

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 205aa

52nd Legislature, 2nd Session, 2016

Tracking Number: .202858.1SA

Short Title: Vocational Rehabilitation Act

Sponsor(s): Representatives Candy Spence Ezzell, Bob Wooley, and Nora Espinoza

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AS AMENDED

The Business and Employment Committee amendment creates an additional duty for the Division of Vocational Rehabilitation (DVR), which requires DVR to collaborate with the state independent living council and, through the state plan for independent living, identify the designated state agency to administer the independent living services program and to work to execute the transition for FY18.

The House Government, Elections, and Indian Affairs Committee amendments:

- change definitions for “person with disability” and “vocational rehabilitation”;
- allow for an opportunity for a fair hearing, as opposed to requiring one, for any person with a disability applying for or receiving vocational rehabilitation who is aggrieved by any action or inaction of DVR or its director; and
- strike Section 14 of the bill in its entirety, which would have transferred certain functions from the New Mexico School for the Blind and Visually Impaired to DVR.

Original Bill Summary:

HB 205 proposes to move DVR from the Public Education Department (PED) to the Workforce Solutions Department (WSD). The bill makes technical changes to align existing statutes with the move of the Division of Vocational Rehabilitation (DVR). It moves certain provisions pertaining to the Commission of the Blind to the appropriate sections of the New Mexico Statutes Annotated. The bill further provides for the transfer of money, appropriations, personnel, and property from PED to WSD.

Fiscal Impact:

The bill does not contain an appropriation. However, WSD notes that HB 205 transfers appropriations, personnel, and property from PED to the department. In the future, it may be necessary to consolidate the DVR’s budget into the overall WSD budget to eliminate potential administrative duplication.

At a Glance:

- PED conducted an analysis of the responsibilities of DVR, and it was reported that none of the functions of the division are related to the function of PED.
- By aligning DVR and WSD, the employment and self sufficiency outcomes for DVR participants may be improved over time.

Substantive Issues:

WSD notes that the department currently operates a statewide network of more than 20 offices, many of which are located in the same locations as DVR offices, thus making WSD better positioned to coordinate the activities of DVR.

According to the New Mexico School for the Blind and Visually Impaired (NMSBVI), the development of employability skills and job exploration is one of nine components of the Expanded Core Curriculum of Blindness (ECC). The acquisition of ECC skills occurs throughout an individual's life. NMSBVI begins working with families in the nine areas identified in the ECC in the infant and toddler program. If the school is required to discontinue services related to the ECC at the time a student turns 18, a blind student's right to a free appropriate public education could be challenged since the federal *Individuals with Disabilities Education Act* (IDEA) permits students to receive services from a school after the age of 18 as determined by a student's Individualized Education Program (IEP).

NMSBVI also noted that Section 14 of HB 205 would require the school to dismantle an integrated ECC program and remove the career funding and services related to 18 through 21 year olds. This would be a burden as the same personnel serve multi-aged students in the same learning space. Thus, the school suggests striking Section 14 of the bill to remedy this issue.

Technical Issues:

New Mexico Commission for the Blind ("the Commission") suggests portions of HB 205 are based on outdated statutory language, which does not track the current version of the federal *Rehabilitation Act*. The Commission also notes that some portions of HB 205 do not reflect the state *Commission for the Blind Act*, which was passed in 1986.

The Commission urges the following amendments to better align the bill with the provisions contained in the federal *Rehabilitation Act of 1973* and the state *Commission for the Blind Act*. The Commission states it would be beneficial to add the following sentence to Section 5 at the end of Paragraph B: "As set forth in the *Commission for the Blind Act*, the Commission for the Blind is the sole state agency to administer the part of the plan under which vocational rehabilitation services are provided for individuals who are blind." Additionally, the Commission suggests replacing the language of Section 2, Paragraph E with the following: "Person with a disability means an individual who has a physical or mental impairment, whose impairment constitutes or results in a substantial impediment to employment, and who can benefit in terms of an employment outcome from the provision of vocational rehabilitation services."

In addition, NMSBVI suggests striking Section 14 of the bill and striking from the title the clause that reads: "MOVING CERTAIN PROVISIONS PERTAINING TO THE BLIND TO CHAPTER 28 NMSA 1978." Lastly, the Commission suggests replacing Section 2, Paragraph F

with the following: “Vocational rehabilitation means services provided pursuant to the *Vocational Rehabilitation Act of 1973*, as amended.”

Background:

PED notes that the *Rehabilitation Act of 1973* was the first major legislative effort to secure an equal playing field for individuals with disabilities. This legislation provides a wide range of services for persons with physical and cognitive disabilities. Those particular disabilities can create significant barriers to full and continued employment, pursuit of independent living, self determination, and inclusion in society. DVR is the state agency charged with carrying out the provisions of the act.

In 2014, the federal *Workforce Innovation Opportunity Act* (WIOA) was enacted into law. This was intended to assist job seekers and workers access employment, education, training, and support services to succeed in the labor market and match employers with skilled workers they need to compete in the global economy.

According to the Commission, the most recent amendments of the *Rehabilitative Act* are contained in Title IV of WIOA.