

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 252

SPONSOR: Commerce and Economic Opportunities Committee and Senator Kirkpatrick

SUBJECT: Workforce Development

DATE: March 18, 1999                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Schmeling</u>	<u>Maclure</u>	<u>CM</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

## I. Summary:

This committee substitute provides specifications for Florida’s implementation of the federal Workforce Investment Act of 1998, consolidates Florida statutes regarding workforce development in a distinct part of the statutes, and reauthorizes language from the Workforce Florida Act of 1996 inadvertently omitted from current law. Specifically, the major provisions of the committee substitute:

- Transfer administration of employment services from the Department of Labor and Employment Security to the regional workforce development boards.
- Provide for Intensive Service Accounts and Individual Training Accounts based on an implementation plan, including identification of initially eligible training providers, transition guidelines, and criteria for use of these accounts by the Workforce Development Board. Regional workforce development boards, in consultation with training providers, must establish a fair market purchase price for each training program to be paid through an Individual Training Account.
- Provide that the membership composition of the Workforce Development Board and regional workforce development boards must be in compliance with the federal Workforce Investment Act.
- Provide that the Workforce Development Board will contract with an administrative entity for the disbursement of Workforce Investment Act funds, including Rapid Response funds, to the regional workforce development boards.
- Provide for the allocation of Workforce Investment Act funds, including ten percent of youth funding which must be used as performance payments for public schools’ dropout prevention programs

This committee substitute amends ss. 446.601, 446.604, 288.9620, 446.602, 446.607, 446.603, 288.901, 288.902, and 414.026; creates ss. 288.9956, 288.9957, 288.9958, and 288.9959; and repeals ss. 446.20, 446.205, 446.605, and 446.606, Florida Statutes.

## II. Present Situation:

The federal Workforce Investment Act of 1998, Pub. L. No. 105-220 (WIA), replaces the Job Training Partnership Act and rewrites federal law governing job training, adult education and literacy, and vocational rehabilitation. The act is an effort designed to improve coordination among these programs and the workforce development system. Of particular interest, this act:

- ▶ Requires states to establish State Workforce Investment Boards to develop state plans and carry out other activities;
- ▶ Requires states to establish Local Workforce Investment Boards which, in partnership with local elected officials, are responsible for planning and overseeing the local program. The board is responsible for developing the local plan to be submitted to the Governor for approval, designating local one-stop operators, designating eligible providers of training services, negotiating local performance measures, and assisting in developing an employment statistics system;
- ▶ Establishes the one-stop delivery system as the access point for employment-related and training services. Local boards established in this act are responsible for the selection of one-stop center operators through a competitive process or may designate a consortium of not less than three partners to operate a one-stop center. One-stop operators may be a public or private entity, or a consortium of such entities, including postsecondary educational institutions, the Employment Service authorized under the Wagner-Peyser Act, private for-profit or not-for-profit entities, government agencies, one-stop partners, or other organizations. One-stop partners must provide core services through the one-stop, including programs authorized under the Wagner-Peyser Act; the Adult Education and Literacy title of the WIA; the Vocational Rehabilitation Act; the Welfare-to-Work grants; title V of the Older Americans Act; postsecondary vocational education under the Perkins Act; Trade Adjustment Assistance; veterans employment services under chapter 41 of title 38, U.S.C.; unemployment compensation laws; Community Service Block Grants; and employment and training activities carried out by the Department of Housing and Urban Development;
- ▶ Consolidates summer and year-round youth programs now operated under the Job Training Partnership Act; and
- ▶ Expands eligibility for "Work-Flex" (currently authorized in Florida) to all states.

States must implement the new workforce investment programs by July 1, 2000, or by July 1, 1999, for states wishing to implement early. Florida's and other states' responsibilities with respect to this act should be further clarified after the U.S. Department of Labor issues interim final regulations, which were expected to be released in February 1999.

Florida's workforce development system was largely structured by the Workforce Florida Act of 1996 (ss. 446.601-446.607, F.S.) and in many ways is consistent with the newly passed federal legislation. 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. Since 1991, Florida

has piloted efforts to convene services for Floridians at One-Stop Centers. Early efforts co-located and cross-trained unemployment compensation and job service staff members of the Department of Labor and Employment Security. At sites around the state, various service providers have been housed under the same roof for customer convenience.

Also consistent with the WIA is the Workforce Development Board (s. 288.9620, F.S.), a not-for-profit public-private board that is responsible for designing, coordinating, and evaluating Florida's workforce development system. The Workforce Development Board serves as the federally required Human Resource Investment Council, overseeing job training programs funded through the federal Job Training Partnership Act. The board charters and monitors 24 regional workforce development boards (s. 446.602, F.S.) that coordinate local workforce development activities, designate training service providers, and develop local plans under the Job Training Partnership Act.

The Workforce Development Board set in motion the planning process for implementing the Workforce Investment Act of 1998 (WIA), during its December 3, 1998, board meeting. The WIA Design Committee was appointed and directed to develop decision points for implementing the WIA. Once developed, these decision point recommendations were brought before the board for discussion, modification, and adoption.

Section 6 of ch. 96-404, L.O.F., amended s. 288.0475, F.S., charging the Workforce Development Board with establishing uniform measures and standards in a three-tier system. The measures and standards are designed to gauge the performance of the workforce development system.

During the 1996 legislative session, the Legislature also passed CS/SB 958 (ch. 96-320, L.O.F.), which amended s. 288.0475, F.S., and transferred the section, renumbering it as s. 288.9620, F.S. When the 1996 Supplement to the Florida Statutes was issued, s. 6, ch. 96-404, L.O.F., was listed in a footnote to s. 288.9620, F.S. In discussions with the Division of Statutory Revision, staff determined that the original failure to incorporate the provisions of section 6 into the text of s. 288.9620, F.S., was probably associated with the renaming of the Enterprise Florida Jobs and Education Partnership as the Workforce Development Board.

In 1997, s. 288.9620, F.S., was amended by CS/SB 1754 (s. 42, ch. 97-278, L.O.F.). Statutory Revision determined that since the same section was amended, and the language in the 1997 bill was drafted to the language text of the statute, as opposed to the footnote, that the Legislature's last expression of its will was to "adopt" the language selected by statutory revision for placement in the statute and reject the language from s. 6, ch. 96-404, L.O.F. Thus, the 1997 version of the statutes omits the footnote, which contains, among other changes, the performance measurement system for the workforce development system.

Traditionally, the Legislature passes an "adoption act" biennially in every odd numbered year to adopt the Florida Statutes as published as the will of the Legislature. Because in 1997 the Legislature passed Senate Bill 424, adopting the 1997 Statutes as law, s. 6, ch. 96-404, no longer has the power of law.

The 1997 Interim Project on Florida's Job Training Programs (Report No. 97-13) prepared by the Senate Committee on Commerce and Economic Opportunities made the following recommendations relating to workforce development:

**Recommendation One:** Agencies and organizations responsible for job training functions should be required to develop Tier 3 measures (as described in the Workforce Development Act of 1996). Such measures should be developed in accordance with federal reporting standards for the program, if applicable. Measures used in performance-based budgeting could be used as third-tier measures.

**Recommendation Two:** Tier 1, Tier 2, and Tier 3 measures and annual performance should be provided annually to the Legislature in the form of an annual report on workforce development. Staff is recommending that this report be provided by the Workforce Development Board by October 15th of each year.

**Recommendation Three:** Benchmarking against other states, using the best practice approach, should be done at all tiers, the results of which would be included in the Workforce Development Board's annual report to the Legislature. Benchmarking within the state's workforce components (regional workforce development boards, local WAGES coalitions) is also encouraged as part of the state's workforce strategy.

A recent report by the Office of Program Policy Analysis and Government Accountability (Report No. 98-34) recommended that the Legislature clearly articulate the expectations of the Workforce Development Board, including prescribed sanctions and disincentives for major workforce partners that do not comply with statutory requirements. The report also cited that the Workforce Development Board has suffered a shift in focus from preparing people for high skill/high wage occupations to accommodating the work first philosophy of welfare reform. Additionally, the report indicated that multiple agencies, programs, and funding streams contribute to this loss of focus on high skill/high wage.

### III. Effect of Proposed Changes:

This committee substitute provides specifications for Florida's implementation of the federal Workforce Investment Act of 1998 (WIA), consolidates Florida statutes regarding workforce development in a distinct part of statute, and reauthorizes language from the Workforce Florida Act of 1996 inadvertently omitted from current law.

**Section 1** designates ss. 288.9950, 288.9951, 288.9952, 288.9953, 288.9954, 288.9955, 288.9956, 288.9957, 288.9958, and 288.9959, F.S., as part XI of ch. 288, and requests statutory revision to designate that part "Workforce Development."

**Section 2** transfers, renumbers, and amends s. 446.601, F.S., to s. 288.9950, F.S., to correct cross references and clarify Florida's workforce development strategy. This section combines the strategic components of Welfare-to-Work and School-to-Work to create the First Jobs/First Wages workforce development strategy. The High-Skills/High Wages strategy is clarified, and the One-Stop Career Centers strategic component is relocated to a newly created one-stop section.

**Section 3** transfers, renumbers, and amends s. 446.604, F.S., to s. 288.9951, F.S., to provide for the establishment of One-Stop Career Centers as the state's customer service delivery mechanism. Required one-stop partners, in addition to those mandatory partners specified in the WIA, include food stamp and WAGES/TANF programs. The partners are prohibited from operating independently of the one-stops without approval of regional workforce development boards (RWDBs), and services provided by partners which are not physically located in a one-stop must be approved by the RWDB.

RWDBs are directed to provide oversight to local one-stops and designate one-stop operators. These boards may retain current one-stop operators without further procurement action where the board has established a one-stop that complies with state and federal law. Each one-stop will be certified by the Workforce Development Board (WDB) pursuant to a process developed by the Workforce Development Board.

By October 1, 1999, RWDBs must contract for the delivery of, through One-Stop Career Centers, employment services authorized under Wagner-Peyser. The Workforce Development Board may direct the Department of Labor and Employment Security (DLES) to provide services and assign or lease staff to RWDBs when needed to maintain compliance with state and federal law. When local employment services are provided by DLES, management of those services rests with the one-stop operator. Priority consideration for employment by the RWDB's one-stop operators must be given to state employees laid off as a result of this committee substitute.

Memorandums of Understanding must be executed between the RWDB and one-stop partners. One partner's failure to participate may not block the participation of others, and non-participatory partners may be subject to sanctions as recommended by the WDB.

Core services must be provided to a maximum extent by electronic means through existing systems and libraries. The WDB must develop a centralized help center to assist the RWDBs provide core services electronically.

Intensive services and training must be provided through Intensive Service Accounts and Individual Training Accounts (ITAs). The WDB must develop an implementation plan, including identification of initially eligible training providers, transition guidelines, and criteria for use of these accounts.

ITAs must be performance-based, and expended on programs for high-wage, high-demand occupations. RWDBs, in consultation with training providers, must establish a fair market purchase price for each training program to be paid through an ITA. The WDB must review pricing schedules and recommend process improvement changes to the Legislature. Training providers must attempt to use funds other than those provided under the WIA, and a performance measure relating to this directive must be developed.

**Section 4** transfers, renumbers, and amends s. 288.9620, F.S., to s. 288.9952, F.S., designating the WDB as the entity to serve as the state's Workforce Investment Board pursuant to the WIA. Board membership and appointment must be consistent with the WIA; the board must incorporate 25 voting members; and, pursuant to the WIA, the chair of the board must be designated by the Governor.

The WDB is authorized to appoint committees to fulfill the board's responsibilities, to comply with federal requirements, or to obtain technical assistance, and the WDB committees must include members of RWDBs.

Each member of the WDB who is not required to file a financial disclosure pursuant to s. 8, Art. II of the State Constitution or s. 112.3144, F.S., is required to file disclosure of financial interests pursuant to s. 112.3145, F.S.

The WDB is authorized to recommend to the Governor and the Legislature sanctions for non-complaint agencies, and for agencies obstructing the WDB's efforts. Sanctions that the Governor and Legislature may impose must be enforced by the Office of the Governor.

Performance-based incentive funds must be carried forward to the next fiscal year and must be awarded for the current year's performance, unless federal law specifies otherwise.

The reporting of workforce development performance measures by the WDB is reauthorized, requiring the reporting of measures and standards by the agencies implementing programs, and requiring Florida's performance measures to be benchmarked against similar measures of other states.

**Section 5** transfers, renumbers, and amends s. 446.602, F.S., to s. 288.9953, F.S., designating regional workforce development boards as the entities to serve as the state's local workforce investment boards pursuant to the WIA. The section provides that board membership must be consistent with the WIA. Board members are prohibited from voting on matters under consideration by the board regarding the provision of services by that member, or by an entity that the member represents, or that would provide direct financial benefit to the member or a member's family member. The WDB must develop the time lines and manner of changes to RWDBs as required by state and federal law, and must meet annually with RWDBs to ensure compliance with state and federal law.

The section further conforms the RWDBs' local plan submission to federal law; requires RWDBs to oversee and manage one-stops; authorizes RWDBs to appoint working groups; and establishes regional high skill/high wages committees, providing for membership and duties.

**Section 6** transfers, renumbers, and amends s. 446.607, F.S., to s. 288.9954, F.S., conforming cross references and citing applicable federal law.

**Section 7** transfers, renumbers, and amends s. 446.603, F.S., to s. 288.9955, F.S., conforming cross references, and expanding the Untried Worker Placement and Employment Program from a time-limited pilot to statewide program for WAGES participants.

**Section 8** creates s. 288.9956, F.S., establishing principles for implementation of the WIA. The WDB is required to prepare a 5-year plan (to include secondary vocational education) for early implementation of the WIA. Mandatory and optional federal partners must be involved in development of the plan and any partner choosing to be included in the plan will satisfy all state planning and reporting requirements as they relate to one-stops. All optional partners must be mandatory participants in the second year.

The 5-year plan must dictate administration, expenditure, and coordination of WIA funds, Wagner-Peyser funds, and funds allocated under the NAFTA/Trade Act. The WDB must contract with an administrative entity for the disbursement of WIA funds, including Rapid Response funds, to the RWDBs.

Unless a RWDB obtains a waiver, at least 50 percent of pass through Adult/Dislocated WIA Title I funds must be used for ITAs. Tuition, fees, performance-based incentive awards, as well as other programs, qualify as an ITA expenditure.

Twenty-five percent of Wagner-Peyser funds must be spent on Intensive Service Accounts, unless the RWDB obtains a waiver. Except where prohibited by federal law, or approved by the WDB, all core services provided under the WIA must be funded with Wagner-Peyser funds.

Fifteen percent of the state WIA Title I funds must be retained at the state level and must be used for administration, and to design, develop, induce, and fund innovative ITA accounts, pilots, demonstrations, and programs. Administration costs may not exceed twenty-five percent of these funds and may include: funding the WDB; operating fiscal, compliance, and management accountability systems through the WDB; conducting evaluation and research on workforce development activities; and providing technical and capacity building assistance. Seventy percent of these funds must be dedicated to ITAs for the Minority Teacher Education Scholars Program, Certified Teacher-Aide Program, Self-employment Institute, and others. The WDB must design, adopt, and fund ITAs for distressed urban and rural communities. The remaining five percent must be dedicated to an Incumbent Workers Training Program, to be administered by a private business organization.

At least 50 percent of Rapid Response funds must be dedicated to Intensive Service Accounts and ITAs for dislocated and incumbent workers. The WDB must also maintain an emergency preparedness fund from these funds to assist victims of natural or other disasters. A limited amount of Rapid Response funds are to be retained at the state level for statewide activities. Rapid Response funds will be expended based on a plan developed by the WDB.

The WDB is authorized to provide indemnification from audit liabilities to RWDBs that are in compliance with state law and the WDB's policies. The WDB is also authorized to negotiate and settle certain outstanding issues with the U.S. Department of Labor, and close out all grants relating to JTPA.

The WDB is authorized to make modifications to the state plan to comply with the WIA.

DLES must phase down JTPA duties before the repeal of that act July 1, 2000.

The WDB may and the Office of Program Policy Analysis and Government Accountability must, by December 31, 1999, review the workforce development system, and make recommendations on consolidation, elimination, or privatization of workforce development components.

The Department of Education and Department of Elder Affairs may keep any unexpended JTPA funds to closeout education and coordination activities. The agencies may negotiate with RWDBs for continuation of activities and services.

**Section 9** creates s. 288.9957, F.S., designating membership and duties of the Florida Youth Workforce Council and regional youth workforce councils. Ten percent of youth funding must be used as performance payments for public schools' dropout prevention programs.

**Section 10** creates s. 288.9958, F.S., creating and prescribing membership for the Employment, Occupation, and Performance Information Coordinating Committee to integrate workforce performance information. The departments of Labor and Employment Security, Education, and Children and Family Services may be directed by the WDB to provide necessary services or staff.

**Section 11** creates s. 288.9959, F.S., creating and prescribing membership for the Operational Design and Technology Procurement Committee to align the technology of one-stops throughout the state. The departments of Labor and Employment Security, Education, and Children and Family Services may be directed by the WDB to provide necessary services or staff.

**Section 12** amends s. 288.901, F.S., conforming a cross reference.

**Section 13** amends s. 288.902, F.S., deleting an obsolete reference to the WDB nominating process.

**Section 14** amends s. 414.026, F.S., conforming a cross reference.

**Section 15** repeals, effective June 30, 2000, s. 446.20, F.S., providing for administration of the Job Training Partnership Act; s. 446.205, F.S., providing for the Job Training Partnership Act drop-out prevention program; s. 446.605, F.S., providing for applicability of the Workforce Florida Act of 1996; and s. 446.606, F.S., providing for the designation of primary service providers by RWDBs.

**Section 16** provides that this act shall take effect upon becoming a law.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

An indeterminate amount of savings should result from the ability of regional workforce development boards to assume responsibility and contract for employment services at the local level.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.