GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-161
HOUSE BILL 255

AN ACT TO AMEND THE STATUTES INVOLVING VOCATIONAL REHABILITATION IN ORDER TO COMPLY WITH FEDERAL LAW.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-545.1(b)(2) reads as rewritten:

"(2) The Secretary of the Department of Health and Human Services shall adopt rules to establish eligibility for services, the nature and scope of services to be provided, standards for community rehabilitation programs and qualified personnel to provide services and conditions, criteria, and procedures under which services may be provided including financial need for services. Rules governing financial need for services shall meet the requirements set in federal law and regulations. ~~The following services shall not be conditioned on the client's or applicant's ability to pay for the cost of those services:~~

~~a. Evaluation of rehabilitation potential, except for those vocational rehabilitation services other than of a diagnostic nature that are provided under an extended evaluation of rehabilitation potential;~~

~~b. Counseling, guidance, and referral services; and~~

~~c. Placement~~."

Section 2. G.S. 143-548 reads as rewritten:

"**§ 143-548. Vocational Rehabilitation ~~Advisory~~ Council.**

(a) There is established the Vocational Rehabilitation ~~Advisory~~ Council within the Division of Vocational Rehabilitation Services to be composed of ~~15 voting members.~~ not more than 18 appointed members. Appointed members shall be voting members except where prohibited by federal law or regulations. The Director of the Division of Vocational Rehabilitation Services and one vocational rehabilitation counselor who is an employee of the Division shall serve ex officio as nonvoting members. The President Pro Tempore of the Senate shall appoint ~~five~~ six members, the Speaker of the House of Representatives shall appoint ~~five~~ six members, and the Governor shall appoint five or six members. The appointing authorities shall appoint members of the Council after soliciting recommendations from representatives of organizations representing a broad range of individuals with disabilities. Terms of appointment shall be as specified in subsection (d1) of this section. Appointments shall be made as follows:

(1) The ~~five~~ six members appointed by the President Pro Tempore of the Senate shall include one member recommended by the North Carolina Citizens for Business and Industry, one other representing providers of community rehabilitation services, one other who is a vocational rehabilitation counselor, with knowledge of and experience with vocational rehabilitation programs, who is not an employee of the Division, one other representing the Commission on Workforce Preparedness, and two others representing disability advocacy groups representing a cross-section of individuals with physical, cognitive, sensory, and mental disabilities. Of the ~~five~~ six members appointed by the President Pro Tempore of the Senate, three shall be individuals with disabilities;

(2) The ~~five~~ six members appointed by the Speaker of the House of Representatives shall include one member representing the business and industry sector, one other representing labor, one other representing a parent training and information center established pursuant to section 631(c) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1431(c), one other representing the Department of Public Instruction, and two others representing disability advocacy groups representing a cross-section of individuals with physical, cognitive, sensory, and mental disabilities. Of the ~~five~~ six members appointed by the Speaker of the House of Representatives, three shall be individuals with disabilities; and

(3) The five or six members appointed by the Governor shall include one member representing the business and industry sector, one other representing the regional rehabilitation centers for the physically disabled, one other representing the Division's Statewide Independent Living Council, one other representing the ~~Division's~~ State's Client Assistance Program, one other representing the directors of projects carried out under section 121 of the Rehabilitation Act of 1973, 29 U.S.C. § 741, as amended, if there are any of these projects in the State, and one other current or former applicant for or recipient of vocational rehabilitation services. ~~Three of the members appointed by the Governor shall be individuals with disabilities.~~ If five members are appointed by the Governor, three shall be individuals with disabilities. If six members are appointed by the Governor, four shall be individuals with disabilities.

(b) Repealed by Session Laws 1993, c. 248, s. 1.

(b1) Additional Qualifications. – In addition to ensuring the qualifications for membership prescribed in subsection (a) of this section, the appointing authorities shall ensure that a majority of Council members are individuals with disabilities and are not employed by the Division of Vocational Rehabilitation Services.

(c) The Council shall elect one of the voting members of the Council as Chair of the Council. The Chair's term shall not exceed a single three-year term.

(d) The Council shall meet at least quarterly and at other times at the call of the Chair. A majority of the voting members of the Council constitutes a quorum.

(d1) Terms of Appointment. –

(1) Length of Term. – Each member of the Council shall serve for a term of not more than three years, except that:

a. A member appointed to fill a vacancy occurring prior to the expiration of the term for which a predecessor was appointed shall be appointed for the remainder of ~~such~~ that term;

b. The terms of service of the members initially appointed ~~shall be~~ are as specified by the appointing authority for ~~such~~ a fewer number of years as will provide for the expiration of terms on a staggered basis and shall include the members of the existing Council to the extent possible with appropriate adjustments to their terms; ~~and~~

c. The appointing authority shall have the power to remove any member of the Council from office in accordance with the provisions of G.S. ~~143B-16;~~ 143B-16; and

d. A member may continue to serve until a successor for the position is appointed;

(2) Number of Terms. – No member of the Council other than the representative of the Client Assistance Program and the representative of the directors of projects carried out under section 121 of the Rehabilitation Act of 1973, 29 U.S.C. § 741, as amended, may serve more than two consecutive full terms.

(d2) Vacancies. – Any vacancy occurring in the membership of the Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members to execute the duties of the Council.

(d3) Functions of Council. – The Council ~~shall:~~ shall, after consulting with the Commission on Workforce Preparedness:

(1) Review, analyze, and advise the Division regarding the performance of its responsibilities under Title I of the Rehabilitation Act of 1973, ~~as amended by the Rehabilitation Act Amendments of 1992,~~ Pub. L. No. 93-112, 29 U.S.C. § 720, et seq., as amended, particularly responsibilities relating to:

a. Eligibility, including order of selection;

b. The extent, scope, and effectiveness of services provided; and

c. Functions performed by State agencies that affect or that potentially affect the ability of individuals with disabilities in achieving ~~rehabilitation goals and objectives under the Act;~~ employment outcomes under Title I of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 29 U.S.C. § 720, et seq.;

(1a) In partnership with the Division:

a. Develop, agree to, and review State goals and priorities in accordance with section 101(a)(15)(C) of the Rehabilitation Act of 1973, 29 U.S.C. § 721(a)(15)(C); and

b. Evaluate the effectiveness of the vocational rehabilitation program and submit reports of progress to the Commissioner of the Rehabilitation Services Administration of the U.S. Department of Education in accordance with section 101(a)(15)(E) of the Rehabilitation Act of 1973, 29 U.S.C. § 721(a)(15)(E);

(2) Advise the Department of Health and Human Services and the ~~Division, and, at the discretion of the Department,~~ Division regarding activities authorized to be carried out under Title I of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 29 U.S.C. § 720, et seq., as amended and assist in the preparation of applications, the State Plan, ~~the strategic plan and~~ amendments to the plans, reports, needs assessments, and evaluations required by Title I of the ~~Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1992;~~ Rehabilitation Act of 1973;

(3) To the extent feasible, conduct a review and analysis of the effectiveness of, and consumer satisfaction with:

a. ~~The functions performed by~~ Vocational rehabilitation functions and services provided by the Department of Health and Human Services and other State agencies and ~~other~~ public and private entities responsible for ~~performing functions for~~ providing vocational rehabilitation services to individuals with ~~disabilities;~~ disabilities under the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355, 29 U.S.C. § 701, et seq.; and

~~b. Vocational rehabilitation services:~~

~~1. Provided, or paid for from funds made available, under the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1992, or through other public or private sources; and~~

~~2. Provided by State agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities;~~

c. Employment outcomes achieved by eligible individuals receiving services under Title I of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 29 U.S.C. § 720, et seq., as amended, including the availability of health and other employment benefits in connection with those employment outcomes;

(4) Prepare and submit an annual report to the Governor and the Commissioner of the Rehabilitation Services Administration of the U.S. Department of Education on the status of vocational rehabilitation

programs operated within the State and make the report available to the public;

(5) Coordinate activities with the activities of other councils within the State, including the Division's Statewide Independent Living ~~Council,~~ Council established under section 705 of the Rehabilitation Act of 1973, 29 U.S.C. § 742, the advisory panel established under section ~~613(a)(12)~~ 612(a)(21) of the Individuals with Disabilities Education Act, 20 U.S.C. § 1413(a)(12), the State ~~Planning~~ Development Disabilities Council described in section 124 of the Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. § 6024, ~~and~~ the State Mental Health Planning Council established under section ~~1916(e)~~ 1914(a) of the Public Health Service Act, 42 U.S.C. § ~~300x-4(e);~~ 300x-4(e), and the Commission on Workforce Preparedness;

(6) ~~Advise the Department and provide~~ Provide for coordination and the establishment of working relationships between the Department and the Statewide Independent Living Council and centers for independent living within the State; and

(7) Perform such other functions, consistent with the purpose of Title I of the Rehabilitation Act of 1973, ~~as amended by the Rehabilitation Act Amendments of 1992,~~ Pub. L. No. 93-112, 29 U.S.C. § 720, et seq., as amended, as the ~~Governor and the Secretary may refer to it from time to time.~~ Council determines to be appropriate, that are comparable to other functions performed by the Council.

(d4) Resources. –

(1) The Division shall supply all necessary clerical and staff support to the Council pursuant to G.S. 143B-14(a) and ~~(d), and~~ (d). The Council shall prepare, in conjunction with the ~~Council,~~ Division, a plan for the provision of such resources as may be necessary and sufficient to carry out the functions of the Council under this Part. The resource plan shall, to the maximum extent possible, rely on the use of resources in existence during the period of implementation of the plan.

(2) To the extent that there is a disagreement between the Council and the Division in regard to the resources necessary to carry out the functions of the Council as set forth in this Part, the disagreement shall be resolved by the Governor.

(3) While assisting the Council in carrying out its duties, staff and other personnel shall not be assigned duties by the Division or any other agency of the State that would create a conflict of interest.

(d5) Member Conflict of Interest. – No member of the Council shall cast a vote on any matter that would provide direct financial benefit to the member or otherwise give the appearance of a conflict of interest under State law.

(e) Council members shall be reimbursed for expenses incurred in the performance of their duties in accordance with G.S. 138-5. In addition, Council members may be reimbursed for personal assistance services that are necessary for

members to attend Council meetings and perform Council duties. These expenses shall not exceed whichever is lower, the actual cost of the services or the Medicaid rate per day for personal assistance services, in addition to subsistence and travel expenses at the State rate for the attendant."

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 5:26 p.m. this 8th day of June, 1999