

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.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: SB 962

INTRODUCER: Senator Gaetz

SUBJECT: Vocational Rehabilitation

DATE: January 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Graf</u>	<u>Klebacha</u>	<u>HE</u>	Favorable
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Favorable
3.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	Pre-meeting

I. Summary:

SB 962 requires the Division of Vocational Rehabilitation to develop and implement a performance improvement plan to achieve specified goals and to 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 (GAA) included proviso language 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 has no impact on state funds. The performance measures specified in the bill are expected to make the division more effective in spending its appropriated funds.

The bill is effective July 1, 2016.

II. Present Situation:

Approximately 2.4 million individuals with a disability 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 individuals with a disability.¹ Such individuals may qualify for vocational rehabilitation (VR) services. VR is a federal-state program that helps individuals with a disability obtain and maintain employment.²

¹ U.S. Census Bureau, *2010-2014 American Community Survey 5-Year Estimates*, available at http://factfinder.census.gov/bkmk/table/1.0/en/ACS/14_5YR/DP02/0400000US12 (last visited January 25, 2016).

² Florida Department of Education, Division of Vocational Rehabilitation, *Frequently Asked Questions*, available at <http://www.rehabworks.org/faq.shtml> (last visited January 25, 2016).

Federal Law

Rehabilitation Act of 1973

The Rehabilitation Act of 1973, as amended, establishes the purposes of VR services to include:³

- Empowering individuals with disabilities to maximize employment, economic self-sufficiency, independence, and inclusion and integration into society; and
- Ensuring that the federal government plays a leadership role in promoting the employment of individuals with disabilities and in assisting states and providers of services to fulfill gainful employment and independent living aspirations of individuals with disabilities.

The federal Rehabilitation Services Administration (RSA) oversees grant programs that help individuals with a disability obtain employment and live more independently through support such as counseling, medical and psychological services, job training, and other individualized services. “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.”⁴

Workforce Innovation and Opportunity Act

The Workforce Innovation and Opportunity Act (WIOA), enacted on July 22, 2014, 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.”⁵ WIOA aims to increase opportunities for individuals facing barriers to employment and invests in the “connection between education and career preparation.”⁶

State Law

The Division of Vocational Rehabilitation (division) within the Florida Department of Education is designated as the administrative unit for the purposes of complying with the Rehabilitation Act of 1973, as amended.⁷ The division is responsible for maintaining an internal system of quality assurance and monitoring compliance with state and federal laws, rules, and regulations.⁸ To administer VR services, the division must make eligibility determinations for VR services, provide VR services in collaboration with state and local entities, conduct research, and perform VR needs assessments.⁹

The Florida Rehabilitation Council (council) is responsible for assisting the division in the planning and development of statewide rehabilitation programs and services, recommends

³ 29 U.S.C. s. 701(b).

⁴ U.S. Department of Education, Office of Special Education and Rehabilitative Services, *Welcome to RSA*, available at <http://www2.ed.gov/about/offices/list/osers/rsa/index.html> (last visited January 25, 2016).

⁵ U.S. Department of Education, Office of Special Education and Rehabilitative Services, *RSA: Workforce Innovation and Opportunity Act*, available at <http://www2.ed.gov/about/offices/list/osers/rsa/wioa-reauthorization.html> (last visited January 25, 2016). WIOA is codified at 29 U.S.C. ch. 32. See Pub. L. No. 113-128, 128 Stat. 1425 (July 22, 2014).

⁶ *Id.*

⁷ Section 413.202, F.S.

⁸ Section 413.207, F.S.

⁹ Section 413.23, F.S.

improvements to such programs and services, and performs specified functions.¹⁰ 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.¹¹

There are six VR regions, with 89 field locations throughout the state.¹² During the 2015-2016 Fiscal Year, the division had 931 full-time equivalent (FTE) positions including administrative staff, counselors, and other staff.¹³

Eligibility Requirements for Vocational Rehabilitation Services

Under Florida law, an individual with a disability¹⁴ is eligible for VR services if the person requires VR services to prepare for, engage in, or retain gainful employment.¹⁵ The division is responsible for determining eligibility of an individual for VR services.¹⁶ If the division determines that an individual is eligible for VR services, the division must:¹⁷

- Complete an assessment for determining the eligibility and vocational rehabilitation needs; and
- Ensure that an individualized plan for employment (IPE)¹⁸ is prepared, which must be jointly developed and signed by the VR counselor or coordinator and the eligible individual, or as appropriate, a parent, family member, guardian, advocate, or authorized representative of the individual.¹⁹ Each IPE must be reviewed annually and revised, as needed.²⁰

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.²¹

The division operates under a prioritization methodology called the Order of Selection (OOS).²² The Rehabilitation Act of 1973, as amended, requires the VR program to serve individuals with

¹⁰ Section 413.405, F.S. Members of the council are appointed by the Governor. The council membership must include at least 15 members but no more than 25 at a time.

¹¹ Section 413.405(9), F.S.

¹² Office of Program Policy Analysis and Government Accountability, Presentation to the Florida Senate Appropriations Subcommittee on Education, at 9, (Oct. 7, 2015) available at http://www.flsenate.gov/PublishedContent/Committees/2014-2016/AED/MeetingRecords/MeetingPacket_3162.pdf (last visited January 25, 2016).

¹³ *Id.* The 931 FTE staff positions include vacancies.

¹⁴ Disability means "a physical or mental impairment that constitutes or results in a substantial impediment to employment." Section 413.20(7), F.S.

¹⁵ Section 413.30(1), F.S.

¹⁶ Section 413.30(4), F.S.

¹⁷ Section 413.30(5), F.S.

¹⁸ 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.

¹⁹ Section 413.30(5)(a), F.S.; Rule 6A-25.007, F.A.C.

²⁰ Section 413.30(5)(c), F.S.

²¹ *Supra* note 2.

²² *Supra* note 11 at 12.

the most significant disabilities first when there are not enough resources to serve everyone who is eligible for VR services.²³ The OOS categories include:²⁴

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

The division has reduced the waiting list by 12,527 individuals since the first quarter of the 2014-2015 fiscal year.²⁵ As of December 23, 2015, there were no wait lists for individuals under Category 1 or Category 2. However, the trends are different for individuals under Category 3: the number of individuals on a wait list and the average wait time for Category 3 have increased since September 2014. As of December 23, 2015, there were 1,674 individuals on the wait list for Category 3, with an average wait time of 654 days.²⁶

Vocational Rehabilitation Accountability

Requirements

Accountability requirements for the VR program are directed by both federal and state law.²⁷ 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. The RSA has established the minimum levels of performance for each performance indicator and each year state VR agencies are required to report program performance data to the RSA. State agencies that fail to meet the established performance levels must develop a program improvement plan outlining specific actions to improve program performance.²⁸

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:²⁹

- 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;

²³ U.S. Department of Education, Office of Special Education and Rehabilitative Services, *RSA – Frequently Asked Questions About RSA: If I am eligible for the vocational rehabilitation program, do I automatically receive services?*, available at <https://rsa.ed.gov/faqs.cfm> (last visited January 25, 2016).

²⁴ *Supra* note 11 at 12.

²⁵ Florida Department of Education, Presentation to the Florida House of Representatives Education Appropriations Subcommittee, at 151, (January 11, 2016) available at <http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2830&Session=2016&DocumentType=Meeting%20Packets&FileName=edas%201-11-16.pdf> (last visited January 25, 2016).

²⁶ *Id.*

²⁷ *Supra* note 11 at 7.

²⁸ U.S. Department of Education, *Evaluation Standards and Performance Indicators for the Vocational Rehabilitation Services Program*, available at <http://www2.ed.gov/rschstat/eval/rehab/standards.html> (last visited January 25, 2016).

²⁹ Specific Appropriation 35, ch. 2015-232, L.O.F. Data available at 32-39, Florida Department of Education, Division of Vocational Rehabilitation, 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 (last visited January 25, 2016).

- Average earnings of customers at placement; and
- Number of students receiving preemployment transition services.

These performance provisions will expire on July 1, 2016, unless the Legislature acts to codify the policy beyond the 2015-2016 Fiscal Year. Performance data is discussed above under *Vocational Rehabilitation Service Delivery*.

Data

In addition to its other duties, the council must submit 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.³⁰ 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.³¹ Average annual earnings for closed cases increased from \$17,242 during 2012-2013 to \$17,536 during 2013-2014. Additionally, during 2013-2014, approximately 80 percent of customers were self-supporting at time of case closure. 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.³²

The Office of Program Policy Analysis and Government Accountability reported that the percentage of cases closed successfully has decreased from 62 percent in 2007 to 37 percent in 2015.³³ Nationally, during 2013:³⁴

- Thirty one states exceeded the federal benchmark for employment rate (i.e., 55.8%).
- Nine states fell below, but were within 10 percent of, the federal benchmark.
- Florida, at 44 percent, was among 10 states that fell significantly below the federal benchmark (10 percent or more below).

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 OOS methodology and that serve a high percentage (i.e., at least 98%) of individuals with significant disabilities.³⁵

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 7th highest in the nation. Regarding the percentage of staff who are counselors, Florida is similar to peer states but ranks in the bottom third of all states at 36th in the nation.³⁶

³⁰ Section 413.405(9), F.S.

³¹ Florida Rehabilitation Council, *Florida Rehabilitation Council 2013-2014 Annual Report*, at 10, available at <http://www.rehabworks.org/rehab/AnnualReport13.pdf> (last visited Jan. 25, 2016).

³² *Id.*

³³ “Cases closed successfully” means individuals who received VR services secured employment. *Supra* note 11 at 16.

³⁴ *Supra* note 11 at 25.

³⁵ *Supra* note 11 at 24.

³⁶ *Supra* note 11 at 27.

III. Effect of Proposed Changes:

The bill 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. This bill modifies and codifies the VR program performance policy enacted in the 2015-2016 GAA, discussed above in the Present Situation.

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. 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 WIOA.

Specifying the VR performance goals in law will guide the division in strategic planning to improve the performance of the state's VR program in service delivery and preparing individuals for employment. For individuals, the focus on workforce education and training will assist individuals in demonstrating to potential employers the mastery of specific skills, abilities, and competencies associated with the education or certifications and facilitate the individuals' efforts to live independently.

Performance Report

The bill specifies the data the division must report annually to the Governor and the Legislature. Compared to the annual report prepared by 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, including the number of units of service provided, by service type.
- Financial data, including expenditures for administration and the provision of services, by 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 without employment and the number of cases closed with employment. Employment data must be provided separately for supported employment.

The 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:

The performance measures specified in the bill are expected to improve division services, thereby leading to better employment outcomes for individuals receiving those services.

C. Government Sector Impact:

The bill has no impact on state funds. The performance measures specified in the bill are expected to make the division more effective in spending its appropriated funds.

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.