

By: Rodriguez, Naishtat, Herrero, Hughes,  
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H.B. No. 785

Substitute the following for H.B. No. 785:

By: Rose

C.S.H.B. No. 785

A BILL TO BE ENTITLED

AN ACT

relating to employment services for persons with disabilities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 531, Government Code, is amended by adding Subchapter S to read as follows:

SUBCHAPTER S. EMPLOYMENT SERVICES

Sec. 531.751. EMPLOYMENT SERVICES. (a) The executive commissioner shall ensure that employment services are structured in a manner that is designed to assist persons with disabilities to obtain and maintain meaningful employment in integrated settings.

(b) The executive commissioner shall adopt rules necessary to eliminate barriers to employment services for persons who receive services in Section 1915(c) waiver programs that offer employment services, including rules that:

(1) expand the annual hourly limit for employment services in any program in which the hours are capped;

(2) ensure employment services include assistance with obtaining employment; and

(3) ensure that employment services are available under the consumer-directed services option.

(c) The executive commissioner shall adopt rules regarding employment services offered through Section 1915(c) waiver programs and ICF-MR facilities licensed under Chapter 252, Health and Safety Code, and general revenue funded employment services

1 provided through local mental retardation authorities. The rules  
2 must ensure that as part of the service planning process for a  
3 person receiving services:

4 (1) employment options are discussed and employment  
5 strategies are developed to achieve employment goals; and

6 (2) each provider of employment services considers the  
7 availability and accessibility of transportation as part of the  
8 employment plan.

9 (d) The Department of Aging and Disability Services shall  
10 provide training and technical assistance regarding the provision  
11 of employment services to:

12 (1) providers required to provide or contract for the  
13 provision of employment services under Section 1915(c) waiver  
14 programs that offer employment services;

15 (2) ICF-MR facilities licensed under Chapter 252,  
16 Health and Safety Code, and required to provide or contract for the  
17 provision of employment services; and

18 (3) local mental retardation authorities providing  
19 general revenue funded employment services.

20 Sec. 531.752. EMPLOYMENT SERVICES PROVIDER MINIMUM  
21 STANDARDS; REQUIRED APPROVAL. (a) The commission, the Department  
22 of Assistive and Rehabilitative Services, and the Department of  
23 Aging and Disability Services shall collaboratively develop  
24 minimum standards for employment services providers that provide  
25 services through either department. The minimum standards, to the  
26 extent possible, should be consistent with the minimum standards  
27 stated in the Department of Assistive and Rehabilitative Services'

1 terms and conditions for employment services provider contracts, as  
2 those terms and conditions existed on January 1, 2009.

3 (b) The Department of Assistive and Rehabilitative Services  
4 shall:

5 (1) review and approve applications to provide  
6 employment services to ensure that all employment services  
7 providers meet the minimum standards adopted under Subsection (a),  
8 regardless of:

9 (A) the type or duration of employment services  
10 provided; or

11 (B) whether the persons receiving the services  
12 are clients of the Department of Assistive and Rehabilitative  
13 Services or the Department of Aging and Disability Services;

14 (2) maintain a list of employment services providers  
15 that meet the minimum standards; and

16 (3) make the list available to a person that requests  
17 information regarding employment services, regardless of whether  
18 the person receives services from the department.

19 (c) A person may not provide employment services through a  
20 contract with the Department of Assistive and Rehabilitative  
21 Services or the Department of Aging and Disability Services,  
22 through a contract with a provider of services who contracts with  
23 the Department of Aging and Disability Services, or to a client  
24 under the consumer-directed services option through the Department  
25 of Aging and Disability Services unless the person has applied for  
26 and been approved as an employment services provider by the  
27 Department of Assistive and Rehabilitative Services.

1       (d) The approval by the Department of Assistive and  
2 Rehabilitative Services of a person as an employment services  
3 provider under this section does not constitute a contractual  
4 obligation, and a health and human services agency is not required  
5 to contract with a person approved under this section. A person who  
6 contracts with a health and human services agency to provide  
7 employment services is governed by the terms and conditions of the  
8 contract, regardless of whether the person has received an approval  
9 as an employment services provider from the Department of Assistive  
10 and Rehabilitative Services.

11       (e) The executive commissioner shall ensure that agreements  
12 or contracts are developed as needed to allow the Department of  
13 Aging and Disability Services and the Department of Assistive and  
14 Rehabilitative Services to provide employment services through  
15 providers approved by the Department of Assistive and  
16 Rehabilitative Services.

17       Sec. 531.753. INFORMATION REGARDING SOCIAL SECURITY INCOME  
18 AND BENEFITS AND FEDERAL WORK INCENTIVE PROGRAMS. (a) The  
19 executive commissioner shall ensure that training regarding social  
20 security income and benefits and federal work incentives is  
21 required for appropriate employees of the Department of Aging and  
22 Disability Services and the Department of Assistive and  
23 Rehabilitative Services in order to provide a person with a  
24 disability accurate and appropriate information and referrals  
25 related to social security income and benefit programs and federal  
26 employment services.

27       (b) The Department of Aging and Disability Services shall

1 ensure that case managers and others who coordinate program  
2 services have access to and are trained to provide information  
3 regarding the use of social security, federal work incentives, and  
4 the Medicaid buy-in program to interested consumers. The  
5 department shall designate employees to provide the information  
6 required by this section to consumers and their families.

7 (c) The executive commissioner shall ensure that contracts  
8 with each local mental retardation authority require the authority  
9 to designate an employee to provide the information required by  
10 this section to consumers and their families.

11 SECTION 2. Subchapter B, Chapter 533, Health and Safety  
12 Code, is amended by adding Section 533.0371 to read as follows:

13 Sec. 533.0371. PLAN TO REDUCE RELIANCE ON SHELTERED  
14 WORKSHOPS. (a) In this section, "sheltered workshop" means an  
15 employment setting in which individuals with disabilities are:

16 (1) substantially segregated from individuals without  
17 disabilities, other than non-disabled individuals who are  
18 providing services to those individuals with disabilities;

19 (2) congregated with other individuals with  
20 disabilities who are similarly employed; and

21 (3) paid less than the minimum wage under state or  
22 federal law.

23 (b) The Department of Aging and Disability Services shall  
24 develop a plan to significantly reduce reliance on sheltered  
25 workshops as an employment option for people with disabilities.  
26 The plan must identify all federal funding opportunities that would  
27 assist the department in reducing reliance on sheltered workshops.

1        (c) The plan developed under Subsection (b) must provide for  
2 the significant reduction of reliance on sheltered workshops not  
3 later than September 1, 2015.

4        SECTION 3. Section 117.058(a), Human Resources Code, is  
5 amended to read as follows:

6        (a) The department shall establish and require employee  
7 participation in a specialized training program for certain  
8 employees, including vocational rehabilitation counselors and  
9 vocational rehabilitation transition specialists and transition  
10 counselors, whose duties involve assisting youth with disabilities  
11 to transition to post-schooling activities, services for adults, or  
12 community living.

13        SECTION 4. Subchapter A, Chapter 302, Labor Code, is  
14 amended by adding Section 302.016 to read as follows:

15        Sec. 302.016. PROVISION OF DISABILITY NAVIGATOR SERVICES.

16        (a) In this section, "disability navigator services" includes  
17 services that:

- 18                (1) are provided through a one-stop approach; and  
19                (2) assist persons with disabilities in navigating a  
20 variety of programs that promote work incentive information,  
21 including locating and maintaining employment.

22        (b) The commission shall identify funding options that will  
23 allow the commission to increase the number of individuals  
24 providing disability navigator services to a level that ensures  
25 that each local workforce area has access to at least one individual  
26 who provides disability navigator services.

27        (c) The commission shall implement this section subject to

1 the availability of funds for this purpose.

2 SECTION 5. (a) The Health and Human Services Commission  
3 shall analyze employment services provider Medicaid payment rates  
4 and rate methodology and determine the optimum rates and rate  
5 methodology that will ensure an adequate employment services  
6 provider base for individuals with disabilities. In conducting the  
7 analysis, the commission shall consider the use of an outcome-based  
8 methodology for payment of employment services providers,  
9 including the methodology and rate structure used by the Department  
10 of Assistive and Rehabilitative Services on January 1, 2009.

11 (b) Not later than September 1, 2010, the Health and Human  
12 Services Commission shall provide a report to the governor,  
13 lieutenant governor, and speaker of the house of representatives  
14 that contains the results of the analysis performed under this  
15 section and recommendations for any necessary legislation as  
16 determined by the commission.

17 SECTION 6. (a) A person providing employment services  
18 through a contract with the Department of Aging and Disability  
19 Services or the Department of Assistive and Rehabilitative  
20 Services, through a contract with a provider of services who  
21 contracts with the Department of Aging and Disability Services, or  
22 to a client under the consumer-directed services option through the  
23 Department of Aging and Disability Services on September 1, 2009,  
24 may continue to provide employment services without approval under  
25 Section 531.752, Government Code, as added by this Act, until  
26 September 1, 2011.

27 (b) Not later than September 1, 2010, the Department of

1 Aging and Disability Services shall submit to the executive  
2 commissioner of the Health and Human Services Commission the plan  
3 required by Section 533.0371, Health and Safety Code, as added by  
4 this Act.

5         SECTION 7. The Health and Human Services Commission, the  
6 Department of Aging and Disability Services, and the Department of  
7 Assistive and Rehabilitative Services shall identify all funds  
8 appropriated or otherwise made available in the federal American  
9 Recovery and Reinvestment Act of 2009 that could lawfully be used to  
10 support employment services programs, and apply for and actively  
11 pursue all necessary actions to procure those funds for those  
12 purposes.

13         SECTION 8. If before implementing any provision of this Act  
14 a state agency determines that a waiver or authorization from a  
15 federal agency is necessary for implementation of that provision,  
16 the agency affected by the provision shall request the waiver or  
17 authorization and may delay implementing that provision until the  
18 waiver or authorization is granted.

19         SECTION 9. This Act takes effect September 1, 2009.