

# 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.)

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Prepared By: Commerce Committee

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BILL: SPB 7066

INTRODUCER: For consideration by Commerce Committee

SUBJECT: Workforce Services

DATE: February 19, 2007

REVISED: \_\_\_\_\_

|    | ANALYST       | STAFF DIRECTOR | REFERENCE | ACTION             |
|----|---------------|----------------|-----------|--------------------|
| 1. | <u>Gordon</u> | <u>Cooper</u>  | <u>CM</u> | <u>Pre-meeting</u> |
| 2. | _____         | _____          | _____     | _____              |
| 3. | _____         | _____          | _____     | _____              |
| 4. | _____         | _____          | _____     | _____              |
| 5. | _____         | _____          | _____     | _____              |
| 6. | _____         | _____          | _____     | _____              |

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## I. Summary:

This Proposed Committee Bill (PCB) amends portions of the workforce statutes related to the one-stop employment services delivery system as well as work requirements and transitional child care under the Temporary Assistance to Needy Families (TANF) program. The one-stop delivery revisions reflect similar proposed changes to the federal Wagner-Peyser Act. The TANF revisions reflect changes made by the Department of Health and Human Services (HHS) as a result of the Deficit Reduction Act of 2005.<sup>1</sup> The PCB does the following:

- Deletes a requirement that regional workforce boards enter into memoranda of understanding with the Agency for Workforce Innovation regarding its one-stop delivery system in recognition of a proposed change in federal law that would make such memoranda unnecessary;
- Deletes lengthy descriptions of work requirements for TANF recipients which are currently in statute in order to conform state practice to federal work requirement definitions now detailed in the HHS interim final rule;
- Inserts language into the transitional child care statute to emphasize that this service is only available to assist those seeking employment, attempting to retain employment or attempting to improve their employment prospects; and
- Changes some terms to conform to terms in federal law.

This PCB amends the following sections of the Florida Statutes: 445.024, 445.032, and 445.007.

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<sup>1</sup> 70 Fed. Reg. 37454-37483 (to be codified at 45 CFR Sec. 261, 262, 263 and 265).

## II. Present Situation:

### *Workforce Services Delivery System*

Workforce Florida, Inc., (WFI) creates statewide policy for Florida's workforce system.<sup>2</sup> The Agency for Workforce Innovation (AWI) is responsible for implementing that policy through its 24 regional workforce boards (RWBs or boards). The boards deliver program services at the local level that reflect workforce policy through one-stop career centers.

Currently, 96 one-stop career centers, which operate under the direction of the boards, provide employment services to job seekers, such as job training and career counseling. The one-stop centers also assist employers in finding workers to fill vacancies.

In accordance with s. 445.009(7), F.S., regional workforce boards enter into memoranda of understanding with the one-stop centers to deliver these services. The memoranda specify, in accordance with a U.S. Secretary of Labor requirement,<sup>3</sup> that job finding, placement, and reemployment services be delivered by state merit-staffed employees. As a result of positive results from demonstration projects using non-merit-based staff systems under the Workforce Investment Act and "[i]n the interest of providing maximum flexibility to all States,"<sup>4</sup> the U.S. Department of Labor (DOL) has proposed no longer requiring that these services be delivered only by state merit-staffed employees.<sup>5</sup>

The Workforce Innovation Act of 2000 directed WFI to provide oversight and policy direction for several programs, including welfare transition services funded by the federal Temporary Assistance to Needy Families (TANF) program.

### *Temporary Assistance to Needy Families*

The TANF program was created by the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, as amended, Pub. L. No. 104-193, and Title IV, s. 403, of the Social Security Act, as amended. The PRWORA defined work activities for the TANF work program; established requirements for workforce performance measures and standards; required an integrated data system; and required employer participation. In addition, the act provided that state and regional entities would govern the workforce development system.

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<sup>2</sup> Ch. 445, F.S.

<sup>3</sup> The Secretary of Labor may, under section 3(a) and 5(b)(1) of the Wagner Peyser Act, issue requirements intended "to develop and prescribe minimum standards of efficiency for State public Employment Services and promote uniformity in their administrative procedures." 70 Fed. Reg. 76559 (to be codified at 20 CFR sec. 652).

<sup>4</sup> *Id.*

<sup>5</sup> DOL has proposed replacing 20 CFR Secs. 652.215 and 652.216, which contain the merit employee language, with a new section 652.215, which will authorize states to deliver services using methods in addition to state merit-staffed delivery systems. *Id.*

TANF provides funding for “a wide variety of employment and training activities, supportive services, and benefits that will enable clients to get a job, keep a job and improve their economic circumstances.”<sup>6</sup> More specifically, TANF is designed to do the following:

- Provide assistance to needy families so that children may be cared for in their own homes or in the homes of relatives;
- End the dependence of needy parents on government benefits by promoting job preparation, work, and marriage;
- Prevent and reduce the incidence of out-of-wedlock pregnancies and establish annual numerical goals for preventing and reducing the incidence of these pregnancies; and
- Encourage the formation and maintenance of two-parent families.<sup>7</sup>

To qualify for TANF block grants, states must impose work requirements on welfare recipients and establish time limits on the receipt of TANF cash assistance, also known as temporary cash assistance (TCA).

### ***Work Activity Requirements***

The TANF final rule<sup>8</sup> contained a list of work requirements without specific definitions in order to promote states’ flexibility in designing their own programs. As a result, s. 445.024, F.S., lists each work requirement followed by a detailed, lengthy explanation of its meaning.

A 2005 report by the federal Government Accountability Office, noted that “the wide range of work activity definitions used across States makes it difficult to compare work participation across States.”<sup>9</sup> Concern over the inconsistency of work measures across and among states led to the Deficit Reduction Act of 2005 requirement that HHS define each work activity category as it has in its interim rule.<sup>10</sup>

### ***Revised TANF Legislation***

The Deficit Reduction Act of 2005 (DRA) required the U.S. Department of Health and Human Services (HHS) to define work activities, and determine who is a work eligible individual. The interim final rule published on June 29, 2006,<sup>11</sup> implements the work and program changes of the new law. The interim final rules provide definitions of work activities, and require that states provide services consistent with those activities in order to receive continued funding. The rule also requires states to develop a Work Verification Plan to ensure compliance with federal definitions and requirements. Moreover, states are required to provide current work definitions and internal control procedures, proposed changes, and details of their implementation process.

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<sup>6</sup> Department of Health and Human Services, Administration for Children and Families, Office of Family Assistance. *Helping Families Achieve Self-Sufficiency: A Guide on Funding Services for Children and Families through the TANF Program*, p.4. <http://www.acf.dhhs.gov/programs/ofa/funds2.htm>. 8 February 2007.

<sup>7</sup> 45 CFR Sec. 260.20.

<sup>8</sup> 64 FR 17720, April 12, 1999.

<sup>9</sup> HHS, *supra* note 1, citing GAO Report (GAO-05-821), *Welfare Reform: HHS Should Exercise Oversight to Help Ensure TANF Work Participation Is Measured Consistently Across States*.

<sup>10</sup> HHS, *supra* note 1.

<sup>11</sup> HHS, *supra* note 1.

In order to receive full TANF grant amounts under the DRA, states are now required to apply internal controls, document participation hours, and ensure that their work activities meet federal definitions.

### *Transitional Child Care*

Under current law, transitional child care is available for up to 2 years for former welfare transition program participants and individuals “who have been redirected through up-front diversion.”<sup>12</sup> According to representatives of AWI, upfront diversion program participants are individuals who seek help at a one-stop center, but do not meet the income requirements for TANF assistance. They may receive job training or counseling, or other services unrelated to cash assistance.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 445.009(3), F.S., related to the one-stop delivery system, to delete the requirement that regional workforce boards enter into memoranda of understanding with AWI for the delivery of employment services.

Currently, this subsection requires regional workforce boards to enter into such memoranda for the delivery of employment services authorized and funded by the federal Wagner Peyser Act. The memoranda require that one-stop centers use state merit-based employees to deliver job finding, placement, and reemployment services. The PCB deletes this requirement in anticipation of a proposed change to federal law which will allow other employees to be used to deliver such services. Consequently, an unspecified number of state merit-based employees could be affected by this change in policy.

**Section 2** amends s. 445.024, F.S., related to work requirements, in order to align the state description of work requirements with those contained in the federal TANF law.

Currently, s. 445.024(1), F.S., lists several work requirements, with lengthy descriptions, that may be used individually or in combination to satisfy the work requirements for participants in the temporary cash assistance program. They include:

- Unsubsidized employment;
- Subsidized private sector employment;
- Subsidized public sector employment;
- Community service work experience;
- Work experience (combining job training with education related to an employment goal);
- Job search and job readiness assistance;
- Career education or training;
- Job skills training;

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<sup>12</sup> Section 445.032, F.S.

- Education services related to employment for participants 19 years of age or younger;
- School attendance;
- Teen parent services;
- Extended education and training;
- GED preparation and literacy education; or
- Providing child care services.

This PCB deletes these descriptions, retaining only the categories of each work requirement, explicitly requiring that the federal definitions be used. The PCB also does the following:

- Adds “on-the-job training” as a separate work requirement category;
- Specifically states that the job skills training and education requirements be “directly related to employment” in order to prevent the inclusion of barrier removal activities;<sup>13</sup>
- Replaces the “school attendance” requirement for those 19 years of age and younger with a “satisfactory attendance at the secondary school or in a course of study leading to a graduate equivalency diploma” for any age in order to comply with federal law;<sup>14</sup>
- Deletes teen parent services;
- Deletes extended education and training;
- Deletes GED preparation and literacy education

While the substance of the extended education and training as well as the GED preparation and literacy education are incorporated into other federal work requirement categories, the teen parent services category is not.

The PCB also amends the remaining subsections of s. 445.024, F.S., to make minor adjustments to the language of the statute in order to align it with federal law.

**Section 3** amends s. 445.032, F.S., to make clear that transitional child care is only available to those who are either employed or seeking employment. Currently the statute does not make clear that employment is a prerequisite to receiving child care. The revisions reflect this clarification in the new federal law.

**Section 4** provides an effective date.

#### IV. Constitutional Issues:

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

None.

<sup>13</sup> According to the explanation of the TANF interim final rule, while literacy or language instruction may be included, such instruction should focus specifically on skills needed for employment. However, “barrier removal activities” such as substance abuse counseling and treatment, mental health services, and other rehabilitative activities, while encouraged, do not meet the requirement that activities focus “on educational or technical training designed specifically to help individuals move into employment.” *Id.* at 37461.

<sup>14</sup> The 19-year-old age limit appears to have been arbitrary; no such limit exists in federal law.

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:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

## **VIII. Summary of Amendments:**

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

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