

2019 SENATE HUMAN SERVICES

SB 2105

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2105
1/9/2019
Job Number 30579

- Subcommittee
 Conference Committee

Committee Clerk: Justin Velez/ Marne Johnson
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Explanation or reason for introduction of bill/resolution:

A bill relating to duties of the designated state entity regarding independent living council and independent living centers and services; relating to the independent living council and independent living centers and services; and relating to the state plan for independent living centers and services.

Minutes:

1 Attachment

Chair Lee: Opens the hearing for SB 2105. The clerk provides a brief description of SB 2105

Aimee Volk, Vision and Independent Living Services Administer, Department of Human Services Division of Vocational Rehabilitation Department (00:40-6:10) please see attachment #1 for her testimony.

Chair Lee: How many centers for independent living are there?

Ms. Volk: We have four.

Chair Lee: When we are talking about at least 50% of directors, it would just be four. If the number of centers grows, or one entity has a satellite and there are directors for each of those, does the number of people of the board have to go up even though the umbrella organization director is there?

Ms. Volk: We have two of them on the border, one in Fargo and one in Grand Forks. Those directors are not residents of ND, they can't be on the board, so they have designees.

Senator Hogan: What is the designated state entity?

Ms. Volk: It's the Division of Vocational Rehab, and they can choose. They chose to have Division of Vocational Rehab.

Senator Hogan: The centers get to choose their designee?

Ms. Volk: The whole thing, they all choose one.

Chair Lee: If they wanted to change to another one could they?

Ms. Volk: They can, in some of the bigger states there's controversy between the centers and the vocation rehab.

Senator Hogan: That seemed unusual.

(9:08-13:20) A committee discussion ensued regarding the perceived difference in the proposed bill language between 'a disability,' 'significant disability,' and 'severe disability.' Mr. Alm joined the discussion to provide assurance.

Jonathan Alm, Attorney, Department of Human Services: When we were preparing and drafting this bill, I asked the same question of voc. Rehab. Should it be disability, significant disability, severe disability, interchangeable, I recall that they did double check the language being used. And that was properly being used in the correct format, but we can definitely take another look at it, make sure we didn't miss anything, but I think it is probably proper.

Chair Lee: We will trust you, you will be in more trouble than us if it's improper.

Senator Hogan: Do you think the definitions; the significant and the severe language come for the federal regulations, and do different criteria apply to different sections.

Mr. Alm: That is correct, they are part of the federal regulations.

Senator Hogan: But they have different standards for each of those categories.

Chair Lee: Severe is the outlier.

Mr. Alm: We will double check and report back to the committee.

Chair Lee: Closed the hearing on SB 2105.

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SB 2105
1/9/2019
Job # 31018

- Subcommittee
 Conference Committee

Committee Clerk: Justin Velez

Explanation or reason for introduction of bill/resolution:

Relating to duties of the designated state entity regarding independent living council and independent living centers and service; relating to the independent living council and independent living centers and services; relating to the state plan for independent living centers and services.

Minutes:

No Attachments

Madam Chair Lee: SB 2105. Jonathan can you tell us about the language.

Jonathan Alm, Attorney with Department of Human Services: I spoke with rehabilitation and they confirmed the language that is being used is correct based on the federal language. There are situations where you can be an individual with a disability and qualify for certain services, there's other situations where you have to have an individual with a severe or significant disability to qualify for other. We did confirm that language is accurately used.

Senator O. Larsen: This is the clarification, maybe you can just help walk me through until I understand because I don't understand it. As I look at the legislation that this is changing this new bill, on page 8, line 6, where it says "disabilities" and I agree with you totally on the definitions from the first page here. I know what disabilities are and I know what a disability is, so when they cross out disabilities on line 6 and then they put in " a disability" that makes perfect sense to me. Every time I look through the rest of this code whenever I see disabilities crossed out, I should then right after it see "a disability" correct? To match that definition with the definition in the front of page 3. If we just start right there, if you're looking at the code right here on line 6 it says "disabilities" the new language is "a disability" so now when I see disabilities crossed out the new language should be "a disability".

Jonathan Alm: In most situations yes you are going to see that there might be a one or two but specifically for drafting purposes we did not use it and it might have been changed by us but also by legislative council too.

Senator O. Larsen: Im understanding that part and here is where my hiccup is. When I go down to line 8 it says "disabilities" and the new language is "a significant disability".

Madam Chair Lee: Here's the difference Senator Larsen, they have to be individuals with a disability that are running this program and it has to be a certain percentage of them with a significant disability, so it isn't just folks with a modest disability. We are talking about people who actually have significant disabilities.

Senator O. Larsen: As I go along here and I see the new language on page 9, line 12, here it says "severe disabilities" and the new definition is "a significant disability" so in my mind every time I see crossed out language of severe disabilities the new language should be a significant disability, but then when I go back to page 8, line 19, when I see the new language of disabilities it should be "a disability" not "a significant disability".

Madam Chair Lee: We are back to that elementary versus heavy duty disability and whether or not they have to have one or are we looking at a group that has a variety of different disabilities but they are not necessarily significant disabilities.

Senator Hogan: It may be federal rule. The federal rule might say you have to have this many disabled and this many significantly disabled. I just think it's a federal rule issue on each line.

Senator K. Roers: what I think it is, is that if it said severe disability it will always be changed to significant disability. It could either be disability or significant depending on that federal rule.

Senator O. Larsen: Okay, I got it.

Jonathan Alm: There might be even in a situation where it says severe because of the federal regulation change, it might just be a regular disability not a significant disability, so we just went back to confirm that the language, now that they have to qualify, is properly stated. We did confirm that and that was what we confirmed prior. I had the same concerns and questions when I was drafting this.

Senator Anderson: That's the difference between the ruling stands or the ruling is confirmed right?

Jonathan Alm: That is correct.

Senator O. Larsen: I motion a do pass on SB 2105
Seconded by Senator Hogan

Roll Call Vote taken:

6 YEA, 0 NAY, 0 Absent

Senator O. Larsen Carries SB 2105 to the floor.

Date: 1/9/19
 Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2105**

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Sen. Larsen Seconded By Sen. Hogan

Senators	Yes	No	Senators	Yes	No
Chair Lee	X		Senator Hogan	X	
Vice Chair Larsen	X				
Senator Anderson	X				
Senator Clemens	X				
Senator Roers	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Larsen

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2105: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2105 was placed on the Eleventh order on the calendar.

2019 HOUSE HUMAN SERVICES

SB 2105

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

HB 2105
3/4/2019
33162

- Subcommittee
 Conference Committee

Committee Clerk: Nicole Klaman by Caitlin Fleck

Explanation or reason for introduction of bill/resolution:

Relating to the duties of the designated state entity regarding independent living council and independent living centers and services; relating to the centers and services, relating to the state plan for independent living centers and services.

Minutes:

1

Opened hearing.

Aimee Volk, Vision and Independent Living Services Administrator, Dept. of Human Services Division of Vocational Rehabilitation: (see attachment 1)

Chairman Weisz: Is there anybody on the list?

Aimee Volk: No they are listed per Federal Regulations.

Meeting closed.

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SB2105
3/11/2019
33526 (37:31-42:22)

- Subcommittee
 Conference Committee

Committee Clerk: Nicole Klaman by Caitlin Fleck

Explanation or reason for introduction of bill/resolution:

Voting on bill.

Minutes:

Chairman Weisz: Opened the hearing on SB2105. This is a department's bill, and part of the reason for this was that the council must be independent and can't be established within the agency. The majority of it is a language change.

Rep D. Anderson: Motion for a do pass.

Rep Schneider: Second.

Roll Call Vote: 13 Yes, 0 No, 1 Absent. Motion carries.

Flood Assignment: **Rep. D. Anderson.**

Meeting closed.

Date: 3/11/2019
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL SB 2105**

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. D. Anderson Seconded By Rep. Schneider

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	X		Gretchen Dobervich	X	
Karen M. Rohr - Vice Chairman	X		Mary Schneider	X	
Dick Anderson	X				
Chuck Damschen	X				
Bill Devlin					
Clayton Fegley	X				
Dwight Kiefert	X				
Todd Porter	X				
Matthew Ruby	X				
Bill Tveit	X				
Greg Westlind	X				
Kathy Skroch	X				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. D. Anderson

If the vote is on an amendment, briefly indicate intent:

Motion Carries.

REPORT OF STANDING COMMITTEE

SB 2105: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2105 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SB 2105

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1/9/19
#1 pg.1

Testimony
Senate Bill 2105 - Department of Human Services
Senate Human Services Committee
Senator Judy Lee, Chairman

January 9, 2019

Chairman Lee and members of the Senate Human Services Committee, I am Aimee Volk, Vision and Independent Living Services Administrator with the Department of Human Services Division of Vocational Rehabilitation (Department). I am here today in support of Senate Bill 2105, which was introduced at the request of the Department. Also present today to assist with any questions is Robyn Throlson, Acting Director, Royce Schultze with Dakota Center for Independent Living and Scott Burlingame with Independence Center for Independent Living.

Senate Bill 2105 proposes amendments to N.D. Century Code chapter 50-06.5 relating to independent living centers and services. These changes are necessary to comply with federal law, the Workforce Innovation and Opportunity Act (WIOA) and final regulations that were enacted in 2014. This bill is a comprehensive review of chapter 50-06.5.

The proposed changes throughout the bill replaces "designated state agency" with "designated state entity".

The proposed changes in Section 1 of this Bill updates federal citations; amends the definition for "center for independent living", "consumer control", "independent living core services", and "independent living services". Changes in this Section remove the definition of "disability" and add "individual with a disability and individual with a significant disability".

The proposed changes in Section 2 of this Bill deletes statewide independent living and just states the council as "council" is defined in section 50-06.5-01 of the N.D. Century Code.

The proposed changes in Section 3 of this Bill amend from "membership of the council" to "requirements of the statewide independent living council". This section updates membership and requirements of the statewide independent living council. The language being proposed to be removed from section 50-06.5-03 of the N.D. Century Code is to make the requirements of the statewide independent living council clear and

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concise. The requirements of the council are set forth in section 796d of the federal Rehabilitation Act of 1973, as amended. In addition, page 4, lines 27 through 30 adds the requirement that the council cannot be established within a state agency, the council must be independent. As a housekeeping matter, page 5, lines 12 through 14 adds language for clarification, "At least fifty percent of the directors of the centers for independent living serving the state, or a designee if unable to meet the residency requirements of the state, must be members".

Proposed changes in Section 4 of this Bill is to add "statewide" on page 5, line 17. A federal citation reference is added for the duties of the statewide independent living council, and concise language is added regarding the state plan for independent living; state and federal reports; recordkeeping; coordinating with other state entities; and preparing, in conjunction with the designated state entity, a plan for the provision of resources needed to carry out the functions of the state plan for independent living and as defined within the federal Rehabilitation Act of 1973, as amended.

The proposed changes in Section 5 of this Bill is a housekeeping matter and will amend independent living centers to center for independent living. The state plan will be changed to state plan for independent living, and the director will be removed, as the Division of Vocational Rehabilitation is now the designated state entity. Page 6, lines 9 through 13 and 25 through 29 are being removed to allow for flexibility within the State Plan for Independent Living as allowed by the federal Rehabilitation Act of 1973, as amended.

The proposed changes in Section 6 of this Bill adds a citation for standards and assurances and removes lines 8 through 31 on page 7 and lines 1 and 2 on page 8. Further on page 8, the word "disabilities" is changed to "a disability or a significant disability" and "Standards" is changed to "standards and assurances". On line 16 of page 8, "for independent living" is added. Line 21 on page 8 replaces "503" with "796m" of the federal Rehabilitation Act of 1973, as amended. On page 9, lines 22 and 23 "approved grant application" is replaced with "annual report" and adds "or review". Lines 29 and 30 on page 9 are being removed to due to the changes in the federal Rehabilitation Act of 1973, as amended.

The proposed changes in Section 7 of this Bill change independent living centers to centers for independent living and removes all wording except "from sums appropriated in addition to those allocated for centers for independent living, the designated state entity may allocate funds, pursuant to the state plan for independent living to support the operation of centers for independent living." Lines 9 and 11 through 21 are being

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removed to become compliant with the changes in the federal Rehabilitation Act of 1973, as amended.

The proposed changes in Section 8 of this Bill adds duties of the designated state entity based on the requirements of federal law. Federal law allows the centers for independent living to identify their designated state entity.

Section 9 of this Bill repeals section 50-06.5-05 of the N.D. Century Code regarding the state plan as it has been repealed in the federal Rehabilitation Act of 1973, as amended.

This concludes my testimony. We would be happy to answer any questions you may have.

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3/4/19
Pg. 1

Testimony
Senate Bill 2105 - Department of Human Services
House Human Services Committee
Representative Robin Weisz, Chairman

March 4, 2019

Chairman Weisz and members of the House Human Services Committee, I am Aimee Volk, Vision and Independent Living Services Administrator with the Department of Human Services Division of Vocational Rehabilitation (Department). I am here today in support of Senate Bill 2105, which was introduced at the request of the Department.

Senate Bill 2105 proposes amendments to N.D. Century Code chapter 50-06.5 relating to independent living centers and services. These changes are necessary to comply with federal law, the Workforce Innovation and Opportunity Act (WIOA) and final regulations that were enacted in 2014. This bill is a comprehensive review of chapter 50-06.5.

The proposed changes throughout the bill replaces “designated state agency” with “designated state entity”.

The proposed changes in Section 1 of this Bill updates federal citations; amends the definition for “center for independent living”, “consumer control”, “independent living core services”, and “independent living services”. Changes in this Section remove the definition of “disability” and add “individual with a disability and individual with a significant disability”.

The proposed changes in Section 2 of this Bill deletes statewide independent living and just states the council as “council” is defined in section 50-06.5-01 of the N.D. Century Code.

The proposed changes in Section 3 of this Bill amend from “membership of the council” to “requirements of the statewide independent living council”. This section updates membership and requirements of the statewide independent living council. The language being proposed to be removed from section 50-06.5-03 of the N.D. Century Code is to make the requirements of the statewide independent living council clear and concise. The requirements of the council are set forth in section 796d of the federal Rehabilitation Act of 1973, as amended. In addition, page 4, lines 27 through 30 adds the requirement that the council cannot be established within a state agency, the council must be independent. As a housekeeping matter, page 5, lines 12 through 14 adds language for clarification, “At least fifty percent of the directors of the centers for independent living serving the state, or a designee if unable to meet the residency requirements of the state, must be members”.

Proposed changes in Section 4 of this Bill is to add "statewide" on page 5, line 17. A federal citation reference is added for the duties of the statewide independent living council, and concise language is added regarding the state plan for independent living; state and federal reports; recordkeeping; coordinating with other state entities; and preparing, in conjunction with the designated state entity, a plan for the provision of resources needed to carry out the functions of the state plan for independent living and as defined within the federal Rehabilitation Act of 1973, as amended.

The proposed changes in Section 5 of this Bill is a housekeeping matter and will amend independent living centers to center for independent living. The state plan will be changed to state plan for independent living, and the director will be removed, as the Division of Vocational Rehabilitation is now the designated state entity. Page 6, lines 9 through 13 and 25 through 29 are being removed to allow for flexibility within the State Plan for Independent Living as allowed by the federal Rehabilitation Act of 1973, as amended.

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The proposed changes in Section 7 of this Bill change independent living centers to centers for independent living and removes all wording except "from sums appropriated in addition to those allocated for centers for independent living, the designated state entity may allocate funds, pursuant to the state plan for independent living to support the operation of centers for independent living." Lines 9 and 11 through 21 are being removed to become compliant with the changes in the federal Rehabilitation Act of 1973, as amended.

The proposed changes in Section 8 of this Bill adds duties of the designated state entity based on the requirements of federal law. Federal law allows the centers for independent living to identify their designated state entity.

Section 9 of this Bill repeals section 50-06.5-05 of the N.D. Century Code regarding the state plan as it has been repealed in the federal Rehabilitation Act of 1973, as amended.

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This concludes my testimony. We would be happy to answer any questions you may have.