

**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 962

INTRODUCER: Senator Gaetz

SUBJECT: Vocational Rehabilitation

DATE: January 8, 2016

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Graf</u>	<u>Klebacha</u>	<u>HE</u>	<b>Favorable</b>
2.	<u>_____</u>	<u>_____</u>	<u>AED</u>	<u>_____</u>
3.	<u>_____</u>	<u>_____</u>	<u>FP</u>	<u>_____</u>

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**I. Summary:**

SB 962 requires the Division of Vocational Rehabilitation (division) to develop and implement a performance improvement plan to achieve specified goals and annually submit a performance report with specified data to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The 2015-2016 General Appropriations Act included a proviso requiring the division to report significant measurable quarterly progress on specific performance indicators related to the VR program. These performance provisions will expire on July 1, 2016, unless the Legislature acts to codify the policy beyond the 2015-2016 fiscal year. SB 962 modifies and codifies the VR program performance policy enacted in the 2015-2016 GAA.

The bill takes effect July 1, 2016.

**II. Present Situation:**

Approximately 2.4 million individuals with disabilities live in Florida, representing over 13 percent of the state's population. Ten percent of the state's working-age (i.e., ages 18-64) population is composed of individual's with a disability.<sup>1</sup> Such individuals may qualify for vocational rehabilitation (VR) services. VR is a federal-state program that helps people who have disabilities obtain and maintain employment.<sup>2</sup>

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<sup>1</sup> U.S. Census Bureau, *2009-2014 American Community Survey 5-Year Estimates*, [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS\\_14\\_5YR\\_DP02&prodType=table](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_14_5YR_DP02&prodType=table) (last visited Dec. 30, 2015).

<sup>2</sup> Florida Department of Education, *Frequently Asked Questions*, <http://www.rehabworks.org/faq.shtml> (last visited Dec. 30, 2015).

## **Federal Law**

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

The Rehabilitation Act of 1973, as amended, establishes the purpose of VR services to:<sup>3</sup>

- Empower individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society; 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>4</sup> “RSA’s major Title I formula grant program provides funds to state VR agencies to provide employment-related services for individuals with disabilities, giving priority to individuals who are significantly disabled.”<sup>5</sup>

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

The Workforce Innovation and Opportunity Act (WIOA), enacted on July 22, 2014,<sup>6</sup> replaces the Workforce Investment Act of 1998 and “represents a renewed commitment to workforce development with an eye to the future through innovation and support for individual and national economic growth.”<sup>7</sup> WIOA aims to increase opportunities for individuals facing barriers to employment and invests in the “important connection between education and career preparation.”<sup>8</sup>

## **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>9</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>10</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.<sup>11</sup> The Florida Rehabilitation Council is responsible for assisting the division in VR

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<sup>3</sup> 29 U.S.C. s. 701(b); *see also* Pub. L. No. 93-112, 87 Stat. 355 (Sep. 26, 1973).

<sup>4</sup> U.S. Department of Education, *Welcome to RSA*, <http://www2.ed.gov/about/offices/list/osers/rsa/index.html> (last visited Dec. 30, 2015).

<sup>5</sup> *Id.*

<sup>6</sup> Pub. L. No. 113-128, 128 Stat. 1425 (July 22, 2014).

<sup>7</sup> U.S. Department of Education, *RSA: Workforce Innovation and Opportunity Act*, <http://www2.ed.gov/about/offices/list/osers/rsa/wioa-reauthorization.html> (last visited Dec. 30, 2015).

<sup>8</sup> *Id.*

<sup>9</sup> Section 413.202, F.S.; *see also* Pub. L. No. 93-112, 87 Stat. 355 (Sep. 26, 1973).

<sup>10</sup> Section 413.207, F.S.

<sup>11</sup> Section 413.23, F.S.

program planning and evaluation efforts.<sup>12</sup>

There are six VR regions, with 89 field locations throughout the state.<sup>13</sup> During the 2015-2016 state fiscal year, the division had 931 full-time equivalent (FTE) positions including administrative staff, counselors, and other staff.<sup>14</sup>

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

Under Florida law, a person with a disability<sup>15</sup> is eligible for VR services if the person requires VR services to prepare for, engage in, or retain gainful employment.<sup>16</sup> The division is responsible for determining eligibility of an individual for VR services.<sup>17</sup> If the division determines that an individual is eligible for VR services, the division must:<sup>18</sup>

- Complete an assessment for determining the eligibility and vocational rehabilitation needs and
- Ensure that an individualized plan for employment (IPE)<sup>19</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 of the individual.<sup>20</sup> Each IPE must be reviewed annually and revised, as needed.<sup>21</sup>

### ***Vocational Rehabilitation Service Delivery***

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>22</sup>

The division operates under a prioritization methodology called the Order of Selection (OOS).<sup>23</sup> The Rehabilitation Act of 1973, as amended, requires the VR program to serve individuals with

<sup>12</sup> Section 413.405, F.S.

<sup>13</sup> Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Appropriations Subcommittee on Education (Oct. 7, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket\\_3162.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_3162.pdf), at 8.

<sup>14</sup> The 931 FTE staff positions also include vacancies. *Id.*

<sup>15</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>16</sup> Section 413.30(1), F.S.

<sup>17</sup> Section 413.30(4), F.S.

<sup>18</sup> Section 413.30(5), F.S.

<sup>19</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.

<sup>20</sup> Section 413.30(5)(a), F.S.; Rule 6A-25.007, F.A.C.

<sup>21</sup> Section 413.30(5)(c), F.S.

<sup>22</sup> Florida Department of Education, *Frequently Asked Questions*, <http://www.rehabworks.org/faq.shtml> (last visited Dec. 30, 2015).

<sup>23</sup> Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Appropriations Subcommittee on Education (Oct. 7, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket\\_3162.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_3162.pdf), at 11.

the most significant disabilities first when there are not enough resources to serve everyone who is eligible for VR services.<sup>24</sup> The OOS categories include:<sup>25</sup>

- Category 1 comprising of individuals with the most significant disabilities.
- Category 2 comprising of individuals with significant disabilities; and
- Category 3 comprising of individuals with disabilities.

The division has reduced the waiting list by 8,266 individuals between 2014 and 2015.<sup>26</sup> As of September 30 2015, there was no wait list for individuals under Category 1.<sup>27</sup> The number of individuals on wait list for Category 2 has decreased from 7,796 in September 2014 to 4,154, a year later.<sup>28</sup> The average wait time for individuals under Category 2 has also decreased from 204 days to 126 days over the last year.<sup>29</sup> The division expects all individuals on the waiting list in Category 2 to be served by January 2016.<sup>30</sup> The OOS trends are different for individuals under Category 3 compared to individuals under categories 1 and 2 in that the number of individuals on wait list and the average wait time for Category 3 have increased since September 2014.<sup>31</sup>

### **Vocational Rehabilitation Accountability**

Accountability requirements for the VR program are directed by both federal and state law.<sup>32</sup>

#### ***Requirements***

The Rehabilitation Act of 1973, as amended, requires the RSA to establish evaluation standards and performance indicators for the VR program including outcome and related measures of program performance.<sup>33</sup> The RSA has established the minimum levels of performance for each performance indicator.<sup>34</sup> Each year, state VR agencies are required to report program performance data to the RSA.<sup>35</sup> State agencies that fail to meet the established performance

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<sup>24</sup> U.S. Department of Education, *RSA – Frequently Asked Questions About RSA*, <https://rsa.ed.gov/faqs.cfm> (last visited Dec. 31, 2015).

<sup>25</sup> Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Appropriations Subcommittee on Education (Oct. 7, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket\\_3162.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_3162.pdf), at 11.

<sup>26</sup> Florida Department of Education, Presentation to the Florida Senate Appropriations Subcommittee on Education (Oct. 7, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket\\_3162.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_3162.pdf), at 4.

<sup>27</sup> *Id.*

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

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

<sup>30</sup> Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Appropriations Subcommittee on Education (Oct. 7, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket\\_3162.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_3162.pdf), at 12.

<sup>31</sup> Florida Department of Education, Presentation to the Florida Senate Appropriations Subcommittee on Education (Oct. 7, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket\\_3162.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_3162.pdf), at 4.

<sup>32</sup> Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Appropriations Subcommittee on Education (Oct. 7, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket\\_3162.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_3162.pdf), at 6.

<sup>33</sup> U.S. Department of Education, *Evaluation Standards and Performance Indicators for the Vocational Rehabilitation Services Program*, <http://www2.ed.gov/rschstat/eval/rehab/standards.html> (last visited Dec. 31, 2015).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

levels must develop a Program Improvement Plan (PIP) outlining specific actions to improve program performance.<sup>36</sup>

In addition, Florida law, applicable for the 2015-2016 fiscal year only, requires the division to report significant measurable quarterly progress in the following measures:<sup>37</sup>

- Average wait list time;
- Number of persons receiving services (active cases);
- Number and percentage of customers receiving postsecondary education;
- Number and percentage of customers receiving CAPE industry certifications;
- Number and percentage of customers gainfully employed;
- Average earnings of customers at placement; and
- Number of students receiving preemployment transition services.

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>38</sup> The council is responsible for performing functions such as developing and reviewing state goals and priorities in accordance with federal law, and evaluating VR program effectiveness and submitting 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.<sup>39</sup>

### *Data*

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 percent improvement over the previous year.<sup>40</sup> Average annual earnings for closed cases increased from \$17,242 during 2012-2013 to \$17,536 during 2013-2014.<sup>41</sup> Additionally, during 2013-2014, approximately 80 percent of customers were self-supporting at time of case closure.<sup>42</sup> However, notwithstanding the gains in employment and self-sufficiency outcomes, 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.<sup>43</sup>

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<sup>36</sup> U.S. Department of Education, *Evaluation Standards and Performance Indicators for the Vocational Rehabilitation Services Program*, <http://www2.ed.gov/rschstat/eval/rehab/standards.html> (last visited Dec. 31, 2015).

<sup>37</sup> Specific Appropriation 35, s. 2, ch. 2015-232, L.O.F. These provisions, in the 2015-2016 General Appropriations Act, will expire on July 1, 2016, unless the Legislature acts to codify the policy beyond the 2015-2016 fiscal year. The Division of Vocational Rehabilitation staff provided data on each of the specified performance measures. Florida Department of Education, Presentation to the Florida Senate Appropriations Subcommittee on Education (Oct. 7, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket\\_3162.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_3162.pdf), at 4-10.

<sup>38</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.

<sup>39</sup> Section 413.405, F.S.

<sup>40</sup> Florida Rehabilitation Council, *Florida Rehabilitation Council 2013-2014 Annual Report*, available at <http://www.rehabworks.org/rehab/AnnualReport13.pdf>, at 10.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

Additionally, the percentage of cases closed successfully<sup>44</sup> has decreased from 62 percent in 2007 to 37 percent in 2015.<sup>45</sup> Nationally, during 2013:<sup>46</sup>

- Thirty one states exceeded the federal benchmark for employment rate (i.e., 55.8%).
- Nine states fell below (within 10%) the federal benchmark for employment rate.
- Florida, at 44 percent,<sup>47</sup> was among 10 states that fell significantly below the federal benchmark for employment rate.

Florida, during 2013, also ranked in the lower half on the percentage of VR cases closed with employment when compared to other states that use an order of selection methodology and that serve a high percentage (i.e., at least 98%) of individuals with significant disabilities.<sup>48</sup>

In comparison to most peer states (i.e., California, Georgia, Illinois, Michigan, North Carolina, New York, Ohio, Pennsylvania, and Texas), Florida has a higher percentage of administrative staff, ranking 7<sup>th</sup> highest in the nation.<sup>49</sup> Regarding the percentage of staff who are counselors, Florida is similar to peer states but ranks in the bottom third of all states, at 36<sup>th</sup> in the nation.<sup>50</sup>

### III. Effect of Proposed Changes:

SB 962 requires the Division of Vocational Rehabilitation (division) to develop and implement a performance improvement plan to achieve specified goals and annually submit a performance report with specified data to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The purpose of the bill is to direct administrative efforts toward improving the state Vocational Rehabilitation (VR) program by establishing measurable metrics that focus on outcomes related to employment, independence, and other meaningful measures of success.

The 2015-2016 General Appropriations Act included a proviso requiring the division to report significant measurable quarterly progress on specific performance indicators related to the VR program. These performance provisions will expire on July 1, 2016, unless the Legislature acts to codify the policy beyond the 2015-2016 fiscal year. SB 962 modifies and codifies the VR program performance policy enacted in the 2015-2016 GAA.

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<sup>44</sup> Cases closed successfully means individuals who received VR services secured employment. Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Appropriations Subcommittee on Education (Oct. 7, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket\\_3162.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_3162.pdf), at 15.

<sup>45</sup> *Id.*

<sup>46</sup> *Id.* at 24.

<sup>47</sup> *Id.* at 25.

<sup>48</sup> Email, Office of Program Policy Analysis and Government Accountability (Jan. 6, 2016).

<sup>49</sup> Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Appropriations Subcommittee on Education (Oct. 7, 2015), available at [http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket\\_3162.pdf](http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_3162.pdf), at 26.

<sup>50</sup> *Id.*

### **Performance Improvement Plan**

The bill establishes performance goals for the VR program, which are based on the measurable quarterly progress indicators that the division must report regarding VR service delivery, wait time, education, training, and employment outcomes.<sup>51</sup> Specifically, the bill requires the division to develop and implement, by October 1, 2016, 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:

- Decrease the average wait list time for reportable individuals.
- Increase the percentage of participants who:
  - Are in unsubsidized employment during the second quarter after they exit the program.
  - Are in unsubsidized employment during the fourth quarter after they exit the program.
  - Obtained a recognized postsecondary credential or a secondary school diploma or its recognized equivalent during participation in, or within 1 year after their exit from, the program.
  - During a program year, are in an education or training program that leads to a recognized postsecondary credential or to employment and who are achieving a measurable gain of skill, including documented academic, technical, occupational gains or other forms of progress toward a postsecondary credential or employment.
- Increase the number of:
  - Persons earning CAPE industry certifications and CAPE postsecondary industry certifications approved pursuant to s. 1008.44.
  - Students receiving pre-employment transition services.
- Increase the median earnings of participants who are in unsubsidized employment during the second quarter after they exit the program.
- Increase the percentage of youth who received preemployment transition services without applying for additional vocational rehabilitation services and who obtained a recognized postsecondary credential or a secondary school diploma or its recognized equivalent during participation in, or within 1 year after their exit from, the program.
- Increase the division's effectiveness in serving employers, based on indicators developed as required by section 116(b)(2)(A)(iv) of the federal Workforce Innovation and Opportunity Act.

Specifying the VR performance goals in law will likely help the division with strategic planning to improve the performance of the state's VR program in service delivery and preparing individuals for employment. Attaining nationally-recognized industry certifications will assist individuals in demonstrating to potential employers the mastery of specific skills, abilities, and competencies associated with the education or certifications. Workforce education and training will facilitate such efforts in securing employment and living independently.

### **Performance Accountability Report**

The bill modifies the current VR reporting requirements by specifying the data the division must report annually to the Governor and the Legislature. Compared to the annual report prepared by

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<sup>51</sup> Specific Appropriation 35, s. 2, ch. 2015-232, L.O.F. These provisions, in the 2015-2016 General Appropriations Act, will expire on July 1, 2016, unless the Legislature acts to codify the policy beyond the 2015-2016 fiscal year.

the Florida Rehabilitation Council (council), the VR program performance report to be prepared by the division, as required under the bill, will include additional VR data (e.g., financial data) as well as a breakdown of performance data by service type and service area.

Specifically, the bill requires the division to annually submit, by December 1, a performance report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The performance report must include the following information for the five most recent fiscal years, reported statewide and by service area:

- Caseload data, including the number of individuals who apply for services and who receive services, by service type.
- Service use data, by service type, including the number of units of service provided.
- Financial data, by service type, including expenditures for administration and the provision of services. 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 without employment and the number of cases closed with employment. Employment data must be provided separately for supported employment.

The VR program performance report will 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 VR program. The performance report will also assist in identifying trends in VR program performance and outcomes.

The bill takes effect July 1, 2016.

#### **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 section 413.207 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.