

By Senator Wise

5-132-03

1                                   A bill to be entitled  
2           An act relating to blind services; providing a  
3           short title; transferring the powers, duties,  
4           records, personnel, property, and funds of the  
5           Division of Blind Services within the  
6           Department of Education to the Florida  
7           Commission for the Blind, which is created by  
8           this act; amending s. 20.15, F.S.; deleting the  
9           division from the Department of Education;  
10          amending s. 413.011, F.S.; providing  
11          legislative purpose and policy; creating the  
12          Florida Commission for the Blind; providing for  
13          commission membership, terms, and meetings and  
14          for the election of the commission chair;  
15          naming the commission as the designated state  
16          unit and the Department of Education as the  
17          designated state agency under the federal  
18          Rehabilitation Act of 1973; providing for  
19          commission personnel, including an executive  
20          director; requiring background investigations  
21          of personnel; providing powers and duties of  
22          the commission, including the duty to license  
23          blind individuals under the federal  
24          Randolph-Sheppard Act; exempting certain  
25          property from record and inventory requirements  
26          and from bidding requirements; creating a  
27          children's program; providing purposes of the  
28          program; requiring an annual report; providing  
29          for the resolution of disputes; repealing the  
30          Advisory Council for the Blind; creating s.  
31          413.093, F.S.; providing budgetary procedures

1 for the commission; providing duties of the  
2 executive director of the Florida Commission  
3 for the Blind; creating s. 413.094, F.S.;  
4 providing for management flexibility in the  
5 commission's allocation of funds and the  
6 amendment of authorized positions; creating s.  
7 413.095, F.S.; providing for the commission to  
8 retain title to certain real and personal  
9 property intended for use by people who have  
10 visual impairments and certain commission  
11 personnel; allowing the commission to  
12 repossess, transfer, and dispose of such  
13 property; providing for rulemaking; amending s.  
14 110.131, F.S., relating to  
15 other-personal-services temporary employment,  
16 s. 121.051, F.S., relating to participation in  
17 the Florida Retirement System, s. 215.311,  
18 relating to exceptions from s. 215.31, F.S.,  
19 which apply to funds collected by and under the  
20 direction of the division, s. 318.21, F.S.,  
21 relating to the disposition of civil penalties  
22 by county courts, s. 413.0115, F.S., relating  
23 to the State Board of Administration's  
24 authorization to invest a portfolio, s.  
25 413.012, F.S., relating to prohibiting the  
26 disclosure of confidential records and  
27 providing exemptions to the prohibition, s.  
28 413.013, F.S., relating to the destruction of  
29 certain records, s. 413.014, F.S., relating to  
30 community-based rehabilitation programs, s.  
31 413.041, F.S., relating to placing eligible

1 blind persons in vending facilities in public  
2 places, s. 413.051, F.S., the Little Randolph  
3 Sheppard Act, s. 413.091, F.S., relating to the  
4 issuance of identification cards to persons  
5 known to be blind or partially sighted, s.  
6 413.092, F.S., relating to the Blind Babies  
7 Program; conforming provisions to the changes  
8 made by this act; repealing ss. 413.061,  
9 413.062, 413.063, 413.064, 413.065, 413.066,  
10 413.067, 413.068, 413.069, F.S., relating to  
11 the issuance of permits for soliciting funds on  
12 behalf of blind persons; providing an effective  
13 date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17 Section 1. This act may be cited as the "Florida  
18 Commission for the Blind Act."

19 Section 2. (1) The powers, duties, records,  
20 personnel, property, and unexpended balances of  
21 appropriations, allocations, or other funds of the Division of  
22 Blind Services of the Department of Education are transferred,  
23 by a type two transfer, as defined in section 20.06, Florida  
24 Statutes, to the Florida Commission for the Blind.

25 (2) Any contract or agreement concerning services for  
26 the blind to which the Division of Blind Services is a party  
27 and which is in effect before January 1, 2004, is binding upon  
28 the Florida Commission for the Blind to the same extent that  
29 the contract or agreement was binding upon the division.

30 (3) All proceeds from claims filed with any agency,  
31 including, but not limited to, the Social Security

1 Administration, which relate to the provision of services for  
2 the blind shall be transferred to the commission from any  
3 agency that has received such proceeds.

4 Section 3. Subsection (3) of section 20.15, Florida  
5 Statutes, is amended to read:

6 20.15 Department of Education.--There is created a  
7 Department of Education.

8 (3) DIVISIONS.--The following divisions of the  
9 Department of Education are established:

10 (a) Division of Community Colleges.

11 (b) Division of Public Schools.

12 (c) Division of Colleges and Universities.

13 (d) Division of Vocational Rehabilitation.

14 ~~(e) Division of Blind Services.~~

15 Section 4. Paragraph (b) of subsection (6) of section  
16 110.131, Florida Statutes, is amended to read:

17 110.131 Other-personal-services temporary  
18 employment.--

19 (6)

20 (b) ~~The provisions of Subsections (2), (3), and (4) do~~  
21 ~~not apply to any employee of the Florida Commission for the~~  
22 ~~Blind Division of Blind Services~~ Library for the Blind and  
23 Physically Handicapped for whom the Florida Commission for the  
24 Blind Division of Blind Services is the employer as defined in  
25 s. 447.203(2); except that, for purposes of subsection (5),  
26 the Florida Commission for the Blind Division of Blind  
27 Services shall comply with the recordkeeping and reporting  
28 requirements adopted by the department pursuant to subsection  
29 (3) with respect to those other-personal-services employees  
30 exempted by this subsection.

31

1           Section 5. Subsection (6) of section 121.051, Florida  
2 Statutes, is amended to read:

3           121.051 Participation in the system.--

4           (6) SEASONAL STATE EMPLOYMENT; BLIND VENDING FACILITY  
5 OPERATORS.--

6           (a) Seasonal state employment shall be included under  
7 this chapter, and the time limit and procedure for claiming  
8 same as set forth in s. 122.07 shall continue under this  
9 chapter for those members transferring to this system and for  
10 all new members.

11           (b)1. All blind or partially sighted persons employed  
12 or licensed by the Division of Blind Services as vending  
13 facility operators on or after December 1, 1970, and prior to  
14 July 1, 1996, are hereby declared to be state employees within  
15 the meaning of this chapter, and all vending facility  
16 operators licensed and employed during that period shall be  
17 compulsory members of the Florida Retirement System in  
18 compliance with this chapter for as long as the member is a  
19 vending facility operator, except as provided in subparagraph  
20 3.

21           2. Blindness shall not be deemed a retirement  
22 disability within the provisions of this chapter for such  
23 members as are contemplated by this paragraph.

24           3. Any vending facility operator as described in  
25 subparagraph 1. may elect, on or before July 31, 1996, to  
26 withdraw from the Florida Retirement System as provided in s.  
27 413.051(11). The election to withdraw shall take effect as of  
28 July 1, 1996, and the decision to withdraw is irrevocable. A  
29 vending facility operator who withdraws from the Florida  
30 Retirement System as provided in this subparagraph shall  
31 retain all creditable service earned in the Florida Retirement

1 System through the month that retirement contributions ceased  
2 to be reported, and no creditable service shall be earned as a  
3 vending facility operator after such month. However, any such  
4 person may participate in the Florida Retirement System in the  
5 future if employed by a participating employer in a covered  
6 position.

7 4. All blind or partially sighted persons employed or  
8 licensed by the Division of Blind Services or by the Florida  
9 Commission for the Blind as vending facility operators on or  
10 after July 1, 1996, shall be independent contractors within  
11 the meaning of this chapter and shall not be eligible for  
12 membership in the Florida Retirement System.

13 Section 6. Section 215.311, Florida Statutes, is  
14 amended to read:

15 215.311 State funds; exceptions.--Section 215.31 does  
16 ~~The provisions of s. 215.31 shall not apply to funds collected~~  
17 ~~by and under the direction and supervision of the Florida~~  
18 ~~Commission for the Blind Division of Blind Services of the~~  
19 ~~Department of Education~~ as provided under ss. 413.011,  
20 413.041, and 413.051; however, ~~nothing in this section does~~  
21 ~~not shall be construed to except from the provisions of s.~~  
22 215.31 any appropriations made by the state to the commission  
23 division.

24 Section 7. Subsection (4) of section 318.21, Florida  
25 Statutes, is amended to read:

26 318.21 Disposition of civil penalties by county  
27 courts.--All civil penalties received by a county court  
28 pursuant to the provisions of this chapter shall be  
29 distributed and paid monthly as follows:

30 (4) Of the additional fine assessed under s.  
31 318.18(3)(e) for a violation of s. 316.1301, 40 percent must

1 be remitted to the Department of Revenue for deposit in the  
2 Grants and Donations Trust Fund of the Florida Commission for  
3 the Blind ~~Division of Blind Services of the Department of~~  
4 ~~Education~~, and 60 percent must be distributed pursuant to  
5 subsections (1) and (2).

6 Section 8. Section 413.011, Florida Statutes, is  
7 amended to read:

8 413.011 Florida Commission for the Blind ~~Division of~~  
9 ~~Blind Services~~, internal organizational structure ~~Advisory~~  
10 ~~Council for the Blind~~.--

11 (1) PURPOSE AND POLICY.--

12 (a) Purpose.--The purpose of this act is to establish  
13 a coordinated program of services which will be available to  
14 individuals throughout this state who are blind. The program  
15 must be designed to maximize employment opportunities for such  
16 individuals and to increase their independence and  
17 self-sufficiency. In implementing this program, the Florida  
18 Commission for the Blind ~~The internal organizational structure~~  
19 ~~of the Division of Blind Services shall be designed for the~~  
20 ~~purpose of ensuring the greatest possible efficiency and~~  
21 ~~effectiveness of services to the blind and to be consistent~~  
22 ~~with chapter 20. The Division of Blind Services shall plan,~~  
23 supervise, and carry out the following activities:

24 1.(a) Recommend personnel as ~~may be~~ necessary to carry  
25 out the purposes of this section.

26 (b) ~~Cause to be compiled and maintained a complete~~  
27 ~~register of the blind in the state, which shall describe the~~  
28 ~~condition, cause of blindness, and capacity for education and~~  
29 ~~industrial training, with such other facts as may seem to the~~  
30 ~~division to be of value. Any information in the register of~~  
31 ~~the blind which, when released, could identify an individual~~

1 ~~is confidential and exempt from the provisions of s.~~  
2 ~~119.07(1).~~

3 2.(c) Inquire into the cause of blindness, inaugurate  
4 preventive measures, and provide for the examination and  
5 treatment of the blind, or those threatened with blindness,  
6 for the benefit of such persons, and shall pay therefor,  
7 including necessary incidental expenses.

8 3.(d) Aid the blind in finding employment, teach them  
9 trades and occupations within their capacities, assist them in  
10 disposing of products made by them in home industries, assist  
11 them in obtaining funds for establishing enterprises where  
12 federal funds reimburse the state, and do such things as will  
13 contribute to the efficiency of self-support of the blind.

14 4.(e) Establish one or more training schools and  
15 workshops for the employment of suitable blind persons; make  
16 expenditures of funds for such purposes; receive moneys from  
17 sales of commodities involved in such activities and from such  
18 funds make payments of wages, repairs, insurance premiums and  
19 replacements of equipment. All of the activities provided for  
20 in this section may be carried on in cooperation with private  
21 workshops for the blind, except that all tools and equipment  
22 furnished by the commission ~~division shall~~ remain the property  
23 of the state.

24 5.(f) Provide special services and benefits for the  
25 blind for developing their social life through community  
26 activities and recreational facilities.

27 6.(g) Undertake such other activities as may  
28 ameliorate the condition of blind residents ~~citizens~~ of this  
29 state.

30 7.(h) Cooperate with other agencies, public or  
31 private, especially the Division of the Blind and Physically



1 Handicapped of the Library of Congress and the Division of  
2 Library and Information Services of the Department of State,  
3 to provide library service to the blind and other handicapped  
4 persons as defined in federal law and regulations in carrying  
5 out any or all of the provisions of this law.

6 8.(i) Recommend contracts and agreements with federal,  
7 state, county, municipal and private corporations, and  
8 individuals.

9 9.(j) Receive moneys or properties by gift or bequest  
10 from any person, firm, corporation, or organization for any of  
11 the purposes ~~herein~~ set out in this paragraph, but without  
12 authority to bind the state to any expenditure or policy  
13 except such as is ~~may be~~ specifically authorized by law. All  
14 such moneys or properties so received by gift or bequest as  
15 ~~herein~~ authorized in this subparagraph may be disbursed and  
16 expended by the commission ~~division~~ upon its own warrant for  
17 any of the purposes herein set forth, and such moneys or  
18 properties do shall not constitute nor may they or be  
19 considered a part of any legislative appropriation made by the  
20 state for the purpose of carrying out this section ~~the~~  
21 ~~provisions of this law~~.

22 10.(k) Prepare and make available to the blind, in  
23 braille and on electronic recording equipment, Florida  
24 Statutes chapters 20, 120, 121, and 413, in their entirety.

25 11.(l) Adopt by rule procedures for providing  
26 vocational rehabilitation services for the blind.

27 12.(m) Adopt by rule forms and instructions to be used  
28 by the commission ~~division~~ in its general administration.

29 (b) Policy.--It is the policy of the Legislature that  
30 all programs, projects, and activities of the Florida  
31

1 Commission for the Blind are to be carried out in a manner  
2 consistent with the following principles:

3 1. Respect for individual dignity, personal  
4 responsibility, self-determination to live independently, and  
5 pursuit of meaningful careers, based on informed choice;

6 2. Support for the involvement of an individual's  
7 representative if an individual requests, desires, or needs  
8 such support;

9 3. Respect for the individual's privacy and equal  
10 access, including the use of information in accessible  
11 formats; and

12 4. Integration and full participation of individuals  
13 who are blind in society on equal terms with others.

14 (2) DEFINITIONS.--As used in this section, the term:

15 (a) "Act," unless the context indicates otherwise,  
16 means the Rehabilitation Act of 1973, 29 U.S.C. ss. 701-797.

17 (b) "Blind" or "blindness" means the condition of any  
18 person for whom blindness is a disability as defined by the  
19 Rehabilitation Act of 1973, 29 U.S.C. s. 706(8)(b).

20 (3) FLORIDA COMMISSION FOR THE BLIND; CREATION;  
21 MEMBERSHIP.--

22 (a) There is created the Florida Commission for the  
23 Blind, consisting of seven members appointed by the Governor  
24 with the confirmation of the Senate and qualified to serve  
25 based on knowledge and experience in rehabilitation and  
26 related services for the blind. A majority of the members must  
27 be individuals who are blind. A member of the commission may  
28 not be employed by the commission during the term of his or  
29 her membership.

30  
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1           (b) The Governor shall consult with recognized  
2 consumer groups of people who are blind in the state to obtain  
3 their recommendations of individuals to be appointed.

4           (c) Each commissioner shall be appointed for a 3-year  
5 term, except that the Governor shall specify shorter terms in  
6 the initial appointment in order to establish staggered terms.  
7 Three of the initial appointments shall be for 3-year terms.  
8 Two of the initial appointments shall be for 2-year terms and  
9 two of the initial appointments shall be for 1-year terms as  
10 specified by the Governor. Thereafter, all commissioners shall  
11 be appointed for 3-year terms.

12           (d) The commission shall meet quarterly or at the call  
13 of the chair or a majority of the members and at such other  
14 times as the commissioners determine. All meetings of the  
15 commission must be open to the public unless closed meetings  
16 are specifically authorized by law. The chair of the  
17 commission shall be elected by the members present and voting  
18 at the first meeting of the commission and annually  
19 thereafter. Commissioners may not receive compensation for  
20 their services, but they shall be reimbursed for travel  
21 expenses as provided in s. 112.061. A majority of the members  
22 of the commission constitutes a quorum to transact business.

23           (e) It is the intent of the Legislature that the  
24 commission is the designated state unit and the Department of  
25 Education is the designated state agency in accordance with  
26 the Rehabilitation Act of 1973, as amended.

27           (4) PERSONNEL.--

28           (a) The commission shall appoint an executive director  
29 who has knowledge and experience in rehabilitation and related  
30 services for the blind or has a background in management and  
31 any other area determined by the commission. The executive

1 director shall serve as secretary to the commission and shall  
2 be the chief administrative officer of the agency. The  
3 executive director's appointment shall be for an indefinite  
4 period but may be terminated for cause by a vote of at least  
5 five members of the commission.

6 (b) The executive director shall employ such personnel  
7 as are needed and shall fix their compensation. All employees  
8 of the commission are exempt from the Career Service System.  
9 The executive director, in consultation with the commission,  
10 may contract for services ordinarily performed by state  
11 employees.

12 (c) The Florida Commission for the Blind shall,  
13 because of the special trust placed in and the special  
14 responsibility imposed on employees of the commission, require  
15 all employees and applicants for employment to undergo  
16 personnel screening and security background investigations as  
17 provided in chapter 435, using the level one standards for  
18 screening set forth in that chapter, as a condition of  
19 employment and continued employment. The commission shall pay  
20 the cost of a personnel screening and security background  
21 investigation for each employee of the commission.

22 (5) POWERS AND DUTIES.--The commission shall:

23 (a) Develop and carry out a state plan for vocational  
24 rehabilitation services for individuals who are blind,  
25 pursuant to section 101 of the Rehabilitation Act of 1973, as  
26 amended.

27 (b) In conjunction with the Florida Independent Living  
28 Council, develop and carry out a 3-year state plan for  
29 independent living services and provide independent living  
30 services for blind and visually impaired individuals,  
31 including services for older individuals who are blind,

1 pursuant to Title VII, chapter 2 of the Rehabilitation Act of  
2 1973, as amended.

3 (c) Provide services that contribute to the  
4 maintenance of or the increased independence of older  
5 individuals who are blind.

6 (d) Establish, equip, and maintain an orientation and  
7 adjustment center or centers to provide independent living  
8 skills training and other training such as, but not limited  
9 to, instruction in Braille; use of the long white cane for  
10 independent travel; homemaking and home-management skills; and  
11 communication skills, including the use of computer  
12 technology, to prepare individuals who are blind or visually  
13 impaired for eventual vocational training, job placement, and  
14 independence.

15 (e) Establish and carry out a small business  
16 enterprises program and serve as the state licensing agency  
17 for individuals who are blind, pursuant to the federal  
18 Randolph-Sheppard Act.

19 (f) Purchase and distribute specialized equipment,  
20 devices, and technology, including low-vision aids, obtained  
21 directly from specialty vendors without using state  
22 centralized purchasing procedures. Property that is purchased  
23 by a state agency for the purpose of making accommodations for  
24 individuals who are blind is not subject to the record and  
25 inventory requirements set forth in s. 273.02. A state agency  
26 may use funds from all possible sources to make accommodations  
27 for individuals who are blind.

28 (g) In cooperation with the Library of Congress,  
29 provide library services to persons who are blind and persons  
30 who have physical disabilities.

31

1           (h) In cooperation with other appropriate agencies,  
2 provide to employers, the state education agency, and local  
3 education agencies technical assistance in the provision of  
4 auxiliary aids and services to people who are blind, students,  
5 and their parents in complying with the Americans with  
6 Disabilities Act and the Individuals with Disabilities  
7 Education Act, as amended.

8           (i) Provide technical assistance to agencies within  
9 the state in order to assure that information technology  
10 purchased or used by such agencies is accessible to and usable  
11 by individuals who are blind, at the time the technology is  
12 purchased or used.

13           (j) Participate, through the designation of the  
14 executive director or an appropriate staff member of the  
15 commission, on boards, commissions, or bodies in this state  
16 for the purpose of coordinating and planning services.

17           (k) Conduct a review of consumer satisfaction with  
18 programs of the commission and perform other functions of the  
19 statewide rehabilitation council specified in section 105(c)  
20 of the Rehabilitation Act of 1973, as amended.

21           (l) Adopt rules for administering the programs of the  
22 commission.

23           (m) Apply for and receive money from any state or  
24 federal agency to support the programs of the commission.

25           (n) Develop and administer any other program that will  
26 further the provision of services to people who are blind and  
27 that the commission determines falls within its scope of  
28 responsibility.

29           (6) PROGRAMS OF THE COMMISSION.--

30           (a) There is created within the Florida Commission for  
31 the Blind a children's program to serve children who are blind

1 from 5 years of age through transition to the Vocational  
2 Rehabilitation Program. This program must supplement services  
3 already offered by the school system to foster the child's  
4 learning and ability to function independently. The child's  
5 parents, guardian, and family members should be an integral  
6 part of the program in order to foster independence.

7 (b) The commission shall provide vocational  
8 rehabilitation services to individuals in this state, who are  
9 blind pursuant to the Rehabilitation Act of 1973, as amended.

10 (c) The commission shall provide independent living  
11 services to individuals in this state who are blind, including  
12 older individuals, pursuant to the Rehabilitation Act of 1973,  
13 as amended.

14 (7) REPORTS.--The Florida Commission for the Blind  
15 shall publish an annual report that includes a list of  
16 accomplishments, findings, and recommendations for  
17 improvements based on the commission's performance during the  
18 year. The report must also contain information needed to  
19 evaluate the progress of the commission in meeting the needs  
20 of blind individuals in the state.

21 (8) RESOLUTION OF DISPUTES.--

22 (a) Any applicant for or recipient of services from  
23 the Florida Commission for the Blind who is dissatisfied with  
24 any action taken or decision made regarding such services may  
25 file a complaint setting forth the basis for the  
26 dissatisfaction and the remedy sought. Upon receipt of the  
27 complaint, the executive director shall inform the individual  
28 of the voluntary procedures for mediation of the dispute. The  
29 mediation must be conducted by a qualified and impartial  
30 mediator, and the commission must pay the costs.

31

1           (b) If the dispute cannot be resolved by mediation or  
2 other informal means, the executive director shall, through a  
3 designee, notify the complainant of his or her rights for  
4 appeal under state and federal law related to the program from  
5 which the complaint arises. The commission shall adopt rules  
6 sufficient to regulate the conduct of all proceedings required  
7 under this section and to assure the rights of all parties  
8 participating therein.

9           ~~(c) "Department" means the Department of Labor and~~  
10 ~~Employment Security.~~

11           ~~(3) There is hereby created in the department the~~  
12 ~~Advisory Council for the Blind to assist the division in the~~  
13 ~~planning and development of statewide rehabilitation programs~~  
14 ~~and services, to recommend improvements to such programs and~~  
15 ~~services, and to perform the functions provided in this~~  
16 ~~section.~~

17           ~~(a) The advisory council shall be composed of:~~

18           ~~1. At least one representative of the Independent~~  
19 ~~Living Council, which representative may be the chair or other~~  
20 ~~designee of the council;~~

21           ~~2. At least one representative of a parent training~~  
22 ~~and information center established pursuant to s. 631(c)(9) of~~  
23 ~~the Individuals with Disabilities Act, 20 U.S.C. s.~~  
24 ~~1431(c)(9);~~

25           ~~3. At least one representative of the client~~  
26 ~~assistance program established under the act;~~

27           ~~4. At least one vocational rehabilitation counselor~~  
28 ~~who has knowledge of and experience in vocational~~  
29 ~~rehabilitation services for the blind, who shall serve as an~~  
30 ~~ex officio nonvoting member of the council if the counselor is~~  
31 ~~an employee of the department;~~



1           ~~5. At least one representative of community~~  
2 ~~rehabilitation program service providers;~~

3           ~~6. Four representatives of business, industry, and~~  
4 ~~labor;~~

5           ~~7. At least one representative of a disability~~  
6 ~~advocacy group representing individuals who are blind;~~

7           ~~8. At least one parent, family member, guardian,~~  
8 ~~advocate, or authorized representative of an individual who is~~  
9 ~~blind, has multiple disabilities, and either has difficulties~~  
10 ~~representing himself or herself or is unable, due to~~  
11 ~~disabilities, to represent himself or herself;~~

12           ~~9. Current or former applicants for, or recipients of,~~  
13 ~~vocational rehabilitation services; and~~

14           ~~10. The director of the division, who shall be an ex~~  
15 ~~officio member of the council.~~

16           ~~(b) Members of the council shall be appointed by the~~  
17 ~~Governor, who shall select members after soliciting~~  
18 ~~recommendations from representatives of organizations~~  
19 ~~representing a broad range of individuals who have~~  
20 ~~disabilities, and organizations interested in those~~  
21 ~~individuals.~~

22           ~~(c) A majority of council members shall be persons who~~  
23 ~~are:~~

24           ~~1. Blind; and~~

25           ~~2. Not employed by the division.~~

26           ~~(d) The council shall select a chair from among its~~  
27 ~~membership.~~

28           ~~(e) Each member of the council shall serve for a term~~  
29 ~~of not more than 3 years, except that:~~

30           ~~1. A member appointed to fill a vacancy occurring~~  
31 ~~prior to the expiration of the term for which a predecessor~~

1 ~~was appointed shall be appointed for the remainder of such~~  
2 ~~term; and~~

3 ~~2. The terms of service of the members initially~~  
4 ~~appointed shall be, as specified by the Governor, for such~~  
5 ~~fewer number of years as will provide for the expiration of~~  
6 ~~terms on a staggered basis.~~

7 ~~(f) No member of the council may serve more than two~~  
8 ~~consecutive full terms.~~

9 ~~(g) Any vacancy occurring in the membership of the~~  
10 ~~council shall be filled in the same manner as the original~~  
11 ~~appointment. A vacancy does not affect the power of the~~  
12 ~~remaining members to execute the duties of the council.~~

13 ~~(h) In addition to the other functions specified in~~  
14 ~~this section, the council shall:~~

15 ~~1. Review, analyze, and advise the division regarding~~  
16 ~~the performance of the responsibilities of the division under~~  
17 ~~Title I of the act, particularly responsibilities relating to:~~

18 ~~a. Eligibility, including order of selection;~~

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

21 ~~c. Functions performed by state agencies that affect~~  
22 ~~or potentially affect the ability of individuals who are blind~~  
23 ~~to achieve rehabilitation goals and objectives under Title I.~~

24 ~~2. Advise the department and the division, and, at the~~  
25 ~~discretion of the department or division, assist in the~~  
26 ~~preparation of applications, the state plan, the strategic~~  
27 ~~plan, and amendments to the plans, reports, needs assessments,~~  
28 ~~and evaluations required by Title I.~~

29 ~~3. To the extent feasible, conduct a review and~~  
30 ~~analysis of the effectiveness of, and consumer satisfaction~~  
31 ~~with:~~

1           ~~a. The functions performed by state agencies and other~~  
2 ~~public and private entities responsible for performing~~  
3 ~~functions for individuals who are blind.~~

4           ~~b. Vocational rehabilitation services:~~

5           ~~(I) Provided or paid for from funds made available~~  
6 ~~under the act or through other public or private sources.~~

7           ~~(II) Provided by state agencies and other public and~~  
8 ~~private entities responsible for providing vocational~~  
9 ~~rehabilitation services to individuals who are blind.~~

10           ~~4. Prepare and submit an annual report on the status~~  
11 ~~of vocational rehabilitation services for the blind in the~~  
12 ~~state to the Governor and the Commissioner of the~~  
13 ~~Rehabilitative Services Administration, established under s.~~  
14 ~~702 of the act, and make the report available to the public.~~

15           ~~5. Coordinate with other councils within the state,~~  
16 ~~including the Independent Living Council, the advisory panel~~  
17 ~~established under s. 613(a)(12) of the Individuals with~~  
18 ~~Disabilities Education Act, 20 U.S.C. 1413(a)(12), the State~~  
19 ~~Planning Council described in s. 124 of the Developmental~~  
20 ~~Disabilities Assistance and Bill of Rights Act, 42 U.S.C. s.~~  
21 ~~6024, and the state mental health planning council established~~  
22 ~~under s. 1916(e) of the Public Health Service Act, 42 U.S.C.~~  
23 ~~300X-4(e).~~

24           ~~6. Advise the department and division and provide for~~  
25 ~~coordination and the establishment of working relationships~~  
26 ~~among the department, the division, the Independent Living~~  
27 ~~Council, and centers for independent living in the state.~~

28           ~~7. Perform such other functions consistent with the~~  
29 ~~purposes of the act as the council determines to be~~  
30 ~~appropriate that are comparable to functions performed by the~~  
31 ~~council.~~

1           ~~(i)1. The council shall prepare, in conjunction with~~  
2 ~~the division, a plan for the provision of such resources,~~  
3 ~~including such staff and other personnel, as may be necessary~~  
4 ~~to carry out the functions of the council. The resource plan~~  
5 ~~shall, to the maximum extent possible, rely on the use of~~  
6 ~~resources in existence during the period of implementation of~~  
7 ~~the plan.~~

8           ~~2. If there is a disagreement between the council and~~  
9 ~~the division in regard to the resources necessary to carry out~~  
10 ~~the functions of the council as set forth in this section, the~~  
11 ~~disagreement shall be resolved by the Governor.~~

12           ~~3. The council shall, consistent with law, supervise~~  
13 ~~and evaluate such staff and other personnel as may be~~  
14 ~~necessary to carry out its functions.~~

15           ~~4. While assisting the council in carrying out its~~  
16 ~~duties, staff and other personnel shall not be assigned duties~~  
17 ~~by the division or any other state agency or office that would~~  
18 ~~create a conflict of interest.~~

19           ~~(j) No council member shall cast a vote on any matter~~  
20 ~~that would provide direct financial benefit to the member or~~  
21 ~~otherwise give the appearance of a conflict of interest under~~  
22 ~~state law.~~

23           ~~(k) The council shall convene at least four meetings~~  
24 ~~each year. These meetings shall occur in such places as the~~  
25 ~~council deems necessary to conduct council business. The~~  
26 ~~council may conduct such forums or hearings as the council~~  
27 ~~considers appropriate. The meetings, hearings, and forums~~  
28 ~~shall be publicly announced. The meetings shall be open and~~  
29 ~~accessible to the public. The council shall make a report of~~  
30 ~~each meeting which shall include a record of its discussions~~  
31

1 ~~and recommendations, all of which reports shall be made~~  
2 ~~available to the public.~~

3 Section 9. Section 413.0115, Florida Statutes, is  
4 amended to read:

5 413.0115 State Board of Administration; authorization  
6 to invest commission's ~~division's~~ portfolio.--The State Board  
7 of Administration may invest and reinvest the portfolio of  
8 stocks, bonds, and mutual funds held by the Florida Commission  
9 for the Blind ~~Division of Blind Services~~ in accordance with  
10 the trust agreement approved by the commission ~~Division of~~  
11 ~~Blind Services~~ and the State Board of Administration and the  
12 provisions of ss. 215.44-215.53. The executive director of the  
13 Florida Commission for the Blind ~~Division of Blind Services~~  
14 shall make the portfolio available and shall transfer it to  
15 the State Board of Administration for investment.

16 Section 10. Section 413.012, Florida Statutes, is  
17 amended to read:

18 413.012 Confidential records disclosure prohibited;  
19 exemptions.--

20 (1) All records furnished to the Florida Commission  
21 for the Blind ~~Division of Blind Services~~ in connection with  
22 state or local vocational rehabilitation programs and  
23 containing information as to personal facts about applicants  
24 or clients given or made available to the state or local  
25 vocational rehabilitation agency or its representatives or  
26 employees in the course of the administration of the program,  
27 including lists of names and addresses and records of  
28 evaluations of clients, are confidential and exempt from the  
29 provisions of s. 119.07(1).

30 (2) It is unlawful for any person to disclose,  
31 authorize the disclosure, solicit, receive, or make use of any

1 list of names and addresses or any record containing any  
2 information set forth in subsection (1) and maintained in the  
3 commission division. The prohibition provided for in this  
4 subsection does ~~shall~~ not apply to the use of such information  
5 for purposes directly connected with the administration of the  
6 vocational rehabilitation program or with the monthly dispatch  
7 to the Division of Driver Licenses of the Department of  
8 Highway Safety and Motor Vehicles of the name in full, place  
9 and date of birth, sex, social security number, and resident  
10 address of individuals who have ~~with~~ central visual acuity of  
11 20/200 or less in the better eye with correcting glasses, or a  
12 disqualifying field defect in which the peripheral field has  
13 contracted to such an extent that the widest diameter or  
14 visual field subtends an angular distance no greater than 20  
15 degrees. When requested in writing by an applicant or client,  
16 or her or his representative, the Florida Commission for the  
17 Blind Division of Blind Services shall release confidential  
18 information to the applicant or client or her or his  
19 representative.

20 (3) Any person who violates a provision of this  
21 section is guilty of a misdemeanor of the second degree,  
22 punishable as provided in s. 775.082 or s. 775.083.

23 Section 11. Section 413.013, Florida Statutes, is  
24 amended to read:

25 413.013 Destruction of records.--The Florida  
26 Commission for the Blind Division of Blind Services may  
27 authorize the destruction of any correspondence, documents, or  
28 other records when the subject matter involved has been closed  
29 or terminated and their preservation is not required by  
30 federal or state law, rule, or regulation. ~~No~~ Such material  
31 may not ~~shall~~ be destroyed unless the commission has given

1 specific authority to destroy it ~~is given by the division~~ and  
2 unless the said records have been in the possession of the  
3 commission division 5 or more years prior to their  
4 destruction.

5 Section 12. Section 413.014, Florida Statutes, is  
6 amended to read:

7 413.014 Community-based rehabilitation programs.--The  
8 Florida Commission for the Blind ~~Division of Blind Services~~  
9 shall enter into cooperative agreements with community-based  
10 rehabilitation programs to be the service providers for the  
11 blind citizens of their communities. The commission division  
12 shall, as rapidly as feasible, increase the amount of such  
13 services provided by community-based rehabilitation programs.  
14 The goal shall be to decrease the amount of such services  
15 provided by commission division employees and to increase to  
16 the maximum extent allowed by federal law the amount of such  
17 services provided through cooperative agreements with  
18 community-based service providers. The commission division  
19 shall seek, to the maximum extent allowed by federal and state  
20 law and regulation, all available federal funds for such  
21 purposes. Funds and in-kind matching contributions from  
22 community and private sources shall be used to maximize  
23 federal funds. Unless prohibited by federal law or regulation,  
24 the share of the federal vocational rehabilitation grant  
25 apportioned for services to the blind must ~~shall~~ be not less  
26 than 17 percent.

27 Section 13. Section 413.041, Florida Statutes, is  
28 amended to read:

29 413.041 Eligible blind persons; placement in vending  
30 facilities in public places.--For the purpose of assisting  
31 blind persons to become self-supporting, the Florida

1 Commission for the Blind ~~may Division of Blind Services is~~  
2 ~~hereby authorized to~~ carry on activities to promote the  
3 employment of eligible blind persons, including the licensing  
4 and establishment of such persons as operators of vending  
5 facilities on public property. The commission ~~said division~~  
6 may cooperate with any agency of the Federal Government in the  
7 furtherance of the provisions of the Act of Congress entitled  
8 "An Act to authorize the operation of stands in federal  
9 buildings by blind persons, to enlarge the economic  
10 opportunities of the blind and for other purposes," Pub. L.  
11 No. 732, 74th Congress, and the commission ~~said division~~ may  
12 cooperate in the furtherance of the provisions of any other  
13 act of Congress providing for the rehabilitation of the blind  
14 which is ~~that may~~ now be in effect or is ~~may~~ hereafter be  
15 enacted by Congress.

16 Section 14. Section 413.051, Florida Statutes, is  
17 amended to read:

18 413.051 Eligible blind persons; operation of vending  
19 stands.--

20 (1) This section may be cited ~~shall be known~~ as the  
21 Little Randolph Sheppard Act.

22 (2) As used in this section, the term:

23 (a) "Blind licensee" means any blind person trained  
24 and licensed by the Florida Commission for the Blind ~~Division~~  
25 ~~of Blind Services~~ of the Department of Education to operate a  
26 vending stand.

27 (b) "Vending stand" means any manually operated  
28 cafeteria, snack bar, cart service, shelter, counter, or other  
29 manually operated facility for the sale of newspapers,  
30 periodicals, confections, tobacco products, foods, beverages,  
31 or other such articles or services.



1 (c) "State agency" means any agency of the state.

2 (d) "State property" means any building or land owned,  
3 leased, or otherwise controlled by the state, but does not  
4 include any building or land under the control of the Board of  
5 Regents, a community college district board of trustees, or  
6 any state correctional institution as defined in s. 944.02.

7 (e) "Property custodian" or "person in charge" means  
8 any employee, agent, or person who is in control of or  
9 responsible for the maintenance, operation, and protection of  
10 any state property.

11 (3) Blind licensees shall be given the first  
12 opportunity to participate in the operation of vending stands  
13 on all state properties acquired after July 1, 1979, when such  
14 facilities are operated under the supervision of the Florida  
15 Commission for the Blind ~~Division of Blind Services~~ of the  
16 Department of Education.

17 (4) The Florida Commission for the Blind ~~Division of~~  
18 ~~Blind Services~~ shall conduct ~~be responsible for~~ a periodic  
19 survey of all state properties and, where feasible, shall  
20 establish vending facilities to be operated by blind  
21 licensees.

22 (5) All property custodians and duly authorized agents  
23 or employees of the state shall cooperate with the commission  
24 ~~division~~ in its survey of state properties and shall make  
25 available adequate space, electrical wiring, plumbing, and  
26 ventilation necessary to the installation of a vending  
27 facility on any state property designated as suitable by the  
28 commission ~~division~~.

29 (6) The commission ~~division~~ shall be notified by  
30 property custodians or persons in charge at least 180 days  
31 prior to the initiation of any new construction, expansion,

1 leasing, or acquisition of property occupied or to be occupied  
2 by a state agency.

3 (7) A ~~No~~ person or persons may not ~~shall~~ be offered or  
4 granted any concession by any property custodian or person in  
5 charge to operate a vending stand on any state property  
6 acquired after July 1, 1979, unless the commission ~~division~~ is  
7 notified of that proposed concession.

8 (8) Income from new vending machines or replacement of  
9 existing machines installed on state property after July 1,  
10 1979, shall accrue to the blind licensee who operates a  
11 vending facility on the same property or, if none, to the  
12 commission ~~division~~. The commission ~~is division~~ ~~shall be~~  
13 responsible for the servicing and maintenance of all vending  
14 machines.

15 (9) This section does not ~~It is the legislative intent~~  
16 ~~that this section shall not apply or operate, in any way or~~  
17 ~~any manner,~~ to divest any person or organization presently  
18 operating a vending stand on state, county, or municipal  
19 property from continuing to do so; however, the property  
20 custodian or person in charge shall notify the Florida  
21 Commission for the Blind ~~Division of Blind Services~~ at least  
22 180 days prior to the expiration whether the ~~such~~ vending  
23 facility location is suitable for operation by a blind  
24 licensee.

25 (10) All the preceding provisions are permissive  
26 regarding all political subdivisions of the state.

27 (11) Effective July 1, 1996, blind licensees who  
28 remain members of the Florida Retirement System pursuant to s.  
29 121.051(6)(b)1. shall pay any unappropriated retirement costs  
30 from their net profits or from program income. Within 30 days  
31 after the effective date of this act, each blind licensee who

1 is eligible to maintain membership in the Florida Retirement  
2 System under s. 121.051(6)(b)1., but who elects to withdraw  
3 from the system as provided in s. 121.051(6)(b)3., must, on or  
4 before July 31, 1996, notify the Division of Blind Services  
5 and the Department of Management Services in writing of his or  
6 her election to withdraw. Failure to timely notify the  
7 divisions shall be deemed a decision to remain a compulsory  
8 member of the Florida Retirement System. However, if, at any  
9 time after July 1, 1996, sufficient funds are not paid by a  
10 blind licensee to cover the required contribution to the  
11 Florida Retirement System, that blind licensee shall become  
12 ineligible to participate in the Florida Retirement System on  
13 the last day of the first month for which no contribution is  
14 made or the amount contributed is insufficient to cover the  
15 required contribution. For any blind licensee who becomes  
16 ineligible to participate in the Florida Retirement System as  
17 described in this subsection, no creditable service shall be  
18 earned under the Florida Retirement System for any period  
19 following the month that retirement contributions ceased to be  
20 reported. However, any such person may participate in the  
21 Florida Retirement System in the future if employed by a  
22 participating employer in a covered position.

23 (12) The Florida Commission for the Blind ~~Division of~~  
24 ~~Blind Services~~ may adopt rules to permit the commission  
25 ~~division~~ to establish and maintain vending facilities, issue  
26 licenses, establish and maintain a vending facility training  
27 program, provide vendors access to financial data of the  
28 program, set aside funds from net proceeds of the vending  
29 facility, provide for the transfer and promotion of vendors,  
30 establish a vendors committee, provide for an operation  
31 agreement, provide duties and responsibilities of the

1 commission ~~division~~ with respect to the vending facility  
2 program, and provide procedures for newspaper vending sales.

3 Section 15. Section 413.091, Florida Statutes, is  
4 amended to read:

5 413.091 Identification cards.--

6 (1) The Florida Commission for the Blind ~~Division of~~  
7 ~~Blind Services~~ of the Department of Education shall ~~is hereby~~  
8 ~~empowered to~~ issue identification cards to persons known to be  
9 blind or partially sighted, upon the written request of such  
10 individual.

11 (2) The individual shall submit proof of blindness as  
12 specified by the commission ~~division~~.

13 (3) The commission ~~is division will be~~ responsible for  
14 the design and content of the identification card and shall  
15 develop and adopt ~~promulgate~~ rules, regulations, and  
16 procedures relating to the eligibility and application for,  
17 and issuance and control of, these identification cards.

18 Section 16. Section 413.092, Florida Statutes, is  
19 amended to read:

20 413.092 Blind Babies Program.--

21 (1) The Blind Babies Program is created within the  
22 Florida Commission for the Blind ~~Division of Blind Services~~ of  
23 the Department of Education to provide community-based  
24 early-intervention education to children from birth through 5  
25 years of age who are blind or visually impaired, and to their  
26 parents, families, and caregivers, through community-based  
27 provider organizations. The commission ~~division~~ shall enlist  
28 parents, ophthalmologists, pediatricians, schools, Infant and  
29 Toddlers Early Intervention Programs, and therapists to help  
30 identify and enroll blind and visually impaired children, as  
31

1 well as their parents, families, and caregivers, in these  
2 educational programs.

3 (2) The program is not an entitlement but shall  
4 promote early development with a special emphasis on vision  
5 skills to minimize developmental delays. The education must  
6 ~~shall~~ lay the groundwork for future learning by helping a  
7 child progress through normal developmental stages. It must  
8 ~~shall~~ teach children to discover and make the best use of  
9 their skills for future success in school. It must ~~shall~~ seek  
10 to ensure that visually impaired and blind children enter  
11 school as ready to learn as their sighted classmates. The  
12 program shall seek to link these children, and their parents,  
13 families, and caregivers, to other available services,  
14 training, education, and employment programs that could assist  
15 these families in the future. This linkage may include  
16 referrals to the school districts and the Infants and Toddlers  
17 Early Intervention Program for assessments to identify any  
18 additional services that are needed but which are not provided  
19 by the Blind Babies Program. The commission ~~division~~ shall  
20 develop a formula for eligibility based on financial means and  
21 may create a means-based matrix to set a copayment fee for  
22 families having sufficient financial means.

23 (3) The commission ~~division~~ shall establish outcomes  
24 for this program, which must ~~shall~~ include, but are not  
25 limited to, outcomes relating to the children's  
26 age-appropriate developmental stages; knowledge of assistive  
27 technology; proficiency at daily living; ability to  
28 participate in pre-school and school; participation in their  
29 communities; and ability to be literate. The commission  
30 ~~division~~ shall develop criteria to be used in identifying and  
31 contracting with community-based provider organizations. All

1 services offered through the Blind Babies Program shall be  
2 provided by community-based provider organizations. The  
3 ~~commission division~~ shall require any community-based provider  
4 organization delivering services under this program to develop  
5 performance measures related to those services and report to  
6 the ~~commission division~~ on the progress in achieving those  
7 measures.

8 Section 17. Section 413.093, Florida Statutes, is  
9 created to read:

10 413.093 Budget procedures.--

11 (1) The executive director of the Florida Commission  
12 for the Blind shall recommend to the commission a budget of  
13 income and expenditures at such time and in such form as the  
14 commission prescribes. The commission shall adopt procedures  
15 for the approval of budget amendments.

16 (2) In preparing its legislative budget request, the  
17 Florida Commission for the Blind shall use the same format,  
18 procedures, and timelines that are required for preparing and  
19 submitting the legislative budget of the Department of  
20 Education. The Commissioner of Education shall include the  
21 Florida Commission for the Blind in the department's  
22 legislative budget request to the State Board of Education,  
23 the Governor, and the Legislature. The legislative budget  
24 request and the appropriation for the Florida Commission for  
25 the Blind must constitute a separate identifiable sum in the  
26 Department of Education budget. The annual appropriation for  
27 the commission must be distributed monthly in payments that  
28 are as nearly equal as possible. Appropriations for client  
29 services, instructional technology, and motor vehicles may be  
30 released and distributed as necessary to serve the  
31 instructional program for the clients.

1           (3) Fixed capital outlay needs of the commission must  
2 continue to be requested in the public education capital  
3 outlay legislative budget request of the Department of  
4 Education.

5           Section 18. Section 413.094, Florida Statutes, is  
6 created to read:

7           413.094 Management flexibility.--

8           (1) Notwithstanding ss. 216.031, 216.181, and 216.262  
9 to the contrary and pursuant to s. 216.351, but subject to any  
10 guidelines imposed in the General Appropriations Act, funds  
11 for the operation of the Florida Commission for the Blind must  
12 be requested and appropriated within budget entities, program  
13 components, program categories, lump sums, or special  
14 categories. Funds appropriated to the Florida Commission for  
15 the Blind for each program category, lump sum, or special  
16 category may be transferred to traditional categories for  
17 expenditure by the commission. The commission shall develop an  
18 annual operating budget that allocates funds by program  
19 component and traditional expenditure category.

20           (2) Notwithstanding s. 216.181 and pursuant to s.  
21 216.351, but subject to any requirements imposed in the  
22 General Appropriations Act, a lump-sum plan is not a  
23 prerequisite to implementing the special categories, program  
24 categories, or lump-sum appropriations. Upon release of the  
25 special categories, program categories, or lump-sum  
26 appropriations to the commission, the Chief Financial Officer,  
27 upon the request of the commission, shall transfer or  
28 reallocate funds to or among accounts established for  
29 disbursement purposes. The commission shall maintain records  
30 to account for the original appropriation.

31

1           (3) Notwithstanding ss. 216.031, 216.181, 216.251, and  
2 216.262 to the contrary and pursuant to s. 216.351, but  
3 subject to any requirements imposed in the General  
4 Appropriations Act, the commission shall establish the  
5 authorized positions and may amend such positions, within the  
6 total funds authorized annually in the appropriations act.

7           Section 19. Section 413.095, Florida Statutes, is  
8 created to read:

9           413.095 Retention of title to and disposal of property  
10 and equipment.--

11           (1) The Florida Commission for the Blind retains title  
12 to any real or personal property, such as tools, instruments,  
13 training supplies, equipment, motor vehicles, real property,  
14 or other items of value acquired for use by people who have  
15 visual impairments or personnel employed in operating programs  
16 of the Florida Commission for the Blind, and may repossess and  
17 transfer such property for use by other people who have visual  
18 impairments or personnel employed in the operation of the  
19 commission.

20           (2) The commission may offer for sale any surplus  
21 items acquired in the operation of the program when they are  
22 no longer necessary or may exchange them for necessary items  
23 that can be used to greater advantage. When any such surplus  
24 equipment is sold or exchanged, a receipt for the sale or  
25 exchange which shows the consideration given for the equipment  
26 must be taken from the purchaser, and the consideration must  
27 be forwarded to the division to be included in the  
28 commission's portfolio of investments pursuant to s. 413.115.  
29 Any funds that the commission receives pursuant to any such  
30 transaction must be deposited in the Grants and Donations  
31 Trust Fund, are exempt from the State Treasury pursuant to s.



1 215.311, and are available for expenditure for any purposes  
2 consistent with ss. 413.011-413.092.

3 (3) The Florida Commission for the Blind has the  
4 exclusive right to develop rules relating to records and  
5 recordkeeping for property owned by the commission which is  
6 referred to in subsections (1) and (2).

7 Section 20. Sections 413.061, 413.062, 413.063,  
8 413.064, 413.065, 413.066, 413.067, 413.068, and 413.069,  
9 Florida Statutes, are repealed.

10 Section 21. This act shall take effect January 1,  
11 2004.

12  
13 \*\*\*\*\*

14 SENATE SUMMARY

15 Replaces the Division of Blind Services of the Department  
16 of Education with the Florida Commission for the Blind,  
17 which is created by this act. Provides a short title.  
18 Provides powers and duties of the commission. Provides  
19 for budgetary procedures, powers, and limitations.  
20 Repeals the Advisory Council for the Blind. (See bill for  
21 details.)  
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