

## CHAPTER 2012-29

### Committee Substitute for House Bill No. 7023

An act relating to regional workforce boards; amending s. 445.003, F.S.; requiring certain funds to be expended on Individual Training Accounts; revising items that qualify as account expenditures; amending s. 445.007, F.S., and reenacting subsections (10) and (11), relating to restrictions on the use of state and federal funds provided to regional workforce boards and contracts between regional workforce boards and members of regional workforce boards; providing for maximum board membership; providing additional membership requirements; requiring certain board members to file a statement of financial interests; authorizing the Governor to remove board members for cause; requiring the Department of Economic Opportunity to assign staff for performance and compliance review; prohibiting regional workforce boards from restricting the choice of training providers based on certain factors; authorizing a board to restrict the amount of training resources available to any one client under certain conditions; providing requirements for the procurement and expenditure of certain funds; providing grounds for removal for cause; deleting an obsolete expiration date for provisions relating to restrictions on the use of state and federal funds provided to regional workforce boards; revising procedures relating to the approval of contracts between regional workforce boards and members of regional workforce boards; deleting an obsolete expiration date for provisions relating to such contracts; requiring each board to develop a budget for certain purposes, subject to the approval of the chief elected official, and submit the budget to Workforce Florida, Inc.; requiring Workforce Florida, Inc., to evaluate the means to establish a single, statewide workforce-system brand for the state; providing reporting requirements; amending s. 445.009, F.S.; deleting the expiration of a provision providing that participants in adult or youth work experience activities are employees of the state for purposes of workers' compensation coverage; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (3) of section 445.003, Florida Statutes, is amended to read:

445.003 Implementation of the federal Workforce Investment Act of 1998.—

(3) FUNDING.—

(a) Title I, Workforce Investment Act of 1998 funds; Wagner-Peyser funds; and NAFTA/Trade Act funds will be expended based on the 5-year plan of Workforce Florida, Inc. The plan shall outline and direct the method used to administer and coordinate various funds and programs that are

operated by various agencies. The following provisions shall also apply to these funds:

1. At least 50 percent of the Title I funds for Adults and Dislocated Workers that are passed through to regional workforce boards shall be allocated to and expended on Individual Training Accounts unless a regional workforce board obtains a waiver from Workforce Florida, Inc. Tuition, books, and fees of training providers and other training services prescribed and authorized by the Workforce Investment Act of 1998 qualify as an Individual Training Account expenditures ~~expenditure~~, ~~as do other programs developed by regional workforce boards in compliance with policies of Workforce Florida, Inc.~~

2. Fifteen percent of Title I funding shall be retained at the state level and shall be dedicated to state administration and used to design, develop, induce, and fund innovative Individual Training Account pilots, demonstrations, and programs. Of such funds retained at the state level, \$2 million shall be reserved for the Incumbent Worker Training Program, created under subparagraph 3. Eligible state administration costs include the costs of: funding for the board and staff of Workforce Florida, Inc.; operating fiscal, compliance, and management accountability systems through Workforce Florida, Inc.; conducting evaluation and research on workforce development activities; and providing technical and capacity building assistance to regions at the direction of Workforce Florida, Inc. Notwithstanding s. 445.004, such administrative costs shall not exceed 25 percent of these funds. An amount not to exceed 75 percent of these funds shall be allocated to Individual Training Accounts and other workforce development strategies for other training designed and tailored by Workforce Florida, Inc., including, but not limited to, programs for incumbent workers, displaced homemakers, non-traditional employment, and enterprise zones. Workforce Florida, Inc., shall design, adopt, and fund Individual Training Accounts for distressed urban and rural communities.

3. The Incumbent Worker Training Program is created for the purpose of providing grant funding for continuing education and training of incumbent employees at existing Florida businesses. The program will provide reimbursement grants to businesses that pay for preapproved, direct, training-related costs.

a. The Incumbent Worker Training Program will be administered by Workforce Florida, Inc. Workforce Florida, Inc., at its discretion, may contract with a private business organization to serve as grant administrator.

b. To be eligible for the program's grant funding, a business must have been in operation in Florida for a minimum of 1 year prior to the application for grant funding; have at least one full-time employee; demonstrate financial viability; and be current on all state tax obligations. Priority for funding shall be given to businesses with 25 employees or fewer, businesses in rural areas, businesses in distressed inner-city areas, businesses in a

qualified targeted industry, businesses whose grant proposals represent a significant upgrade in employee skills, or businesses whose grant proposals represent a significant layoff avoidance strategy.

c. All costs reimbursed by the program must be preapproved by Workforce Florida, Inc., or the grant administrator. The program will not reimburse businesses for trainee wages, the purchase of capital equipment, or the purchase of any item or service that may possibly be used outside the training project. A business approved for a grant may be reimbursed for preapproved, direct, training-related costs including tuition; fees; books and training materials; and overhead or indirect costs not to exceed 5 percent of the grant amount.

d. A business that is selected to receive grant funding must provide a matching contribution to the training project, including, but not limited to, wages paid to trainees or the purchase of capital equipment used in the training project; must sign an agreement with Workforce Florida, Inc., or the grant administrator to complete the training project as proposed in the application; must keep accurate records of the project's implementation process; and must submit monthly or quarterly reimbursement requests with required documentation.

e. All Incumbent Worker Training Program grant projects shall be performance-based with specific measurable performance outcomes, including completion of the training project and job retention. Workforce Florida, Inc., or the grant administrator shall withhold the final payment to the grantee until a final grant report is submitted and all performance criteria specified in the grant contract have been achieved.

f. Workforce Florida, Inc., may establish guidelines necessary to implement the Incumbent Worker Training Program.

g. No more than 10 percent of the Incumbent Worker Training Program's total appropriation may be used for overhead or indirect purposes.

4. At least 50 percent of Rapid Response funding shall be dedicated to Intensive Services Accounts and Individual Training Accounts for dislocated workers and incumbent workers who are at risk of dislocation. Workforce Florida, Inc., shall also maintain an Emergency Preparedness Fund from Rapid Response funds which will immediately issue Intensive Service Accounts and Individual Training Accounts as well as other federally authorized assistance to eligible victims of natural or other disasters. At the direction of the Governor, for events that qualify under federal law, these Rapid Response funds shall be released to regional workforce boards for immediate use. Funding shall also be dedicated to maintain a unit at the state level to respond to Rapid Response emergencies around the state, to work with state emergency management officials, and to work with regional workforce boards. All Rapid Response funds must be expended based on a plan developed by Workforce Florida, Inc., and approved by the Governor.

Section 2. Subsections (1), (2), (3), (6), and (9) of section 445.007, Florida Statutes, are amended, subsections (10) and (11) are reenacted and amended, and subsections (12) and (13) are added to that section, to read:

445.007 Regional workforce boards.—

(1) One regional workforce board shall be appointed in each designated service delivery area and shall serve as the local workforce investment board pursuant to Pub. L. No. 105-220. The membership of the board shall be consistent with Pub. L. No. 105-220, Title I, s. 117(b) but may not exceed the minimum membership required in Pub. L. No. 105-220, Title I, s. 117(b)(2)(A) and in this subsection. Upon approval by the Governor, the chief elected official may appoint additional members above the limit set by this subsection. If a public education or training provider is represented on the board, a representative of a private nonprofit provider and a representative of a private for-profit provider must also be appointed to the board. The board shall include one nonvoting representative from a military installation if a military installation is located within the region and the appropriate military command or organization authorizes such representation. It is the intent of the Legislature that membership of a regional workforce board include persons who are current or former recipients of welfare transition assistance as defined in s. 445.002(2) or workforce services as provided in s. 445.009(1) or that such persons be included as ex officio members of the board or of committees organized by the board. The importance of minority and gender representation shall be considered when making appointments to the board. The board, its committees, subcommittees, and subdivisions, and other units of the workforce system, including units that may consist in whole or in part of local governmental units, may use any method of telecommunications to conduct meetings, including establishing a quorum through telecommunications, provided that the public is given proper notice of the telecommunications meeting and reasonable access to observe and, when appropriate, participate. Regional workforce boards are subject to chapters 119 and 286 and s. 24, Art. I of the State Constitution. If the regional workforce board enters into a contract with an organization or individual represented on the board of directors, the contract must be approved by a two-thirds vote of the board, a quorum having been established, and the board member who could benefit financially from the transaction must abstain from voting on the contract. A board member must disclose any such conflict in a manner that is consistent with the procedures outlined in s. 112.3143. Each member of a regional workforce board who is not otherwise required to file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 shall file a statement of financial interests pursuant to s. 112.3145. The executive director or designated person responsible for the operational and administrative functions of the regional workforce board who is not otherwise required to file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution or s. 112.3144 shall file a statement of financial interests pursuant to s. 112.3145.

(2)(a) The regional workforce board shall elect a chair from among the representatives described in Pub. L. No. 105-220, Title I, s. 117(b)(2)(A)(i) to serve for a term of no more than 2 years and shall serve no more than two terms.

(b) The Governor may remove a member of the board, the executive director of the board, or the designated person responsible for the operational and administrative functions of the board for cause. As used in this paragraph, the term “cause” includes, but is not limited to, engaging in fraud or other criminal acts, incapacity, unfitness, neglect of duty, official incompetence and irresponsibility, misfeasance, malfeasance, nonfeasance, or lack of performance.

(3) The Department of Economic Opportunity, under the direction of Workforce Florida, Inc., shall assign staff to meet with each regional workforce board annually to review the board’s performance and to certify that the board is in compliance with applicable state and federal law.

(6) The regional workforce board shall designate all local service providers and may not transfer this authority to a third party. Consistent with the intent of the Workforce Investment Act, regional workforce boards should provide the greatest possible choice of training providers to those who qualify for training services. A regional workforce board may not restrict the choice of training providers based upon cost, location, or historical training arrangements. However, a board may restrict the amount of training resources available to any one client. Such restrictions may vary based upon the cost of training in the client’s chosen occupational area. The regional workforce board may be designated as a one-stop operator and direct provider of intake, assessment, eligibility determinations, or other direct provider services except training services. Such designation may occur only with the agreement of the chief elected official and the Governor as specified in 29 U.S.C. s. 2832(f)(2). Workforce Florida, Inc., shall establish procedures by which a regional workforce board may request permission to operate under this section and the criteria under which such permission may be granted. The criteria shall include, but need not be limited to, a reduction in the cost of providing the permitted services. Such permission shall be granted for a period not to exceed 3 years for any single request submitted by the regional workforce board.

(9) For purposes of procurement, regional workforce boards and their administrative entities are not state agencies and are exempt from chapters 120 and 287. The regional workforce boards shall apply the procurement and expenditure procedures required by federal law and policies of the Department of Economic Opportunity and Workforce Florida, Inc., for the expenditure of federal, state, and nonpass-through funds. The making or approval of smaller, multiple payments for a single purchase with the intent to avoid or evade the monetary thresholds and procedures established by federal law and policies of the Department of Economic Opportunity and Workforce Florida, Inc., is grounds for removal for cause. Regional workforce boards, their administrative entities, committees, and subcommittees, and

other workforce units may authorize expenditures to award suitable framed certificates, pins, or other tokens of recognition for performance by units of the workforce system. Regional workforce boards; their administrative entities, committees, and subcommittees; and other workforce units may authorize expenditures for promotional items, such as t-shirts, hats, or pens printed with messages promoting Florida's workforce system to employers, job seekers, and program participants. However, such expenditures are subject to federal regulations applicable to the expenditure of federal funds. All contracts executed by regional workforce boards must include specific performance expectations and deliverables.

(10) State and federal funds provided to the regional workforce boards may not be used directly or indirectly to pay for meals, food, or beverages for board members, staff, or employees of regional workforce boards, Workforce Florida, Inc., or the Department of Economic Opportunity Agency for Workforce Innovation except as expressly authorized by state law. Pre-approved, reasonable, and necessary per diem allowances and travel expenses may be reimbursed. Such reimbursement shall be at the standard travel reimbursement rates established in s. 112.061 and shall be in compliance with all applicable federal and state requirements. Workforce Florida, Inc., shall develop a statewide fiscal policy applicable to the state board and all regional workforce boards, to hold both the state and regional boards strictly accountable for adherence to the policy and subject to regular and periodic monitoring by the Department of Economic Opportunity Agency for Workforce Innovation, the administrative entity for Workforce Florida, Inc. Boards are prohibited from expending state or federal funds for entertainment costs and recreational activities for board members and employees as these terms are defined by 2 C.F.R. part 230. ~~This subsection expires July 1, 2011.~~

(11) To increase transparency and accountability, a regional workforce board must ~~boards shall~~ comply with the requirements of this section before contracting with a member of the regional workforce board or a relative, as defined in s. 112.3143(1)(b), of a board member or of an employee of the board. ~~Such contracts may~~ shall not be executed before or without the approval of Workforce Florida, Inc. Such contracts, as well as documentation demonstrating adherence to this section as specified by Workforce Florida, Inc., must be submitted to the Department of Economic Opportunity Agency for Workforce Innovation for review and recommendation according to criteria to be determined by Workforce Florida, Inc. Such a contract ~~Contracts between relatives, as defined in s. 112.3143(1)(b), of a board member or employee of a board must be approved by a two-thirds vote of the entire board, a quorum having been established; all conflicts of interest must be disclosed before prior to the vote; and any member who may benefit from the contract, or whose relative may benefit from the contract, must abstain from the vote and the contract must be reviewed and approved as stated above.~~ A contract ~~Contracts~~ under \$25,000 between a regional workforce board and a member of that board or between a relative ~~relatives~~, as defined in s. 112.3143(1)(b), of a board member or of an employee ~~employees of the a~~

~~board is not required to have the prior approval of Workforce Florida, Inc., are exempt from the review and recommendation process but must be approved by a two-thirds vote of the entire board, a quorum having been established, and must be reported to the Department of Economic Opportunity Agency for Workforce Innovation and Workforce Florida, Inc., within 30 days after approval. If a contract cannot be approved by Workforce Florida, Inc., a review of the decision to disapprove the contract may be requested by the regional workforce board or other parties to the disapproved contract. This subsection expires July 1, 2011.~~

(12) Each regional workforce board shall develop a budget for the purpose of carrying out the duties of the board under this section, subject to the approval of the chief elected official. Each regional workforce board shall submit its annual budget for review to Workforce Florida, Inc., no later than 2 weeks after the chair approves the budget.

(13) Workforce Florida, Inc., shall evaluate the means to establish a single, statewide workforce-system brand for the state and shall submit its recommendations to the Governor by November 1, 2012.

Section 3. Subsection (11) of section 445.009, Florida Statutes, is amended to read:

445.009 One-stop delivery system.—

(11) A participant in an adult or youth work experience activity administered under this chapter shall be deemed an employee of the state for purposes of workers' compensation coverage. In determining the average weekly wage, all remuneration received from the employer shall be considered a gratuity, and the participant shall not be entitled to any benefits otherwise payable under s. 440.15, regardless of whether the participant may be receiving wages and remuneration from other employment with another employer and regardless of his or her future wage-earning capacity. ~~This subsection expires July 1, 2012.~~

Section 4. This act shall take effect July 1, 2012.

Approved by the Governor March 28, 2012.

Filed in Office Secretary of State March 28, 2012.