WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1945

ENROLLED

HOUSE BILL No. 169

(By Mr. [Signature])

PASSED July 24, 1945

In Effect 90 days from Passage
ENROLLED

House Bill No. 169
(By Mr. Speaker, Mr. Amos)

[Passed February 22, 1945; in effect ninety days from passage.]

AN ACT to repeal article nine, chapter nine, and sections six and seven, article ten, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, to be designated article ten-a, relating to the vocational rehabilitation of handicapped or disabled persons.

Be it enacted by the Legislature of West Virginia:

That article nine, chapter nine, and sections six and seven, article ten, chapter eighteen, of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be repealed, and that chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, to be designated article ten-a, to read as follows:
Article 10-a. Vocational Rehabilitation.

Section 1. Definitions.—As used in this article:

1. (1) "State board" means the state board of vocational education.

2. (2) "Division" means the division of vocational rehabilitation established by this article.

3. (3) "Director" means the director of the division of vocational rehabilitation.

4. (4) "Employment handicap" means a physical or mental condition which constitutes, contributes to, or if not corrected will probably result in, an obstruction to occupational performance.

5. (5) "Disabled individual" means any person who has a substantial employment handicap.

6. (6) "Vocational rehabilitation" and "vocational rehabilitation services" mean any services, provided directly or through public or private instrumentalities, found by the director to be necessary to compensate a disabled individual for his employment handicap, and to enable him to engage in a remunerative occupation including, but not limited to, medical and vocational diagnosis, vocational
guidance, counselling and placement, rehabilitation training, physical restoration, transportation, occupational licenses, customary occupational tools and equipment, maintenance, and training books and materials.

(7) “Rehabilitation training” means all necessary training provided to a disabled individual to compensate for his employment handicap including, but not limited to, manual, pre-conditioning, pre-vocational, vocational, and supplementary training and training provided for the purpose of achieving broader or more remunerative skills and capacities.

(8) “Physical restoration” means any medical, surgical or therapeutic treatment necessary to correct or substantially reduce a disabled individual’s employment handicap within a reasonable length of time including, but not limited to, medical, psychiatric, dental and surgical treatment, nursing services, hospital care not to exceed ninety days, convalescent home care, drugs, medical and surgical supplies, and prosthetic appliances, but excluding curative treatment for acute or transitory conditions.
(9) "Prosthetic appliance" means any artificial device necessary to support or take the place of a part of the body or to increase the acuity of a sense organ.

(10) "Occupational licenses" means any license, permit or other written authority required by any governmental unit to be obtained in order to engage in an occupation.

(11) "Maintenance" means money payments not exceeding the estimated cost of subsistence during vocational rehabilitation.

(12) "Regulations" means regulations made by the director with the approval of the state board.

Sec. 2. State Board of Vocational Education; Division of Vocational Rehabilitation.—For the purposes of this article, the state board of education is hereby designated as the state board of vocational education. As such, it is authorized and directed to cooperate with the federal government to the fullest extent in an effort to provide vocational rehabilitation for disabled persons. To this end, there is hereby established in the state board of vocational education a division of vocational rehabilitation.
Sec. 3. Director of Division of Vocational Rehabilitation.—The division shall be administered, under the general supervision and direction of the state board, by a director appointed by such board in accordance with established personnel standards and on the basis of his education, training, experience, and demonstrated ability.

In carrying out his duties under this article the director shall:

(1) Appoint, with the approval of the state board, such personnel as he deems necessary for the efficient performance of the functions of the division.

(2) Establish a merit system of personnel management, or in lieu thereof, avail himself of the services of the state merit system upon payment of a fair share of the expenses of the operation of such system.

(3) Make regulations governing the protection of records and confidential information; the manner and form of filing applications for vocational rehabilitation services, eligibility therefor, and investigation and determination thereof; procedures for fair hearings; and such
other matters as may be necessary or desirable in accomplishing the purposes of this article.

(4) Establish, with the approval of the state board, appropriate subordinate administrative units within the division.

(5) Prepare and submit to the state board annual reports of activities and expenditures and, prior to each regular session of the Legislature, estimates of sums required for carrying out the provisions of this article and estimates of the amounts to be made available for this purpose from all sources.

(6) Make requisition for disbursement, in accordance with regulations, of the funds available for vocational rehabilitation purposes.

(7) Take such other action, with the approval of the state board, as may be deemed necessary or appropriate to carry out the purposes of this article.

In addition to the foregoing, the director may, with the approval of the state board, delegate to any officer or employee of the division such of his powers and duties, except the making of regulations and the appointment of
personnel, as may be necessary or appropriate for the purposes of this article.

Sec. 4. Administration.—Except as otherwise provided by law, the state board, through the division, shall provide vocational rehabilitation services to disabled individuals determined by the director to be eligible therefor, and for this purpose the division is authorized among other things to:

(1) Cooperate with other departments, agencies and institutions, both public and private, in providing for the vocational rehabilitation of disabled individuals, in studying the problems involved therein, and in establishing, developing and providing, in conformity with the provisions of this article, such programs, facilities and services as may be necessary or desirable.

(2) Enter into reciprocal agreements with any other state to provide for the vocational rehabilitation of residents of such state.

(3) Conduct research and compile statistics relating to the vocational rehabilitation of disabled individuals.

Sec. 5. Cooperation with Federal Government.—The
state board, through the division, shall make agreements or plans to cooperate with the federal government in carrying out the purposes of any federal statutes pertaining to vocational rehabilitation and to this end may adopt such methods of administration as are found by the federal government to be necessary for the proper and efficient operation of such agreements or plans for vocational rehabilitation and to comply with such conditions as may be necessary to secure the full benefits of such federal statutes.

Sec. 6. Receipt and Disbursement of Vocational Rehabilitation Funds.—The state treasurer is hereby designated as the custodian of all funds received from the federal government under any federal statutes pertaining to vocational rehabilitation. The state treasurer shall make disbursements from such funds and from all state funds available for vocational rehabilitation purposes on warrants of the state auditor, requisitioned as provided in section three of this article.

Sec. 7. Gifts.—The director is hereby authorized and empowered, with the approval of the state board, to accept
and use gifts made unconditionally by will or otherwise for carrying out the purposes of this article. Gifts made under such conditions as in the judgment of the state board are proper and consistent with the provisions of this article may be so accepted and shall be held, invested, reinvested, and used in accordance with the conditions of the gift.

Sec. 8. Eligibility for Vocational Rehabilitation.—Vocational rehabilitation services shall be provided to any disabled individual who is a resident of the state at the time of filing his application therefor, if the director after full investigation shall determine that his rehabilitation can be satisfactorily achieved. Such services shall also be provided to any person who is eligible therefor under the terms of an agreement with another state or with the federal government.

Except as otherwise provided by law or as specified in an agreement with the federal government with respect to classes of individuals certified to the state board thereunder, the following rehabilitation services shall be provided at public cost only to disabled individuals found to
require financial assistance with respect thereto:

(1) Physical restoration.

(2) Transportation, for any other purpose than that of determining the eligibility of the individual for vocational rehabilitation services and the nature and extent of the services necessary.

(3) Occupational licenses.

(4) Customary occupational tools and equipment.

(5) Maintenance.

(6) Training books and materials.

The rights of a disabled individual under the provisions of this article shall not be transferable or assignable at law or in equity.

Sec. 9. Hearings.—Any individual applying for or receiving vocational rehabilitation who is aggrieved by any action or inaction of the division shall be entitled, in accordance with regulations, to a fair hearing by the state board.

Sec. 10. Misuse of Vocational Rehabilitation Lists and Records.—It shall be unlawful, except for purposes directly connected with the administration of the vocational
rehabilitation program and in accordance with regulations, for any person or persons to solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of, any list of, or names of, or any information concerning, persons applying for or receiving vocational rehabilitation, directly or indirectly derived from the records, papers, files, or communications of the state or subdivisions or agencies thereof, or acquired in the course of the performance of official duties.

Any person who violates any of the provisions of this section shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than fifty dollars nor more than five hundred dollars, or imprisoned for not less than thirty days nor more than ninety days, or both such fine and imprisonment, in the discretion of the court.

Sec. 11. Limitation on Political Activity.—No officer or employee engaged in the administration of the vocational rehabilitation program shall use his official authority or influence or permit the use of the vocational rehabilitation program for the purpose of interfering with an
6 election or affecting the result thereof or for any partisan
7 political purpose. No such officer or employee shall take
8 an active part in the management of political campaigns
9 or participate in any political activity, except that he
10 shall retain the right to vote as he may please and to ex-
11 press his opinions as a citizen on all subjects. No such
12 officer or employee shall solicit or receive, nor shall any
13 such officer or employee be obliged to contribute or ren-
14 der, any service, assistance, subscription, assessment, or
15 contribution for any political purpose. Any officer or em-
16 ployee violating this provision shall be discharged.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Charles C. Morris
Chairman Senate Committee

Jade Stepp
Chairman House Committee

Originated in the House

Takes effect 90 days from passage.

Hoskins
Clerk of the Senate

Fullop
Clerk of the House of Delegates

Archibald W. Tickle
President of the Senate

John P. Amos
Speaker House of Delegates

The within approved this the 2nd day of March, 1945.

Governor.

Filed in the office of the Secretary of State of West Virginia MAR 2, 1945

Wm. S. O'Brien,
Secretary of State