

INTERIM STUDY PROPOSAL 2023-065

1
2 State of Arkansas
3 94th General Assembly
4 Regular Session, 2023
5

A Bill

SENATE BILL 443

6 By: Senator G. Leding
7 By: Representative Vaught

8 Filed with: Senate Committee on Insurance and Commerce
9 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

10
11 AN ACT REGARDING EMPLOYMENT FIRST; TO CREATE THE
12 ARKANSAS EMPLOYMENT FIRST ACT; TO ESTABLISH THE
13 ARKANSAS OFFICE OF EMPLOYMENT FIRST; TO ESTABLISH THE
14 EMPLOYMENT FIRST ADVISORY COMMITTEE; TO ESTABLISH THE
15 EMPLOYMENT FIRST BUSINESS PARTNER PROGRAM; AND FOR
16 OTHER PURPOSES.

Subtitle

17
18
19
20 TO CREATE THE ARKANSAS EMPLOYMENT FIRST
21 ACT; TO ESTABLISH THE ARKANSAS OFFICE OF
22 EMPLOYMENT FIRST; TO ESTABLISH THE
23 EMPLOYMENT FIRST ADVISORY COMMITTEE; AND
24 TO ESTABLISH THE EMPLOYMENT FIRST
25 BUSINESS PARTNER PROGRAM.
26
27

28 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
29

30 SECTION 1. Arkansas Code Title 20, Chapter 14, is amended to add an
31 additional subchapter to read as follows:

32 Subchapter 10 – Arkansas Employment First Act
33

34 20-14-1001. Title.

35 This subchapter shall be known and may be cited as the "Arkansas
36 Employment First Act".

1
2 20-14-1002. Legislative findings and intent - Purpose.

3 (a) The General Assembly finds that:

4 (1) Employment is the most direct and cost-effective means to
5 assist an individual in achieving independence and fulfillment while
6 increasing state revenue and minimize state expenditures;

7 (2) Individuals with disabilities are confronted by unique
8 barriers to employment that inhibit their opportunities to compete in the
9 labor force;

10 (3) The value of meaningful work has significance and importance
11 to all working-age individuals, including without limitation individuals with
12 disabilities and veterans with service-connected disabilities;

13 (4) Some adults with intellectual and developmental disabilities
14 are either unemployed or underemployed due to many employment barriers and
15 disincentives, despite their abilities, desires, and willingness to work in
16 their communities;

17 (5) Public policy designed to increase competitive integrated
18 employment for individuals with disabilities must address these employment
19 barriers by promoting best practices relating to:

20 (A) Youth transition;

21 (B) Employer engagement;

22 (C) Service system enhancements, including without
23 limitation the adoption of employment first policies; and

24 (D) Training and support for individuals with
25 disabilities and those delivering support services;

26 (6) The adoption of employment first policies is consistent with
27 the:

28 (A) Workforce Innovation and Opportunity Act, Pub. L. No.
29 113-128;

30 (B) Final rule by the Centers for Medicare and Medicaid
31 Services setting forth requirements for home and community-based services;
32 and

33 (C) United States Supreme Court decision in Olmstead v.
34 L.C., 527 U.S. 581 (1999), requiring that individuals with disabilities
35 receive services in the most integrated setting appropriate to the needs of
36 the individual;

1 (7) Free-market principles can guide employers to use innovative
2 methods for employing individuals with disabilities; and

3 (8) Employment first policies encourage economic growth by
4 promoting freedom of employment and strengthening support and relationships
5 for employers to hire individuals with disabilities.

6 (b) The intent of this subchapter is to:

7 (1) Provide a framework for a long-term commitment to improving
8 employment outcomes for individuals with disabilities in this state;

9 (2) Encourage competitive employment as a preferred option for
10 individuals with disabilities receiving publicly funded benefits;

11 (3) Encourage a collaborative effort between state agencies and
12 organizations to achieve better employment outcomes for individuals with
13 disabilities; and

14 (4) Increase:

15 (A) The number of individuals entering the workforce and
16 contributing to Arkansas's tax base and economy;

17 (B) The self-worth and dignity of individuals with
18 disabilities who are gainfully employed alongside individuals without
19 disabilities;

20 (C) Opportunities to do meaningful and gainful work, which
21 will decrease dependency on government assistance;

22 (D) Opportunities for postsecondary education, including
23 college and vocational training; and

24 (E) The effectiveness of service systems currently serving
25 individuals with disabilities who are seeking meaningful employment.

26
27 20-14-1003. Definition – Arkansas Office of Employment First.

28 (a) As used in this subchapter, "individuals with disabilities" means
29 the same as defined by the Americans with Disabilities Act of 1990, 42 U.S.C.
30 § 12101 et seq., as it existed on January 1, 2023.

31 (b) There is created an office to be known as the "Arkansas Office of
32 Employment First" within the Department of Commerce.

33 (c) The office shall:

34 (1) Define Arkansas as an Employment First state related to the
35 employment of individuals with disabilities; and

1 (2) Develop and administer the Employment First Business Partner
2 Program.

3 (d) The office shall employ staff as necessary to carry out the duties
4 of the office.

5
6 20-14-1004. Employment First Advisory Committee.

7 (a) The Arkansas Office of Employment First shall establish an
8 Employment First Advisory Committee that represents Arkansans with
9 disabilities from both urban and rural areas.

10 (b)(1) The committee shall be comprised of twenty-one (21) unpaid
11 advisory members and shall include the following:

12 (A) Six (6) self-advocates with disabilities, representing
13 both urban and rural areas to be appointed through consultation with
14 individuals involved in community self-advocate groups, parent networks, and
15 other related entities;

16 (B) Two (2) family members or guardians of individuals
17 with disabilities to be appointed through consultation with individuals
18 involved in community self-advocate groups, parent networks, and other
19 related entities; and

20 (C) One (1) member from each of the following agencies to
21 be appointed by the director, president, or chief executive officer of the
22 respective agency:

23 (i) Arkansas Rehabilitation Services;
24 (ii) Arkansas People First;
25 (iii) Division of State Services for the Blind;
26 (iv) Division of Developmental Disabilities
27 Services;

28 (v) Disability Rights Arkansas, Inc.;
29 (vi) Division of Workforce Services;
30 (vii) Arkansas Association of People Supporting
31 Employment First;

32 (viii) Governor's Council on Developmental
33 Disabilities;

34 (ix) Arkansas Transit Association;
35 (x) The Provider-Led Arkansas Shared Savings Entity;
36 (xi) The Department of Education;

1 (xii) The Department of Finance and Administration;
2 and

3 (xiii) The Department of Veterans Affairs.

4 (2) The committee may include other organizations as it deems
5 appropriate.

6 (c)(1) Members shall serve a term of five (5) years.

7 (2) The terms of service shall be staggered.

8 (3) A member may serve only two (2) terms.

9 (d) The Director of the Arkansas Office of Employment First shall call
10 the first meeting.

11 (e)(1) The chair of the committee shall be initially appointed by the
12 director for a five (5) year term.

13 (2) Subsequent chairs shall be selected by committee members.

14 (3) A chair may serve two (2) terms.

15 (f) If a vacancy occurs before a member's term expires, the director
16 shall appoint a new member to complete the term.

17 (g) The committee shall:

18 (1) Develop interagency cooperative agreements to delineate the
19 roles of each of the member agencies in implementing employment first
20 policies;

21 (2) Establish benchmark data collection requirements on
22 performance;

23 (3) Measure progress of individuals with disabilities obtaining
24 employment, including without limitation the outcomes and challenges related
25 to Employment First policies; and

26 (4) Report to the director and the Secretary of the Department
27 of Commerce.

28 (h) The quorum to conduct business shall be fifty percent (50%) of the
29 membership plus one (1) additional member.

30 (i) Members of the committee may receive reimbursement under § 25-16-
31 902.

32
33 20-14-1005. Employment First Business Partner Program.

34 (a) There is created within the Department of Commerce the "Employment
35 First Business Partner Program" to be administered by the Arkansas Office of
36 Employment First.

1 (b) The Arkansas Office of Employment First shall consult with the
2 Employment First Advisory Committee to identify and maintain partnerships
3 with:

- 4 (1) Businesses around this state;
- 5 (2) The Office of Personnel Management; and
- 6 (3) The Department of Transformation and Shared Services.

7 (c)(1) A business may apply to the Arkansas Office of Employment First
8 to be designated as an Employment First Business Partner based upon
9 compliance by the business with the following:

- 10 (A) The employment of individuals with disabilities; and
- 11 (B) A compensation structure that guarantees minimum wage.

12 (2) For a designation as an Employment First Business Partner
13 under subdivision (c)(1) of this section, the Arkansas Office of Employment
14 First shall consider the following criteria:

- 15 (A) Ten percent (10%) of the permanent employees of the
16 business shall have a disability; and
- 17 (B) The employees described under subdivision (c)(2)(A) of
18 this section shall be:

- 19 (i) Residents of this state; and
- 20 (ii) Employed by the business for at least twelve
21 (12) continuous months before the application for designation as an
22 Employment First Business Partner by the business.

23 (3) The Arkansas Office of Employment First shall not require
24 the business to provide personally identifiable information about employees.

25 (d)(1) The Arkansas Office of Employment First shall consider
26 nominations of a business as an Employment First Business Partner from a
27 member of the community where the business is located that show the
28 compliance of the business with the requirements under subdivisions (c)(1)
29 and (2) of this section.

30 (2)(A) For a designation as an Employment First Business Partner
31 under subdivision (d)(1) of this section, the office shall consider whether
32 the business meets the requirements of subsection (c) of this section.

33 (B) If the Arkansas Office of Employment First determines
34 that the nominated business meets the requirements, the Arkansas Office of
35 Employment First shall provide notice to the business regarding the
36 nomination to be awarded as an Employment First Business Partner, including

1 without limitation the qualification criteria provided to the Arkansas Office
2 of Employment First.

3 (C) The nominated business shall have thirty (30) days
4 after receipt of the notice to:

5 (i) Certify to the Arkansas Office of Employment
6 First that the information included in the nomination is true and accurate;

7 (ii) Correct information for consideration by the
8 Arkansas Office of Employment First; and

9 (iii)(a) Indicate an intention to either accept or
10 decline the nomination.

11 (b) The Arkansas Office of Employment First
12 shall award the designation to a nominated business upon the businesses'
13 acceptance of the nomination.

14 (c) The Arkansas Office of Employment First
15 shall not award the designation to a nominated business if the business
16 declines the nomination or does not respond to notice of the nomination
17 within thirty (30) days.

18 (e) The following information is required for the application by or
19 nomination of a business:

20 (1) The name of the business;

21 (2) The location of the business; and

22 (3) Contact information for the business.

23 (f)(1) After an initial designation as an Employment First Business
24 Partner, a business shall certify annually that the business continues to
25 meet the eligibility criteria.

26 (2) A business designated as an Employment First Business
27 Partner shall allow the Arkansas Office of Employment First to conduct site-
28 monitoring visits to ensure ongoing eligibility.

29 (3) If the business designated as an Employment First Business
30 Partner fails to certify annually, the Arkansas Office of Employment First
31 shall remove the Employment First Business Partner designation.

32 (4) A business designated as an Employment First Business
33 Partner may elect to discontinue the Employment First Business Partner
34 designation at any time by notifying the Arkansas Office of Employment First.

35 (g)(1) The Arkansas Office of Employment First shall:

1 (A) Develop a logo that identifies a business as receiving
2 an Employment First Business Partner designation; and

3 (B) Adopt guidelines for the use of the logo, including
4 without limitation advertising.

5 (2) The Arkansas Office of Employment First may allow a business
6 designated as an Employment First Business Partner to display the logo upon
7 designation.

8 (3) A business that has not been designated as an Employment
9 First Business Partner or has elected to discontinue the designated status
10 shall not display the logo.

11 (h) The Arkansas Office of Employment First shall adopt rules to
12 implement this section.

13
14 20-14-1006. Employment First Business Partner Program website.

15 (a) The Division of Workforce Services shall maintain a website for
16 the Employment First Business Partner Program.

17 (b) The website shall:

18 (1) Provide a list of businesses, by county, that currently have
19 an Employment First Business Partner designation;

20 (2) Be updated quarterly regarding the eligibility requirements
21 for the Employment First Business Partner designation;

22 (3) Provide the method for application or nomination for the
23 Employment First Business Partner Program; and

24 (4) Update annually a list of best practices for businesses
25 regarding inclusion of individuals with disabilities.

26 (c) The website may provide links to the websites of organizations or
27 resources that will aid a business in employing or supporting individuals
28 with disabilities.

29
30 20-14-1007. Reporting.

31 (a) By January 1, 2025, the Arkansas Office of Employment First shall
32 report to the President Pro Tempore of the Senate and the Speaker of the
33 House of Representatives on the status of the implementation of this
34 subchapter, including without limitation the:

35 (1) Adoption of rules;

36 (2) Development of a logo; and

1 (3) Development of application procedures.

2 (b) Beginning in 2025 and thereafter, the office shall report in
3 detail the progress and use of the Employment First Business Partner Program,
4 including without limitation:

5 (1) The number of:

6 (A) Applications and nominations received;

7 (B) Nominations accepted and declined;

8 (C) Designations awarded; and

9 (D) Annual certifications; and

10 (2) Any information deemed necessary to evaluate the success of
11 the program.

12
13
14 Referred requested by the Arkansas Senate

15 Prepared by: CRH/SJA
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36