an action for declaratory judgment, injunctive relief, and mandamus.

In *State of Michigan v. Alexis M. Herman* (No. 5:98-CV-16), issued May 15, 1998, the United States District Court for the Western District of Michigan held that the Wagner-Peyser Act required merit staffing

in the delivery of services administered under the Act despite no explicit mandate in the Act. The court reasoned that for the 64 years since the enactment of the provision, Congress had not ever ratified or rejected the USDOL's interpretation of the term "minimum standards of efficiency." As such, the court reasoned that in enacting the Wagner-Peyser Act, Congress must have intended that employment services be administered by merit-based employees at the state level. The court further reasoned that the term is broad enough to be interpreted to mean that employment services at the state level[1] must be delivered by merit-based employees. The court explained that even though there was ample basis for a conflicting interpretation of the Wagner-Peyser Act's requirements, deference is given to USDOL's interpretation as the agency charged with administering the Act. The court then concluded that USDOL's interpretation of the requirements was a reasonable and permissible one, not arbitrary or capricious or in excess of the statutory authority given by the Act, and thus met constitutional requirements.

The USDOL and the state of Michigan have since come to an agreement on the administration of Michigan's employment services in which delivery will be effected through a publicly run merit-staffed system. Michigan also agreed to work with unions representing the state agency's workers to guarantee involvement of all parties during development and implementation of the new plan. Finally, Michigan agreed to withdraw its appeal of the lawsuit and further agreed not to pursue any other legal, legislative, or policy solutions. (Joint statement from Alexis M. Herman and John Engler, issued July 31, 1998.)

WIA Regulations

As part of an interim final rule implementing provisions of titles I, III, and V of the Workforce Investment Act (WIA), the USDOL stated its position concerning the delivery of employment services. The rule mandates that the state agency specified by the Wagner-Peyser Act to receive funds under the Act is to retain responsibility and oversight for all Wagner-Peyser Act services, including those provided through the one-stop delivery system. More specifically, the regulations reflect USDOL's interpretation of the Wagner-Peyser Act and its view of the holding in *State of Michigan v. Alexis M. Herman*, to require that labor exchange services under the Act be provided by "public merit-staff employees."

The rule emphasizes that despite the authorization of a one-stop system under WIA, the requirement that public merit-staffed employees are to deliver services provided under the Act has not changed. In the one-stop system, a memorandum of understanding may facilitate the use of both public merit staff and employees of other partners in a location. However, operators at each location are limited to a guidance role with respect to public merit-staff personnel regarding the provision of labor exchange services. The guidance given by such operators must be consistent with the Act. The regulations specifically state that personnel matters, including compensation, personnel actions, and performance appraisals are to remain under the authority of the state agency. (*See* 64 Fed. Reg. 18763, April 15, 1999.)

The USDOL's Position

As part of the research for this interim project, additional guidance and explanation was sought from the USDOL on the concerns expressed in its April 27, 1999, letter regarding the Senate proposal to allow regional boards to contract for the delivery of employment services. In that letter, the USDOL stated that FDLES could lawfully delegate certain Wagner-Peyser Act administrative authority to local workforce development boards, including the authority to contract for the delivery of Wagner-Peyser Act services through other "merit-staffed" local governments on behalf of the state agency. In a subsequent letter dated July 28, 1999, the USDOL appeared to narrow its position, stating:

> However, when labor exchange services described in Section 7(a) of the Wagner-Peyser Act are provided using Wagner-Peyser funds, these services must be provided by *State* merit-staffed employees in Florida.

(Letter from Toussaint L. Hayes to staff of the Senate Committee on Commerce and Economic Opportunities (July 28, 1999), p. 1, (emphasis added).)

The two letters from USDOL were submitted to FDLES and committee staff after the interim final rule was issued on April 15, 1999. The rule requires "public merit-staff employees" to deliver employment services under the Act and makes no reference to the

[1]Before the Wagner-Peyser Act was enacted, Congress had specifically withdrawn a provision in both the House and Senate bills which required *federal* employees hired under the act to be civil service employees.

terms "merit-staffed" or "state merit-staffed." In order to understand the significance of use of different terms at different times, and to clarify the policy options available to the state for the delivery of employment services, committee staff on August 16 submitted a series of questions to the regional administrator of the USDOL and requested written responses. Among other issues, committee staff asked about the meaning of such terms and for specific guidance as to types of personnel to which the terms apply. In particular, staff asked USDOL about the significance of the fact that the WIA rule does not use the adjective "state."

What Happens at the Local Level?

Responses to surveys received by committee staff and comments elicited by the working group participants focused upon what happens when job seekers and employers arrive at one-stop locations seeking services. The regional boards and working group respondents explained that one-stop locations are the "front-line" for employment services and therefore should be oriented toward customer needs. More specifically, comments indicated that when "customers" arrive at one-stops, they are being served based upon what services are needed, not upon how the one-stop location employee helping them is compensated. As a practical matter, if Wagner-Peyser Act services are requested by a job seeker or employer, then that service generally is rendered despite the fact that the employee rendering the services may not be compensated with Wagner-Peyser Act funds. However, two of the RWDBs also reported incidents of FDLES employees refusing to deliver employment services to job seekers and employers requesting services at one-stop locations on the basis that they were not being compensated by the particular funding source related to that employment service activity. These incidents were not restricted to activities involving only Wagner-Peyser Act services. Consequently, the result is a delay in the delivery of employment services until the proper employee is available.

One member of the working group also commented that when the USDOL observed one of the one-stop locations, the USDOL did not question the legality of Wagner-Peyser Act services delivered by non-Wagner-Peyser Act compensated employees pursuant to a non-financial agreement[2]. It was posited that the USDOL might find an agreement which allows employees of partners at one-stop locations to deliver employment services funded under the Act to be in compliance so long as these employees are not compensated with Wagner-Peyser Act funds. It should be noted, however, that the interim final rule specifically states:

> Do any provisions in WIA change the requirement that publicly funded merit-staff employees must deliver services provided under the [Wagner-Peyser] Act?
>
> No. The Secretary has the legal authority to set staffing standards and requirements to ensure the effective delivery of services provided under the Act. The Secretary requires that labor exchange services provided under authority of the Act, to include services to veterans, be provided by public merit-staff employees.

(64 Fed. Reg. 18763.)

Survey of Regional Workforce Development Boards

A survey was sent to the 24 regional boards throughout the state. Seventeen regional boards replied, which represents a response rate of approximately 71 percent. Some respondents failed to answer all inquiries in the survey. The respondents represented multiple regions of the state, including counties in the panhandle, central, south central, and southern regions of the state. The survey attempted to assess the perspectives of regional boards regarding the delivery of employment services by entities other than FDLES. Responses were solicited by five different approaches: 1) by asking in a "yes" or "no" format whether they felt that the ability of a regional board to issue contracts under the Wagner-Peyser Act would enhance services to local customers, improve the efficiency of the system, and alleviate problems experienced in the region; 2) by asking what the respective mission of the board is and if it was "very important," "important," "somewhat important," or "not important" to the mission that it have the authority to contract for the delivery of Wagner-Peyser Act services through other merit-staffed local governments or special purpose units of government; 3) by asking the open-ended question of what difficulties the region has experienced in the delivery of services under the Act; 4) by asking the

[2]Before the enactment of WIA, non-financial agreements were used in Florida to permit non-program entities access to items, usually equipment or data systems, purchased with federal funds. Under WIA, memoranda of understanding may cover financial as well as non-financial agreements.

regional boards to rate the performance of FDLES in its delivery of employment services in their respective regions using a scale of one to five, with one being "excellent," three being "average," and five being "poor"; and 5) by asking in an open-ended question format for each regional board to identify any organization other than FDLES it believes would be effective in the delivery of employment services under the Act. The following are summaries of key survey responses.

Ability of RWDBs to contract with entities other than FDLES is believed to improve the workforce development system

Fifteen of the boards responding felt that the ability of RWDBs to issue contracts for the delivery of employment services funded by Wagner-Peyser to an organization other than FDLES would enhance services and improve the efficiency. Thirteen of these respondents also indicated that the ability to contract would also alleviate difficulties currently experienced by the board. Reasons cited include the fact that FDLES decisional staff are not located on site and this has led to accountability problems with regard to those FDLES employees working at one-stop locations. Also cited was the need for a less centralized manner of control over the employees and services provided at one-stop locations. Some respondents reasoned that contracting with other entities will motivate FDLES staff to improve performance. There was concern expressed by some respondents, however, that because the workforce development system has experienced numerous changes by way of budget cuts, reduced services, and the exodus of qualified staff at FDLES, it may be too soon to assess the real problems and possible solutions. Two respondents warned against contracting out services without a review of the level of services needed and a corresponding commitment to funding.

Authority to contract for employment services at the local level regarded as very important

Nine of the respondents to the survey felt that it was "very important" and two respondents felt that it was "important" to the mission of their respective boards that they have the authority to contract for the delivery of Wagner-Peyser Act services through other merit-staffed local governments or special purpose units of government; another respondent felt that the ability to contract was "somewhat important." Eleven of these respondents were among those respondents who felt that RWDBs should be able to contract for employment services with entities other than FDLES.

Problems facing RWDBs are insufficient funding and lack of control over employment services

While each reporting board is experiencing its own set of unique problems, most report that they need more funding to support direct services and to hire more staff. Only one board reported that it is not currently experiencing any difficulties in the delivery of services under the Act. The other boards responded that, if they had control over Wagner-Peyser funds, they would be able to hire more staff by using the funds to expand existing services and have more authority over personnel decisions concerning FDLES employees. Many of the respondents expressed concern that Wagner-Peyser funds were being used inefficiently through the primary support of administrative costs rather than direct services[3]. Other problems cited were the coordination of resources, integration of services, and the lack of freedom of FDLES managers at the local level to change policies as necessary.

FDLES performance in the delivery of services receives mixed ratings

Six of the responding boards rated the performance of FDLES in the delivery of Wagner-Peyser Act employment services as "poor"; three more rated FDLES as "below average." Some boards explained that FDLES's performance was "average" or "above average" before July 1, 1998. The boards cite changes within the department which reduced supervision and the number of personnel as reasons for the decline in subsequent performance. Some of the respondents specifically referred to morale problems and resistant attitudes among some FDLES employees at one-stop locations. However, six of the regional boards reported that FDLES's performance in their areas is "average" or "above average." Some respondents differentiated between the performance of FDLES at the local and state levels. One respondent rated local FDLES staff above average while rating the state level as "below average." Another respondent felt that FDLES performed very well at the state level in helping the region meet the needs of customers, but that some front-line FDLES staff are not motivated to work in a

[3]As part of a report due on January 31, 2000, the Office of Program Policy Analysis and Government Accountability has been directed to identify, by funding stream, administrative and other costs of FDLES.

customer-based environment. In contrast, two respondents stated that although the FDLES managers in their region do the best they can, guidelines set at the state level make it difficult for them to provide the quality of service necessary to serve customers.

Local community colleges viewed as most effective alternate provider of employment services

Seven respondents advised against delegating authority to contract for delivery of employment services to another governmental agency. Four of these respondents felt that no other governmental agency currently could outperform FDLES in the delivery of employment services and three felt that privatization was best. Nine of the respondents identified other organizations or institutions other than FDLES that they believed would be effective in the delivery of employment services under the Wagner-Peyser Act. While many private entities were identified, community colleges were listed most frequently. There was concern that other governmental entities such as community colleges and local governments would lack either the interest or the expertise necessary to provide the delivery of employment services necessary to serve local communities.

Other Comments from RWDBs

In addition to the responses discussed above, the regional boards offered a variety of other comments relating to the delivery of employment services under Wagner-Peyser. Following are some of those comments, which may provide a basis for policy considerations by the Legislature: have state government make a commitment to assist local communities by providing adequate funding before delegating authority to the local level; make the provision of services performance-based; designate workforce development boards special purpose units of government; maintain strong leadership at the state level even if Wagner-Peyser Act funds are devolved to the local level because services provided under the Wagner-Peyser Act do not lend themselves well to region-by-region policy; privatize some areas as a pilot; require existing FDLES staff to reapply for their jobs and go through the interview screening process; require training on effective customer service, interviewing techniques, and job matching; separate the claims-taking process from the labor exchange/job placement function; and issue requests for proposal to determine which entities will be the most effective providers of employment services.

RECOMMENDATIONS

At the date of submission of this report, a response seeking clarification on the types of personnel lawfully permitted to deliver employment services under the Wagner-Peyser Act was still pending from the U. S. Department of Labor (USDOL). Because Wagner-Peyser Act funds may be jeopardized if employment services are administered in derogation of federal requirements, and because there remains some ambiguity in the applicable federal regulations and in correspondence from the USDOL regarding the involvement of merit-staff employees in the delivery of these services, this report does not, at this time, make specific recommendations with respect to statutory action necessary to effectuate the implementation of a plan to devolve employment services at the local level.

It is recommended, however, that committee staff be directed to analyze the response from USDOL once it is received and report back to the committee on policy options. It is also recommended that the Legislature solicit ongoing input from USDOL if lawmakers decide to pursue legislation calling for an alternative delivery of employment services. Further, it is recommended that, in evaluating policy options in this area, the Legislature give consideration to the technical ability and desire of other providers, such as local merit staff agencies, to deliver employment services.

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