

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/SB 2126

SPONSOR: Education Committee and Senator Wise

SUBJECT: Blind Services

DATE: April 10, 2003 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matthews	O'Farrell	ED	Favorable/CS
2.	_____	_____	GO	_____
3.	_____	_____	AGG	_____
4.	_____	_____	AP	_____
5.	_____	_____	RC	_____
6.	_____	_____	_____	_____

I. Summary:

This committee substitute creates the Florida Commission for the Blind (commission) within the Department of Education (department). The commission is independent of the department but serves as the agency head of the Division of Blind Services within the department. The division is a separate budget entity. The department must provide administrative support and services to the commission and to the division when requested by the commission or its executive director. However, the division is not subject to the control, supervision, or direction by the department in any matter including personnel, purchasing, transactions involving real or personal property, and budgetary matters.

The commission consists of nine members appointed by the Governor with confirmation by the Senate. A majority of the commission members shall be blind. A member of the commission may only be removed for cause. Members may not be employed by the division while serving on the commission, receive compensation for services on the commission, or receive financial benefit from any commission contracts.

The commission appoints an executive director, who serves at the pleasure of the commission, to serve as the chief administrative officer of the division. The executive director hires personnel and all division employees report to the executive director. The reorganization does not modify the status of current employees under chapters 110 and 121, F.S.

The powers and duties of the division are expanded to include: implementing a state plan for vocational rehabilitation for blind individuals, implementing a state plan for independent living services for blind or visually impaired individuals, maintaining centers to provide independent living skills training, implementing a small business enterprises program, providing library

services, administering a blind children's program, and providing technical assistance to other agencies and employers.

The commission is required to submit a legislative budget request to the Commissioner of Education for inclusion in the department's budget request to the State Board of Education, the Governor, and the Legislature. Neither the Commissioner nor the State Board of Education may modify the budget request. Fixed capital outlay requests are made through the legislative budget request of the Department of Education.

Management flexibility for the commission is authorized by exempting the commission from the requirements of targeted budget requests under s. 216.031, F.S., the amendatory process for budget requests under s. 216.181, F.S., authorized positions under s. 216.262, F.S., and salary rates under s. 216.251, F.S. The division may receive its appropriations within budget entities, program components, program categories, lump sums, or special categories. Funds may be transferred to traditional categories for expenditure by the commission.

The division retains title to any real or personal property acquired for use by people who have visual impairments or personnel employed in operating programs of the division. Any funds that the division receives from the sale of surplus property must be deposited in the Grants and Donations Trust Fund, are exempt from the State Treasury, and may be used for any purpose consistent with ss. 413.011-413.092, F.S.

The Advisory Council for the Blind is eliminated.

The committee substitute authorizes the commission to create a Blind Services direct-support organization.

The licensing procedure of the Division of Blind Services for those individuals soliciting funds or value or selling merchandise for the use and benefit of blind persons is repealed.

The committee substitute substantially amends sections 20.15, F.S., 413.011, F.S., 413.0115, F.S., 413.012, F.S., 413.013, F.S., 413.014, F.S., 413.041, F.S., 413.051, F.S., 413.091, F.S., and 413.092, F.S.

The committee substitute creates sections 413.093, F.S., 413.094, F.S., and 413.095, F.S., and two additional unnumbered sections of law.

The committee substitute repeals sections 413.061, F.S., 413.062, F.S., 413.063, F.S., 413.064, F.S., 413.065, F.S., 413.066, F.S., 413.067, F.S., 413.068, F.S., and 413.069, F.S.

A short title is created: "Florida Commission for the Blind Act."

The committee substitute has an effective date of July 1, 2003.

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. Section 39, ch. 99-240, L.O.F. The transfer was effective January 1, 2002.

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;
- 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, a children's program, and (6) the Blind Babies Program. The programs are funded through a combination of state and federal dollars, usually on a matching basis.

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

- Review, analyze, and advise 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;
- Advise 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;

- Conduct 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;
- Prepare and submit an annual report on the status of vocational rehabilitation services for the blind;
- Coordinate with other councils within the state;
- Coordinate and establish working relationships among the department, the division, the Independent Living Council, and centers for independent living in the state;
- Perform any other function consistent with its mission;
- Prepare, in conjunction with the division, a plan for the provision of services, including staff and other personnel with disagreements resolved by the Governor;
- Supervise and evaluate staff and other personnel; and
- Meet at least four times a year.

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

For fiscal year 2002-2003, the Division of Blind Services has 306 authorized positions with an operating budget of approximately \$38 million. The division's capital outlay budget for fiscal year 2002-2003 is approximately \$1.7 million.

III. Effect of Proposed Changes:

This committee substitute creates the Florida Commission for the Blind within the Department of Education. Section 20.03(10), F.S., defines a "commission," unless otherwise required by the State Constitution, as a body created by specific statutory enactment within a department, the office of the Governor, or the Executive Officer of the Governor. In addition, the body exercises limited quasi-legislative or quasi-judicial powers, or both, independently of the head of the department or the Governor.

The commission is independent of the department but serves as the agency head of the Division of Blind Services within the department. The division is a separate budget entity. The department is required to provide administrative support and services to the commission and to the division when requested by the commission or the executive director of the commission. However, the division is not subject to control, supervision, or direction by the department in any matter including personnel, purchasing, transactions involving real or personal property, and budgetary matters.

The commission is the designated state agency and the division is the designated state unit in accordance with the Rehabilitation Act of 1973, as amended.

The commission consists of nine members appointed by the Governor with confirmation by the Senate. A majority of the commission members must be blind. The Governor is directed to consult with recognized consumer groups of people who are blind to obtain recommendations for appointees. Each member must be qualified to serve based on his or her knowledge and experience in rehabilitation and related services for the blind. Members are appointed to serve

staggered 3-year terms, with the exception of initial appointees. Three of the initial appointees shall serve 3-year terms, three of the initial appointees shall serve 2-year terms, and three of the initial appointees shall serve 1-year terms. The initial appointments shall be made by July 15, 2003.

A member of the commission may only be removed for cause. Members may not be employed by the division while serving on the commission, receive compensation for services on the commission, or receive financial benefit from any commission contracts. Members may be reimbursed for travel expenses and per diem as provided in s. 112.061, F.S.

The first meeting of the commission must take place by August 1, 2003. A majority of the members constitutes a quorum. The commission shall select a chair to serve for one year. Meetings of the commission are quarterly, upon the call of the chair, at the call of the majority of the commission, or at such other times as the commission designates.

The commission 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 commission shall appoint an executive director, who serves at the pleasure of the commission, to serve as the chief administrative officer of the division. The executive director hires personnel and all division employees report to the executive director. The reorganization does not modify the status of current employees under chapters 110 and 121, F.S. All employees and applicants must undergo, at commission expense, a level one criminal background check as provided in chapter 435, F.S.

The purpose of the commission is amended to require establishing a coordinated program that maximizes employment opportunities for the blind and increases their independence.

The division is no longer required to maintain a register of the blind in the state, which described the condition, cause, and capacity for retraining for each blind individual.

The commission shall adopt rules for administering the programs of the commission.

The division is charged with the following responsibilities:

- Developing and implementing, in conjunction with the Florida Independent Living Council, a 3-year state plan for independent living services, independent living services for the blind and visually impaired individuals, and services for the blind elderly, pursuant to Title VII, chapter 2 of the Rehabilitation Act of 1973, as amended;
- Developing and implementing a state plan for vocational rehabilitation services for individuals who are blind, pursuant to section 101 of the Rehabilitation Act of 1973, as amended;
- Providing services that contribute to the maintenance of or the increased independence of the blind elderly;
- Establishing, equipping, and maintaining 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;
- Establishing and implementing a small business enterprises program and serving as the state licensing agency for individuals who are blind, pursuant to the Randolph-Sheppard Act;
 - Purchasing and distributing specialized equipment, devices, and technology, including low-vision aids, obtained directly from specialty vendors without using state centralized purchasing procedures. Property purchased by a state agency for the purpose of making accommodations for individuals who are blind is not subject to 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;
 - Providing, in cooperation with the Library of Congress, library services to persons who are blind and persons who have physical disabilities;
 - Providing, 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;
 - Participating, through the designation of the executive director or an appropriate staff member of the commission, on boards, commissions, or bodies in this state for the purpose of coordinating and planning services;
 - Conducting a review of consumer satisfaction with programs of the commission and performing other functions of the statewide rehabilitation council specified in section 105(c) of the Rehabilitation Act of 1973, as amended;
 - Applying for and receiving money from any state or federal agency to support the programs of the commission;
 - Providing technical assistance to agencies within the state in order to assure 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; and
 - Developing and administering any other program that will further the provision of services to blind people and that the commission determines falls within its scope of responsibility.

A children's program is created within the division to serve blind children from five years of age through transition to the Vocational Rehabilitation Program. 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 division is directed to provide vocational rehabilitation services to blind individuals in this state, pursuant to the Rehabilitation Act of 1973, as amended. The division is directed to provide independent living services to blind individuals in the state pursuant to the Rehabilitation Act of 1973, as amended.

The commission is directed to publish an annual report that includes a list of accomplishments, findings, and recommendations for improvements based on the commission's performance during the year. The report must contain information needed to evaluate the progress of the commission in meeting the needs of blind individuals in the state.

An optional alternative dispute resolution procedure is established in which an applicant or recipient of services from the commission who is dissatisfied with an action by the commission may file a complaint. Upon receipt of the complaint, the executive director is required to notify the petitioner of a voluntary mediation procedure conducted by a qualified and impartial mediator. The cost of the mediation would be borne by the commission. If the complaint is not settled, the executive director, through a designee, notifies the petitioner of his or her rights for appeal under state and federal law. The commission must adopt rules to implement this procedure.

The division is required to issue identification cards to persons known to be blind or partially sighted, upon the written request of the individuals. The issuance was previously permissive.

A new budget procedure for the commission is established. The executive director of the commission recommends to the commission a budget. The commission submits an approved legislative budget request using the format and procedures of the Department of Education. The Commissioner of Education shall include the commission in the department's legislative budget request to the State Board of Education, the Governor, and the Legislature. Neither the Commissioner nor the State Board of Education may modify the budget request. The budget request and the appropriation for the commission must be a separate identifiable sum in the department's budget. Distribution of the annual appropriation to the commission must be in monthly payments that are nearly equal as possible. Appropriations for client services, instructional technology, and motor vehicles may be released and distributed as necessary to serve the instructional program for the clients. Fixed capital outlay needs of the commission must be requested in the public education capital outlay budget request of the department.

The commission is afforded management flexibility by exempting the commission from the requirements of targeted budget requests under s. 216.031, F.S., the amendatory process for budget requests under s. 216.181, F.S., authorized positions under s. 216.262, F.S., and salary rates under s. 216.251, F.S. The division may receive its appropriations within budget entities, program components, program categories, lump sums, or special categories. Funds may be transferred to traditional categories for expenditure by the commission.

The division retains title to any real or personal property acquired for use by people who have visual impairments or personnel employed in the operating programs of the commission. Any funds that the division receives from the sale of surplus property must be deposited in the Grants and Donations Trust Fund, are exempt from the State Treasury, and may be used for any purpose consistent with ss. 413.011-413.092, F.S. The commission retains exclusive rulemaking authority relating to records for property owned by the commission.

The commission may create a blind services direct-support organization. The direct-support organization is a not-for-profit corporation incorporated under chapter 617, Florida Statutes, organized and operated to conduct programs and activities; request and receive grants, gifts, and

bequests, raise money; administer and hold in its own name, securities, funds, objects of value, or other property; and make expenditures for the benefit of the state and for blind residents. The seven member board of directors shall be initially appointed by the Governor. Two members shall be appointed to serve 2-year terms, three members shall be appointed to serve 3-year terms, and two members shall be appointed to serve 4-year terms. Subsequent boards shall be appointed as provided in the by-laws. The members of the commission would sit as the board of directors of the direct-support organization. The chair of the commission serves as an ex officio member of the board of directors. The direct-support organization 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 direct-support organization is required to maintain all donations and direct service expenditures outside the State Treasury. Administrative costs of operating the direct-support organization must be paid by private funds. The purposes of the direct-support organization must be consistent with the priority objectives of the department and be in the best interests of the state. The division may authorize the appropriate use of the property and facilities of the state by the direct-support organization. Funds designated for the direct-support organization must be used for programs and projects of the division. All moneys received by the direct-support organization must be deposited in its own account and be used to further its purpose. The direct-support organization must comply with the audit requirements of s. 215.981, F.S. The executive director of the division may designate employees of the division to solicit donations to fund the authorized purposes of the direct-support organization. Upon dissolution of the direct-support organization, all properties revert to the commission.

Conforming changes are made in law to maintain current division and commission authority. In particular, the division may disclose confidential and exempt records to the commission, but the commission shall maintain the confidential and exempt status of such records.

The licensing procedure for the division that otherwise prohibits the solicitation of funds or anything of value by any means for the use and benefit of blind persons is repealed. These individuals and entities are already licensed by the Department of State.

The Advisory Council for the Blind within the Division of Blind Services is repealed.

A short title is created: "Florida Commission for the Blind Act."

The committee substitute has an effective date of July 1, 2003.

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.

B. Private Sector Impact:

The provision of services to the blind or visually impaired may be improved by the elimination of extra bureaucratic layers governing blind services.

The elimination of the blind registry would afford blind or visually impaired individuals with more privacy.

C. Government Sector Impact:

The committee substitute would essentially eliminate Department of Education authority over blind services in the state and provide that the commission shall govern the Division of Blind Services. There may be cost savings associated with commission governance. In particular, the reduction in the size of the Advisory Council for the Blind from 18 individuals to a more manageable nine members would reduce the cost of conducting meetings alone. The elimination of bureaucratic approval of purchasing and personnel may provide additional savings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The committee substitute vests rulemaking authority with both the division and the commission. As the agency head, it may be more appropriate for the commission to adopt all rules governing blind services.

The committee substitute vests contracting authority with both the division and the commission. It may be more appropriate to designate one entity as the contracting agent.

VIII. Amendments:

None.