

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 1918

SPONSOR: Governmental Oversight & Productivity Committee, Education Committee, and Senator Wise

SUBJECT: Blind Services

DATE: March 17, 2004 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matthews	O'Farrell	ED	Fav/CS
2.	Rhea	Wilson	GO	Fav/CS
3.			AED	
4.			AP	
5.				
6.				

I. Summary:

The committee substitute for the committee substitute (CS) expands the authority and responsibilities of the Division of Blind Services (division) to include:

- Developing and implementing state plans for vocational rehabilitation services and independent living services for blind individuals;
- Establishing an orientation and adjustment center or centers to provide independent living skills training and other important training and skills;
- Establishing and implementing a small business enterprises program;
- Serving as the state licensing agency for blind individuals;
- Purchasing and distributing specialized equipment obtained directly from specialty vendors without using state centralized purchasing procedures;
- Providing, in cooperation with the Library of Congress, library services to blind individuals and those with other print-related disabilities;
- Providing technical assistance in cooperation with appropriate entities for auxiliary aids and services to blind individuals and their families;
- Providing technical assistance to agencies regarding state purchased information technology for use by blind individuals;
- Applying for money from any state or federal agency to support the programs of the division; and
- Adopting rules for administering the programs of the division.

In addition, the CS:

- Eliminates the division requirement to maintain the blind registry;
- Establishes within the division a children's program to serve blind children from five years of age through transition to the Vocational Rehabilitation Program;
- Excludes property purchased by a state agency for the purpose of making accommodations for individuals who are blind from the record and inventory requirements of s. 273.02, F.S.;
- Requires all employees and applicants for employment to undergo and meet level 2 criminal background screenings pursuant to s. 435.04, F.S., as a condition of employment and continued employment;
- Provides that the division retains title to certain real and personal property and authorizes the division to sell or exchange surplus property under specified conditions; and
- Authorizes the division to establish a direct-support organization.
- Amends s. 413.08, F.S., relating to use of dog guides or service dogs and public accommodations.

The CS substantially amends ss. 413.08, 413.081, 413.011, 413.014, 413.041, 413.051, 413.091, and 413.095, F.S. The CSS creates an unnumbered section of law and repeals ss. 413.061, 413.062, 413.063, 413.064, 413.065, 413.066, 413.067, 413.068, and 413.069, F.S.

II. Present Situation:

The 1999 Legislature transferred the Division of Blind Services from the Department of Labor and Employment Security to the Department of Education.¹ The transfer was effective January 1, 2002.

Pursuant to s. 413.011, F.S., the Division of Blind Services is charged with the following powers and duties:

- Recommend personnel to implement its assigned duties;
- Compile a state registry of the blind describing the condition, cause, and capacity for education and industrial training;
- Inquire into the cause of blindness, establish preventive measures, and provide for the examination and treatment of the blind, or those threatened with blindness;
- Assist the blind in finding employment and in establishing self-employment enterprises with the assistance of federal funds;
- Establish training schools and workshops for the employment of blind persons;
- Provide special services and benefits for the blind for developing social life through community activities and recreational activities;
- Undertake any other action to assist blind citizens;
- Cooperate with other agencies to provide library service to the blind in conjunction with the Library of Congress and other entities;
- Recommend contracts and agreements;
- Receive funds or properties by gift or bequest;

¹ Section 39, ch. 99-240, L.O.F.

- Prepare and make available to the blind, in Braille and on electronic recording equipment, applicable provisions in the Florida Statutes relating to blind services; and
- Adopt rules for the general administration of the division.

The division administers six programs: (1) Vocational Rehabilitation for the Blind, (2) Independent Living for the Adult Blind, (3) Braille and Talking Books Library, (4) Business Enterprises, (5) Early Intervention, and (6) the Blind Babies Program. The programs are funded through a combination of state and federal dollars, usually on a matching basis.

The division houses the Advisory Council for the Blind, which assists the division in the planning and development of statewide rehabilitation programs and services, recommends improvements to the programs, and performs the following duties:

- Reviews, analyzes, and advises the division regarding its responsibilities under Title I of the Rehabilitation Act of 1973, 29 U.S.C. ss. 701-797, particularly eligibility, effectiveness of the services provided, and functions performed by state agencies that affect the ability of blind individuals to achieve rehabilitation goals;
- Advises the Department of Education and the division, and as requested by the department or the division, 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;
- Conducts a review and analysis of the effectiveness and consumer satisfaction with the functions performed by state agencies in delivering services to blind individuals and certain vocational rehabilitation services;
- Prepares and submits an annual report on the status of vocational rehabilitation services for the blind;
- Coordinates with other councils within the state;
- Coordinates and establishes working relationships among the department, the division, the Independent Living Council, and centers for independent living in the state;
- Performs any other function consistent with its mission;
- Prepares, in conjunction with the division, a plan for the provision of services, including staff and other personnel with disagreements resolved by the Governor; and
- Supervises and evaluates staff and other personnel.

The Governor appoints all members to the Advisory Council for the Blind, with recommendations from the various interest groups as provided in s. 413.011, F.S., to serve 3-year terms.

For fiscal year 2003-2004, the Division of Blind Services has 306 authorized positions with an operating budget of approximately \$38.8 million. The division's capital outlay budget for fiscal year 2002-2003 is approximately \$950,000.

III. Effect of Proposed Changes:

Division of Blind Services

This CS places additional responsibilities on the Division of Blind Services by requiring the division to:

- Develop and implement a state plan for vocational rehabilitation services for individuals who are blind, pursuant to s. 101 of the Rehabilitation Act of 1973, as amended;
- Develop and implement, in conjunction with the Florida Independent Living Council, a 3-year state plan for independent living services and provide independent living services for blind and visually impaired individuals, including services for the blind elderly, pursuant to Title VII, chapter 2 of the Rehabilitation Act of 1973, as amended;
- Provide services that contribute to the maintenance of or the increased independence of the blind elderly;
- Establish, equip, and maintain an orientation and adjustment center or centers to provide independent living skills training and other training including instruction in Braille, use of the long white cane for independent travel, homemaking and home-management skills, communication skills, and use of computer technology to prepare blind or visually impaired individuals for eventual vocational training, job placement, and independence;
- Establish and implement a small business enterprises program and serve as the state licensing agency for individuals who are blind, pursuant to the federal Randolph-Sheppard Act;
- Purchase and distribute specialized equipment, devices, and technology, including low-vision aids, obtained directly from specialty vendors without using state centralized purchasing procedures;
- Provide, in cooperation with the Library of Congress, library services to persons with visual, physical or reading disabilities;
- Provide, in cooperation with other appropriate agencies, to employers, the state education agency, and local education agencies technical assistance in the provision of auxiliary aids and services to blind people, students, and their parents in compliance with the Americans with Disabilities Act and the Individuals with Disabilities Education Act, as amended;
- Provide technical assistance to agencies within the state to ensure that information technology purchased or used by such agencies is accessible and usable by blind individuals, at the time the technology is purchased or used;
- Participate, through the designation of the director or an appropriate staff member of the division, on boards, commissions, or bodies in this state for the purpose of coordinating and planning services;
- Apply for and receive money from any state or federal agency to support the programs of the division;
- Develop and administer any other program that will further the provision of services to blind people and that the division determines falls within its scope of responsibility; and
- Adopt rules for administering the programs of the division.

Some of the additional responsibilities of the division are merely codifications of the division's existing practice. For example, the division currently conducts the state plans for vocational

rehabilitation and independent living services for blind individuals in accordance with the Rehabilitation Act of 1973, as amended, and operates the orientation and adjustment center.

The CS eliminates the division's responsibility to maintain a register of the blind in the state, which described the condition, cause, and capacity for retraining for each blind individual.

The CS provides legislative intent in that the Legislature intends for the establishment of a coordinated program of services, which will be available to blind individuals in the state. The program must be designed to maximize employment opportunities for the blind individuals and to increase their independence and self-sufficiency.

The CS establishes a children's program within the division to serve blind children from five years of age through transition to the Vocational Rehabilitation Program. This program already exists. The program must supplement services offered by the school system to foster the child's learning and ability to function independently. The child's parents, guardian, and family members should be an integral part of the program in order to foster independence.

The CS excludes property purchased by a state agency that makes accommodations for blind individuals from the record and inventory requirements of s. 273.02, F.S. A state agency may use funds from all possible sources to make accommodations for blind individuals. Section 273.02, F.S., requires an annual inventory of all equipment, fixtures, and other tangible personal property the value or cost of which exceeds \$1000 and the normal expected life of the property is one year or more.

Criminal background checks

The CS requires all employees and applicants for employment to undergo and meet level two criminal background screenings pursuant to s. 435.04, F.S., as a condition of employment and continued employment.

Advisory Council for the Blind

The CS redesignates the Advisory Council for the Blind as the Rehabilitation Council for the Blind; however, the CS provides that the newly named council remains an advisory council as defined in s. 20.03, F.S.

Community rehabilitation programs

The CS amends s. 413.014, F.S., to conform the definition of a community rehabilitation program to the Rehabilitation Act of 1973, as amended.

Real and personal property

The CS provides that the division retain title to any real or personal property acquired by the division for use by people who have visual impairments or personnel employed in the operating programs of the division. The division may repossess and transfer such real or personal property for use by other people who have visual impairments or personnel employed in the operation of the division.

The CS authorizes the division to sell any surplus items acquired in the operation of the program when not needed or exchange any surplus items if the exchanged items can be put to greater use.

The division must obtain a receipt from the purchaser that shows the consideration given for the equipment. The consideration must be included in the division's portfolio of investments pursuant to s. 413.0115, F.S. The funds are exempt from deposit requirements in the State Treasury pursuant to s. 215.311, F.S., and are available for expenditure for any purposes consistent with ss. 413.011 through s. 413.092, F.S. The division has the exclusive right to adopt rules relating to records and recordkeeping for property owned by the division pursuant to real or personal property acquired as above and for the sale and exchange of surplus items.

The requirement to include the consideration within the division's portfolio of investments may present a practical problem if the surplus item is exchanged. The CS appears to contemplate sales proceeds becoming a part of the division's portfolio of investments.

Direct-support organization

The CS authorizes the division to create a blind services direct-support organization (DSO). The division believes that the establishment of a DSO may help the division raise additional non-federal funds to meet the matching requirements for federal vocational rehabilitation.

The DSO is a not-for-profit corporation incorporated under chapter 617, F.S., organized and operated to:

- Conduct programs and activities;
- Initiate developmental projects;
- Raise funds;
- Request and receive grants, gifts, and bequests of moneys;
- Acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other real or personal property; and
- Make expenditures for the benefit of the state and for blind residents.

The Governor shall initially appoint a seven-member board of directors of the DSO. The Governor shall appoint two members to serve 2-year terms, three members to serve 3-year terms, and two members to serve 4-year terms. The DSO by-laws shall provide the manner of appointment for subsequent boards. The division director or his or her designee shall serve as an ex-officio member of the DSO board.

The DSO is subject to the public disclosure requirements of s. 24, Art. I of the State Constitution; chapter 119, F.S.; and s. 286.011, F.S.

The DSO must use its funds for the enhancement of programs and projects of the division, consistent with the objectives of the Department of Education, and in the best interests of the state. The DSO must maintain donations and direct service expenditures in a bank account outside of the State Treasury. Only private funds may pay for any DSO administrative costs. The DSO must comply with the audit requirements of s. 215.981, F.S.

The division may permit, without charge, the appropriate use of property and facilities of the state by the DSO.

The director of the division may designate employees of the division to solicit donations from public or private sources to fund the authorized purposes of the DSO.

Upon dissolution of the DSO, all properties of the DSO revert to the division.

Repeals

The CS repeals the division licensing procedure that prohibits the solicitation of funds or anything of value by any means for the use and benefit of blind persons without a permit. The Department of State already licenses these individuals and entities.

Additionally, the CS amends s. 413.08, F.S., which outlines rights of physically disabled persons, the use of guide or service dogs and discrimination in public employment or housing accommodations. The CS defines a number of terms, including:

- “Housing accommodation” is defined to mean any real property or portion thereof which is used or occupied, or intended, arranged, or designed to be used or occupied, as a home, residence, or sleeping place of one or more human beings. The term does not include a single-family residence if the occupants rent or lease to others for compensation not more than one room in the residence.
- “Individual with a disability” means a person with a physical or mental impairment that severely limits the person’s ability to perform one or more daily life living skills.
- “Service animal” means an animal that is trained to perform tasks for an individual with a disability. The tasks may include, but are not limited to, guiding a person who is visually impaired or blind, alerting a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting a person who is having a seizure, retrieving objects, or performing other special tasks. A service animal is not a pet.
- “Place of public accommodation” means a facility operated by a private person, whose operations affect commerce and fall within at least one of the following categories:
 - An inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of the establishment as the residence of the proprietor.
 - A restaurant, bar, or other establishment serving food or drink;
 - A motion picture house, theater, concert hall, stadium, or other place of gathering.
 - An auditorium, convention center, lecture hall, or other place of exhibition or entertainment.
 - A bakery, grocery store, clothing store, hardware store, shopping center, or other sales or rental establishment.
 - A laundromat, dry cleaner, bank, barber shop, beauty shop, travel service, shoe repair service, funeral parlor, gas station, office of a health care provider, hospital, or other service establishment.
 - A terminal, depot, or other station used for specified public transportation.
 - A museum, library, gallery, or other place of public display or collection.

- A park, zoo, amusement park, or other place of recreation.
- A day care center, senior citizen center, homeless shelter, food bank, adoption agency, or other social services establishment.
- A gymnasium, health spa, bowling alley, golf course, or other place of exercise or recreation.

The CS provides that an individual with a disability is entitled to full and equal (access) in all state and local government facilities, programs, services, and activities.² The bill prohibits requiring documentation that a service animal is trained as a precondition for providing service to an individual accompanied by a service animal; however, a proprietor is authorized to ask if a service animal has been trained in order to distinguish a service animal from a pet. The provision permits a proprietor or government employee to exclude or remove a service animal from the premises if the animal's behavior poses a direct threat to the health and safety of others. Allergies and fear of animals are not permissible bases for exclusion under the CS.

The CS amends s. 413.081(5), F.S., to define "service animal" to mean an animal that is trained to perform tasks for an individual with a disability. The tasks may include, but are not limited to, guiding a person who is visually impaired or blind, alerting a person who is deaf or hard of hearing, pulling a wheelchair, assisting with mobility or balance, alerting and protecting a person who is having a seizure, retrieving objects, or performing other special tasks. A service animal is not a pet.

Effective date

The CS has an effective date of July 1, 2004.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

² See, Technical Deficiencies for a description of the problem with this section.

B. Private Sector Impact:

The elimination of the blind registry may afford blind or visually impaired individuals with more privacy while simultaneously hindering the division's efforts to provide services as requested, desired, or needed.

C. Government Sector Impact:

The Department of Education has estimated that the costs of fingerprinting the 306 division employees and the 40 other personnel employees (OPS) would be approximately \$16,600. The Department of Education has indicated that the division would be able to absorb the costs of the background checks from its base appropriations.

VI. Technical Deficiencies:

That portion of the bill amending s. 418.08(1)(a), F.S., (which is changed to subsection (2) by the CS) fails to include a verb where one is required. As amended, the section reads: "An individual with a disability is entitled to full and equal . . . ; in all state and local government facilities, programs, services, and activities. . . ." Each clause in that section should contain a verb.

VII. Related Issues:

None.

VIII. Amendments:

None.