WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1969

ENROLLED

SENATE BILL NO. 218

(By Mr. Jackson, Mr. President, and Mr. Bortherton)

PASSED. March 7, 1969

In Effect. July 1, 1969... Passage

FILED IN THE OFFICE
JOHN Q. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-17-69
AN ACT to amend and reenact sections one and eight, article ten-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended; to further amend said article by adding thereto a new section, designated section twelve; and to amend and reenact sections one, two, three, four, five, six, seven and eight, article ten-b, all of said chapter eighteen, all relating to vocational rehabilitation and vocational rehabilitation centers and workshops.

Be it enacted by the Legislature of West Virginia:

That sections one and eight, article ten-a, chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that
said article be further amended by adding thereto a new section, designated section twelve; and that sections one, two, three, four, five, six, seven and eight, article ten-b, all of said chapter eighteen, be amended and reenacted, all to read as follows:

ARTICLE 10A. VOCATIONAL REHABILITATION.

§18-10A-1. Definitions.

1 As used in this article:

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

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

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

5 (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.

6 (5) "Disabled individual" means any person who has a substantial employment handicap.
(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, preconditioning, prevocational, 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 sub-
stantially 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, 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.

§18-10A-8. Eligibility for vocational rehabilitation.

1 Vocational rehabilitation services shall be provided to any disabled individual who is present in 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.
24 The rights of a disabled individual under the provisions of this article shall not be transferable or assignable at law or in equity.

§18-10A-12. Vocational evaluation and work adjustment program for disadvantaged individuals.

1 The state board of vocational education is authorized and directed to cooperate with the federal government in providing vocational evaluation and work adjustment services to disadvantaged individuals.

2 "Vocational evaluation and work adjustments services" include, as appropriate in each case, such services as:

3 (a) A preliminary diagnostic study to determine that the individual is disadvantaged, has an employment handicap, and that services are needed;

4 (b) A thorough diagnostic study consisting of a comprehensive evaluation of pertinent medical, psychological, vocational, educational, cultural, social, and environmental factors which bear on the individual's handicap to employment and rehabilitation potential including, to the degree needed, an evaluation of the individual's personality, intelligence level, educational achievements,
work experience, vocational aptitudes and interests, personal and social adjustments, employment opportunities, and other pertinent data helpful in determining the nature and scope of services needed;

(c) Services to appraise the individual's patterns of work behavior and ability to acquire occupational skills, and to develop work attitudes, work habits, work tolerance, and social and behavior patterns suitable for successful job performance, including the utilization of work, simulated or real, to assess and develop the individual's capacities to perform adequately in a work environment;

(d) Any other goods or services provided to a disadvantaged individual, determined (in accordance with regulations of the federal government) to be necessary for, and which are provided for the purpose of, ascertaining the nature of the handicap to employment and whether it may reasonably be expected the individual can benefit from vocational rehabilitation services or other services available to disadvantaged individuals;

(e) Outreach, referral, and advocacy; and

(f) The administration of these evaluation and work adjustment services.
Enr. S. B. No. 218] 8

39 As used in this section, the term "disadvantaged individuals" means (1) disabled individuals as defined in subdivision five, section one of this article, (2) individuals disadvantaged by reason of their youth or advanced age, low educational attainments, ethnic or cultural factors, prison or delinquency records, or other conditions which constitute a barrier to employment, and (3) other members of their families when the provision of vocational rehabilitation services to family members is necessary for the rehabilitation of the individual described in subdivision one or two above.

ARTICLE 10B. VOCATIONAL REHABILITATION FACILITIES.

§18-10B-1. Definitions.

1 As used in this article:

2 (1) "Vocational rehabilitation facility" means a facility which is operated for the primary purpose of providing vocational rehabilitation services to, or gainful employment for, handicapped individuals, or, for providing evaluation and work adjustment services for disadvantaged individuals, and which provides singly or in combination one or more of the following services for handi-
capped individuals: (a) Comprehensive rehabilitation services which shall include, under one management, medical, psychological, social, and vocational services; (b) testing, fitting, or training in the use of prosthetic and orthopedic devices; (c) provocation conditioning or recreational therapy; (d) physical and occupational therapy; (e) therapy for speech and hearing pathology; (f) psychological and social services; (g) evaluation; (h) personal and work adjustment; (i) vocational training (in combination with other rehabilitation services); (j) evaluation or control of special disabilities; and (k) extended employment for the severely handicapped who cannot be readily absorbed in the competitive labor market; but all medical and related health services must be prescribed by, or under the formal supervision of, persons licensed to practice medicine or surgery in the state.

(2) "Workshop" means a particular type of vocational rehabilitation facility where any manufacture or handicraft work is carried on and which is operated by a public agency or by a private corporation or association, no part of the net earnings of which inures or may lawfully
inure to the benefit of any private shareholder or individual, or by a cooperative, for the primary purpose of providing remunerative employment to disabled persons (a) as an interim step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market; or (b) during such time as employment opportunities for them in the competitive labor market do not exist; or (c) for providing vocational evaluation and work adjustment services for disadvantaged persons.

(3) "Cooperative" means an association, or membership corporation, whose membership is limited to disabled individuals and which is organized and operated on a cooperative basis for the exclusive benefit of its members and, by its charter or bylaws, is required to divide any profits, realized from the operation of workshops operated by it and not reinvested in such workshops, among its disabled members actually working therein.

(4) "Nonprofit institution" means a corporation or association no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.
§18-10B-2. Establishment of state vocational rehabilitation facilities.

The state board, through the division, is authorized and empowered to establish, operate, and maintain vocational rehabilitation facilities: Provided, That to establish vocational rehabilitation facilities includes the acquisition by purchase, lease, gift, or otherwise, of necessary lands, and the construction, expansion, remodeling, or alteration and equipment of necessary buildings; or, for any particular facility, the making of contracts and agreements with any state, county, or municipal agency, or nonprofit institution providing for the equipment, operation or maintenance by the state board, through the division, of any facility of such agency or institution in accordance with, and for the purpose of this article: Provided further, That notwithstanding any other provisions of law, the state board, through the division, shall, itself, properly operate, maintain, repair, and manage and control the fiscal affairs of vocational rehabilitation facilities established pursuant to
this section: Provided further, That the state board, through the division, is authorized and empowered to make and enter into all contracts and agreements necessary and incidental to the performance of its powers and duties under this section, in connection with which it is also authorized and empowered to cooperate with other agencies of the state.

§18-10B-3. Establishment of local vocational rehabilitation facilities.

Counties and municipalities in accordance with rules, regulations and standards made and adopted by the director, individually or jointly with any one or more such counties or municipalities are authorized and empowered to establish, operate, and maintain necessary vocational rehabilitation facilities for disabled persons: Provided, That to establish vocational rehabilitation facilities includes the acquisition by purchase, lease, gift, or otherwise, of necessary lands, and the construction, expansion, remodeling, or alteration and equipment of necessary buildings.
§18-10B-4. Rules and regulations.

1 The director shall make and adopt rules, regulations, and standards for the establishment, operation and maintenance, government and control of vocational rehabilitation facilities established pursuant to this article, including such rules, regulations and standards as may be necessary for cooperation under and compliance with any existing or future federal statutes pertaining to grants-in-aid for vocational rehabilitation facilities.

§18-10B-5. Cooperation with federal government in vocational rehabilitation facility program.

1 The state board, through the division, is hereby designated the sole state agency to cooperate with the federal government in any federal program relating to the establishment, operation and maintenance of vocational rehabilitation facilities; and is hereby authorized and empowered to adopt and supervise the administration of such a statewide plan, or such statewide plans, for the establishment of vocational rehabilitation facility or workshop programs as may be necessary to comply with the requirements and conditions of federal law with respect to federal grants-in-aid for such purposes.
§18-10B-6. Cooperation with state department of health.
1 The state board, through the division, and the state
2 department of health shall cooperate to assure coordina-
3 tion of the vocational rehabilitation facility program
4 under this article with the hospital construction program
5 provided for under chapter sixteen, article one, section
6 fourteen of the code of West Virginia, one thousand nine
7 hundred thirty-one, as amended.

§18-10B-7. Personnel.
1 The director shall appoint in accordance with chapter
2 eighteen, article ten-a, section five of the code of West
3 Virginia, one thousand nine hundred thirty-one, as
4 amended, all personnel he deems necessary for the effi-
5 cient and economical operation and maintenance of voca-
6 tional rehabilitation facilities established, operated and
7 maintained pursuant to section two of this article.

§18-10B-8. Advisory committee.
1 There shall be an advisory committee of not less than
2 five and not more than ten members to serve as advisors
3 and consultants to the director of the division. The com-
4 mittee shall meet at least twice each year and at the call
of the director of the division. The members of the com-
mittee shall annually elect one of its members to serve as
chairman.

The advisory committee shall be appointed by the di-
rector, by and with the advice and consent of the state
board, and shall include among its members representa-
tives of state and nongovernmental agencies concerned
with the establishment, operation or utilization of voca-
tional rehabilitation services and facilities, and at least
one of the members shall be a person well versed in
problems related to employment of the disabled.

The members shall serve for five-year terms, or until
replaced, except that in the first year one fifth of the
members shall be named for a one-year term, one fifth
for a two-year term, one fifth for a three-year term, one
fifth for a four-year term, and one fifth for a five-year
term. Thereafter each member shall be appointed for
d five years or until his successor is appointed. In the case
of a vacancy the appointee shall serve the remainder of
the unexpired term.
Members of the advisory committee shall be eligible to succeed themselves. Members of the advisory committee shall serve without compensation but shall be entitled to reimbursement for all reasonable and necessary expenses actually incurred in the performance of the duties of their office.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

[Signature]
Chairman Senate Committee

[Signature]
Chairman House Committee

Originated in the Senate.

To take effect July 1, 1969.

[Signature]
Clerk of the Senate

[Signature]
Clerk of the House of Delegates

[Signature]
President of the Senate

[Signature]
Speaker House of Delegates

The within approved this the 17th day of March, 1969.

[Signature]
Governor
PRESENTED TO THE
GOVERNOR

Date 3/12/69
Time 2:45 p.m.