



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Bethany Boyd

Sub. S.B. 144*

132nd General Assembly

(As Reported by H. State and Local Government)

Sens. Burke, Yuko, Coley, Bacon, Beagle, Eklund, Hackett, Hite, Hoagland, Huffman, Lehner, Manning, Obhof, O'Brien, Tavares, Terhar, Wilson

BILL SUMMARY

Opportunities for Ohioans with Disabilities Council

- Creates the Opportunities for Ohioans with Disabilities (OOD) Council, a state rehabilitation services council, to replace the current OOD Commission, the Consumer Advisory Committee, and the Governor's Council on People with Disabilities.
- Requires the Governor to appoint 15 members to the OOD Council, a majority of whom must be persons with disabilities who are not employed by the Opportunities for Ohioans with Disabilities Agency (OOD), and specifies the qualifications and terms of members.
- Requires the Executive Director of OOD and any other member of the OOD Council who is an OOD employee to serve as a nonvoting member.
- Requires the OOD Commission to continue to operate until the Governor appoints all of the initial members to the OOD Council, and requires each current member of the OOD Commission to finish the member's term as a member of the OOD Council.
- Limits members of the OOD Council to two consecutive terms, with certain exceptions.

* This analysis was prepared before the report of the House State and Local Government Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

- Specifies organizational and administrative requirements for the OOD Council's operations.
- Requires OOD to provide administrative support and assistance to the OOD Council and to collaborate with it in developing a resource plan in compliance with federal law.
- Prohibits a member of the OOD Council from participating in discussion or votes on any matter with respect to which the member has a conflict of interest.
- Prohibits any officer or employee of the OOD Council from engaging in certain partisan political activities.
- Lists the duties of the OOD Council, which include advising OOD and other agencies concerning vocational rehabilitation programs and promoting vocational rehabilitation services.

Elimination of other entities

- Abolishes the OOD Commission, which has similar duties to the new OOD Council, pending the appointment of members to the new OOD Council.
- Eliminates the Consumer Advisory Committee, which the OOD Commission currently appoints to advise OOD on its vocational rehabilitation programs.
- Abolishes the Governor's Council on People with Disabilities, which works with public and private entities to promote the interests of individuals with disabilities.

Trauma Committee changes

- Adds the American Osteopathic Board of Emergency Medicine to the boards by which a physician may be certified in order to be eligible for appointment to the Trauma Committee of the State Board of Emergency Medical, Fire, and Transportation Services, and corrects the name of one of those osteopathic boards.

Staggered board terms for employee firefighter board members

- Restores staggered terms of office for the employee members representing firefighters on the Board of Trustees of the Ohio Police and Fire Pension Fund.

Technical changes

- Changes several references to "OHA: The Association for Hospitals and Health Systems" to refer to the Ohio Hospital Association, which is the current name of that organization.



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CONTENT AND OPERATION

Opportunities for Ohioans with Disabilities Council

The bill creates the Opportunities for Ohioans with Disabilities (OOD) Council, which is a state rehabilitation services council. The new OOD Council replaces the current OOD Commission, the Consumer Advisory Committee, and the Governor's Council on People with Disabilities.

Membership

Under the bill, the OOD Council must consist of the following 16 members, a majority of whom must be individuals with disabilities who are not employed by the Opportunities for Ohioans with Disabilities Agency (OOD):

- An individual who represents a Parent Training and Information Center established under federal law (currently, the Ohio Coalition for the Education of Children with Disabilities);¹
- A full-time employee of a federal Client Assistance Program (currently, Disability Rights Ohio);²

¹ Center for Parent Information and Resources, *Find Your Parent Center*, available at parentcenterhub.org/find-your-center/, accessed October 10, 2017.

² Disability Rights Ohio, *Client Assistance Program (CAP)*, available at disabilityrightsohio.org/client-assistance-program, accessed October 10, 2017.



- A vocational counselor who has knowledge of and experience with vocational rehabilitation services;
- An individual who represents community rehabilitation program service providers;
- Four individuals who represent business, industry, or labor interests;
- An individual who represents an organization that advocates on behalf of individuals with physical, cognitive, sensory, or mental disabilities;
- An individual who represents individuals with disabilities who are unable to represent or have difficulty representing themselves;
- An individual who has applied for or received vocational rehabilitation services;
- An individual who represents institutions of secondary or higher education;
- An individual from the Governor's Executive Workforce Board;
- An individual from the Department of Education with knowledge of and experience with the federal Individuals with Disabilities Education Act;
- An individual who represents the Ohio Statewide Independent Living Council;
- The Executive Director of OOD.

The Executive Director of OOD and any other member of the Council who is an OOD employee must serve as a nonvoting member.

The Governor must make all appointments to the OOD Council, with the initial appointments made not later than 60 days after the bill takes effect. Five of the initial appointments must be for terms of three years, five appointments must be for terms of two years, and five appointments must be for terms of one year. Thereafter, all terms are three years. A member appointed to fill a vacancy occurring before the end of a term must hold the office only for the remainder of the term.

The bill requires the OOD Commission to continue to operate until the Governor appoints all of the initial members of the OOD Council (see "**Opportunities for Ohioans with Disabilities Commission**," below). Each member of the current OOD Commission must serve on the Council for the remaining period of the member's term,

unless the Governor removes the member earlier for good cause. While serving on the Council, former Commission members must continue to be reimbursed for travel and necessary expenses incurred in performing their duties and must continue to receive compensation at the rate set for board and commission members by the Director of Administrative Services. A member of the former Commission must not be reappointed to the Council.

Each member is limited to two consecutive terms on the OOD Council, except that the Executive Director of OOD and the member who is an employee of a Client Assistance Program are not term-limited. Terms are considered consecutive unless they are separated by a period of three or more years. Time spent on the Council while serving the remainder of an unexpired term to which another person was first appointed does not count against the person's term limit as long as a period of at least three years has passed since the person last served on the Council. A person who is appointed to serve at the beginning of a term and resigns mid-term is considered to have served the full term.

Each member of the OOD Council must serve without compensation, except to the extent that serving on the Council is considered part of the member's regular duties of employment. Members must be reimbursed for actual expenses incurred in performing their official duties, including expenses for travel and personal assistance services.³

Organization and operation

The OOD Council must hold its first meeting at the call of the Governor. The Council must meet at least four times a year, and may hold special meetings with the approval of the Governor. Eight members of the Council constitute a quorum. The Council must select one of its members, by a majority vote, to serve as its chairperson. The chairperson must serve in that role for one year, unless the Council removes the chairperson earlier.

OOD must provide administrative support to the OOD Council, assist it in performing its duties, and collaborate with the Council in developing a resource plan in compliance with federal law.

The Council must establish standards for the conduct of its business. A member who has a conflict of interest on a matter before the Council must not participate in Council discussions and votes on the matter. The bill also prohibits any officer or employee of the Council from doing any of the following:

³ New R.C. 3304.12 and Section 3 of the bill.



- Using or permitting the use of any vocational rehabilitation program for the purpose of interfering with an election for any partisan political purpose;
- Soliciting or receiving money for a partisan political purpose;
- Requiring any other person to contribute any service or money for a partisan political purpose.

An officer or employee who violates any of these prohibitions must be removed from office or employment. These political restrictions currently apply to the officers or employees of the OOD Commission (eliminated by the bill), as well as of OOD, and to any other person engaged in the administration of a vocational rehabilitation services program sponsored by or affiliated with the state.⁴

Duties

The bill requires the OOD Council, in collaboration with the Governor's Office of Workforce Transformation, to do all of the following:⁵

- Examine all of the following related to the state vocational rehabilitation program and advise OOD regarding that examination:
 - The process for determining eligibility, including the order of selection;
 - The extent, scope, and effectiveness of services provided;
 - The impact of state agency actions on the ability of individuals with disabilities to achieve employment outcomes through the program.
- In partnership with OOD and as required by federal administrative rules, do both of the following:
 - Identify, develop, agree, and review state goals and priorities relating to the vocational rehabilitation services portion of the Unified or Combined State Plan submitted under the federal Workforce Innovation and Opportunity Act of 2014;

⁴ New R.C. 3304.12, 3304.13, and 3304.14(B); R.C. 3304.22.

⁵ New R.C. 3304.14.



- Evaluate the effectiveness of the vocational rehabilitation program and prepare and submit to the U.S. Secretary of Education an annual report on the progress made in improving the program's effectiveness as part of the Unified or Combined State Plan.
- Advise OOD regarding vocational rehabilitation program activities;
- Assist OOD in preparing the vocational rehabilitation services portion of the Unified or Combined State Plan, any amendments to the Plan, and any reports, needs assessments, or evaluations required as part of the Plan;
- To the extent feasible, evaluate the satisfaction that persons with disabilities served by the vocational rehabilitation program have with, and the effectiveness of, the following:
 - The duties performed or services provided by OOD;
 - The vocational rehabilitation services provided by state agencies or other entities responsible for providing those services under the federal Rehabilitation Act of 1973;
 - The employment outcomes achieved under the vocational rehabilitation services program, including the availability of health and other employment benefits.
- Not later than 90 days after the end of each federal fiscal year, prepare and submit to the Governor and the U.S. Secretary of Education a report concerning the status of vocational rehabilitation programs available in Ohio and make the report available to the public through appropriate means;
- Coordinate efforts with other entities, including the following, to increase the number of individuals receiving vocational rehabilitation services:
 - The Ohio Statewide Independent Living Council;
 - The State Board of Education's State Advisory Panel for Exceptional Children;⁶
 - The Ohio Developmental Disabilities Council;

⁶ See R.C. 3323.06, not in the bill, and Ohio Department of Education, *State Advisory Panel for Exceptional Children (SAPEC)*, available at education.ohio.gov/Topics/Special-Education/State-Performance-Plan/State-Advisory-Panel-for-Exceptional-Children-SAP, accessed October 10, 2017.

- The entity serving as Ohio's state mental health planning council under the federal Public Health Services Act (currently, the Ohio Community Recovery Support Planning Council);⁷
- The Governor's Executive Workforce Board;
- The entities performing activities under the federal Assistive Technology Act of 1998.
- Engage in efforts to improve coordination and establish relationships between OOD, the Ohio Statewide Independent Living Council, and the centers for independent living;
- Perform any other functions consistent with the purposes of the federal Rehabilitation Act of 1973 and the duties of the OOD Council.

Elimination of other entities

Under the bill, the new OOD Council replaces the OOD Commission, the Consumer Advisory Committee, and the Governor's Council on People with Disabilities, and those entities are abolished.

Opportunities for Ohioans with Disabilities Commission

Membership

Under current law, the OOD Commission consists of seven members, who are appointed by the Governor with the advice and consent of the Senate. No more than four of the members may be members of the same political party, and the members with disabilities must be representative of several major categories of those with disabilities served by OOD. The membership must include the following:

- At least three members from rehabilitation professions;
- At least one member from the field of services to the blind;
- At least four individuals with disabilities, not less than two nor more than three of whom have received vocational rehabilitation services offered by a state vocational rehabilitation agency or the Veterans' Administration.

⁷ Ohio Department of Mental Health and Addiction Services, *Ohio Community Recovery Support Planning Council (OCRSPC)*, available at mha.ohio.gov/Default.aspx?tabid=645, accessed October 10, 2017.

Members of the OOD Commission serve seven-year terms and are limited to two terms. Members who fail to perform their duties or who are guilty of misconduct may be removed on written charges preferred (*sic*) by the Governor or by a majority of the Commission.

OOD Commission members are reimbursed for travel and necessary expenses incurred in conducting their duties, and they also receive compensation at the rate set for board and commission members by the Director of Administrative Services.⁸

Organization and operation

Under current law, the OOD Commission elects one of its members as a chairperson, who serves in that role for four years, unless a majority of the Commission votes to remove the chairperson. After a chairperson finishes a term, the person is ineligible to be the chairperson during the next four years.

The Commission meets at least once every four months, according to rules adopted by the Commission, and special meetings may be held at the call of the chairperson or of any three members. Each member of the Commission must take an oath of office and give a \$5,000 bond.⁹

Duties

The OOD Commission, under current law, is responsible for doing all of the following:¹⁰

- Approving the state vocational rehabilitation services plan;
- Jointly approving the state plan for independent living with the Ohio State Independent Living Council;
- Appointing a Consumer Advisory Committee (abolished by the bill);
- To the extent feasible, conducting a review and analysis of the effectiveness of, and consumer satisfaction with, all of the following:
 - The functions performed by OOD;

⁸ Current R.C. 3304.12 (repealed).

⁹ Current R.C. 3304.13 (repealed).

¹⁰ Current R.C. 3304.14 (repealed).



- The vocational rehabilitation services provided by state agencies and other public and private entities responsible for providing vocational rehabilitation services to individuals with disabilities under the federal Rehabilitation Act of 1973;
- The employment outcomes achieved by eligible individuals with disabilities receiving vocational rehabilitation services, including the availability of health and other employment benefits in connection with those employment outcomes.

Consumer Advisory Committee

While the Revised Code requires the OOD Commission to appoint the Consumer Advisory Committee, it does not describe the Committee's duties, beyond a provision specifying that members of the Committee receive no compensation, except their actual and necessary traveling and other expenses incurred in performing their official duties, which must be approved in advance by the Executive Director of OOD.¹¹

According to OOD, the Consumer Advisory Committee currently consists of persons who have received services from OOD or whose family members have done so. Members serve three-year terms, during which they advise OOD on its vocational rehabilitation programs and advocate for Ohioans with disabilities.¹²

Governor's Council on People with Disabilities

Membership

Under current law, the Governor's Council on People with Disabilities consists of 21 members appointed by the Governor, the majority of whom must be people with disabilities. A public officer or employee may serve on the Council without violating the laws prohibiting holding multiple offices.

The Director of Job and Family Services also appoints an employee of the Department to serve as an ex officio member of the Council to maintain a liaison between the Department and the Council.

¹¹ R.C. 3304.25 (repealed).

¹² OOD, *Consumer Advisory Committee (CAC)*, available at ood.ohio.gov/About-Us/Consumer-Advisory-Committee, accessed October 10, 2017.



Members serve three-year terms and are limited to two consecutive terms. The Council serves without compensation, but is paid the actual and necessary expenses incurred in performing its duties.¹³

Organization and operation

The Governor appoints a chairperson for the Council on People with Disabilities to serve a two-year term. The chairperson may not serve consecutive terms in that role. The Council meets at least six times annually at the call of the chairperson. The Council may make rules for the conduct of its own business.

The Executive Director of OOD must provide the Council with a professional staff person to serve as Executive Secretary of the Council and any necessary meeting space, office furniture, and equipment.¹⁴

Duties

The Council on People with Disabilities has the following powers under current law:

- To cooperate with the President's Committee on Employment of the Handicapped;
- To cooperate with employers in locating or developing employment opportunities for people with disabilities;
- To encourage and assist in the creation of committees at the community level;
- To assist government agencies in coordinating their activities for the purpose of securing maximum utilization of funds and efforts that benefit people with disabilities;
- To encourage cooperation among employers, unions, and rehabilitation agencies and organizations to facilitate employment of people with disabilities;
- To conduct educational programs to acquaint the public with the abilities and accomplishments of people with disabilities;

¹³ R.C. 3303.41(A) and (G) (repealed) and 4141.04.

¹⁴ R.C. 3303.41(A), (B), and (C) (repealed).

- To promote the elimination of architectural barriers to make buildings used by the public accessible and useable by persons with physical limitations.

The Council must submit an annual report to the Governor on its activities, the state of Ohioans with disabilities, and any recommendations the Council believes are necessary or desirable to carry out its duties.

Additionally, the Council currently nominates three persons who actively advocate for trauma victims to serve on the Trauma Committee of the State Board of Emergency Medical, Fire, and Transportation Services. The Director of Public Safety appoints a member from among the nominees of the Council and three nominees submitted by the Ohio Brain Injury Association. Under the bill, only the Ohio Brain Injury Association may submit nominations for that position.¹⁵

Physicians eligible for appointment to the Trauma Committee

Under continuing law, to be eligible for appointment to the Trauma Committee of the State Board of Emergency Medical, Fire, and Transportation Services, physicians must be certified by certain boards. For two Trauma Committee appointments, the physician representing pediatric emergency medicine and the physician representing an air medical organization, the bill adds the American Osteopathic Board of Emergency Medicine to the boards by which the physician may be certified.¹⁶

The bill corrects the name of an osteopathic board by changing the American Osteopathic Board of Rehabilitation Medicine to the American Osteopathic Board of Physical Medicine and Rehabilitation.¹⁷

Staggered board terms for OP&F Pension Fund employee firefighter members

The Board of Trustees of the Ohio Police and Fire Pension Fund has two employee members who are firefighters. Typically, trustees of the Board serve four-year staggered terms.¹⁸ However, vacancies occurred in the terms of both of those members in 2014 so the Board, following existing law's procedure to fill vacancies, elected two new members. As a result, their current terms expire on the same day and are no longer

¹⁵ R.C. 3303.41 (repealed) and 4765.04.

¹⁶ R.C. 4765.04(B)(9) and (10).

¹⁷ R.C. 4765.04(B)(6).

¹⁸ R.C. 742.03 and 742.04, not in the bill.

staggered.¹⁹ The bill extends the term of office of the employee member who was elected to the board on March 6, 2014, so that specific employee member holds office until June 1, 2020.²⁰ This restores staggered terms for the two employee members who are firefighters.

Technical changes

The bill changes several references to "OHA: The Association for Hospitals and Health Systems" to refer to the Ohio Hospital Association, which is the current name of that organization.²¹

HISTORY

| ACTION | DATE |
|---|----------|
| Introduced | 05-03-17 |
| Reported, S. Gov't Oversight & Reform | 09-27-17 |
| Passed Senate (33-0) | 09-27-17 |
| Reported, H. State and Local Government | --- |

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¹⁹ See "Our Board Members," available at www.op-f.org/BoardOfTrustees/BoardMembers.aspx, accessed December 4, 2017.

²⁰ R.C. 742.05(B).

²¹ R.C. 4765.04.

