

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 1622

SPONSOR: Commerce and Economic Opportunities Committee and Senator King

SUBJECT: Workforce Development

DATE: April 6, 2001                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gillespie	Maclure	CM	Favorable/CS
2.	_____	_____	ED	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

## I. Summary:

Committee Substitute for Senate Bill 1622 allows grant funds awarded under the Workforce Development Capitalization Grant Program to be used to upgrade existing workforce development programs operated by school districts and community colleges. The committee substitute permits grant funds to be used to pay recurring instructional costs of new and expanding programs if approved by the Postsecondary Education Planning Commission.

The committee substitute exempts students in vocational certificate programs of less than 450 hours from taking a basic skills examination within six weeks after admission in the program and allows students in all programs, regardless of length, to demonstrate the required basic skills by passing a state, national, or industry licensure or certification examination. The committee substitute further exempts, from both the initial testing and the required demonstration of basic skills, students in registered apprenticeship programs, students with disabilities, and students who possess an associate in applied science or associate in science degree. In addition, the committee substitute delays by one year a study and report about programs that provide on-the-job training in skilled trades.

This committee substitute substantially amends sections 239.213 and 239.514, Florida Statutes.

## II. Present Situation:

### Workforce Development Capitalization Incentive Grant Program

In 1998, the Legislature created the Workforce Development Capitalization Incentive Grant Program in order to provide grants to school districts and community colleges on a competitive basis to fund some or all of the costs associated with the creation or expansion of workforce

development programs that serve specific employment workforce needs.<sup>1</sup> To evaluate the grant proposals, the Legislature directed the Postsecondary Education Planning Commission (commission), in consultation with the Jobs and Education Partnership,<sup>2</sup> the Department of Education, and the State Board of Community Colleges, to accept, review, and rank in priority order applications for grant awards under the program. Under the Workforce Innovation Act of 2000 (act),<sup>3</sup> the Legislature further directed the commission to give priority to:<sup>4</sup>

- Programs that train people to enter high-skill, high-wage occupations identified by the Workforce Estimating Conference<sup>5</sup> and other programs approved by Workforce Florida, Inc. (WFI);
- Programs that train people to enter occupations under the welfare transition program; or
- Programs that train for the workforce adults who are eligible for public assistance, economically disadvantaged, disabled, not proficient in English, or dislocated workers.

In addition, the commission must consider the statewide dispersion of grant funds in ranking applications and must give priority to institutions that make maximum use of their workforce development funding by offering high-performing, high-demand programs.<sup>6</sup>

During the 2000 Regular Session, the Legislature provided \$8,429,184 to fund the grant proposals recommended by the commission.<sup>7</sup> These funds provided grants to 33 programs ranked by the commission. Two-thirds of the funded programs received a grant of \$200,000 per program. A consortium of one community college and two school districts received \$600,000,

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<sup>1</sup> Chapter 98-58, L.O.F.; s. 239.514, F.S.

<sup>2</sup> Under the Workforce Innovation Act of 2000, reference to the former Jobs and Education Partnership was replaced by reference to Workforce Florida, Inc. *See* ch. 2000-165, L.O.F.

<sup>3</sup> Chapter 2000-165, L.O.F.

<sup>4</sup> Section 239.514(3), F.S.

<sup>5</sup> The Workforce Estimating Conference, which replaced the Occupational Forecasting Conference, is composed of the Commissioner of Education; the Executive Office of the Governor; the director of the Office of Tourism, Trade, and Economic Development; the director of the Agency for Workforce Innovation; the Chancellor of the State University System; the Executive Director of the State Board of Community Colleges; the chair of the State Board of Nonpublic Career Education; the chair of Workforce Florida, Inc.; the coordinator of the Office of Economic and Demographic Research, or their designees; and professional staff from the Senate and the House of Representatives who have forecasting and substantive expertise. In addition to these designated principals of the conference, nonprincipal participants of the conference include a representative of the Florida Chamber of Commerce and other interested parties. The principal representing the Executive Office of the Governor presides over the conference. Section 216.136(9)(b), F.S.

<sup>6</sup> Section 239.514(3), F.S.

<sup>7</sup> Proviso para. 4, Specific Appropriation 134A, *General Appropriations Act FY 2000-2001*, ch. 2000-166, L.O.F. (“The remaining funds in Specific Appropriation 134A are provided for Workforce Development Capitalization Incentive Grants pursuant to the procedures established in s. 239.514, Florida Statutes. These funds should be allocated based on the scores received on the list of Workforce Development Capitalization Incentive Grants which was approved by the Postsecondary Education Planning Commission on February 18, 2000, with the exception that no funds are provided for grants for Adult Basic Education. Funds should be distributed at the Postsecondary Education Planning Commission recommended award amounts beginning with the highest scored proposals until all available remaining funds are exhausted.”)

the single-largest grant. Eight other programs, each a consortium of a community college and a school district, received grants in the \$400,000 range.<sup>8</sup>

Under current law, the grants may be used for instructional equipment, laboratory equipment, supplies, personnel, student services, or other expenses associated with the creation or expansion of a workforce development program.<sup>9</sup> The grants funds may not be used to pay recurring instructional costs or for an institution's indirect costs. To use funds for expansion of a program, the program must expand enrollment in the program or expand into new areas of specialization within the program. Thus, the grant program provides the initial startup costs when creating new workforce development programs and funds the expansion of high-performing, high-demand programs. After the creation or expansion of a workforce development program, the grant program does not provide subsequent operational funding.

### **Workforce Development Education Funding**

In 1997, the Legislature changed how workforce development programs are funded in this state.<sup>10</sup> Previously, funds were provided to school districts under the Florida Education Finance Program and to community colleges under the Community College Program Fund.<sup>11</sup> The 1997 law created the Workforce Development Education Fund and used a funding formula to determine how all workforce development programs are funded.<sup>12</sup> The funding formula is based upon the cost of instruction by program category, performance output measures (program completion), and performance outcome measures (placement of students in employment).<sup>13</sup> School district programs are funded the same way that community college programs are funded, and no restrictions are placed upon which sector may offer programs, except that courses for college credit toward an associate-in-science degree may only be offered by a community college.<sup>14</sup> The Workforce Development Education Fund provides funding in four major cost categories:<sup>15</sup>

- Adult general education (school districts and community colleges),
- Vocational certificate programs (school districts and community colleges),
- Associate in science degrees and certificates (community colleges), and
- Continuing workforce education (school districts and community colleges).

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<sup>8</sup> Postsecondary Educ. Planning Comm'n, *Workforce Development Capitalization Incentive Grants, 2000-01, Funded*, available at <http://www.firn.edu/pepc/pdf/rec2000.pdf> (last modified July 10, 2000).

<sup>9</sup> Section 239.514(1), F.S.

<sup>10</sup> Section 18, ch. 97-307, L.O.F.

<sup>11</sup> *Id.*; Postsecondary Educ. Planning Comm'n (PEPC), *Workforce Development Funding Issues 6* (Dec. 2000).

<sup>12</sup> Section 239.115(4), F.S.

<sup>13</sup> *Id.*

<sup>14</sup> Section 239.115(2), F.S.

<sup>15</sup> Section 239.115(1), F.S.; PEPC, *supra* note 11, at 7.

Under current law, workforce development programs may receive no more than 85 percent of their state funding as base funding.<sup>16</sup> The remaining 15 percent is generated from performance funding. The funding formula uses a point system that allocates funding based upon student performance – completion and placement.

### **Program Standards and Industry-Driven Benchmarks**

In the Workforce Innovation Act of 2000 (act), the Legislature recognized that workforce development programs change frequently. It required these programs to be reviewed and the program standards be revised every three years.<sup>17</sup> These program standards must include technical, academic, and workplace skills; viability of distance learning for instruction; and work/learn cycles that are responsive to business and industry.<sup>18</sup> The act also requires the High Skills/High Wage committee<sup>19</sup> of each regional workforce board to annually report to WFI. These reports identify the occupations in the region deemed critical to business retention, expansion, and recruitment activities.<sup>20</sup> The guidelines established by WFI for identifying targeted occupations must include research of the workforce needs of private employers in the region, in consultation with the local chambers of commerce and economic development organizations.

To review the workforce development programs offered by school districts under this three-year cycle, the Division of Workforce Development (division) within the Department of Education has established statewide technical advisory committees consisting of business and industry representatives. The committees review the curriculum frameworks for each program and provide input on how the programs should be updated to reflect market trends and competencies needed in the workforce. Each committee is facilitated by a state supervisor within the division using the DACUM<sup>21</sup> (developing a curriculum) technique. This technique is a form of occupational analysis involving facilitated brainstorming sessions with local workers that have reputations as being top performers and experts in their respective fields. These workers are recruited directly from business and industry to serve on a short-term committee that analyzes the competencies needed for success in the field. The committees also incorporate national

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<sup>16</sup> Section 239.115(7), F.S.

<sup>17</sup> Sections 67 & 71, ch. 2000-165, L.O.F.; PEPC, *supra* note 11, at 16; *see also* ss. 239.229(2)(c)4. & 240.312, F.S.

<sup>18</sup> Section 239.229(2)(c)4., F.S.

<sup>19</sup> The High Skills/High Wages committee of each regional workforce board is composed of at least five private-sector business representatives appointed in consultation with local chambers of commerce by the county economic development organization in the region, as identified by Enterprise Florida, Inc.; a representative of each primary county economic development organization in the region; the regional workforce board chair; the president of each community college in the region; each district school superintendent overseeing workforce development programs in the region; and two representatives from nonpublic postsecondary educational institutions that are authorized individual training account providers in the region, appointed by the chair of the regional workforce board. Section 445.007(7), F.S.

<sup>20</sup> Section 7, ch. 2000-165, L.O.F.; s. 445.007(7)(b), F.S.; PEPC, *supra* note 11, at 16.

<sup>21</sup> *See* Center on Educ. & Training for Employment at Ohio State Univ., *The DACUM Process*, at <http://www.interlynx.net/archway/ohio/dacumpro.htm> (last modified Nov. 12, 1999).

standards, state regulatory requirements, and comments from professional associations into the curriculum frameworks.

To review the workforce development programs offered by community colleges under the three-year cycle, the State Board of Community Colleges developed the sector strategy initiative. Through this initiative, consortia of community colleges are selected using a competitive bid process. The requests for proposals used to select the consortia give priority to consortia that are geographically diverse, that engage business and industry partners, that include partnerships with state universities and other four-year institutions, and that have prior experience in curriculum development.<sup>22</sup> These consortia are composed of three to four community colleges, each directed by a lead community colleges. The consortia use similar techniques to those implemented by the Division of Workforce Development, including the DACUM process, to develop curriculum frameworks for the workforce development programs offered by community colleges, including the associate-in-science degree programs.

### **Recommendations by the Postsecondary Education Planning Commission**

In the General Appropriations Act for FY 2000-2001, the Legislature directed the Postsecondary Education Planning Commission (commission), in consultation with the State Board of Community Colleges and the Department of Education, to submit a report to the Governor and Legislature that prescribes a procedure that facilitates community colleges and school districts to start new workforce development programs by using existing workforce funds without putting performance earnings at risk.<sup>23</sup> In response, the commission conducted a study and published a report in December 2000, *Workforce Development Funding Issues*. In the report, the commission found that the Workforce Development Capitalization Incentive Grant (grant) could only be used for one-time nonrecurring funds. Thus, the commission found, “institutions are forced to cannibalize other programs in order to keep the new program operational.”<sup>24</sup> The commission concludes that “new recurring funds [are] the only realistic option to perpetuate new programs.”<sup>25</sup>

The report also included the commission’s recommendation:<sup>26</sup>

The Workforce Development Capitalization Incentive Grant Program should continue to support responsiveness to the State’s priority workforce training needs

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<sup>22</sup> State Bd. of Community Colleges, *Sector Strategies: Updating A.S. Degrees*, PowerPoint Presentation, Slide 4 (n.d.).

<sup>23</sup> Proviso para. 5, preceding Specific Appropriation 153, ch. 2000-166, L.O.F. (“The Postsecondary Education Planning Commission, in consultation with the State Board of Community Colleges and the Department of Education shall submit to the Governor, the Speaker of the House of Representatives, and the President of the Senate, the following reports: .... 2. By December 31, 2000, a procedure within the workforce development education funding formula process developed pursuant to section 239.115, Florida Statutes, that will facilitate community colleges and school districts starting new programs by using existing workforce funds without putting performance earnings at risk.”)

<sup>24</sup> Postsecondary Educ. Planning Comm’n (PEPC), *Workforce Development Funding Issues* 16 (Dec. 2000).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.* at 30.

with the following modifications. In addition to new, emerging, and expanding programs, funds should be available for upgrading existing program curriculum and equipment consistent with standards established in s. 239.229, F.S.[,] with business and industry input. Funds should also be available to support operating costs of new programs for an additional year prior to inclusion in an institution or district base subject to state level review and approval. Each school district and community college should be allowed to submit requests for the above purposes for up to three programs annually within a funding parameter established by the Legislature, the State Board of Education and the Department of Education.

Thus, the commission recommended that school districts and community colleges be allowed to use grant funds for upgrading existing workforce development programs based upon the program standards and industry-driven benchmarks developed during the three-year review cycle. The commission also recommended that grant funds should be able to be used for recurring instructional costs for an additional year after a new workforce development program is established.

### **Vocational Certificate Programs**

Vocational certificate programs are one of the types of workforce development programs that are funded through the Workforce Development Education Fund. There are currently more than 250 vocational certificate programs offered in this state.<sup>27</sup> Like other workforce development programs, vocational certificate programs may be offered by school districts and community colleges.<sup>28</sup> When a student satisfactorily completes a vocational certificate program, the student is awarded a vocational certificate.<sup>29</sup> Vocational certificates are awarded by the community college or school district that provided the instruction. Under current law, if a student wishes to continue his or her education by entering a degree vocational education program, which leads to an associate in applied science degree or an associate in science degree (college credit),<sup>30</sup> the student may be eligible to receive college credit for the vocational certificate.<sup>31</sup> After a student completes a vocational certificate program, in order to be employed in the profession for which the vocational training was provided, many students are also required to complete a state, national, or industry licensure or certification examination. Of the current vocational education programs, there are 57 programs (about 23 percent) which require these licensure or certification examinations.<sup>32</sup>

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<sup>27</sup> Division of Workforce Development, Florida Dep't of Education, *2001-2002 Postsecondary Programs with Standard Program Length and Occupational Completion Points* (Mar. 9, 2001).

<sup>28</sup> Section 239.115(2), F.S.

<sup>29</sup> Rule 6A-14.030(7), F.A.C.

<sup>30</sup> See s. 239.105(15), F.S.

<sup>31</sup> See s. 239.105(23), F.S.

<sup>32</sup> Division of Workforce Development, Florida Dep't of Education, *Licensure Programs* (Apr. 5, 2001).

When a student completes a vocational certificate program, the community college or school district that provided the instruction earns occupational completion points. These points are used to award performance funding to the educational institution under the Workforce Development Education Fund.<sup>33</sup>

### **Required Basic Skills for Vocational Certificate Programs**

Within the first six weeks after admission into a vocational certificate program, each student is required under current law to take an entry-level examination to assess the student's mastery of basic skills.<sup>34</sup> The State Board for Career Education (state board)<sup>35</sup> designates which examinations may be administered by community colleges and school districts. The state board has designated that five tests may be used:<sup>36</sup>

- Adult Measure of Essential Skills, 1997.
- Computerized Placement Test or Multiple Assessment Placement Service, where authorized.
- Tests of Adult Basic Education, Complete Battery or Survey Form, Forms 7 and 8, 1994.
- Tests of Adult Basic Education – Work Related, 1994.
- Wonderlic Basic Skills Test, 1994.

Of these examinations, the Tests of Adult Basic Education (TABE) is the most common examination administered by school districts and community colleges in this state. If a student's scores on the examination demonstrate that he or she lacks the minimum level of basis skills adopted by the state board,<sup>37</sup> the student is referred to a program for remedial basic skills instruction.<sup>38</sup> After a student completes the remedial program, the student is retested.<sup>39</sup> The student must demonstrate mastery of the basic skills by scoring at least the minimum levels on the examination in order to receive a certificate of vocational program completion.<sup>40</sup> The basis skills provide minimum competencies by grade level in mathematics, language, and reading. The current minimum grade levels vary by vocational program, but range between an eighth and

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<sup>33</sup> See s. 239.115(7), F.S.

<sup>34</sup> Section 239.213(2), F.S.

<sup>35</sup> The State Board of Education (Governor and Cabinet) sits as the State Board for Career Education. Section 229.053(2)(k), F.S. (the State Board of Education constitutes the State Board of Career Education); see also s. 2, Art. IX of the State Constitution (the Governor and Cabinet constitute the State Board of Education).

<sup>36</sup> Rule 6A-10.040(1), F.A.C.

<sup>37</sup> See s. 239.213(1), F.S. (“The State Board for Career Education shall adopt, by rule, standards of basic skill mastery for [vocational certificate] programs.”)

<sup>38</sup> Section 239.213(2), F.S.; rule 6A-10.040(3), F.A.C.

<sup>39</sup> Rule 6A-10.040(4), F.A.C.

<sup>40</sup> *Id.*; s. 239.213(2), F.S.

twelfth-grade level.<sup>41</sup> The average minimum across all programs is about a ninth-grade level. Thus, most students are expected to read, write, and calculate mathematically on about a ninth-grade level. The following students may be exempted from taking the basic skills examination or completing remedial instruction:<sup>42</sup>

- Exceptional students. The term “exceptional student” means any child or youth who has been determined eligible for a special program in accordance with rules of the Commissioner of Education or the State Board of Education. The term “exceptional students” includes students who are gifted and students with disabilities who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, hospital and homebound, autistic, developmentally delayed children, ages birth through five years, or children with established conditions, ages birth through two years.<sup>43</sup>
- A student who possesses an associate in arts, baccalaureate, or graduate-level degree.
- A student who completed the College-Level Academic Skills Test (CLAST).<sup>44</sup>
- A student who is exempt from the CLAST, that is, any student who fulfills one or more of the following:
  - o Scores above the minimum score on the Scholastic Achievement Test (SAT), the Enhanced American College Testing Program (ACT), or the equivalent on the original ACT.<sup>45</sup>
  - o Achieves a cumulative grade point average of 2.5 or above, on a 4.0 scale, in specified postsecondary-level coursework which demonstrates successful remediation in areas where the student’s scores were below the minimum scores required on the CLAST.

These exemptions are permissive; thus, the community college or school district has discretion to exempt a student or require testing and remediation.

Before 1997, the State Board for Career Education was responsible for adopting standards for mastery of basic skills in vocational certificate programs of less than 1,800 hours. In addition,

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<sup>41</sup> Division of Workforce Development, Florida Dep’t of Education, *PSAV Programs Minimum Basic Skills Grade Levels* (n.d.).

<sup>42</sup> Section 239.213(3), F.S.

<sup>43</sup> See s. 228.041(18), F.S. (provides definition of the term “exceptional student”).

<sup>44</sup> Section 239.213(3), F.S., exempts “[a] student ... who has completed the college-level communication and computation skills examination pursuant to s. 240.107, [F.S.]” Rule 6A-10.0311(3), F.A.C., specifies that the College-Level Academic Skills Test (CLAST) is the instrument referenced in s. 240.107, F.S. See also s. 229.551(3)(h), F.S. (section 240.107(1), F.S., references the examination in s. 229.551, F.S.).

<sup>45</sup> Section 240.107(9)(a), F.S., exempts a student from taking the CLAST if he or she “[a]chieves a score that meets or exceeds a minimum score on a nationally standardized examination, as established by the Articulation Coordinating Committee.” Rules 6A-10.0311(14) & 6A-10.024(14), F.A.C., specify that the Scholastic Achievement Test (SAT), the Enhanced American College Testing Program (ACT), and original ACT establishes these tests as the nationally recognized examinations.

only programs of 450 hours or more were required to administer basic skills examinations. Thus, programs requiring less than 450 hours or requiring 1,800 hours or more were exempt from these basic skills requirements. However, during the 1997 Regular Session, the Legislature removed the 1,800-hour requirement.<sup>46</sup> Less than seven percent of the existing vocational certificate programs equal 1,800 hours or more.<sup>47</sup> During the 1998 Regular Session, the Legislature further revised the law by removing the 450-hour requirement.<sup>48</sup> There are currently 49 vocational certificate programs with program durations of less than 450 hours (almost 20 percent of all programs). (See Table 1 below.) Consequently, the basic skills requirements currently apply to all vocational certificate programs.

**(Table 1) Vocational Certificate Programs with Less than 450 Hours<sup>49</sup>**

<b>Diversified</b>	
Workplace Essentials .....	75 hours
<b>Family and Consumer Services</b>	
Child Care Center Operations.....	45 hours
Environmental Services .....	300 hours
Home and Family Management .....	150 hours
Nutrition and Dietetic Services .....	150 hours
Parenting .....	45 hours
<b>Health Science</b>	
Emergency Medical Technician (Basic).....	330 hours
Emergency Medical Technician (Basic) – ATD .....	250 hours
Hospital Housekeeping Supervision.....	400 hours
Nursing Assistant (Long-Term Care) .....	120 hours
Phlebotomy .....	165 hours
<b>Industrial</b>	
Blueprint Reading and Estimation .....	150 hours
Commercial Class B Driving.....	150 hours
Commercial Vehicle Driving.....	320 hours
Facials Specialty .....	260 hours
Mine Safety and Health.....	24 hours
Nails Specialty .....	240 hours
Occupational Safety and Health Technology .....	40 hours
School Bus Driver Training.....	40 hours
<b>Marketing</b>	
Business Ownership .....	150 hours
Credit Union Services and Marketing.....	300 hours
Health Insurance Marketing.....	40 hours
Insurance Consumer Service Representative .....	100 hours
Insurance General Lines Agent .....	200 hours
Life Insurance Marketing.....	40 hours
Real Estate Marketing.....	135 hours
Teller Operations.....	150 hours

<sup>46</sup> Section 26, ch. 97-246, L.O.F.

<sup>47</sup> Division of Workforce Development, Florida Dep’t of Education, *2001-2002 Postsecondary Programs with Standard Program Length and Occupational Completion Points* (Mar. 9, 2001).

<sup>48</sup> Section 10, ch. 98-58, L.O.F.

<sup>49</sup> Division of Workforce Development, Florida Dep’t of Education, *2001-2002 Postsecondary Programs with Standard Program Length and Occupational Completion Points* (Mar. 9, 2001).

<b>(Table 1 Continued) Vocational Certificate Programs with Less than 450 Hours</b>	
<b>Public Service</b>	
Auxiliary Correctional Officer .....	272 hours
Auxiliary Law Enforcement Officer.....	272 hours
Bail Bonding.....	80 hours
Community Service Officer/Police Service Aide.....	310 hours
Correctional Probation Officer.....	438 hours
Crossover from Correctional Officer to Correctional Probation Officer .....	180 hours
Crossover from Correctional Officer to Law Enforcement Officer .....	286 hours
Crossover from Correctional Probation Officer to Correctional Officer .....	240 hours
Crossover from Correctional Probation Officer to Law Enforcement Officer.....	380 hours
Crossover from Law Enforcement Officer to Correctional Officer .....	156 hours
Crossover from Law Enforcement Officer to Correctional Probation Officer.....	150 hours
Fire Apparatus Operator.....	305 hours
Fire Inspector I .....	200 hours
Fire Instructor.....	80 hours
Fire Investigator I.....	160 hours
Private Security Officer .....	24 hours
Public Safety Telecommunication.....	208 hours
Sign Language Communication.....	150 hours
Solid Waste Disposal Operation.....	140 hours
Specialty Firesafety Inspector.....	40 hours
Wastewater Treatment Technologies.....	405 hours
Water Treatment Technologies .....	405 hours

**Apprenticeship Training**

An apprenticeship is a combination of on-the-job training and classroom instruction in which workers learn the practical and theoretical aspects of a highly skilled occupation.<sup>50</sup>

Apprenticeship programs are sponsored by joint employer and labor unions, individual employers, and employer associations.<sup>51</sup> Apprentices must be at least 16 years old and must be employed to learn a skilled trade.<sup>52</sup> Eligible skilled trades include those which are customarily learned in a practical way through a structured, systematic program of on-the-job supervised training.<sup>53</sup> Apprenticeships entail at least 2,000 hours of on-the-job work experience and require a minimum of 144 hours per year of organized, related, and supplemental instruction.<sup>54</sup>

Under federal regulations adopted by the United States Department of Labor which implement the National Apprenticeship Act of 1937,<sup>55</sup> the Division of Workforce Development (division) within the Department of Education is responsible for registering the apprenticeship programs in

<sup>50</sup> Employment & Training Admin., U.S. Dep’t of Labor, *Apprenticeship*, at <http://www.doleta.gov/individ/apprent.asp> (last visited (Apr. 6, 2001).

<sup>51</sup> *Id.*

<sup>52</sup> 29 C.F.R. s. 29.2(e).

<sup>53</sup> 29 C.F.R. s. 29.4.

<sup>54</sup> *Id.*

<sup>55</sup> Pub. L. No. 75-308, 50 Stat. 664, 57 Stat. 518 (codified at 29 U.S.C. ss. 50, 50a, & 50b).

this state.<sup>56</sup> As of March 22, 2001, the division reports that there are 355 registered apprenticeship programs and 13,004 apprentices in Florida.

Under agreement with the Secretary of Labor, the state's registration of apprenticeship programs is recognized for federal purposes.<sup>57</sup> Before 2000, the Division of Jobs and Benefits within the Department of Labor and Employment Security had responsibility for apprenticeship registration.<sup>58</sup> Because authority for apprenticeship registration was transferred to the Department of Education (department) by the Workforce Innovation Act of 2000, and because the department has not adopted new registration rules, the Division of Workforce Development (division) continues to operate under the rules of Department of Labor and Employment Security.<sup>59</sup>

Under these rules, any person, association, committee, or organization may sponsor an apprenticeship program and may subsequently register with the division.<sup>60</sup> When an apprentice successfully completes an apprenticeship, the apprenticeship program is required to recognize the completion by issuing an apprenticeship certificate.<sup>61</sup> In practice, the division reports, an apprenticeship program certifies to the division that an apprentice has successfully completed the program, and the division subsequently issues the apprenticeship certificate. Unlike vocational certificates, community colleges do not grant college credit for apprenticeship certificates for purposes of articulation into degree vocational education programs.

There is no requirement that the minimum of 144 hours per year of organized, related, and supplemental instruction be provided by a school district or community college. Rather, an apprenticeship program could structure its program to provide this direct instruction itself. Conversely, an apprenticeship program could contract with a community college or school district to provide this related instruction.

Apprenticeship programs are workforce development programs.<sup>62</sup> Community colleges and school districts may provide instruction to apprentices using base funding from the Workforce Development Education Fund. In addition, community colleges and school districts may earn occupational completion points toward performance funding under the Workforce Development Education Fund.<sup>63</sup> However, students enrolled in an apprenticeship program are exempt from

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<sup>56</sup> See 29 C.F.R. pt. 29.

<sup>57</sup> 29 C.F.R. s. 29.12.

<sup>58</sup> See ss. 111 & 113, ch. 2000-165, L.O.F.; s. 446.021(12), F.S.

<sup>59</sup> See rules 38H-16.001–38H-16.010, F.A.C.

<sup>60</sup> Rule 38H-16.002, F.A.C.

<sup>61</sup> Rule 38H-16.004(2)(o), F.A.C.

<sup>62</sup> Section 239.115(1)(f), F.S.

<sup>63</sup> See s. 239.115(4)(b)1., F.S.

paying registration, matriculation, and laboratory fees for related instruction provided by the community college or school district.<sup>64</sup>

Because school districts and community colleges provide parallel instructional programs with similar requirements to apprenticeships, apprentices might attend courses with students enrolled in other programs, such as degree vocational education programs and vocational certificate programs. In fact, apprentices are often enrolled as students in a vocational certificate program while completing requirements for an apprenticeship program. Thus, many apprentices complete both an apprenticeship and a vocational certificate program at the same time. After completing both programs simultaneously, the apprenticeship certificate is issued by the apprenticeship program through the Division of Workforce Development and the vocational certificate is awarded by the community college or school district that provided the instruction.

Unless a community college or school district requires apprentices to enroll in a vocational certificate program, current law does not require an apprentice to take a basic skills examination or complete any needed remedial instruction. If, however, an apprentice enrolls in a vocational certificate program voluntarily, the apprentice is required to take the examination within the first six weeks after admission to the program and complete any needed remediation. Moreover, federal regulations relating to equal employment opportunity in apprenticeships prohibit the use of aptitude tests to limit the pool of persons eligible for admission into an apprenticeship program unless the test scores on the aptitude test are statistically proven to be directly related to job performance and performance in the apprenticeship program.<sup>65</sup> Thus, there is question whether an apprenticeship program could require an apprentice to enroll in a vocational certificate program, which under current law requires a basic skills examination.

Even though apprenticeship programs are not, per se, vocational certificate programs, in those instances in which an apprentice is enrolled in a vocational certificate program, it may have been argued before 1997 that apprenticeship programs were exempt from the basic skills requirements on the basis that these programs comprised at least 1,800 hours in length. (Apprenticeship programs entail at least 2,000 hours of on-the-job work experience and require a minimum of 144 hours per year of related instruction.) However, as discussed above, the 1,800-hour exemption was removed by the Legislature during the 1997 Regular Session.<sup>66</sup>

### **Study of Formalized On-the-Job Training Programs for Skilled Trades**

During the 2000 Regular Session, the Legislature directed the Office of Program Policy Analysis and Government Accountability (OPPAGA), in cooperation with Workforce Florida, Inc., and the Department of Education, to submit a report to the Legislature regarding programs that provide formalized on-the-job training for skilled trades.<sup>67</sup> The Legislature further directed that the report must include recommendations for improving the efficiency of the programs,

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<sup>64</sup> Section 239.117(4)(b), F.S.

<sup>65</sup> 29 C.F.R. s. 30.5(a)(1)(B).

<sup>66</sup> Section 26, ch. 97-246, L.O.F.

<sup>67</sup> Section 112, ch. 2000-165, L.O.F.

decreasing the cost of the programs, improving or retaining current practices regarding admission requirements, reducing the duration of the programs, and increasing the number of persons who successfully complete the program.<sup>68</sup> The report is due January 1, 2002.

Based in part upon the recent transfer of apprenticeship program registration from the Department of Labor and Employment Security to the Department of Education, the Division of Workforce Development reports that there are several issues which impact the feasibility of OPPAGA completing its study by January 1, 2001. These include:

- The United States Department of Labor's Apprenticeship Information Management System (AIMS) is not capable of producing reports other than standardized reports, thereby increasing the difficulty of producing data that correlates to the Legislature's specific requirements for the study.
- Data for more than one year is not readily available.
- The accuracy of the available data is questionable, and there is evidence the database may not have been updated and reviewed for several years.
- The division has made recent changes to procedures for registering apprenticeship programs and issuing apprenticeship certificates, which would be reflected more significantly if the study were delayed.
- The State Apprenticeship Advisory Council<sup>69</sup> is concerned the study will not accurately depict the apprenticeship programs in this state based on the available data.

According to OPPAGA, its scheduled start date to begin the study was March 1, 2001.

### III. Effect of Proposed Changes:

#### Workforce Development Capitalization Grant Program (Section 1)

The committee substitute allows grant funds awarded under the Workforce Development Capitalization Grant Program to be used to upgrade existing workforce development programs operated by school districts and community colleges. The committee substitute also permits grant funds to be used to pay recurring instructional costs of new and expanding programs if approved by the Postsecondary Education Planning Commission (commission).

When funds are used to upgrade existing programs, the committee substitute requires the grant funds be used to bring the workforce development programs into conformity with the program standards and industry-driven benchmarks that are developed under the three-year review cycle. The committee substitute specifies that grant funds used for upgrading existing programs may not be used for recurring instructional costs or for indirect costs of an institution. Thus, the committee substitute clarifies that grant funds used to upgrade a program are for capital

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<sup>68</sup> *Id.*

<sup>69</sup> The State Apprenticeship Advisory Council (council) is a 13-member panel established to advise the Division of Workforce Development on apprenticeship issues. The director of the Division of Workforce Development serves ex officio as the council's nonvoting chair. The council is appointed by the Governor from among nominations made by nominating committees appointed by the Governor. Section 446.045(2), F.S.

expenses, including instructional equipment, laboratory equipment, supplies, personnel, student services, and other associated expenses, but may not be used to pay recurring operational costs.

The committee substitute provides that grant funds used to create new programs or expand existing programs must be used for programs identified by the High Skills/High Wages committee of the regional workforce board as being critical to business retention, expansion, and recruitment. The committee substitute removes the prohibition that grant funds may not be used for the recurring instructional costs of new and expanding programs, but requires that any use of these funds for recurring instructional costs must be approved by the commission.

The committee substitute replaces an obsolete reference to the former Jobs and Education Partnership with reference to Workforce Florida, Inc.

### **Required Basic Skills for Vocational Certificate Programs (Section 2)**

The committee substitute exempts students enrolled in vocational certificate programs of less than 450 hours from having to take a basic skills examination (the Tests of Adult Basic Education (TABE) or other designated examinations) within six weeks after admission into the program. A list of those current programs whose students would no longer be required to take the examination is provided in Table 1 on pages 9-10 of this analysis. While the exemption for vocational certificate programs of less than 450 hours precludes students from having to take the basic skills examination, this exemption does not alleviate the requirement that students demonstrate basic skills before receiving a vocational certificate.

However, the committee substitute provides an alternative method for students in all vocational certificate programs to demonstrate basic skills. If a student successfully passes the *appropriate* state, national, or industry licensure or certification examination, the student is exempt from having to retake the basic skills examination or otherwise demonstrate basic skills. It is noted, however, that the committee substitute does not specify how a state, national, or industry examination is determined to be “appropriate.” The Legislature may wish to amend the committee substitute to clarify whether the Department of Education, the community college, or the school district has the discretion to determine if an examination is appropriate.

The committee substitute also exempts certain students from both the initial basic skills examination and from the requirements that students demonstrate basic skills before receiving a vocational certificate. Under current law, exemptions under this section are permissive. By making these exemptions mandatory, the committee substitute removes the discretion of the Department of Education, community colleges, and school districts in applying these exemptions to individual students on a case-by-case basis. In addition to the exemptions currently authorized by law, the committee substitute exempts:

- Students enrolled in registered apprenticeship programs,
- Students who possess an associate in applied science or an associate in science degree, and
- Students with disabilities.

In creating a new exemption for students with disabilities, the committee substitute removes an existing exemption for exceptional students. Because the definition of the term “exceptional student” includes many students with disabilities, the most significant change appears to be the omission of gifted students.

### **Delay of Study of Formalized On-the-Job Training Programs for Skilled Trades (Section 3)**

The committee substitute delays the study of programs that provide formalized on-the-job training for skilled trades. In lieu of being required to submit a report to the Legislature by January 1, 2002, the committee substitute allows the Office of Program Policy Analysis and Government Accountability (OPPAGA), in cooperation with Workforce Florida, Inc., and the Department of Education, to submit the report by January 1, 2003.

### **Effective Date (Section 4)**

The committee substitute takes 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:

The level of funding for the Workforce Development Capitalization Grant Program is determined annually in the General Appropriations Act. The Postsecondary Education Planning Commission (commission) evaluates the grant applications and ranks the applications based upon statutorily prescribed priorities. The Legislature funds those workforce development programs ranked by the commission based upon funds available in

the specific appropriation. The committee substitute impacts how programs will be evaluated and ranked, but does not impact the level of funding.

Although the committee substitute may change requirements for students to receive vocational certificates, the committee substitute does not impact whether community colleges and school districts receive occupational completion points for performance funding under the Workforce Development Education Fund. Accordingly, the committee substitute should not impact funding.

#### **VI. Technical Deficiencies:**

The committee substitute exempts students with disabilities as defined in the Americans with Disabilities Act (ADA), 42 U.S.C. s. 12101, from taking an initial basic skills examination and from requirements that students demonstrate basic skills before receiving a vocational certificate. By making specific reference to 42 U.S.C. s. 12101, the committee substitute refers only to the first section of the ADA. This section includes findings by the United States Congress and outlines the purpose of the ADA, but does not include any definitions. The Legislature may wish to amend the committee substitute to clarify this reference to the ADA when exempting students with disabilities from the provisions of s. 239.213, F.S.

#### **VII. Related Issues:**

None.

#### **VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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