

SC EMPLOYMENT FIRST STUDY COMMITTEE REPORT

May 2019

“EMPLOYMENT FIRST is about more than just changing how services and supports for people with disabilities are provided. It is reflective of a fundamental cultural shift by policymakers, public officials, service systems, service providers, employers, and most importantly by individuals with disabilities themselves. This new viewpoint recognizes people with disabilities as full participants in the economic mainstream, working side by side with their fellow citizens.”
— Association of People Supporting Employment First (APSE)

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EXECUTIVE SUMMARY

“Employment First” means just that: it is a principle that employment should be the *first* option available to people with disabilities, and a set of ideas for achieving that goal. Individuals should have the opportunity to be productive members of an integrated society. The state, when providing services to people with disabilities, should encourage employment as a first option before assuming an individual can’t work, and before offering expensive segregated programs which offer little meaningful job training. South Carolina should join the 32 other states, including our immediate neighbors, which have adopted policies to help people become more independent. We can benefit from the experience of surrounding states by using the ideas and techniques that have worked for them. It is imperative that South Carolina begin moving in this direction, in part due to legal issues that arise when people are segregated, as discussed below, but also because instituting policies to help people find competitive, integrated employment will benefit the individual, industry, and the state.

Multiple studies have shown that unemployment is associated with higher mortality, poorer health, and higher rates of depression (Waddell & Burton, 2006; Crabtree, 2014).

South Carolina has the sixth highest unemployment rate for people with disabilities in the country, leaving thousands of people at risk for negative outcomes associated with unemployment.

At the same time, South Carolina employers are struggling to fill positions. Employment First policies can help meet industry needs by providing a framework to remove barriers to employment. These barriers include employer misconceptions; employers often don’t realize how minimal the cost of accommodations can be, and they don’t appreciate the benefits—including community goodwill—that can result from hiring people with disabilities. Other barriers include a lack of state guidelines and incentives encouraging businesses and government employers to consider hiring people with disabilities. Several more barriers are discussed below, with possible solutions suggested by Employment First principles.

Meaningful job training and removing barriers to employment can result in increased tax revenue for the state, and a decrease in reliance on state-funded assistance. Aside from those quantifiable advantages, South Carolinians will benefit from the fringe benefits always conferred when people who have been marginalized are integrated into society: we’ll be creating a richer, more diverse environment for everyone.

The first step is to adopt legislation that establishes that South Carolina is an Employment First state, and establish a Commission that can help guide us in the right direction.

ENABLING AUTHORITY

In May 2018, the South Carolina General Assembly passed legislation creating the Employment First Study Committee and charged the committee with studying and evaluating the need for an Employment First Initiative Act. The full legislation is as follows:

SECTION 1. There is hereby established the South Carolina Employment First Study Committee, consisting of six members, for the purpose of studying and evaluating the need for an Employment First Initiative Act. Such an act would establish policies supportive of competitive and integrated employment of individuals with disabilities and create related responsibilities for state agencies and political subdivisions of the State.

The study committee shall consist of the following members:

- (1) one member appointed by the Governor;
 - (2) one member appointed by the Lieutenant Governor;
 - (3) one member appointed by the President Pro Tempore of the Senate;
 - (4) one member appointed by the Speaker of the House of Representatives;
 - (5) one member appointed by the Chairman of the Senate General Committee;
- and
- (6) one member appointed by the Chairman of the House Medical, Military, Public and Municipal Affairs Committee.

SECTION 2. The South Carolina Employment First Study Committee must submit a report containing its findings and recommendations to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives on or before May 1, 2019. Upon submission of the report, the study committee is dissolved.

LEGISLATIVE HISTORY

The original bill was called the Employment First Initiative Act (H 4093) and was introduced in the SC House of Representatives on April 4, 2017. The bill's sponsors included Representatives Neal Collins, James E. Smith, and Mandy Powers Norrell. The bill was referred to the House Labor, Commerce and Industry (LCI) Committee. Able South Carolina representatives, Kimberly Tissot and Ed Schafer, met multiple times with Chairmen Sandifer and Toole to work on language in the bill. The bill was amended by Chairman Sandifer in House LCI that changed the language to a mandatory requirement to encouraging an option for the state agencies and political subdivisions. The amendments were as follows:

Amendments to Sections 41-5-130 and 41-5-140:

Original language in Section 41-5-130: The policy of this State is that competitive and integrated employment must be considered the first option for an individual with disabilities who applies for or receives services from the State or a political subdivision of this State. All state agencies and political subdivisions of this State shall adhere to this policy and ensure that it is effectively implemented in their respective programs and services; Amended: Section 41-5-130: All state agencies and political subdivisions of this State shall consider adopting a policy that encourages competitive integrated employment for individuals with disabilities.

Original Language to Section 41-5-140. All state agencies shall; amended Section 41-5-140: All state agencies are encouraged to...

This bill passed the House LCI Subcommittee and Committee unanimously and passed the House by a vote of 102-1. The bill then passed Senate LCI Subcommittee and Committee unanimously. Chairmen Alexander and Bennett were helpful in the Senate. However, on May 9, 2018, Senator Shane Martin took issue with the bill and told Senator Bennett he would not allow it to pass unless it was amended. Senator Martin amended the bill on May 10, 2018, to the legislation that is written in the enabling authority section of this report. The goals of the original bill were as follows:

1. The policy of the State of South Carolina is competitive and integrated employment shall be considered the first option for any individual with disabilities applying for or receiving services from the state or any of its political subdivisions. All state agencies and political subdivisions shall follow this policy and ensure it is effectively implemented in their programs and services.
2. All state agencies shall coordinate efforts and shall collaborate within and among such agencies to ensure that state programs, policies, procedures and funding support competitive and integrated employment of individuals with disabilities. All state agencies shall, whenever feasible and in accordance with all applicable state and federal confidentiality laws, share data and information across systems in order to track progress toward full implementation of the act.
3. Establish the South Carolina Employment First Oversight Commission consisting of seventeen appointed members who would recommend evidence-based, measurable goals and objectives for the state of South Carolina to ensure implementation of the Employment First Initiative Act. The Commission would track the measurable progress of state agencies and issue an annual report to the Governor and members of the SC General Assembly.

STUDY COMMITTEE MEMBERS

1. **Chairwoman Kimberly Tissot**, Able SC Executive Director/individual with a disability- Appointed by the Speaker of the House
2. **Kathleen Warthen**, Policy Attorney for Protection and Advocacy for People with Disabilities, Inc./individual with a disability. - Appointed by the Chairman of the House Medical, Military, Public and Municipal Affairs Committee.
3. **Felicia Johnson**, Commissioner of SC Vocational Rehabilitation Department- Appointed by Chairwoman of the Senate General Committee
4. **Representative Mandy Powers Norrell**, Appointed by the Lieutenant Governor
5. **Jane Vaughan**, Synergy Supportive Services/Parent Advocate- Appointed by the Governor
6. **Mary Baker**, Parent Advocate- Appointed by the President Pro Tempore of the Senate

STUDY PROCESS

The committee held four meetings during the 2019 legislative session and gathered data, reviewed issues impacting employment outcomes for South Carolinians with disabilities, and heard presentations from, and engaged in discussion with, representatives from the following organizations:

- Able South Carolina
- South Carolina Department of Education
- South Carolina Vocational Rehabilitation Department
- South Carolina Department of Disabilities and Special Needs
- South Carolina Department of Employment and Workforce
- Thrive Upstate

The following sections discuss the information from the committee meetings. The report concludes with recommendations from the committee. The meeting minutes are attached.

EMPLOYMENT STATISTICS FOR SOUTH CAROLINIANS WITH DISABILITIES

As of 2018, South Carolina ranks 6th for having the highest unemployment rate for people with disabilities in the United States. There are 727,701 South Carolinians who have disabilities and only 32.6% are employed which means 7 out of 10 citizens with disabilities are unemployed. The employment gap between citizens with disabilities and citizens without disabilities is currently 43.6% (Lauer & Houtenville, 2019). In addition to

the high unemployment rate for citizens with disabilities, South Carolina also has an estimated 3,513 citizens with disabilities in sheltered workshops where they may earn less than minimum wage via section 14c of the Fair Labor Standards Act which passed in 1938. This law allows employers to pay certain employees less than minimum wage based on the perceived impact the employee's disability has on his or her ability to perform the job (CRP List, 2018). Although federal law and several states, including South Carolina, allow employees to pay lower wages to citizens with disabilities, a few states have passed legislation to eliminate subminimum wage.



Figure 1. Infographic of disability employment related statistics. Reproduced from *Hire Me SC*, 2018. Retrieved April 9, 2019, from <https://www.hiremesc.org/stats>

EMPLOYMENT FIRST

The United States Department of Labor's Office of Disability Employment Policy defines Employment First as a framework for systems change that is centered on the premise that all individuals with disabilities, including those with the most significant disabilities, are capable of full participation in competitive, integrated employment and community

life. Under this approach, publicly-financed systems are urged to align policies, regulatory guidance, operational processes, funding structures, and service delivery practices toward a commitment to competitive, integrated employment as the priority option of employment and long-term supports for youth and adults with disabilities. It is a practice that encourages states to approach Employment First efforts with a cross-disability lens, and to ensure that state Employment First efforts engage all relevant State government systems and external stakeholders that are responsible for or relevant to improving the employment outcomes. Currently, there are 32 states with employment first legislation and/or with an executive order; South Carolina's neighboring states Georgia, North Carolina, and Tennessee are among these states.

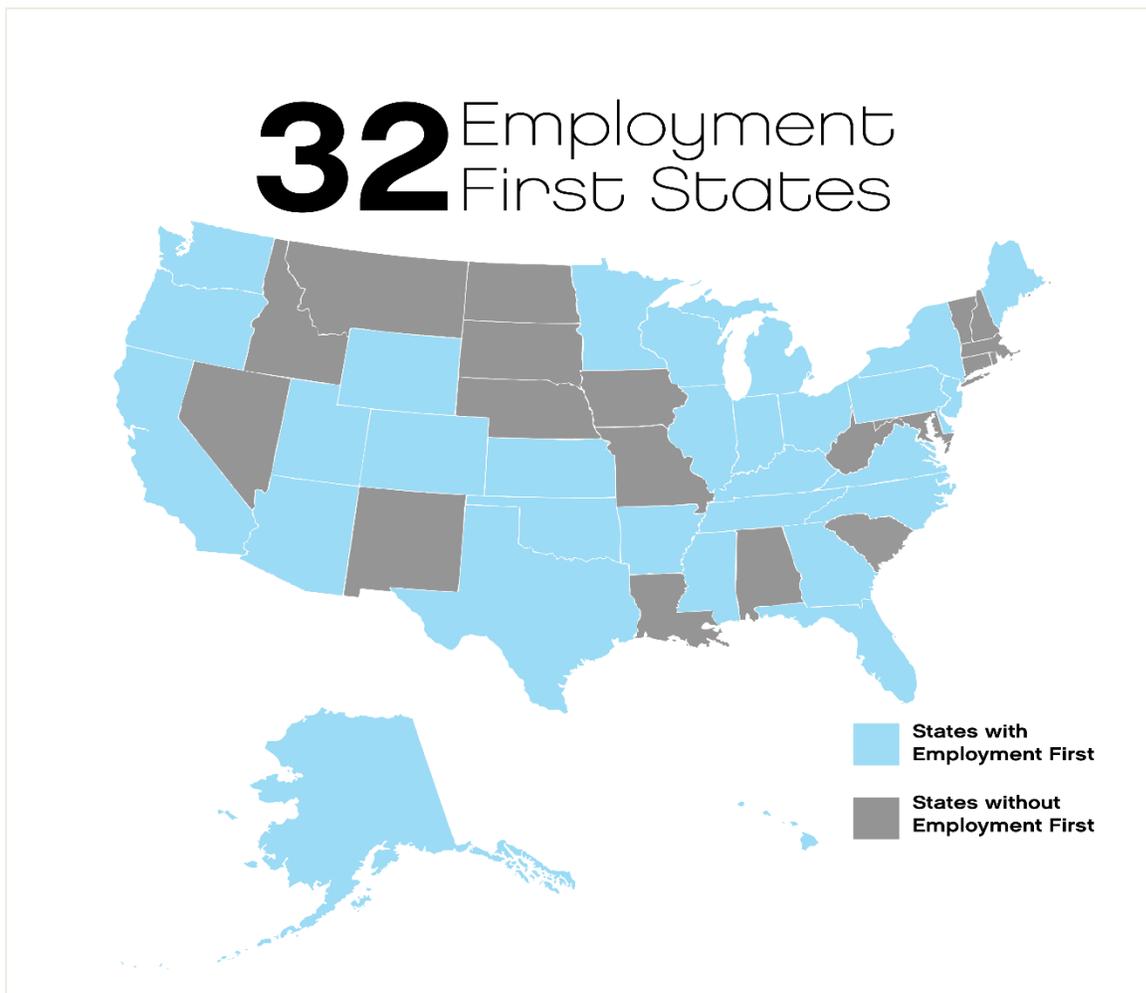


Figure 2. Employment First states. Adapted from “DRIVE State Profiles” by The LEAD Center, 2019. (<http://drivedisabilityemployment.org/state-profiles>). Copyright 2019 by the National Disability Institute, Inc.

BARRIERS TO EMPLOYMENT FOR CITIZENS WITH DISABILITIES

Through the study process, members of the SC Employment First Study Committee found that there are several barriers where additional support from the state is critical to improve employment for South Carolinians with disabilities. The below list is just several examples of the barriers impacting citizens with disabilities which could be a start for any future Employment First Oversight Commission to further explore and develop solutions. The following barriers were identified during the process:

Employer Misconceptions

Citizens with disabilities are a valuable untapped resource for South Carolina employers. Employers can play a critical role in addressing the high unemployment rate of citizens with disabilities. However, some employers have concerns about hiring people with disabilities, often due to myths, fears, and stereotypes.

People with disabilities (including people with physical, intellectual, psychiatric, vision, hearing, etc.) are capable of working in career fields as diverse as education, manufacturing, management, health care, and construction. Most people with disabilities work harder than other employees and many earn performance ratings of good or excellent. Workers with disabilities are generally more reliable than other workers, have less absenteeism, and miss work less due to medical reasons (Hernandez & McDonald, 2010). Because of the barriers they have often faced, they generally increase the morale of coworkers. A national survey reported that 92% of the American public view companies that hire people with disabilities more favorably, and 87% prefer to give their business to companies that hire people with disabilities. (Siperstein, Romano, Mohler, & Parker, 2006)

Some employers are concerned that hiring people with disabilities means they will have to provide expensive accommodations. Reasonable accommodations can ensure employees are performing at their highest level. Employers are required by the Americans with Disabilities Act (ADA) to provide reasonable accommodation to qualified individuals with disabilities, unless doing so would impose an undue hardship to the agencies. Reasonable accommodations don't have to be expensive. In fact, nearly a quarter of accommodations cost nothing at all, and two-thirds cost less than \$500. South Carolina Vocational Rehabilitation Department reported that the average cost for reasonable accommodations (excluding hearing aids and vehicle modifications) in 2018 was \$87.86.

Other employers worry that if employees with disabilities can't or won't do the job, they cannot terminate them. However, people with disabilities follow the same performance guidelines as any other employee. If a performance problem does occur, an employer should follow their established guidelines or policies.

Studies have also shown that the overwhelming majority of unemployed citizens with disabilities prefer to work but often have difficulty due to employer misconceptions. In a time marked by a critical demand for labor and significant economic expansion and prosperity, the study committee finds it discouraging that South Carolinians with disabilities are not participating in the labor force to the same extent as their peers without disabilities.

Disability Employment is not a State Priority

South Carolinians with disabilities are not currently a priority of the state's workforce development strategy within state government. The State of South Carolina should be the leader in employing people with disabilities and creating a model for others to follow for true integration. Although many state agencies, nonprofit organizations, and the private sector are working to make positive changes to improve the high unemployment rate of South Carolinians with disabilities, the state must be involved to create internal systems changes.

In comparison, state legislatures in other states enacted 44 laws relating to workforce development in 2018 to help people with disabilities access and retain meaningful employment. The SC Employment First Study Committee was South Carolina's first law around employment for citizens with all types of disabilities looking at competitive and integrated employment. Other states have expanded access to transportation, adopted initiatives to employ more citizens with disabilities, and increased incentives for private-sector hiring (Draeger, 2019). Additionally, the National Conference of State Legislators and the National Council of State Governments developed a year-long taskforce to look at employment for citizens with disabilities. The taskforce published a report, *Work Matters: A Framework for States on Workforce Development for People with Disabilities* in 2016. The group identified 13 policy options under the following categories: Laying the groundwork, preparing for work, getting to work and accessing opportunities, staying at work, and supporting self-employment and entrepreneurship (Whitehouse, Ingram, & Silverstein, 2016). The full report can be found in the appendix.

No Hiring Initiatives in State Government

South Carolina does not offer regulations (or guidelines) for recruiting or hiring people with disabilities. The state should adopt something similar to the Federal 503 regulations, in addition to Equal Employment Opportunity Commission (EEOC) policies.

Section 503 of the Rehabilitation Act requires that businesses which are federal contractors or subcontractors must take affirmative action to hire more people with disabilities. This rule encourages federal contractors to ensure at least 7% of their employees are qualified individuals with disabilities. The 7% requirement is a goal or

target, not a hiring requirement or quota. It is a way to ensure that federal contractors include disability in their recruitment and hiring criteria.

Lack of Data Collection

South Carolina does not gather statistics on how many citizens with disabilities are unemployed. This means that the primary source of this information is census data, which can be unreliable or dated, or data gathered on a national level which does not accurately reflect workforce issues in South Carolina. The state should collect employment information about citizens with disabilities. Additionally, this data should be transparent and made available to the public.

Lack of Support for Businesses to Hire Citizens with Disabilities

South Carolina does not offer incentives similar to the national Work Opportunity Tax Credit for employers that hire people with disabilities. Implementing such an option in the state would encourage businesses to recruit and hire more South Carolinians with disabilities.

No Designated State ADA Coordinator

Although the Americans with Disabilities Act (ADA) requires that all public entities with 50 or more employees have at least one designated employee to coordinate ADA compliance, many state agencies do not have an ADA Coordinator or have one who lacks training, resulting in inaccessible programs, hiring practices, and services. The state does not currently monitor compliance in regards to the ADA. The state should take the proper steps to ensure that agencies' workplaces (including architectural accessibility, policies, procedures, management training, and websites) are fully accessible so that there are no accessibility barriers during the recruitment, hiring, onboarding, retention for potential employees with disabilities, as well as to ensure the agencies' programs, services and activities fully comply with the ADA.

Lack of Employment Preparation in the Public Education System

While there have been strides made by some legislative changes for students with disabilities to gain employment skills through the SC High School Credential, this does not and should not address the needs of all students with disabilities as a very low number of students should be eligible for the Credential. South Carolina must start preparing students with disabilities earlier and making sure they have a true opportunity for graduating high school with a high school diploma. Research demonstrates that focusing on career awareness and work experience for youth is an indicator of positive employment outcomes, especially for people with disabilities (Solberg, Howard, Gresham, & Carter, 2012). 48% of students with IEPs in the state did not earn a high

school diploma, 3.5% dropped out of high school all together, and there are entire school districts without federally mandated data on outcomes in employment and post-secondary education one year after high school exit (SC State Department of Education, 2016). Our state can lead the effort by demonstrating to state agencies, service providers, educators, and even parents who have children with disabilities that our state has the expectation of employment for everyone, including South Carolinians with disabilities and ensure that career readiness begins in kindergarten through South Carolina colleges for ALL youth with disabilities.

Public Transportation Barriers

Transportation is the key to independence and community participation. Citizens with disabilities are twice as likely to have inadequate transportation, making it difficult to get to work and access other places in the community (ADA 20 Years, 2010). South Carolinians with disabilities want the same opportunities to get to places as any other citizen with safe, affordable, convenient, quality transportation that is also accessible, available in neighborhoods, free from discrimination, and inclusive. Unfortunately, when there are accessible transportation options, there are often environmental barriers, like crumbling sidewalks, missing curb cuts, and hard to read signs that may deny access to multimodal transportation. Additionally, although there is an increase in ride hailing services, citizens with disabilities are still seeing barriers such as a decrease in taxi services, a lack of training for contracted drivers and fewer wheelchair accessible vehicles available. South Carolina must consider options to provide adequate, accessible public transportation as it's essential to fully address social and economic disparities that exist among citizens with disabilities (National Council on Disability, 2015).

BENEFITS OF EMPLOYMENT FIRST

Competitive integrated employment provides enormous benefits for the individuals employed and their families, for businesses and industry, and for the state of South Carolina.

Benefits for SC when businesses employ individuals with significant disabilities

Hiring a qualified citizen with a disability brings greater benefits beyond just filling an open position. Businesses that hire citizens with disabilities turn social issues into business opportunities. These opportunities translate into lower costs, higher revenues and increased profits and ultimately capitalizes on the return on investment of employing citizens with disabilities. People with disabilities offer diverse skill sets and unique insights that can help shape design and development for industry, resulting in products and services that appeal to a broader market share. Employment for people

with disabilities not only builds a more diverse workforce but also leads to greater purchasing power for this population (Yin, Shaewitz, Smith, & Overton, 2018).

As of February 2019, South Carolina's unemployment rate remains at 3.2% but our state continues to fall behind with employment for citizens with disabilities. With the majority of South Carolinians participating in the workforce, employers are actively exploring innovative ways to meet their company demands. By employing citizens with disabilities, businesses have an increased talent pool of qualified, capable candidates when seeking to fill their employment needs. This not only increases employee retention, diversity, creativity, and problem solving in the workforce, but it also helps businesses and industry respond more effectively to an aging workforce.

By utilizing a largely untapped resource to meet workforce needs, unemployment is reduced and more individuals are able to contribute to the state's economy as consumers and taxpayers, thereby reducing (or eliminating) their need for government assistance. Those that receive health insurance coverage through their new jobs reduce or eliminate their dependence on Medicaid. When people with disabilities find gainful employment, they have more discretionary income. Employed individuals with disabilities return, on average, \$251 a month to their communities (Cimera, 2009).

SC Vocational Rehabilitation Department reported their return on investment for last fiscal year which shows that successfully rehabilitated consumers (program participants) will pay back \$5.43 in taxes for every \$1 spent on their rehabilitation, and they will repay the cost for SCVRD services in approximately 3.3 years. That's a 30% annual rate of return on taxpayer investment.

Employing citizens with disabilities may also improve a business's ability to become a federal contractor since Section 503 of the Rehabilitation Act requires federal contractors and subcontractors to aspire to, and track progress toward, employing individuals with disabilities. For those employers that already make disability employment hiring practices a priority, they put themselves in a greater position to be considered as a federal contractor.

Benefits of employment for people with significant disabilities

Working is good for an individual's health and well-being. It contributes to their happiness, helps to build confidence, independence, and self-esteem, and provides financial rewards. Through employment, individuals develop a sense of pride, identity and personal achievement; expand their opportunities to socialize, make contacts and find support; and earn money to support themselves, explore their interests, and contribute to their community.

People who work, or who return to work after a period of unemployment, also tend to enjoy happier and healthier lives than those who are not employed. Employment

challenges us and leads to improved physical and mental health (van der Noordt, Ijzelenberg, Droomers, & Proper, 2014).

Employment plays a key role in someone's sense of well-being and facilitates and solidifies community inclusion and self-sufficiency. Real jobs and income are how most people maintain independence and create economic security for themselves and their families, nationally and in South Carolina. Individuals with disabilities report wanting to work in the community, and those in supported employment are more likely to "make independent decisions, demonstrate higher self-esteem, and participate in more leisure activities" than those in segregated work settings (Sinnott-Oswald, Gliner, & Spencer, 1991).

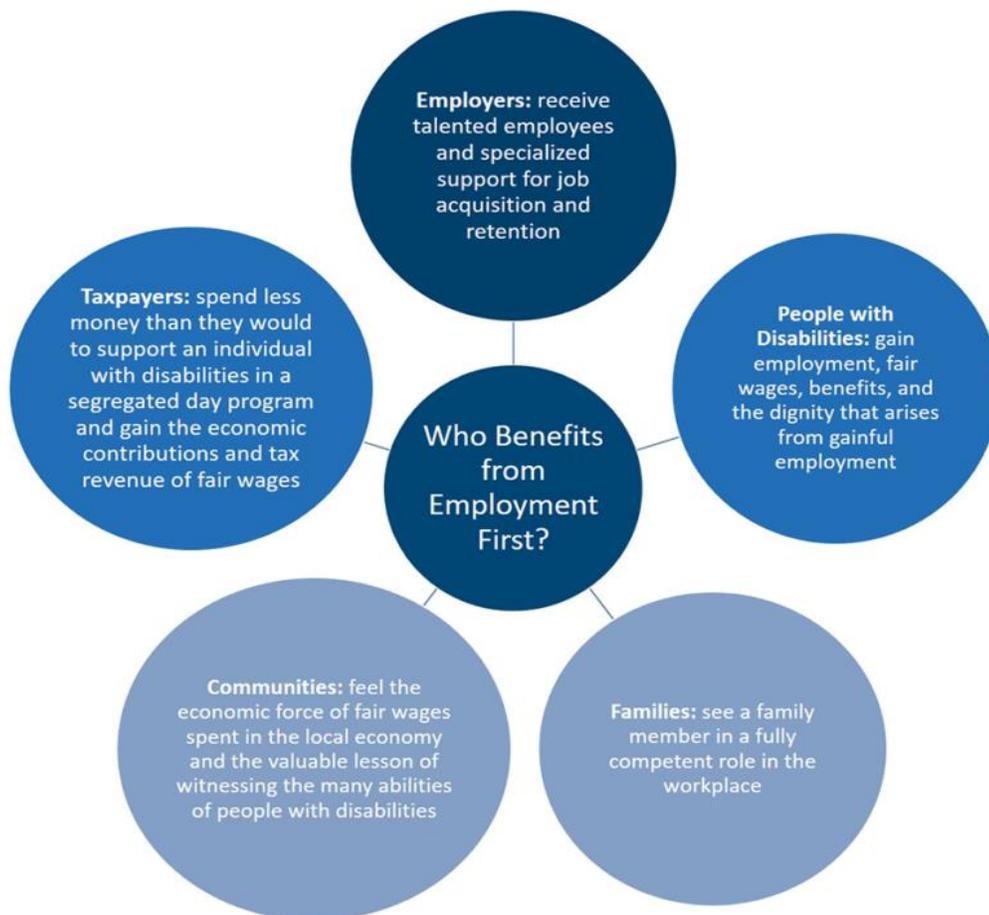


Figure 3. Who benefits from Employment First? Reproduced from "Employment First Works", by Association of People Supporting Employment First (APSE). Retrieved April 9, 2019, from <https://apse.org/we-believe/employment-first/>. Copyright 2019 by APSE.

WHY EMPLOYMENT FIRST IS LEGALLY IMPERATIVE

Employment First is a good idea for everyone; it allows people with and without disabilities to benefit from a diverse workforce, expertise, and perspective. But there's another reason to implement an Employment First policy in South Carolina: integration is required by the law.

The ADA's Integration Mandate

The "integration mandate" is exactly what it sounds like; just as federal law prohibits schools and businesses from segregating people according to the color of their skin, the Americans with Disabilities Act (ADA) prohibits segregation on the basis of disability. Public entities must provide services in the most integrated setting appropriate to the needs of the individual with a disability (42 U.S.C. § 12132; 28 C.F.R. § 35.130(d); *Olmstead v. L.C.*, 527 U.S. 581 (1999)). An integrated setting "enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible" (28 C.F.R. Pt. 35 App. B (discussing paragraphs (d) and (e) of 28 C.F.R. § 35.130)).

Integrated settings are those that provide individuals with disabilities opportunities to live, work, and receive services in the greater community, like individuals without disabilities. Integrated settings are located in mainstream society; offer access to community activities and opportunities at times, frequencies and with persons of an individual's choosing; afford individuals choice in their daily life activities; and, provide individuals with disabilities the opportunity to interact with non-disabled persons to the fullest extent possible. Evidence-based practices that provide scattered-site housing with supportive services are examples of integrated settings. By contrast, segregated settings often have qualities of an institutional nature. Segregated settings include, but are not limited to: (1) congregate settings populated exclusively or primarily with individuals with disabilities; (2) congregate settings characterized by regimentation in daily activities, lack of privacy or autonomy, policies limiting visitors, or limits on individuals' ability to engage freely in community activities and to manage their own activities of daily living; or (3) settings that provide for daytime activities primarily with other individuals with disabilities (Department of Justice, 2011).

Unfortunately, in South Carolina individuals with disabilities are still unjustifiably segregated in state-provided services such as career preparation and employment services. Some spend all day interacting only with other similarly segregated individuals. These services might be called "career preparation" or "employment services," as if they are a stepping-stone to more meaningful, challenging work. In reality, individuals are stuck in these dead-end services for years. Many of the venues where these services are provided are sheltered workshops, so called because they are "sheltered" from laws defining the minimum wage. Individuals will be stuck for hours a day, for year on end, performing repetitive tasks, which teach them no meaningful job skills, while being paid far less than the federal minimum wage. For more information, please see the report "Unjustified Isolation, Unwarranted Assumptions: Why South

Carolina's System of Sheltered Employment Services Needs to Change" from Protection and Advocacy for people with Disabilities, Inc., attached. It is problematic enough that people would be paid a wage on which it is impossible to support themselves, but people in these settings can also be denied the right to receive unemployment benefits or workers' compensation for on-the-job injuries.

The Department of Justice has said that segregating training programs and work settings violates the ADA (*Lane v. Brown*, 2012). A priority of Employment First is integrating work and training settings so that the integration mandate is satisfied. This would mean that people are given meaningful training and are able to transition into work in places where people without disabilities also work. Interaction with diverse people is itself a workplace skill that is difficult to learn in a segregated setting.

Medicaid Requirements

The federal agency that administers Medicaid frequently issues guidance and regulations. In an effort to reform Medicaid services into compliance with other laws, the agency has issued regulations and guidance which involved a series of proposals, culminating in a constellation of rules that are now referred to collectively as the "Final Rule." The Medicaid Final Rule applies to services provided to people who are on a Home and Community-Based Services (HCBS) waiver (42 C.F.R. § 441.301(c)(4)/441.710(a)(1)/441.530(a)(1) (People on these HCBS waivers are often encouraged to work in segregated settings, as described above).

The Medicaid agency has said that the purpose of the Final Rule is to "maximize the opportunities" for individuals on the waiver to "receive services in integrated settings and realize the benefits of community living, including opportunities to seek employment and work in competitive integrated settings" (CMS, 2017). Medicaid focuses here not just on the physical setting, but on "individual experience and outcomes" of services provided. For example, for purposes of the Final Rule, it is important that the individuals have freedom to move about the setting, rather than being restricted to one area; that individuals are allowed the opportunity to make informed choices, reflecting their preferences and needs; that the setting encourages interaction with the public, or the unrestricted entry of visitors; and that the individuals are afforded the opportunity to negotiate terms of employment, such as their work schedule, in the same manner as individuals not served by an HCBS waiver.

The Final Rule requires that help making informed choices should be provided under a "Person-Centered Plan" (PCP), which includes friends, family members, and others of the person's choosing as helpers. The PCP should help individuals identify services and supports that will help them integrate into the community. Unfortunately, South Carolina is not yet able to provide fully integrated services to individuals who need them. Many people with disabilities are still segregated into sheltered workshops, enclaves, and mobile work crews without a meaningful option to choose more integrated work.

Again, then, under the Final Rule South Carolina has a mandate to integrate services.

The Workforce Innovation and Opportunity Act

The Workforce Innovation and Opportunity Act (WIOA) was passed by Congress and became law in 2014. WIOA defined competitive integrated employment and set requirements for young people with disabilities to have the opportunity to be paid at the prevailing wage in integrated settings. WIOA requires that youth under 24 years of age receive transition services under the Individuals with Disabilities Education Act (IDEA) and/or pre-employment transition services through vocational rehabilitation, apply for vocational rehabilitation services, and receive career counseling, including information and referrals, about the effect of working on their disability benefits prior to participating in subminimum wage employment. State vocational rehabilitation services agencies are required to work with students with disabilities not younger than the earliest age for provision of transition services under IDEA (age 13 in South Carolina) and up to age 21 and provide them with pre-employment transition services aimed at increasing their employment in competitive integrated jobs. South Carolina has a WIOA Unified State Plan in place (Modified Plan, 2018). This Plan requires state agencies such as SCVRD, DDSN, and DHHS to work together to maximize opportunities for community-based integrated employment.

In order to come into compliance with these and other laws, South Carolina must adopt an Employment First Initiative. The federal government provides incentives and help to states adopting the initiative (The LEAD Center, 2015). The Medicaid agency provides matching dollars, some agencies provide technical assistance, and various grants are available.

CONCLUSION AND RECOMMENDATIONS

South Carolina has a great opportunity to make a positive impact on the lives of South Carolinians with disabilities. Citizens with disabilities are significantly underrepresented in South Carolina's workforce and despite substantial improvements in South Carolina's employment rate, the gap in employment outcomes for citizens with and without disabilities has widened. South Carolina is consistently reporting one of the highest unemployment rates for citizens with disabilities in the country and to date, the state has done little to address the issue.

The SC Employment First Study Committee was charged with looking at the need for Employment First legislation. Over the course of its meetings, it is clear that Employment First legislation is significantly needed to develop strong public policy at the state level and to systematically address the barriers that are preventing South Carolinians from being employed. South Carolina should take its first step to prioritize "employment as the first option" when designing policies, programs, and investments to support the employment of South Carolinians with disabilities. Employment First is truly a "win-win" for all South Carolinians as everyone benefits when citizens work and contribute to their communities through taxes, productive work and involvement with communities.

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APPENDIX A

Original Bill

"CHAPTER 5

Employment First Initiative Act

Section 41-5-110. This chapter must be known and may be cited as the 'Employment First Initiative Act'.

Section 41-5-120. As used in this chapter:

- (1) 'Competitive integrated employment' means work in the competitive labor market that is:
 - (a) performed on a full-time or part-time basis in an integrated setting; and
 - (b) for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

- (2) 'Integrated setting' means, with respect to an employment outcome, a setting typically found in the community in which employed individuals with disabilities interact with individuals without disabilities, other than individuals who are providing services to employees with disabilities, to the same extent that individuals without disabilities in comparable positions interact with other people.

Section 41-5-130. All state agencies and political subdivisions of this State shall adopt a policy that encourages competitive integrated employment for individuals with disabilities.

Section 41-5-140. All state agencies are encouraged to:

- (1) coordinate efforts and collaborate within and among themselves to ensure that state programs, policies, procedures, and funding support the competitive and integrated employment of individuals with disabilities;
- (2) share data and information across systems in order to track progress toward full implementation of this chapter, whenever feasible, and in accordance with all applicable state and federal confidentiality laws; and
- (3) adopt rules and promulgate regulations to implement the provisions of this chapter.

Section 41-5-150. (A) There is hereby established the South Carolina Employment First Oversight Commission consisting of seventeen members. The commission consists of the following members who serve for a three-year term with a limit of two consecutive terms:

- (1) one must be appointed by the Governor from Protection and Advocacy for People with Disabilities;
- (2) one must be appointed by the Governor from the South Carolina Developmental Disabilities Council;
- (3) one must be appointed by the Governor from Able South Carolina;

- (4) one must be appointed by the Governor from the South Carolina University Center for Excellence in Developmental Disabilities;
 - (5) one must be appointed by the Governor from a cross-disability, consumer-run, private entity;
 - (6) two members representing the business community appointed by the Governor;
 - (7) the State Superintendent of Education or his designee, serving ex officio;
 - (8) the Director of the South Carolina Department of Employment and Workforce or his designee, serving ex officio;
 - (9) the Director of the South Carolina Department of Disabilities and Special Needs or his designee, serving ex officio;
 - (10) the Director of the South Carolina Department of Mental Health or his designee, serving ex officio;
 - (11) the Director of the South Carolina Vocational Rehabilitation Department or his designee, serving ex officio;
 - (12) the Director of the South Carolina Commission for the Blind or his designee, serving ex officio; and
 - (13) four members, each of whom has a disability or substantial knowledge of disability issues and who is employed by a governmental or private entity which provides an employment service to individuals with disabilities, provided at least two of these members must have a disability. Of the members appointed pursuant to the item:
 - (a) one must be appointed by the Speaker of the House of Representatives;
 - (b) one must be appointed by the Minority Leader of the House of Representatives;
 - (c) one must be appointed by the President Pro Tempore of the Senate; and
 - (d) one must be appointed by the Minority Leader of the Senate.
- (B) The Governor shall designate one member to convene and organize the first meeting of the commission. During this meeting, the commission shall elect a chairperson and a vice chairperson from among its members.
- (C) All actions of the commission must be taken by a majority of the members of the commission present and voting.
- (D) Members of the commission may not receive compensation, mileage, subsistence, or per diem for their service to the commission.

Section 41-5-160. Within six months after the first meeting required in Section 41-5-150(B), the commission shall establish evidence-based measurable goals and objectives to encourage implementation of this chapter. The commission shall track the measurable progress of state agencies in implementing this chapter. All state agencies are encouraged to assist the commission in carrying out its duties by fully cooperating with each other and the commission, and by providing data and information in accordance with all applicable state and federal confidentiality laws.

Section 41-5-170. The commission annually shall, before January first, issue a report to the Governor and members of the General Assembly which details progress toward the goals and objectives of the commission and progress toward the full implementation of this chapter. The report also shall identify barriers to achieving the outcomes and effective strategies and policies that can help realize the employment first initiative. All state agencies are encouraged to cooperate with the commission on the creation and dissemination of the annual report.

Section 41-5-180. The commission may seek the guidance and expertise of all stakeholders, including individuals with disabilities, organizations that advocate on behalf of individuals with disabilities, providers of services to individuals with disabilities, local government, and business associations."

SECTION 2. This act takes effect upon approval by the Governor.

APPENDIX B

Study Committee Minutes

SOUTH CAROLINA EMPLOYMENT FIRST STUDY COMMITTEE OVERVIEW

Location: Protection & Advocacy for People with Disabilities, Inc.: 3710 Landmark Drive,
Columbia, South Carolina
Friday, January 18, 2019

Call to Order and Introductions:

The meeting was called to order at 10:06 AM.

Members present: Kimberly Tissot, Felicia W. Johnson, Kathleen Warthen, Jane Vaughn, and Representative Mandy Powers Norrell

Members absent: President Pro Tempore of the Senate's appointment (vacant)

Guests present: Ed Schafer (Able SC), Beth Franco (P&A) and Charlie Walters (Able SC)

Kimberly Tissot opened the meeting and thanked everyone for their time. She reviewed the guidance that was provided by Steve Davidson, Chief Counsel of the House Labor, Commerce & Industry Committee. Currently, there are two members waiting for appointment letters; Felicia Johnson (appointed by Senator Katrina Shealy) and Karen Wingo (who should be appointed by Sen. Hugh Leatherman, SR). Ed Schafer will follow-up on the appointment letters.

History of the Legislation/Intent:

Kimberly Tissot and Ed Schafer provided a history of the bill. The original bill was a collaborative approach after the South Carolina Disability Employment Coalition established the need for such legislation. The intent of the original bill was to create the SC Employment First Oversight Commission to improve employment for citizens with disabilities; to establish policies supportive of competitive and integrated employment for individuals with disabilities and; create related responsibilities for state agencies and political subdivisions of the State. The bill was sponsored by Representatives Neal Collins, James R. Smith, and Mandy Powers Norrell and received bipartisan support. The bill was assigned to the House and Senate's Labor, Commerce and Industry Committees and received favorable reports in both. Ed mentioned that the members of both committees gave positive remarks and showed excitement with the bill after hearing testimony from a young adult with a disability; one Representative even gave a standing ovation. The bill passed in the house in April of 2018. Senator Shane Martin did a strike-through of the bill on the Senate floor to create a study committee that would

establish the need for an Employment First Initiative Act. The bill passed with the amendments in the Senate on May 10, 2018.

Employment First Philosophy:

Charlie Walters, Director of Transition Programs at Able South Carolina did a presentation on Employment First Philosophy and provided information about the state of employment for citizens with disabilities. Charlie's presentation included information about the philosophy and current areas needing improvement.

Review of the Committee's Requirements:

The study committee consists of six members and was established for the purpose of studying and evaluating the need for an Employment First Initiative Act. Such an act would establish policies supportive of competitive and integrated employment of individuals with disabilities and create related responsibilities for state agencies and political subdivisions of the State. The South Carolina Employment First Study Committee must submit a report containing its findings and recommendations to the Governor, the President Pro Tempore of the Senate, and the Speaker of the House of Representatives on or before May 1, 2019. Upon submission of the report, the study committee is dissolved.

Committee Discussion on Employment First

All present members agreed that Employment First legislation continues to be a need. During the next meeting, the committee would like to begin information gathering from the key entities providing employment services for people with disabilities.

Action Plan & Timeline

1. The committee agreed that there should be two meetings in February due to the short timeline. The first meeting will focus on information gathering from the below entities.
2. The committee will request a presentation from the below entities about:
 - Their efforts to further competitive and integrated employment
 - Employment first policies or similar initiatives
 - The outcome of services/supports
 - a. South Carolina Vocational Rehabilitation Department- *Additional information that will be requested: eligibility criteria and outcomes*
 - b. South Carolina Department of Education - *Additional information that will be requested: Postsecondary outcomes for students with disabilities and oversight/assistance as it relates to postsecondary goals*
 - c. South Carolina Department of Employment and Workforce—*Additional information that will be requested: disability related data collection*
 - d. South Carolina Department of Disabilities and Special Needs- *Additional information that will be requested: information about how their Employment First directive is being used to guide providers*
 - e. Thrive Upstate (largest holder of 14c certificates in our state)- *Additional information that will be requested: number of individuals enrolled in Work*

Activity Centers (formerly known as sheltered workshops) and average pay rate

3. The committee will develop sub-committees after the information is gathered. Kathleen will begin researching reporting formats from other SC study committees. The committee plans to have a report draft completed no later than April 1, 2019, which will allow one month to finalize the report.

Scheduling Next Study Committee Meeting

Kimberly will send out a Doodle Poll to schedule the next meeting. The next meeting will be held in February 2019.

Other Business

It was agreed by all present members that Kimberly Tissot will be Chair of the South Carolina Employment First Study Committee.

Adjournment

The meeting was adjourned at 11:40 AM.

SOUTH CAROLINA EMPLOYMENT FIRST STUDY COMMITTEE OVERVIEW

Location: Able South Carolina: 720 Gracern Rd., Suite 106, Columbia, South Carolina
Thursday, February 21, 2019

Call to Order and Introductions:

The meeting was called to order at 2:04 PM.

Members present: Kimberly Tissot, Kathleen Warthen, and Jane Vaughn

Members absent: Felicia Johnson, Representative Mandy Powers Norrell and the President Pro Tempore of the Senate's appointment (vacant)

Guests present: Ed Schafer (Able SC), Darline Graham (Filling in for Felicia Johnson/SC Department Vocational Rehabilitation Department), Elise Hardin and Dee DiCarlo (Thrive Upstate), Beckie Davis (SC Department of Education, Office of Special Education Services), Lynn Lugo Sigg and Susan Davis (SC Department of Disabilities & Special Needs), and Mark Hendrick, Jackie Taylor and Mary Jo Schmick (SC Department of Employment and Workforce)

Kimberly Tissot opened the meeting and discussed the outline of today's meeting. She also provided an update about the appointments. Karen Wingo is still waiting for her appointment and Ed Schafer will follow-up with Senator Peeler since he is now the President Pro Tempore of the Senate.

Report Format:

Kathleen Warthen stated she found a wide variety of styles of study committee reports varying from of 80+ pages with detailed explanations and then there were reports that were around 10 pages long.

Reports of similar committees tend to have the following components:

1. A statement of Enabling Authority (for us, last year's H. 4093)
2. A list of members (bios at the end)
3. Executive Summary: for those (most people) who will only read the summary, a quick-and-dirty explanation of the basic problems, findings, and recommendations (this is more necessary when the report is long)
4. Introduction: a couple of pages laying out the problems to be studied
5. Study process: an explanation of how we gathered information, what speakers we invited, etc.
 - a. Some reports even include summaries of individual meetings. We could attach meeting minutes as an appendix.
6. History: what has been tried to address the problem in question in the past
7. Issues, each numbered and discussed
8. Conclusion and Recommendations

Kathleen suggests that we keep to this basic format, and try not to make the report itself overwhelming. We do not have to include all of the above components, though we can. She said we can attach other information to both shows the sources from which we drew our conclusions, and provide further reading for those who want to delve further. Kimberly mentioned a lot of this information is compiled and some data is included on the HireMeSC website.

Agency presentations:

Thrive Upstate:

Elise Hardin, Director of Day Services and Dee DiCarlo, Employment Development Manager did a presentation about what their agency does and how it plays a part in Employment First. They also mentioned supporting statewide efforts around employment first. Information included the number of individuals enrolled in shelter workshop and their ideas of what supports would be needed to improve efforts around competitive and integrated employment. They reported that they plan on closing their shelter workshops in the future to focus their efforts on competitive and integrated employment. The presentation is attached.

South Carolina Department of Education, Office of Special Education Services:

Beckie Davis, Director did a presentation of the different ways in which the agency promotes Employment First and their work with the credential. Beckie said the agency would support state efforts to improve employment for people with disabilities and said the legislation would help. The presentation is attached.

South Carolina Department of Disabilities & Special Needs:

Lynn Lugo Sigg, Acting Governmental Affairs & Press Officer and Susan Davis, Program Coordinator did a presentation on how their agency promotes Employment First. DDSN established an employment first directive in 2015, however, not all DSN providers are implementing employment first as data proves. They agreed that furthering employment first would be helpful with state agencies and businesses. DDSN also shared their [Employment First Directive](#). The presentation is attached.

SC Department of Employment and Workforce:

Mark Hendrick, Director of Governmental Affairs, Jackie Taylor, Priority Populations Coordinator and Mary Jo Schmick, Director of Workforce Programs presented on their roles of finding employment for people with disabilities. They reported not currently being mandated to report disability employment data from the state. They agreed that furthering employment first would be helpful with state agencies and businesses. The bulleted Report is attached.

SC Vocational Rehabilitation Department:

Darline Graham, Director of Communications did a presentation about SCVRD. She also spoke some about the number of consumers seeking employment from SCVRD compared to the number of people they have placed into employment. Darline

mentioned furthering employment first would be helpful to engage state agencies and businesses. The presentation is attached.

Action Plan/Timeline:

1. Kimberly suggested the committee create a GoogleDoc to begin the reporting outline.
2. The group agreed it would be helpful to include ideas that the future Employment First Commission could look more into to improve employment for people with disabilities including:
 - a. State as a Model Employer
 - b. Tax Incentives for Businesses Hiring People with Disabilities and Self-Employment/Entrepreneurship
 - c. Return-to-Work/Stay-at-Work Framework to help states increase the employment retention and labor force participation of individuals who acquire and/or are at risk of developing work disabilities.
 - d. Collecting state data on employment for people with disabilities
 - e. Shared systems and/or processes for collecting data that yields increased transparency on the roles of publicly-entities charged with providing employment support services for people with disabilities
 - f. Americans with Disabilities Act state oversight and risk management

Comments/Adjournment:

There are three additional Employment First Study Committee meetings scheduled. The dates for future meetings are:

- Monday, March 11, 2019, at P&A, 3710 Landmark Drive, 2:00 PM - 4:00 PM
- Friday, March 29, 2019 at P&A, 3710 Landmark Drive, 10:00AM – 12:00PM
- Friday, April 5, 2019, at Able SC, 720 Gracern Road, 2:00 PM – 4:00 PM

Adjournment

The meeting was adjourned at 4:35 PM.