

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Higher Education

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BILL: SB 802

INTRODUCER: Senator Gaetz

SUBJECT: Vocational Rehabilitation

DATE: March 9, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Graf	Klebacha	HE	<b>Pre-meeting</b>
2.	_____	_____	AED	_____
3.	_____	_____	AP	_____

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## I. Summary:

SB 802 imposes performance improvement plan and accountability reporting requirements on the Division of Vocational Rehabilitation (division), the designated state administrative unit, for implementing federal vocational rehabilitation (VR) program requirements. Specifically, the bill:

- Requires the division to develop and implement, by October 1, 2015, a performance improvement plan, designed to assist the division in achieving specified performance goals.
- Repeals the designation of the division as the administrative unit of the state for the purposes of effecting compliance with the federal Rehabilitation Act of 1973, as amended, pending a review of the division's progress on achieving the specified performance goals.
- Establishes criteria and reporting requirements associated with a pilot partnership program for the employment of persons with unique abilities.

The purpose of the bill is to elevate the state VR program as one of the best in the nation. Consequently, to direct efforts to improve the state VR program, the bill establishes measurable metrics that focus on outcomes related to employment, independence, and other meaningful measures of success.

The bill takes effect July 1, 2015.

## II. Present Situation:

Approximately 2.4 million individuals with disabilities live in Florida, representing nearly 13% of the state's population and about 10% of the individuals are within working-age (i.e., ages 18-64).<sup>1</sup> Such individuals may qualify for vocational rehabilitation (VR) services.<sup>2</sup> VR is a federal-

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<sup>1</sup> U.S. Census Bureau, *2009-2013 American Community Survey 5-Year Estimates*, <http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmmk> (last visited March 8, 2015).

<sup>2</sup> *Id.*

state program that helps people who have disabilities “get or keep a job.”<sup>3</sup> VR services and accountability requirements are directed by both federal and state law.

## **Federal Law**

### ***Rehabilitation Act of 1973***

The Rehabilitation Act of 1973, as amended, establishes the purpose of VR services to:<sup>4</sup>

- Empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society, through:
  - Statewide workforce investment systems implemented in accordance with title I of the Workforce Investment Act of 1998<sup>5</sup> that include, as integral components, comprehensive and coordinated state-of-the-art VR programs;
  - Independent living centers and services;
  - Research;
  - Training;
  - Demonstration projects; and
  - The guarantee of equal opportunity; and
- Ensure that the federal government plays a leadership role in promoting the employment of individuals with disabilities and in assisting states and providers of services fulfill gainful employment and independent living aspirations of individuals with disabilities.

The Rehabilitation Services Administration (RSA) oversees grant programs that help individuals with disabilities obtain employment and live more independently through supports such as counseling, medical and psychological services, job training, and other individualized services.<sup>6</sup> “RSA’s major Title I formula grant program provides funds to state vocational rehabilitation (VR) agencies to provide employment-related services for individuals with disabilities, giving priority to individuals who are significantly disabled.”<sup>7</sup>

### ***Workforce Innovation and Opportunity Act***

The Workforce Innovation and Opportunity Act (WIOA), which was enacted on July 22, 2014,<sup>8</sup> provides opportunities for advancing a customer-centered workforce investment system that is driven by the needs of job seekers and employers to support strong regional economies and to

<sup>3</sup> Florida Department of Education, *Frequently Asked Questions*, <http://www.rehabworks.org/faq.shtml> (last visited March 8, 2015).

<sup>4</sup> 29 U.S.C. s. 701(b); *see also* Pub. L. No. 93-112, 87 Stat. 355 (Sep. 26, 1973).

<sup>5</sup> The Workforce Investment Act (WIA) of 1998, signed into law on August 7, 1998, “reforms federal employment, adult education, and vocational rehabilitation programs to create an integrated, “one-stop” system of workforce investment and education activities for adults and youth.” U.S. Department of Education, *Adult Education and Family Literacy Act of 1998* <http://www2.ed.gov/policy/adulted/leg/legis.html> (last visited March 8, 2015). “Title I of WIA authorizes workforce investment programs and activities that are administered by the Employment and Training Administration of the U.S. Department of Labor.” *Id.*

<sup>6</sup> U.S. Department of Education, *Welcome to RSA*, <http://www2.ed.gov/about/offices/list/osers/rsa/index.html> (last visited March 8, 2015).

<sup>7</sup> *Id.*

<sup>8</sup> Pub. L. No. 113-128, 128 Stat. 1425 (July 22, 2014).

provide individuals with pathways to economic mobility.<sup>9</sup> Key WIOA Title IV changes regarding amendments to the Rehabilitation Act of 1973 include, but are not limited to:<sup>10</sup>

- Emphasis on achievement of competitive integrated employment through customized employment, supported employment, and individualized services.
- Expansion of VR focus on employer engagement to provide work-based learning experiences and to identify competitive integrated employment opportunities for individuals with disabilities in the job-driven workforce.
- Significant emphasis on serving students and youth with disabilities by increasing opportunities to practice and improve workplace skills, including internships and apprenticeships.

### **State Law**

The Division of Vocational Rehabilitation (division), within the Florida Department of Education (DOE), is designated as the administrative unit for the purposes of effecting compliance with the Vocational Rehabilitation Act of 1973, as amended.<sup>11</sup> The division is responsible for maintaining an internal system of quality assurance and monitoring compliance with state and federal laws, rules, and regulations.<sup>12</sup> To administer VR services, the division is entrusted with making eligibility determinations for VR services, providing VR services in collaboration with state and local entities, conducting research, and performing VR needs assessment. Additionally, the Florida Rehabilitation Council is responsible for assisting the division in the division's VR program planning and evaluation efforts.

#### ***Eligibility Requirements for Vocational Rehabilitation Services***

“A person is eligible for [VR] services if the person has a disability<sup>13</sup> and requires [VR] services to prepare for, enter, engage in, or retain gainful employment.”<sup>14</sup> The division is responsible for determining eligibility of an individual for VR services.<sup>15</sup> If the division determines that an individual is eligible for VR services, the division must:<sup>16</sup>

- Complete an assessment for determining the eligibility and vocational rehabilitation needs and
- Ensure that an individualized plan for employment (IPE)<sup>17</sup> is prepared, which must be jointly developed and signed by VR counselor or coordinator and the eligible individual, or in an appropriate case, a parent, family member, guardian, advocate, or authorized representative

<sup>9</sup> U.S. Department of Education, *DOL Questions and Answers about WIOA*, <http://www2.ed.gov/about/offices/list/osers/rsa/wioa-reauthorization.html> (last visited March 8, 2015).

<sup>10</sup> U.S. Department of Education, *Rehabilitation Act As Amended By WIOA* (Nov. 10, 2014), available at <http://www2.ed.gov/policy/speced/leg/rehab-act-as-amended-by-wioa.pdf>.

<sup>11</sup> Section 413.202, F.S.; see also Pub. L. No. 93-112, 87 Stat. 355 (Sep. 26, 1973).

<sup>12</sup> Section 413.207, F.S.

<sup>13</sup> Disability means “a physical or mental impairment that constitutes or results in a substantial impediment to employment.” Section 413.20(7), F.S.

<sup>14</sup> Section 413.30(1), F.S.

<sup>15</sup> Section 413.30(4), F.S.

<sup>16</sup> Section 413.30(5), F.S.

<sup>17</sup> An individualized plan for employment (IPE) includes a “comprehensive assessment of the unique strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice, including the need for supported employment, of an eligible individual to make a determination of the goals, objectives, nature, and scope of vocational rehabilitation services.” Section 413.20(3), F.S.

of the individual.<sup>18</sup> The division is responsible for ensuring that each IPE is customized to employment outcome of eligible individuals, consistent with federal law and the unique strengths, resources, priorities, concerns, abilities, and capabilities of such individuals.<sup>19</sup> Each IPE must be reviewed annually and revised, as needed.<sup>20</sup>

### ***Vocational Rehabilitation Administration and Service Delivery***

To administer VR program duties and provide VR services to persons with disabilities whom the division deems as eligible, the division is authorized to:<sup>21</sup>

- Cooperate with other departments, agencies, and public and private institutions to provide for the vocational rehabilitation of persons with disabilities.
- Enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of such states.
- To conduct research and compile statistics regarding vocational rehabilitation of persons with disabilities.
- To prepare a federally required state VR plan<sup>22</sup> which must address the federal Rehabilitation Act of 1973, as amended, including an assessment of the needs of persons with disabilities and how those needs may be met most effectively.

Based on an individual's VR needs, VR services may include a variety of services such as vocational evaluation and planning, career counseling and guidance, job-site assessment and accommodations, job placement, job coaching, and on-the-job training.<sup>23</sup>

Providers of VR services must register with the division and meet specified requirements (e.g., maintain an internal system of quality assurance and have proven functional systems).<sup>24</sup>

### ***Florida Rehabilitation Council***

The Florida Rehabilitation Council (council) is established to assist the division in the planning and development of statewide rehabilitation programs and services, recommend improvements to such programs and services, and perform specified functions.<sup>25</sup> Specifically, the council is responsible for performing functions such as developing and reviewing state goals and priorities in accordance with federal and state law; evaluating VR program effectiveness and submitting

<sup>18</sup> Section 413.30(5)(a), F.S.; Rule 6A-25.007, F.A.C.

<sup>19</sup> Section 413.30(5)(b), F.S.

<sup>20</sup> Section 413.30(5)(c), F.S.

<sup>21</sup> Section 413.23, F.S.

<sup>22</sup> The state plan for independent living is jointly developed and submitted by the Florida Independent Living Council and the Division of Vocational Rehabilitation (division). Florida law specifies the information that must be included in the state plan (e.g., objectives to be achieved; extent and scope of independent living services to be provided; and steps that will be taken to maximize cooperation, coordination, and working relationships among independent living rehabilitation service program). Section 413.393(1), F.S.; *see also* Florida Department of Education, *2015 Federal State Plan for Vocational Rehabilitation Services*, available at [http://www.rehabworks.org/docs/2015FederalStatePlan\\_Final.pdf](http://www.rehabworks.org/docs/2015FederalStatePlan_Final.pdf).

<sup>23</sup> Florida Department of Education, *Frequently Asked Questions*, <http://www.rehabworks.org/faq.shtml> (last visited March 8, 2015).

<sup>24</sup> Section 413.208(1), F.S.

<sup>25</sup> Section 413.405, F.S. Members of the Florida Rehabilitation Council (Council) are appointed by the Governor. The council membership must include at least 15 members but no more than 25 at a time. Section 413.405(3)-(4), F.S.; Florida Rehabilitation Council, *FRC Council Members*, [http://www.rehabworks.org/rehab\\_list.shtml](http://www.rehabworks.org/rehab_list.shtml) (last visited March 8, 2015).

progress reports and annual reports to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the U.S. Secretary of Education; assisting DOE and the division in preparing the state VR plan; conducting a review and analysis of customer satisfaction; coordinating with other councils within Florida such as the Florida Independent Living Council and the board of directors of Workforce Florida, Inc.<sup>26</sup>

The 2013-2014 annual report prepared by the council indicates that 7,214 persons with disabilities entered gainful employment during 2013-2014, resulting in nearly 11% improvement over the previous year.<sup>27</sup> Average annual earnings for closed cases increased from \$17,242 during 2012-2013 to \$17,536 during 2013-2014.<sup>28</sup> Additionally, during 2013-2014, approximately 80% of customers were self-supporting at time of case closure, an increase from 15.6% at the time of case acceptance.<sup>29</sup> However, notwithstanding the gains in employment and self-sufficiency outcomes during 2013-2014, the average number of active customers, median monthly caseload per field staff carrying a caseload, number of IPEs created during a year, and rehabilitation rate decreased compared to the previous year. Specifically, the average number of active customers decreased from 55,457 during 2012-2013 to 44,014 during 2013-2014; median monthly caseload dropped to 105 during 2013-2014, representing 22 fewer cases than the year before; number of IPEs created during 2013-2014 decreased by nearly 46% relative to 2012-2013; and the rehabilitation rate fell from 43.4% during 2012-2013 to 29.8% during 2013-2014.<sup>30</sup> The annual report does not include information comparing Florida's VR program performance to other VR programs nationally.

### III. Effect of Proposed Changes:

SB 802 imposes performance improvement plan and accountability reporting requirements on the Division of Vocational Rehabilitation (division), the designated state administrative unit, for implementing federal vocational rehabilitation (VR) program requirements. Specifically, the bill:

- Requires the division to develop and implement, by October 1, 2015, a performance improvement plan, designed to assist the division in achieving specified performance goals.
- Repeals the designation of the division as the administrative unit of the state for the purposes of effecting compliance with the federal Rehabilitation Act of 1973, as amended, pending a review of the division's progress on achieving the specified performance goals.
- Establishes criteria and reporting requirements associated with a pilot partnership program for the employment of persons with unique abilities.

The purpose of the bill is to elevate the state VR program as one of the best in the nation. Consequently, to direct efforts to improve the state VR program, the bill establishes measurable

<sup>26</sup> Section 413.405, F.S.; Florida Rehabilitation Council, *FRC Strategic Plan 2011-2014*, available at <http://www.rehabworks.org/rehab/FRCStrategicPlan.pdf>. Workforce Florida, Inc. is now called CareerSource Florida. CareerSource, *Press Releases* (Feb. 4, 2014), <http://www.careersourcecapitalregion.com/press-releases/entry/only-6-days-until-workforce-plus-rebrands-to-careersource-capital-region> (last visited March 8, 2015).

<sup>27</sup> Florida Rehabilitation Council, *Florida Rehabilitation Council 2013-2014 Annual Report*, available at <http://www.rehabworks.org/rehab/AnnualReport13.pdf> at 10 of 24.

<sup>28</sup> *Id.*

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

metrics that focus on outcomes related to employment, independence, and other meaningful measures of success.

### ***Performance Improvement Plan***

The bill requires the division to develop and implement, by October 1, 2015, a performance improvement plan that must be designed to elevate Florida's VR program to one of the top 10 VR programs nationally and achieve the following goals:

- Increase the number and percentage of persons with a program record who receive VR services.
- Increase the number of persons receiving postsecondary workforce education.
- Increase the number of persons who earn Career and Professional Education (CAPE) industry certifications and CAPE postsecondary industry certifications.
- Increase the number of cases closed due to the employment of persons with disabilities.
- Decrease the average cost per employment outcome.
- Decrease the proportion of full-time equivalent administrative positions within the division.

The performance improvement plan will likely help the division with strategic planning to improve the performance of the state's VR program in preparing individuals for employment. To that end, the attainment of nationally-recognized industry certifications by individuals will likely assist such individuals demonstrate to potential employers, mastery of specific skills, abilities, and competencies associated with the certifications. Reducing the administrative positions may free-up resources for improvements in the overall VR program services and operations.

### ***Performance Accountability Report***

The bill also requires the division to submit an annual report on VR program performance to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1. The performance report must include the following information for the 5 most recent fiscal years:

- Caseload data including the number of individuals who apply for and receive services statewide and by service area and service type.
- Service use data including the number of units of service provided statewide and by service area and service type.
- Financial data including expenditures for administering and providing services statewide and by service area and service type. Expenditures for education-related services must be identified in specific categories such as tuition and fees, program fees, and support services.
- Outcome data including the number of cases closed including the employment data associated with such cases statewide and by service area. The employment data must specify whether the employment was supported or integrated.

The VR program performance report will likely help the state assess the performance of the state's VR program in preparing individuals for employment and identifying mechanisms to improve the operations and management of the state's VR program. The performance report, based on 5 most recent years of data will likely be helpful to highlight the trends in VR program performance and outcomes. Compared to the annual report prepared by the Florida Rehabilitation Council (council), the VR program performance report will likely provide

additional VR data (e.g., financial data) as well as a breakdown of performance data by service area and service type.

***Partnership for Employment of Persons with Unique Abilities***

The bill requires the division to develop and implement a Partnership for Employment of Persons with Unique Abilities pilot program in designated regions within the state which may be specified in the General Appropriations Act. The goal of the pilot program is to achieve specific, measurable performance goals for the employment of persons with disabilities. To achieve the goal of the pilot program, the division must partner with one or more local, nonprofit organizations that have experience in assisting persons with disabilities get employed. This provision fosters collaboration between the state and local entities to help individuals with disabilities secure employment. If more than one qualifying organization in the designated regions requests a partnership agreement, the division is authorized to issue an invitation to negotiate.

The partner organizations must agree to performance goals established by the division based on improvement over past performance, at a minimum, in the following areas:

- The number and percentage of individuals with open records who receive services.
- The number of individuals with open records who receive postsecondary workforce education.
- The number of persons earning CAPE industry certifications and CAPE postsecondary industry certifications.
- The number and percentage of cases closed due to the employment of eligible individuals.
- The proportion of full-time equivalent administrative positions in the division.

This provision will likely assist with holding the partner organizations accountable for preparing individuals for employment.

The division must annually report activities and results of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31.

The bill takes effect July 1, 2015.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 413.202, 413.207, and 413.23.

This bill creates section 413.80 of the Florida Statutes.

**IX. Additional Information:**

## A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

## B. Amendments:

None.