

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: S3/30/05

A Bill

SENATE BILL 556

5 By: Senator T. Smith
6 By: Representative Mathis
7
8

For An Act To Be Entitled

10 AN ACT TO RENAME THE DEPARTMENT OF WORKFORCE
11 EDUCATION AND TO CLARIFY THE DEPARTMENT'S
12 RESPONSIBILITIES WITH REGARD TO REHABILITATION
13 SERVICES; AND FOR OTHER PURPOSES.
14

Subtitle

15 AN ACT TO RENAME THE DEPARTMENT OF
16 WORKFORCE EDUCATION AND TO CLARIFY THE
17 DEPARTMENT'S RESPONSIBILITIES WITH
18 REGARD TO REHABILITATION SERVICES.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. (a)(1) Effective July 1, 2005, the Department of Workforce
25 Education is renamed the Department of Workforce Education and Rehabilitation
26 Services and merged with the Arkansas Rehabilitation Services. The Director
27 of the Department of Workforce Education and Rehabilitation Services shall
28 designate an identifiable division within the department that shall be known
29 as the Division of Rehabilitation Services.

30 (2)(A) Effective July 1, 2005, the Director of the Department of
31 Workforce Education is the Director of the Department of Workforce Education
32 and Rehabilitation Services.

33 (B) Effective July 1, 2005, the powers, authorities,
34 duties, and functions of the deputy director, director, or commissioner of
35 the Arkansas Rehabilitation Services are transferred to and vested in the
36 Director of the Department of Workforce Education and Rehabilitation Services



1 who may delegate the powers, authorities, duties, and functions as necessary
2 and desirable for the administration and operation of the state plan for
3 vocational rehabilitation services.

4 (3) Effective July 1, 2005, all of the statutory authority,
5 powers, duties, functions, including rulemaking, regulation, licensing, the
6 rendering of findings, orders and adjudications, records, personnel,
7 property, unexpended balances of appropriations, allocations, or other funds,
8 including the functions of budgeting, purchasing and related management
9 functions, of the Arkansas Rehabilitation Services are transferred to the
10 Department of Workforce Education and Rehabilitation Services.

11 (b)(1) The Arkansas Code Revision Commission shall correct references
12 to the "Department of Workforce Education" to the "Department of Workforce
13 Education and Rehabilitation Services".

14 (2) The Arkansas Code Revision Commission shall correct
15 references to the "Director of the Department of Workforce Education" to the
16 "Director of the Department of Workforce Education and Rehabilitation
17 Services".

18 (3) The Arkansas Code Revision Commission shall correct any
19 references to deputy director, director, or commissioner of Arkansas
20 Rehabilitation Services to the "Director of the Division of Rehabilitation
21 Services of the Department of Workforce Education and Rehabilitation
22 Services".

23 (c) The Arkansas Code Revision Commission shall correct inaccurate
24 references to the Department of Workforce Education and Rehabilitation
25 Services and the Director of the Department of Workforce Education and
26 Rehabilitation Services throughout the Arkansas Code where the intended
27 reference is manifest.

28 (d) Nothing in this act is intended to affect the administration of
29 operations and administration of the Division of State Services for the Blind
30 of the Department of Human Services or the services that the division
31 provides to individuals who are blind or visually handicapped under the state
32 plan for vocational rehabilitation services.

33
34 SECTION 2. Arkansas Code § 6-52-101 is amended to read as follows:

35 6-52-101. ~~Arkansas Rehabilitation Services~~ Department of Workforce
36 Education and Rehabilitation Services.

1 ~~(a) Effective July 1, 1993, Division of Rehabilitation Services of the~~
2 ~~Department of Human Services is transferred to the Department of Workforce~~
3 ~~Education and shall be known as the Arkansas Rehabilitation Services. The~~
4 ~~State Board of Workforce Education and Career Opportunities shall have the~~
5 ~~same authority and responsibility with respect to the administration and~~
6 ~~operation of the Arkansas Rehabilitation Services as it has with respect to~~
7 ~~the Department of Workforce Education.~~

8 ~~(b)(a)(1)~~ The policy and scope of the ~~Arkansas Rehabilitation Services~~
9 Department of Workforce Education and Rehabilitation Services with regard to
10 vocational rehabilitation services shall be to provide increased employment
11 of individuals with disabilities through the provision of individualized
12 training, independent living services, educational and support services, and
13 meaningful opportunities for employment in integrated work settings to
14 maximize employment, economic self-sufficiency, independence, and inclusion
15 *and integration into society.*

16 (2)(A) The Director of the Department of Workforce Education and
17 Rehabilitation Services shall designate an identifiable division within the
18 department that shall be known as the Division of Rehabilitation Services.
19 The division is responsible for the administration of the state plan for
20 vocational rehabilitation services as it applies to individuals with
21 disabilities who are not blind or visually handicapped. The division shall
22 have the same authority and responsibility with respect to the administration
23 and operation of vocational rehabilitation services for individuals with
24 disabilities as other divisions of the department have with respect to the
25 administration and operation of other programs of the department.

26 (B) The Division of State Services for the Blind of the
27 Department of Human Services is responsible for the administration of the
28 state plan for vocational rehabilitation services as it applies to
29 individuals who are blind or visually handicapped.

30 ~~(e)(b)~~ Pursuant to such policy, rehabilitation services shall be
31 provided to citizens throughout the state, and the rehabilitation plan
32 adopted pursuant to this subchapter shall be in effect in all political
33 subdivisions of the state.

34
35 SECTION 3. Arkansas Code § 6-52-102 is amended to read as follows:
36 6-52-102. Transfer of authority, property, etc.

1 (a) All authorities and responsibilities defined in § 20-79-201 et
2 seq. shall be administered by the ~~Arkansas Rehabilitation Services~~ Division
3 of Rehabilitation Services of the Department of Workforce Education and
4 Rehabilitation Services under the direction of the Department of Workforce
5 Education and Rehabilitation Services and the State Board of Workforce
6 Education and Career Opportunities, except those transferred to the Division
7 of State Services for the Blind by § 25-10-201 et seq.

8 (b) Any and all statutory authority, powers, duties, functions,
9 records, authorized positions, property, unexpended balances of
10 appropriations, allocations or other funds transferred from the Division of
11 Rehabilitation Services to the Department of Human Services by § 25-10-102 et
12 seq. ~~are hereby that were~~ transferred to the Arkansas Rehabilitation Services
13 are transferred to the Department of Workforce Education and Rehabilitation
14 Services.

15
16 SECTION 4. Arkansas Code § 15-4-2204(i), pertaining to the members of
17 the Arkansas Workforce Investment Board, is amended to read as follows:

18 (i) The board shall establish a state level One-Stop Partner Council
19 that shall include, but not be limited to:

20 (1) One (1) chief elected official nominated by the Arkansas
21 Municipal League and one (1) chief elected official nominated by the
22 Association of Arkansas Counties;

23 (2) No fewer than three (3) representatives of labor
24 organizations who are to be nominated by the Arkansas labor federation;

25 (3) No fewer than two (2) representatives of individuals and
26 organizations who have experience with respect to youth activities and
27 programs;

28 (4) No fewer than three (3) representatives of individuals and
29 organizations who have experience and expertise in the delivery of workforce
30 investment activities of which at least:

31 (A) One (1) member shall be a chief executive officer of a
32 two-year college nominated by the Association of Two-year Colleges;

33 (B) One (1) member shall be a director of an agency
34 responsible to a local work force investment board for administrative
35 workforce investment programs nominated by the Career Development Network
36 Associations; and

1 (C) One (1) member shall represent community-based
2 organizations;

3 (5) One (1) member who is a person with a disability and who is
4 familiar with vocational rehabilitation and:

5 (A) Represents an organization of Arkansans with
6 disabilities; or

7 (B) Complies with subdivision (b)(2) of this section;

8 (6) The Director of the Department of Workforce Education and
9 Rehabilitation Services or his or her designee;

10 (7) The Director of the Arkansas Employment Security Department;

11 (8) The Director of the Department of Human Services;

12 (9) The Director of the Arkansas Economic Development
13 Commission;

14 (10) A representative of employment and training activities
15 carried out by the Department of Housing and Urban Development;

16 (11) The Director of the Department of Higher Education;

17 ~~(12) The Director of the Arkansas Rehabilitation Services of the~~
18 ~~Department of Workforce Education;~~

19 ~~(13)~~(12) The Director of the Arkansas Development Finance
20 Authority;

21 ~~(14)~~(13) The Director of the Arkansas Economic Development
22 Commission;

23 ~~(15)~~(14) The Chair of the State Board of Education;

24 ~~(16)~~(15) The Chair of the State Board of Workforce Education and
25 Career Opportunities;

26 ~~(17)~~(16) The Chair of the Arkansas Higher Education Coordinating
27 Board; and

28 ~~(18)~~(17) The Chair of the Arkansas Transitional Employment
29 Board.

30
31 SECTION 5. Arkansas Code § 19-5-304(7), pertaining to the
32 Rehabilitation Services Fund Account of the Education Fund, is amended to
33 read as follows:

34 (7)(A) Rehabilitation Services Fund Account. The Rehabilitation
35 Services Fund Account shall be used for the maintenance, operation, and
36 improvement required by *the Arkansas Division of Rehabilitation Services of*

1 the Department of Workforce Education and Rehabilitation Services in carrying
 2 out the powers, functions, and duties, as set out in § 6-52-101 et seq., §
 3 20-79-201 et seq., and § 25-6-201 et seq. [repealed], and for the adult
 4 handicapped program at the Arkansas Health Center.

5 (B) The fund account shall consist of:

6 (i) Those general revenues as may be provided by
 7 law;

8 (ii) Nonrevenue income derived from services
 9 provided by rehabilitation programs ~~of the Arkansas Rehabilitation Services~~
 10 of the ~~department~~ division; and

11 (iii) Any other nonfederal grant funds provided by
 12 law; and

13
 14 SECTION 6. Arkansas Code § 19-11-902 is amended to read as follows:

15 19-11-902. Regulations.

16 (a) The Office of State Procurement shall be responsible for
 17 developing regulations governing implementation of this subchapter.

18 (b) For purposes of this subchapter:

19 (1) "Commodities" means all property, including, but not limited
 20 to, equipment, printing, stationery, supplies, and insurance, but excluding
 21 real property, leases on real property, or a permanent interest in real
 22 property;

23 (2) "Disabled individuals" means those persons who have a
 24 medically or psychiatrically determined physical, mental, or developmental
 25 disability constituting a substantial vocational handicap;

26 ~~(3) "Arkansas Rehabilitation Services" means the Arkansas~~
 27 ~~Rehabilitation Services of the Department of Workforce Education;~~

28 ~~(4)~~(3) "Fiscal year" means July 1 of one (1) year through June
 29 30 of the next year;

30 ~~(5)~~(4) "Ordering office" means any state department, independent
 31 establishment, board, commission, bureau, service, or division of state
 32 government and any wholly owned state corporation;

33 ~~(6)~~(5) "Products", for purposes of this subchapter, means
 34 commodities or services wherein the price of the commodities includes at
 35 least twenty percent (20%) value added when the work center is awarded a
 36 contract using the ten percent (10%) preference, and in the case of services,

1 that they are performed by the disabled;

2 ~~(7)~~(6)(A) "Services" means the furnishing of labor, time, or
3 effort by a contractor, not involving the delivery of a specific end product
4 other than reports which are merely incidental to the required performance.

5 (B) This term shall not include employment agreements,
6 collective bargaining agreements, or architectural or engineering contracts
7 requiring approval of Arkansas State Building Services;

8 ~~(8)~~(7) "Sheltered workshop" means a work center which has:

9 (A) Certification from the United States Department of
10 Labor as a sheltered workshop; and

11 (B) Been licensed by the Division of Developmental
12 Disabilities Services of the Department of Human Services or certification
13 from ~~Arkansas Rehabilitation Services~~ the Division of Rehabilitation Services
14 of the Department of Workforce Education and Rehabilitation Services; and

15 ~~(9)~~(8)(A) "Work center" means any facility certified by the
16 ~~Arkansas Rehabilitation Services~~ The Division of Rehabilitation Services of
17 the Department of Workforce Education and Rehabilitation Services where any
18 manufacture or handiwork is carried on and which is operated for the primary
19 purpose of providing evaluation, training, and gainful employment to disabled
20 individuals of Arkansas:

21 (i) As an interim step in the rehabilitation process
22 for those who cannot be readily absorbed in the competitive labor market; or

23 (ii) During such time as employment opportunities
24 for them in the competitive labor market do not exist.

25 (B) "Work center" includes a sheltered work center.

26 (c) All state agencies as defined in § 19-11-203 are required to
27 purchase their requirements of needed available and suitable products and
28 purchase suitable services from nonprofit work centers for disabled
29 individuals, unless such commodities and services are authorized by prior
30 legislation for production in another state agency, department, or
31 institution.

32 (d)(1) The Office of State Procurement shall issue to all agency
33 purchasing agents a schedule of work center-made commodities and services and
34 the conditions under which they are to be procured from the workshops.

35 (2) The schedule shall include the item or service description.

36 (e) ~~Arkansas Rehabilitation Services~~ The Division of Rehabilitation

1 Services of the Department of Workforce Education and Rehabilitation Services
2 shall undertake the inspection on a continuing basis of the workshops
3 certified by ~~Arkansas Rehabilitation Services~~ the division to determine that
4 they operate in accordance with the requirements of the statute and the
5 regulations of this section.

6 (f)(1)(A) In order to qualify for participation in the program as a
7 work center, an organization shall submit an application to the Office of
8 State Procurement.

9 (B) If required for all vendors, there should be included
10 a list of the commodities and services offered for sale to the state.

11 (2) Work centers shall:

12 (A) Furnish commodities and services in strict accordance
13 with the allocation and government order;

14 (B) Maintain records of wages paid, hours of employment,
15 and sales;

16 (C) Make available pertinent books and records of the
17 agency for inspection at any reasonable time to representatives of the
18 ~~Arkansas Rehabilitation Services~~ division; and

19 (D)(i) Submit to the ~~Arkansas Rehabilitation Services~~
20 division by September 1 an annual report for the preceding fiscal year.

21 (ii) This report shall include data on disabled
22 workers, wages and wage supplements, hours of employment, sales, whether the
23 workshop requires a facilities sheltered workshop certificate from the United
24 States Department of Labor and special minimum rates authorized where such
25 certificate is held and such other relevant information as may be required.

26 (g) Where a commodity or service is identified in the schedule of work
27 center-made commodities and services as being available through the Office of
28 State Procurement, it shall be obtained in accordance with the requisitioning
29 procedures of the supplying agency.

30 (h) An ordering office may purchase from a nonworkshop source
31 commodities or services listed in the schedule of work center-made
32 commodities and services in any of the following circumstances:

33 (1) Necessity requires delivery within the specified period, and
34 the work center cannot give assurance of positive availability;

35 (2) When commodities listed on the schedule of work center-made
36 commodities can be purchased from a nonwork center source by the agency for a

1 price more than ten percent (10%) lower than work center-made commodities
2 included in the schedule; and

3 (3) Services offered by any work center shall be procured by any
4 agency in accordance with this section at a price not more than ten percent
5 (10%) above the lowest price submitted from a nonwork center source.

6 (i) Work center-made product commodities will be delivered in
7 accordance with the terms of the purchase order.

8 (j) Where a workshop fails to comply with the terms of a government
9 order, the ordering office shall make reasonable efforts to negotiate an
10 adjustment before taking action to cancel the order.

11 (k) Any alleged violation of these regulations shall be investigated
12 by the Office of State Procurement, which shall notify the work center
13 concerned and afford it an opportunity to submit a statement of facts and
14 evidence.

15
16 SECTION 7. Arkansas Code § 20-79-203 is amended to read as follows:
17 20-79-203. Definitions.

18 As used in this subchapter, unless the context otherwise requires:

19 ~~(1) "Blind person" means a person who has:~~

20 ~~(A) Not more than 20/200 central visual acuity in the~~
21 ~~better eye after correction; or~~

22 ~~(B) An equally disabling loss of the visual field;~~

23 ~~(2)(1) "Director" means the Director of the Arkansas Division of~~
24 ~~Rehabilitation Services who may, at the discretion of the appropriate~~
25 ~~division of the Department of Human Services, be designated Executive Officer~~
26 ~~for the Arkansas Rehabilitation Services of the Department of Workforce~~
27 ~~Education and Rehabilitation Services;~~

28 ~~(3)(2) "Disabled individual" means any person who, as a result~~
29 ~~of a physical or mental disability:~~

30 (A) Has a substantial employment handicap and who may,
31 through receiving vocational rehabilitation services, be qualified for
32 remunerative employment; or

33 (B) May achieve such ability of independent living,
34 through receiving rehabilitation services, which will enable him or her to
35 dispense with or largely dispense with the need for institutional care or
36 attendant care in the household;

1 (3) "Division" means the Division of Rehabilitation Services of
2 the Department of Workforce Education and Rehabilitation Services;

3 (4) "Employment handicap" means a physical or mental condition
4 which constitutes, contributes to, or if not corrected will probably result
5 in a substantial impairment of occupational performance;

6 (5) "Establishment of a workshop or rehabilitation facility"
7 means:

8 (A) In the case of a workshop, the expansion, remodeling,
9 or alteration of existing buildings to adapt them to workshop purposes or to
10 increase employment opportunities, and the acquisition of initial equipment;
11 and

12 (B) In the case of a rehabilitation facility, the
13 expansion, remodeling, or alteration of existing buildings, the initial
14 equipment of the buildings, and initial staffing thereof;

15 (6) "Maintenance" means money payment not exceeding the
16 estimated cost of subsistence during the provision of rehabilitation
17 services;

18 (7) "Nonprofit", when used with respect to a rehabilitation
19 facility or workshop, means a rehabilitation facility or a workshop owned and
20 operated by a corporation or association, no part of the net earnings of
21 which inures, or may lawfully inure, to the benefit of any shareholder or
22 individual, and this income is exempt from taxation under § 101 (6) of the
23 Internal Revenue Code;

24 (8) "Physical restoration" means any medical, surgical, or
25 therapeutic treatment necessary to correct or substantially reduce a disabled
26 individual's disability within a reasonable length of time, including the use
27 of prosthetic appliances but excluding curative treatment for acute or
28 transitory conditions, excepting treatment of medical complications and
29 emergencies as may arise during the rendering of rehabilitation services;

30 (9) "Rehabilitation" and "rehabilitation services" and
31 "rehabilitation program" means any service, provided directly or through
32 public or private instrumentalities, found by the director to be necessary to
33 compensate a disabled individual for his or her employment handicap and to
34 enable him or her to engage in a remunerative occupation or to achieve
35 independent living, including, but not limited to, medical and vocational
36 diagnosis, vocational guidance, counseling and placement, training, physical

1 restoration, transportation, occupational and business licenses, equipment,
 2 initial stocks and supplies, maintenance, and training books and materials.
 3 The term covers the establishment and operation of workshops, rehabilitation
 4 centers, home industries, and small business enterprises for the ~~blind and~~
 5 *severely disabled individuals*;

6 (10) "Rehabilitation facility" is a facility operated for the
 7 purpose of assisting in the rehabilitation of disabled persons, which
 8 provides one (1) or more of the following types of services:

9 (A) Testing, fitting, or training in the use of prosthetic
 10 devices;

11 (B) Prevocational or conditioning therapy;

12 (C) Physical, corrective, or occupational therapy;

13 (D) Adjustment training, or evaluation or control of
 14 special impairments; or

15 (E) Services in which a coordinated approach is made to
 16 the physical, mental, and vocational evaluation of impaired persons and an
 17 integrated program of physical restoration and pre-vocational or vocational
 18 training is provided under competent professional supervision and direction;

19 (11) "Rehabilitation training" means all necessary training
 20 provided to a disabled individual to compensate for his or her employment
 21 handicap, including, but not limited to, prevocational, vocational, and
 22 supplementary training and training provided for the purpose of developing
 23 occupational skills and capacities;

24 (12) "Remunerative employment" includes employment in the
 25 competitive labor market, practice of a profession, self-employment, home-
 26 making, farm or family work where payment is in kind rather than cash,
 27 sheltered employment, home industry, or other homebound work of a
 28 remunerative nature;

29 ~~(13) "Service" means the Arkansas Rehabilitation Services~~
 30 ~~established by the subchapter; and~~

31 ~~(14)~~(13) "Workshop" means a place where any manufacture or
 32 handwork is carried on and which is operated for the primary purpose of
 33 providing remunerative employment to severely disabled persons who cannot be
 34 readily absorbed in the competitive labor market.

35
 36 SECTION 8. Arkansas Code § 20-79-204 is amended to read as follows:

1 20-79-204. ~~Deputy~~ Director.

2 (a)(1) The Arkansas Division of Rehabilitation Services of the
3 Department of Workforce Education and Rehabilitation Services shall be
4 ~~administered, under the general supervision and direction of the appropriate~~
5 ~~division of the Department of Human Services, by a deputy director, by a~~
6 division director, who shall be appointed by the Director of the Department
7 of Workforce Education and Rehabilitation Services in accordance with
8 established personnel standards and on the basis of education, training,
9 experience, and demonstrated ability in the field of rehabilitation and
10 subject to the confirmation of the Senate.

11 (2) The director of the department shall delegate powers,
12 authorities, duties, and functions to the Director of the Division of
13 Rehabilitation Services as necessary and desirable for the administration and
14 operation of the state plan for vocational rehabilitation services as it
15 applies to individuals with disabilities who are not blind or visually
16 handicapped.

17 (b) In carrying out his or her duties under this subchapter, the
18 ~~deputy~~ director:

19 (1) Shall, with the approval of the ~~Director of the Department~~
20 ~~of Human Services~~ State Board of Workforce Education and Career
21 Opportunities, prepare regulations for promulgation by the appropriate
22 division of the department governing personnel standards, the protection of
23 records and confidential information, the manner and form of filing
24 applications, eligibility, and investigation and determination thereof, for
25 rehabilitation services, procedures for fair hearings, and such other
26 regulations as he or she finds necessary to carry out the purposes of this
27 subchapter, including the order to be followed in selecting those to whom
28 vocational rehabilitation services are to be provided in situations where
29 ~~service~~ rehabilitation services cannot be provided to all who are eligible
30 for ~~service~~ rehabilitation services;

31 (2) Shall, with the approval of the director of the department,
32 establish appropriate subordinate administrative units within the ~~service~~
33 division;

34 (3) Shall recommend to the director of the department for
35 appointment such personnel as he or she deems necessary for the efficient
36 performance of the functions of the ~~service~~ division;

1 (4) Shall prepare and submit to the *director of the department,*
 2 *the board,* and the Governor annual reports of activities and expenditures
 3 and, prior to each regular session of the General Assembly, estimates of sums
 4 required to carry out this subchapter, as well as estimates of the amounts to
 5 be made available for this purpose from all sources;

6 (5) Shall make certification for disbursement, in accordance
 7 with regulations, of funds available for carrying out the purposes of this
 8 subchapter; and

9 (6) May, with the approval of the *director of the department,*
 10 delegate to any officer or employee of the service such of his or her powers
 11 and duties, except the making of regulations and the making of
 12 recommendations for appointment of personnel, as he or she finds necessary to
 13 carry out the purposes of this subchapter.

14
 15 SECTION 9. Arkansas Code § 20-79-205 is amended to read as follows:
 16 20-79-205. Administration.

17 ~~The deputy director of the appropriate division of the Department of~~
 18 ~~Human Services~~ Director of the Division of Rehabilitation Services of the
 19 Department of Workforce Education and Rehabilitation Services shall provide
 20 the rehabilitation services authorized by this subchapter to ~~the physically~~
 21 ~~or mentally disabled, including blind citizens and~~ disabled individuals,
 22 including those who can benefit from independent living services, as
 23 determined by the director to be eligible ~~therefor~~ for rehabilitation
 24 services. In carrying out the purposes of this subchapter, the ~~Arkansas~~
 25 ~~Rehabilitation Services~~ division is authorized, among other things:

26 (1) To be the ~~sole~~ state agency primarily responsible to
 27 ~~supervise and administer~~ for the supervision and administration of all
 28 functions and programs relating to the rehabilitation services authorized by
 29 this subchapter except ~~such~~ for:

30 (A) Such part as may be administered by a local agency in
 31 a political subdivision of the state, in which case the ~~service~~ division
 32 shall be the ~~sole~~ primary agency to supervise the local agency in the
 33 administration of that part; and

34 (B) Such part as is administered by the Division of State
 35 Services for the Blind of the Department of Human Services under §§ 25-10-201
 36 - 25-10-208, which provides for the administration of rehabilitation services

1 for individuals who are blind or visually handicapped;

2 (2) To enter into reciprocal agreements with other states to
3 provide for the services authorized by this subchapter to residents of the
4 state concerned;

5 (3) To conduct research and compile statistics relating to the
6 provision of services or the need of services of disabled individuals; and

7 ~~(4) To license blind individuals to operate vending stands under
8 its supervision and control and subject to the terms and conditions in
9 regulations issued pursuant to § 20-79-204(b)(1) on:~~

10 ~~(A) State property;~~

11 ~~(B) County or municipal property;~~

12 ~~(C) Federal property, pursuant to delegation of authority
13 under the Randolph Sheppard Act and any amendment thereto or any act of
14 Congress relating to this subject;~~

15 ~~(D) Private property; and~~

16 ~~(E) Subject to Acts 1945, No. 142, § 2 [superseded]; and~~

17 ~~(5)(4) To provide for the establishment, supervision, and
18 control of suitable business enterprises to be operated by the severely
19 disabled individual, including the blind, where the operation will be
20 improved through the management and supervision of the ~~service~~ division.~~

21
22 SECTION 10. Arkansas Code § 20-79-206 is amended to read as follows:

23 20-79-206. Operation of rehabilitation facilities.

24 (a) ~~The Arkansas Rehabilitation Services~~ Division of Rehabilitation
25 Services of the Department of Workforce Education and Rehabilitation Services
26 is authorized to utilize funds made available:

27 (1) From appropriations by Congress;

28 (2) By appropriations by the General Assembly;

29 (3) From the disbursement of funds of other state agencies; and

30 (4) By gifts, grants, fees for services, sale of products or
31 items of manufacture or handwork, and donations for the purpose of
32 establishing and operating rehabilitation centers, workshops, business
33 enterprises, programs, and home industries and other facilities.

34 (b) Gifts, grants, fees for services, income from the sale of products
35 or items of manufacture or handwork, and donations may be deposited in one

36 (1) or more banks and expended by the ~~appropriate division of the Department~~

1 ~~of Human Services~~ Division of Rehabilitation Services of the Department of
2 Workforce Education and Rehabilitation Services, in compliance with the rules
3 and regulations of the Director of the Department of Finance and
4 Administration, in the establishment and operation of rehabilitation
5 facilities and such other program services as may be determined by the
6 ~~appropriate division of the Department of Human Services~~ Division of
7 Rehabilitation Services of the Department of Workforce Education and
8 Rehabilitation Services, which are consistent with the purposes of this
9 subchapter.

10 (c) The ~~appropriate division of the Department of Human Services~~
11 Division of Rehabilitation Services of the Department of Workforce Education
12 and Rehabilitation Services is authorized and empowered to lease or purchase
13 public or private property, real, personal, or mixed, for the purpose of
14 establishing and operating rehabilitation facilities.

15
16 SECTION 11. Arkansas Code § 20-79-207 is amended to read as follows:
17 20-79-207. Cooperative agreements.

18 The ~~appropriate division of the Department of Human Services, through~~
19 ~~the Arkansas Rehabilitation Services,~~ Division of Rehabilitation Services of
20 the Department of Workforce Education and Rehabilitation Services is
21 empowered and directed to:

22 (1) Cooperate with any other division of the department in an
23 effort to rehabilitate those disabled individuals who are applicants for or
24 recipients of public assistance. In this respect, it is the intent of the
25 General Assembly that the employment and self-maintenance of disabled adults
26 shall be encouraged to the maximum extent. The ~~Arkansas Rehabilitation~~
27 ~~Services and any other division of the department~~ Department of Workforce
28 Education and Rehabilitation Services shall take all necessary steps to
29 implement the intent of this section, including the joint development of
30 plans for orderly referral and processing of feasible cases with priority
31 being given to those for whom rehabilitation is determined most feasible;

32 (2) Cooperate with the federal government, pursuant to
33 agreements, in carrying out the purposes of any federal statutes pertaining
34 to the purposes of this subchapter. The board is also authorized to:

35 (A) Adopt such methods of administration as are found to
36 be necessary for proper and efficient operation of the agreements or plans

1 for rehabilitation and to comply with such conditions as may be necessary to
2 secure the full benefits of federal statutes and appropriations;

3 (B) Administer any legislation pursuant thereto enacted by
4 the State of Arkansas;

5 (C) Direct the disbursement, and administer the use of,
6 all funds provided by the federal government or the state for the
7 rehabilitation of disabled persons of Arkansas; and

8 (D) Do all things necessary to ensure the rehabilitation
9 of disabled persons;

10 (3) Cooperate with other federal, state, and local public
11 agencies and institutions in providing services relating to rehabilitation,
12 including the Arkansas State Employment Service, and make maximum utilization
13 of the job placement and employment counseling services and other services
14 and facilities of the offices in providing the services authorized by this
15 subchapter in studying the problems involved therein and in establishing,
16 developing, and providing such programs, facilities, and services as may be
17 necessary or desirable;

18 (4) Cooperate with political subdivisions and other public and
19 nonprofit organizations and agencies in the establishment of workshop-
20 rehabilitation facilities and use such facilities as meet the standards
21 established by the state board in providing rehabilitation services; and

22 (5) Enter into contractual arrangements with the Social Security
23 Administration with respect to certifications of disabilities and performance
24 of other duties and with other authorized public agencies for performance of
25 services related to rehabilitation.

26
27 SECTION 12. Arkansas Code § 20-79-208 is amended to read as follows:
28 20-79-208. Ownership, exchange, and sale of equipment.

29 (a) The ~~Rehabilitation Service~~ Division of Rehabilitation Services of
30 the Department of Workforce Education and Rehabilitation Services is
31 authorized to retain title to any property, tools, instruments, training
32 supplies, equipment, or other items of value acquired for use of handicapped
33 persons and to repossess and transfer title for the use of other handicapped
34 persons.

35 (b) The ~~appropriate division of the Department of Human Services~~
36 Division of Rehabilitation Services of the Department of Workforce Education

1 and Rehabilitation Services is authorized to offer for sale any surplus items
2 acquired in the operation of the program when they are no longer necessary or
3 to exchange them for necessary items which may be used to greater advantage.

4 (c)(1) When any surplus equipment is sold or exchanged, a receipt for
5 the equipment shall be taken from the purchaser showing the consideration
6 given for the equipment and forwarded to the Treasurer of State.

7 (2) Any funds received by the appropriate division of the
8 department pursuant to the transactions shall be deposited in the State
9 Treasury in the appropriate federal or state rehabilitation fund and shall be
10 available for expenditures for any purposes consistent with this subchapter.

11
12
13 SECTION 13. Arkansas Code § 20-79-211 is amended to read as follows:

14 20-79-211. Appropriations.

15 (a) Budget estimates of the amount of appropriations needed each
16 fiscal year for rehabilitation services and for the administration of the
17 program shall be submitted by the ~~deputy director~~ Director of the Division of
18 Rehabilitation Services to the ~~appropriate division of the Department of~~
19 ~~Human Services~~ Department of Workforce Education and Rehabilitation Services.
20 The amount approved shall be included in the estimates made by the
21 appropriate division to the General Assembly for the operation of the
22 rehabilitation program.

23 (b) In the event federal funds are available to the State of Arkansas
24 for rehabilitation purposes, the ~~Arkansas Rehabilitation Services~~ Division of
25 Rehabilitation Services of the Department of Workforce Education and
26 Rehabilitation Services is authorized to comply with such requirements as may
27 be necessary to obtain the federal funds in the maximum amount and most
28 advantageous proportion possible insofar as this may be done without
29 violating other provisions of the state law and Constitution.

30 (c) In the event Congress fails in any year to appropriate funds for
31 grants-in-aid to the state for rehabilitation purposes, the appropriate
32 division shall include as a part of the budget a request for adequate state
33 funds for rehabilitation purposes.

34
35 SECTION 14. Arkansas Code § 20-79-213 is amended to read as follows:

36 20-79-213. Eligibility for rehabilitation services.

1 (a) Rehabilitation services shall be provided to any disabled
2 individual:

3 (1) Who is a bona fide resident of the state at the time of
4 filing his or her application therefore and whose rehabilitation the Director
5 of the ~~Rehabilitation Service~~ Division of Rehabilitation Services of the
6 Department of Workforce Education and Rehabilitation Services determines,
7 after full investigation, can be satisfactorily achieved; or

8 (2) Who is eligible therefore under the terms of an agreement
9 with another state or with the federal government.

10 (b) However, except as otherwise provided by law or as specified in
11 any agreement with the federal government with respect to classes of
12 individuals certified to the ~~appropriate division of the Department of Human~~
13 ~~Services~~ Division of Rehabilitation Services of the Department of Workforce
14 Education and Rehabilitation Services thereunder, the following
15 rehabilitation services shall be provided at public cost only to disabled
16 individuals found to require financial assistance with respect thereto:

17 (1) Physical restoration;

18 (2) Transportation provided for other purposes than to determine
19 the eligibility of the individual for rehabilitation services and the nature
20 and extent of the services necessary;

21 (3) Occupational and business licenses;

22 (4) Tools, equipment, initial stock and supplies, including
23 livestock and capital advances, books, and training materials; and

24 (5) Maintenance.

25
26 SECTION 15. Arkansas Code § 20-79-215 is amended to read as follows:

27 20-79-215. Hearings.

28 Any individual applying for or receiving rehabilitation who is
29 aggrieved by any action or inaction of the ~~Rehabilitation Service~~ Division of
30 Rehabilitation Services of the Department of Workforce Education and
31 Rehabilitation Services shall be entitled to a hearing in accordance with the
32 regulations adopted and promulgated by the ~~appropriate division of the~~
33 ~~Department of Human Services~~ State Board of Workforce Education and Career
34 Opportunities on that subject.

35
36 SECTION 16. Arkansas Code § 21-5-218 is amended to read as follows:

1 21-5-218. Reimbursement for interpreter services for deaf.

2 Whereas the ~~Arkansas Rehabilitation Services of the Department of~~
3 ~~Workforce Education~~ Division of Rehabilitation Services of the Department of
4 Workforce Education and Rehabilitation Services ~~currently~~ purchases and sells
5 staff interpreter services for the deaf with four (4) other agencies, the
6 University of Arkansas at Fayetteville, the University of Arkansas at Little
7 Rock, the Arkansas School for the Deaf, and the Administrative Office of the
8 Courts and whereas the need for interpreters is immediate and often for
9 crisis purposes and cannot be planned ahead, the Division of Rehabilitation
10 Services of the Department of Workforce Education and Rehabilitation Services
11 is authorized to arrange for reimbursement with those agencies, assuring that
12 the amount paid from both agencies will not exceed the maximum for the grades
13 they occupy consistent with the intent of § 19-4-1604, with notification and
14 justification to the Chief Fiscal Officer of the State.

15
16 SECTION 17. Arkansas Code § 25-15-102(d) is amended to read as
17 follows:

18 (d) It shall be the responsibility of the appointing authority to
19 channel requests for qualified interpreters through:

- 20 (1) The Arkansas Registry of Interpreters for the Deaf;
21 (2) The Office for the Deaf and Hearing Impaired of ~~the Arkansas~~
22 ~~Rehabilitation Services of the~~ Division of Rehabilitation Services of the
23 Department of Workforce Education and Rehabilitation Services;
24 (3) The University of Arkansas at Little Rock Interpreter
25 Training Program; or
26 (4) Any community resource wherein the appointing authority or
27 the deaf person is knowledgeable that qualified interpreters can be found.

28
29 SECTION 18. Arkansas Code § 25-30-106 is amended to read as follows:

30 25-30-106. Department of Workforce Education.

31 (a) There is hereby created the Department of Workforce Education and
32 Rehabilitation Services, hereinafter referred to as "the department".

33 (b) The Vocational and Technical Education Division of the Department
34 of Education created by § 25-6-101, the Governor's Commission on Adult
35 Literacy created by § 6-44-201 [repealed], and the Advisory Council for
36 Vocational-Technical Education created by § 6-50-601 [repealed] are abolished

1 and transferred to the Department of Workforce Education by a type 3 transfer
2 under § 25-2-106.

3 ~~(c) The Arkansas Rehabilitation Services as an agency responsible to~~
4 ~~the State Board of Workforce Education and Career Opportunities and as a part~~
5 ~~of the Department of Workforce Education shall function as an agency in~~
6 ~~accordance with § 6-52-101 et seq. and § 25-30-201 et seq. This subchapter~~
7 ~~shall assure that the Arkansas Rehabilitation Services functions~~
8 ~~organizationally at a level at least equal to that of any division or entity~~
9 ~~of the Department of Workforce Education.~~ The Director of the Department of
10 Workforce Education and Rehabilitation Services shall designate an
11 identifiable division within the department that shall be known as the
12 Division of Rehabilitation Services. The division is responsible for the
13 administration of the state plan for vocational rehabilitation services as it
14 applies to individuals with disabilities who are not blind or visually
15 handicapped. The division shall have the same authority and responsibility
16 with respect to the administration and operation of vocational rehabilitation
17 services for individuals with disabilities as other divisions of the
18 department have with respect to the administration and operation of other
19 programs of the department.

20 (d) The board shall appoint a director of the department who shall:

- 21 (1) Be a member of the Governor's cabinet;
22 (2) Be confirmed by the Governor; and
23 (3) Serve at the pleasure of the Governor.

24 (e) The director shall devote all of his or her time to the duties of
25 his or her office, shall act as agent of the board, and shall perform such
26 other duties as are designated by the board or by statute.

27 (f) The director shall serve as the ex officio secretary of the board
28 without vote.

29 (g) The person selected as director must be a person of good moral
30 character, recognized as a leader in the field of vocational or workforce
31 education, and qualified technically and by experience to direct the work of
32 the department.

33 (h) No person who is related within the fourth degree of consanguinity
34 or affinity to any member of the board shall be eligible to serve as director
35 of the department.

36

1 SECTION 19. Arkansas Code § 25-30-202 is amended to read as follows:
2 25-30-202. Scope of authority.

3 ~~(a)~~ All authorities and responsibilities defined in § 20-79-201 et
4 seq. shall be administered by the ~~Arkansas Rehabilitation Services~~ Division
5 of Rehabilitation Services of the Department of Workforce Education and
6 Rehabilitation Services under the direction of the Department of Workforce
7 Education and Rehabilitation Services and the State Board of Workforce
8 Education and Career Opportunities, except those transferred to the Division
9 of State Services for the Blind of the Department of Human Services by § 25-
10 10-201 et seq.

11 (b) Any and all statutory authority, powers, duties, functions,
12 records, authorized positions, property, unexpended balances of
13 appropriations, allocations, or other funds transferred from the Division of
14 Rehabilitation Services to the Department of Human Services by Acts 1985, No.
15 348, ~~are hereby that were~~ transferred to the Arkansas Rehabilitation Services
16 ~~of are transferred to~~ the Department of Workforce Education and
17 Rehabilitation Services.

18
19 SECTION 20. Arkansas Code § 25-30-203 is amended to read as follows:
20 25-30-203. Powers and duties.

21 (a) The State Board of Workforce Education and Career Opportunities,
22 through the ~~Arkansas Rehabilitation Services~~ of the Division of
23 Rehabilitation Services of the Department of Workforce Education and
24 Rehabilitation Services, shall provide the rehabilitation services authorized
25 by this subchapter to eligible physically or mentally disabled individuals
26 and those who can benefit from vocational rehabilitation and independent
27 living services, as determined by the agency to be eligible therefore.

28 (b) In carrying out the purposes of this subchapter, the ~~Arkansas~~
29 ~~Rehabilitation Services~~ Division of Rehabilitation Services of the Department
30 of Workforce Education and Rehabilitation Services is authorized, among other
31 things:

32 (1) To be the ~~sole~~ state agency primarily responsible to
33 ~~supervise and administer~~ for the supervision and administration of all
34 functions and programs relating to the rehabilitation services authorized by
35 this subchapter except such for:

36 (A) Such part or parts as may be administered by a local

1 agency in a political subdivision of the state, in which case the Arkansas
2 Rehabilitation Services Division shall be the ~~sole~~ primary agency to
3 supervise such a local agency in the administration of such part or parts;
4 and

5 (B) Such part as is administered by the Division of State
6 Services for the Blind of the Department of Human Services under §§ 25-10-201
7 - 25-10-208, which provides for the administration of rehabilitation services
8 for individuals who are blind or visually handicapped; and

9 (2) To conduct research and compile statistics relative to the
10 provision of services or the need of services of disabled individuals.

11
12 SECTION 21. Arkansas Code § 25-30-205 is amended to read as follows:
13 25-30-205. Office facilities.

14 The Arkansas State Building Services shall ensure that all offices of
15 ~~the Arkansas Rehabilitation Services~~ of the Department of Workforce Education
16 and Rehabilitation Services are exemplary models of accessibility and conform
17 to the Americans with Disabilities Act accessibility guidelines.

18
19 SECTION 22. EMERGENCY CLAUSE. It is found and determined by the
20 General Assembly of the State of Arkansas that the effectiveness of this act
21 on July 1, 2005 is essential to the operation of the affected agencies; that
22 in the event of an extension of the Regular Session, the effective date of
23 this act could extend beyond July 1, 2005; and that this act is immediately
24 necessary because any delay in the effective date of this act would work
25 irreparable harm on the proper administration and provision of essential
26 government programs with regard to rehabilitation services, thus endangering
27 the opportunities for individual's with disabilities in need of such
28 services. Therefore, an emergency is declared to exist and this act being
29 immediately necessary for the preservation of the public peace, health, and
30 safety shall be in full force and effect from and after July 1, 2005.

31
32
33 /s/ T. Smith
34
35
36