

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 255

Short Title: Vocational Rehabilitation Changes/AB.

(Public)

Sponsors: Representatives Alexander; Mosely and Wainwright.

Referred to: Health.

March 4, 1999

A BILL TO BE ENTITLED

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~~
- e. ~~Placement."~~

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

1 **"§ 143-548. Vocational Rehabilitation ~~Advisory~~ Council.**

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

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

26 (2) The ~~five-six~~ members appointed by the Speaker of the House of
27 Representatives shall include one member representing the business and
28 industry sector, one other representing labor, one other representing a
29 parent training and information center established pursuant to section
30 631(c) of the Individuals with Disabilities Education Act, 20 U.S.C. §
31 1431(c), one other representing the Department of Public Instruction,
32 and two others representing disability advocacy groups representing a
33 cross-section of individuals with physical, cognitive, sensory, and
34 mental disabilities. Of the ~~five-six~~ members appointed by the Speaker of
35 the House of Representatives, three shall be individuals with
36 disabilities; and

37 (3) The five or six members appointed by the Governor shall include one
38 member representing the business and industry sector, one other
39 representing the regional rehabilitation centers for the physically
40 disabled, one other representing the Division's Statewide Independent
41 Living Council, one other representing the ~~Division's~~ State's Client
42 Assistance Program, one other representing the directors of projects
43 carried out under section 121 of the Rehabilitation Act of 1973, 29

1 U.S.C. § 741, as amended, if there are any of these projects in the State,
2 and one other current or former applicant for or recipient of vocational
3 rehabilitation services. ~~Three of the members appointed by the Governor~~
4 ~~shall be individuals with disabilities.~~ If five members are appointed by the
5 Governor, three shall be individuals with disabilities. If six members
6 are appointed by the Governor, four shall be individuals with
7 disabilities.

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

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

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

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

17 (d1) Terms of Appointment. –

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

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

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

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

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

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

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

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

- 1 (1) Review, analyze, and advise the Division regarding the performance of
2 its responsibilities under Title I of the Rehabilitation Act of 1973, as
3 ~~amended by the Rehabilitation Act Amendments of 1992, Pub. L. No. 93-~~
4 112, 29 U.S.C. § 720, et seq., as amended, particularly responsibilities
5 relating to:
- 6 a. Eligibility, including order of selection;
 - 7 b. The extent, scope, and effectiveness of services provided; and
 - 8 c. Functions performed by State agencies that affect or that
9 potentially affect the ability of individuals with disabilities in
10 achieving ~~rehabilitation goals and objectives under the Act;~~
11 employment outcomes under Title I of the Rehabilitation Act of
12 1973, Pub. L. No. 93-112, 29 U.S.C. § 720, et seq.;
- 13 (1a) In partnership with the Division:
- 14 a. Develop, agree to, and review State goals and priorities in
15 accordance with section 101(a)(15)(C) of the Rehabilitation Act
16 of 1973, 29 U.S.C. § 721(a)(15)(C); and
 - 17 b. Evaluate the effectiveness of the vocational rehabilitation
18 program and submit reports of progress to the Commissioner of
19 the Rehabilitation Services Administration of the U.S.
20 Department of Education in accordance with section
21 101(a)(15)(E) of the Rehabilitation Act of 1973, 29 U.S.C. §
22 721(a)(15)(E);
- 23 (2) Advise the Department of Health and Human Services and the ~~Division,~~
24 ~~and, at the discretion of the Department,~~ Division regarding activities
25 authorized to be carried out under Title I of the Rehabilitation Act of
26 1973, Pub. L. No. 93-112, 29 U.S.C. § 720, et seq., as amended and
27 assist in the preparation of applications, the State Plan, ~~the strategic plan~~
28 and ~~amendments to the plans, reports, needs assessments, and~~
29 evaluations required by Title I of the ~~Rehabilitation Act of 1973, as~~
30 amended by the ~~Rehabilitation Act Amendments of 1992;~~ Rehabilitation Act
31 of 1973;
- 32 (3) To the extent feasible, conduct a review and analysis of the
33 effectiveness of, and consumer satisfaction with:
- 34 a. ~~The functions performed by~~ Vocational rehabilitation functions and
35 services provided by the Department of Health and Human
36 Services and other State agencies and ~~other~~ public and private
37 entities responsible for ~~performing functions for providing~~
38 vocational rehabilitation services to individuals with ~~disabilities;~~
39 disabilities under the Rehabilitation Act of 1973, Pub. L. No. 93-
40 112, 87 Stat. 355, 29 U.S.C. § 701, et seq.; and
 - 41 b. ~~Vocational rehabilitation services:~~
 - 42 1. ~~Provided, or paid for from funds made available, under the~~
43 ~~Rehabilitation Act of 1973, as amended by the~~

- 1 Rehabilitation Act Amendments of 1992, or through other
2 public or private sources; and
- 3 2. ~~Provided by State agencies and other public and private~~
4 ~~entities responsible for providing vocational rehabilitation~~
5 ~~services to individuals with disabilities;~~
- 6 c. Employment outcomes achieved by eligible individuals receiving
7 services under Title I of the Rehabilitation Act of 1973, Pub. L.
8 No. 93-112, 29 U.S.C. § 720, et seq., as amended, including the
9 availability of health and other employment benefits in
10 connection with those employment outcomes;
- 11 (4) Prepare and submit an annual report to the Governor and the
12 Commissioner of the Rehabilitation Services Administration of the U.S.
13 Department of Education on the status of vocational rehabilitation
14 programs operated within the State and make the report available to the
15 public;
- 16 (5) Coordinate activities with the activities of other councils within the
17 State, including the Division's Statewide Independent Living Council,
18 Council established under section 705 of the Rehabilitation Act of 1973,
19 29 U.S.C. § 742, the advisory panel established under section 613(a)(12)
20 612(a)(21) of the Individuals with Disabilities Education Act, 20 U.S.C.
21 § 1413(a)(12), the State ~~Planning-Development Disabilities~~ Council
22 described in section 124 of the Developmental Disabilities Assistance
23 and Bill of Rights Act, 42 U.S.C. § 6024, and the State Mental Health
24 Planning Council established under section ~~1916(e)~~ 1914(a) of the
25 Public Health Service Act, 42 U.S.C. § ~~300x-4(e)~~ 300x-4(e), and the
26 Commission on Workforce Preparedness;
- 27 (6) ~~Advise the Department and provide~~ Provide for coordination and the
28 establishment of working relationships between the Department and the
29 Statewide Independent Living Council and centers for independent
30 living within the State; and
- 31 (7) Perform such other functions, consistent with the purpose of Title I of
32 the Rehabilitation Act of 1973, ~~as amended by the Rehabilitation Act~~
33 ~~Amendments of 1992, Pub. L. No. 93-112, 29 U.S.C. § 720, et seq., as~~
34 amended, as the Governor and the Secretary may refer to it from time to
35 time. Council determines to be appropriate, that are comparable to other
36 functions performed by the Council.
- 37 (d4) Resources. –
- 38 (1) The Division shall supply all necessary clerical and staff support to the
39 Council pursuant to G.S. 143B-14(a) and ~~(d)~~, and (d). The Council shall
40 prepare, in conjunction with the ~~Council~~, ~~Division~~, a plan for the
41 provision of such resources as may be necessary and sufficient to carry
42 out the functions of the Council under this Part. The resource plan shall,

1 to the maximum extent possible, rely on the use of resources in
2 existence during the period of implementation of the plan.

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

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

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

13 (e) Council members shall be reimbursed for expenses incurred in the performance
14 of their duties in accordance with G.S. 138-5. In addition, Council members may be
15 reimbursed for personal assistance services that are necessary for members to attend
16 Council meetings and perform Council duties. These expenses shall not exceed
17 whichever is lower, the actual cost of the services or the Medicaid rate per day for
18 personal assistance services, in addition to subsistence and travel expenses at the State
19 rate for the attendant."

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