

of the armed forces, for the same personal injury as the claimant is seeking workers' compensation for, and the amount thereof shall be subtracted from any award made by the commission.

Sec. 40. Minnesota Statutes 1974, Section 238.04, is amended by adding a subdivision to read:

Subd. 5a. CABLE COMMUNICATIONS BOARD MEMBERS EXPENSE. The chairman and other members of the board shall receive their ordinary and necessary expenses in the same manner and amount as state employees.

Sec. 41. Minnesota Statutes 1974, Section 345.48, Subdivision 2, is amended to read:

Subd. 2. Before making any deposit to the credit of the general fund, the state treasurer may deduct: (a) costs incurred in connection with any sale of abandoned property, (b) any costs of mailing and publication in connection with any abandoned property, and (c) reasonable service charges. Any amounts so deducted shall be credited to a special account and are appropriated to pay costs required by the state treasurer for administration of this section.

Sec. 42. **REPEALER.** Minnesota Statutes 1974, Sections 3.66; 3.67; 3.68; 3.69; 3.70; 3.71; 3.72; 3.7311; 3.735; 3.752; 3.753; 3.76; 3.77; 3.78; 3.79; 3.80; 3.81; 3.82; and 3.83; are repealed.

Sec. 43. **REPEALER.** Minnesota Statutes 1974, Section 15.315, is repealed.

Sec. 44. **REPEALER.** Minnesota Statutes, 1975 Supplement, Section 299F.55, is repealed.

Sec. 45. **EFFECTIVE DATES.** Section 40 is effective January 1, 1976. Section 44 is effective July 1, 1976. Section 43 is effective August 1, 1976. Sections 30 to 34 apply to claims arising from events occurring on and after August 1, 1976. The remainder of this act is effective the day following its final enactment.

Approved April 20, 1976.

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CHAPTER 332—H.F.No.424

[Coded]

*An act relating to the operation of state government; creating a department of vocational rehabilitation; transferring the powers and duties of the division of vocational rehabilitation to the department; transferring personnel and appropriations; repealing Minnesota Statutes 1974, Sections 121.29; 121.30; 121.301; 121.31;*

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121.32; 121.33; 121.331; 121.71; 121.711; 121.712; 121.713; and 121.714.

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

Section 1. **[129A.01] STATE GOVERNMENT; DEPARTMENT OF VOCATIONAL REHABILITATION; DEFINITIONS.** For the purposes of this chapter, the following terms shall have the meanings given them:

(a) "Department" means the department of vocational rehabilitation;

(b) "Commissioner" means the commissioner of vocational rehabilitation;

(c) "Vocational rehabilitation services" means those services and goods so defined in the federal Rehabilitation Act of 1973 and section 3, clause (b);

(d) "Handicapped person" means a person who because of a substantial physical, mental or emotional disability or dysfunction requires special services in order to enjoy the benefits of society;

(e) "Long-term sheltered workshop" means a facility where any manufacture or handiwork is carried on and which is operated for the primary purpose of providing remunerative employment to those handicapped persons who, as a result of physical or mental disability, are unable to participate in competitive employment. A long-term sheltered workshop shall supply such employment (1) as a step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market, or (2) during such time as employment opportunities for them in the competitive labor market do not exist;

(f) "Work activity program" means a program which utilizes manufacturing activities and other production work for the primary purpose of providing basic vocational skills development for the handicapped.

Sec. 2. **[129A.02] DEPARTMENT OF VOCATIONAL REHABILITATION.** Subdivision 1. **DEPARTMENT CREATED.** The department of vocational rehabilitation is created as the successor to the division of vocational rehabilitation.

Subd. 2. **COMMISSIONER OF VOCATIONAL REHABILITATION.** The commissioner is the chief executive officer of the department and is the successor to the powers and duties of the former assistant commissioner of vocational rehabilitation. The commissioner shall be appointed by the governor with the advice and consent of the senate for a four-year term which will coincide with the term of the governor and until his successor is appointed and qualifies. The commissioner may

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be removed by the governor for cause after notice and hearing. In case of vacancy, the governor shall appoint a commissioner who shall immediately take office and shall carry on all duties of the office until the next session of the legislature when his appointment shall be submitted to the senate for approval. The commissioner shall be a person having substantial experience in the administration and financing of vocational rehabilitation programs.

**Subd. 3. CONSUMER ADVISORY COUNCIL.** To assure that consumer concerns are integral parts of the considerations of the department, the commissioner shall establish and appoint a consumer advisory council on vocational rehabilitation which shall be composed of nine members. No fewer than five members of the council shall be handicapped persons, and there shall be one person appointed to the council to represent each of the following: business, labor, education, medicine and the private rehabilitation industry. The remaining members shall be public members. Under the direction of the commissioner, the council shall organize itself and elect a chairman and other officers as it deems appropriate. The council shall meet at the call of the chairman or the commissioner as often as necessary. The council shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

**Subd. 4. STAFF.** The commissioner may establish three positions in the unclassified service limited to the deputy commissioner, assistant commissioner or assistant to the commissioner levels. Persons appointed to fill these positions shall serve at the pleasure of the commissioner.

**Sec. 3. [129A.03] DUTIES AND POWERS.** The commissioner shall:

(a) Develop and administer the long-term sheltered workshops and work activity programs and perform the duties as specified in section 8;

(b) Provide vocational rehabilitation services such as, but not limited to, diagnostic and related services incidental to the determination of eligibility for services to be provided, which services may include medical diagnosis and vocational diagnosis; vocational counseling, training and instruction, including personal adjustment training; physical restoration, including corrective surgery, therapeutic treatment, hospitalization and prosthetic devices, all of which shall be secured from appropriate established agencies; transportation; occupational and business licenses or permits, customary tools and equipment, maintenance, books, supplies and training materials; initial stocks and supplies; placement; the acquisition of vending stands or other equipment, initial stocks and supplies for small business enterprises; supervision and management of small business enterprises, merchandising programs or services rendered by severely disabled persons; the establishment, improvement, maintenance or extension of public and other

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non-profit rehabilitation facilities, centers, workshops, demonstration projects and research. These services shall be provided for handicapped persons in the state whose capacity to earn a living has in any way been destroyed or impaired through industrial accident or otherwise, provided that such persons shall be entitled to free choice of vendor for any medical or dental services thus provided;

(c) Formulate plans of cooperation with the commissioner of labor and industry with reference to providing services to workers covered under the workmen's compensation act. Those plans shall be effective only when approved by the governor;

(d) Maintain a contractual relationship with the United States as authorized by the act of congress approved September 1, 1954, known as the "Social Security Amendments of 1954," being Public Law 761, Section 221, and the act approved October 30, 1972, known as the Social Security Amendments of 1972, being Public Law 92-603, and subsequent amendments thereto, in which agreement the state will undertake to make determinations referred to in those public laws with respect to all individuals in Minnesota, or with respect to such class or classes of individuals in this state as may be designated in the agreement at the state's request, it being the purpose of this relationship to permit the citizens of this state to obtain all benefits available under federal law;

(e) Provide an in-service training program for department employees by paying for the direct costs thereof with state and federal funds;

(f) Conduct research and demonstration projects; provide training and instruction, including the establishment and maintenance of research fellowships and traineeships, along with all necessary stipends and allowances; disseminate information to the handicapped and general public; and provide technical assistance relating to vocational rehabilitation;

(g) Receive and disburse pursuant to law funds and gifts available from governmental and private sources for the purpose of vocational rehabilitation;

(h) Design all state plans of vocational rehabilitation services required as a condition to the receipt and disbursement of any funds available from the federal government;

(i) Cooperate with other public or private agencies or organizations for the purpose of vocational rehabilitation;

(j) Enter into contractual arrangements with instrumentalities of federal, state, or local government and with private individuals, organizations, agencies or facilities with respect to providing vocational rehabilitation services;

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(k) Take other actions required by state and federal legislation relating to vocational rehabilitation and disability determination programs;

(l) Hire the staff and arrange for the provision of services and facilities necessary to perform the duties and powers specified in this section; and

(m) Adopt, amend, suspend or repeal rules necessary to implement or make specific programs which the commissioner by this act is empowered to administer.

**Sec. 4. [129A.04] DISABILITY DETERMINATIONS; PROTECTION OF PERSONS MAKING REPORT.** No communication or statement furnished by a physician or other professional person to the department or any other agency of the state for use in connection with an agreement or contractual relationship as contemplated in section 3, clause (d), shall be made the subject of any slander, libel or defamation action.

**Sec. 5. [129A.05] REPORTS; AVAILABILITY, NO DISCLOSURE.** Subdivision 1. The employees of the department specifically authorized by the commissioner shall have the right to receive from any public records the names, addresses and information pertinent to their vocational rehabilitation of persons injured or otherwise disabled. Except as provided in subdivision 2, no information obtained from these reports, nor any copy of the same, nor any of the contents thereof, nor other confidential information as defined by the commissioner shall be open to the public, nor shall be disclosed in any manner by any official or clerk or other employee of the state having access thereto, but the same may be used, except as provided in subdivision 2, solely to enable the department to offer the benefits of vocational rehabilitation to the persons injured or otherwise disabled.

Subd. 2. When the employees of the department have knowledge relating to the nature and extent of an injury or disability or have knowledge of other relevant or material facts with respect to any claim made pursuant to chapter 176 by an injured employee, the commissioner shall first obtain the written consent of the injured employee to the release of the information and shall then report to any party to the claim under the workmen's compensation law and to the workmen's compensation division or the workmen's compensation commission, as the case may be, all of the facts within ten days after the department has received written request for such information from the workmen's compensation division or the workmen's compensation commission, as the case may be. At a hearing before a compensation judge or the workmen's compensation commission on appeal, an employee of the department may, upon the written consent of the injured employee, disclose the facts and conclusions upon which the vocational rehabilitation evaluation of the injured employee was made.

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**Sec. 6. [129A.06] COMMUNITY LONG-TERM SHELTERED WORKSHOPS AND WORK ACTIVITY PROGRAMS; APPLICANTS FOR ASSISTANCE.** Any city, town, county, nonprofit corporation, or any combination thereof, may apply to the commissioner for assistance in establishing or operating a community long-term sheltered workshop or work activity program. Application for assistance shall be on forms supplied by the commissioner. Each applicant shall annually submit to the commissioner its plan and budget for the next fiscal year. No applicant shall be eligible for a grant hereunder unless its plan and budget have been approved by the commissioner.

**Sec. 7. [129A.07] COMMUNITY LONG-TERM SHELTERED WORKSHOP BOARDS.** Subdivision 1. Every city, town, county, nonprofit corporation, or combination thereof establishing a community long-term sheltered workshop or work activity program shall appoint a long-term sheltered workshop board of no fewer than nine members before becoming eligible for the assistance provided by sections 6 to 8. When any city, town, or county singly establishes such a workshop or work activity program, the board shall be appointed by the chief executive officer of the city or the chairman of the governing board of the county or town. When any combination of cities, towns, counties or nonprofit corporations establishes a workshop or work activity program, the chief executive officers of the cities, nonprofit corporations and the chairmen of the governing bodies of the counties or towns shall appoint the board. If a nonprofit corporation singly establishes a workshop or work activity program, the corporation shall appoint the board of directors. Membership on a board shall be representative of the community served and shall include a handicapped person. One-third to one-half of the board shall be representative of industry or business. The remaining members should be representative of lay associations for the handicapped, labor, the general public, and education, welfare, medical, and health professions. Nothing in sections 6 to 8 shall be construed to preclude the appointment of elected or appointed public officials or members of the board of directors of the sponsoring nonprofit corporation to the board, so long as representation described above is preserved.

Subd. 2. The term of office of each member of the community long-term sheltered workshop or work activity board shall be for four years, measured from the first day of the year of appointment, except as follows: Of the members first appointed, at least three shall be appointed for a term of two years, at least three for a term of three years and at least three for a term of four years. Vacancies shall be filled for the unexpired term in the same manner as original appointments. Any member of a board may be removed by the appointing authority for neglect of duty, misconduct or malfeasance in office, after being given a written statement of charges and an opportunity to be heard thereon.

Subd. 3. Subject to the provisions of sections 6 to 8 and the rules of the department, each community long-term sheltered workshop or work activity program board shall:

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(a) Review and evaluate the need for a long-term sheltered workshop services or work activity program provided pursuant to sections 6 to 8 and report thereon to the commissioner and, when indicated, the public, together with recommendations for additional services and facilities;

(b) Recruit and promote local financial support for the program from private sources such as community chests, business, industrial and private foundations, voluntary agencies and other lawful sources and promote public support for municipal and county appropriations;

(c) Promote, arrange and implement working agreements with other educational and social service agencies both public and private and any other allied agencies;

(d) Advise the commissioner on the adoption and implementation of policies to stimulate effective community relations;

(e) Review the annual plan and budget and make recommendations thereon;

(f) When so determined by the authority establishing the program, act as the administrator of the program.

**Sec. 8. [129A.08] DUTIES AND POWERS OF THE COMMISSIONER IN RESPECT TO LONG-TERM SHELTERED WORKSHOPS AND WORK ACTIVITY PROGRAMS.** Subdivision 1. The commissioner may make grants to assist cities, towns, counties, nonprofit corporations, or any combination thereof in the establishment, operation and expansion of long-term sheltered workshops or work activity programs. The commissioner may accept federal grants or aids and shall cooperate with federal agencies in any reasonable manner necessary to qualify for federal grants or aids for long-term sheltered workshops or work activity programs.

Subd. 2. At the beginning of each fiscal year, the commissioner shall allocate available funds to long-term sheltered workshops and work activity programs for disbursement during the fiscal year in accordance with approved plans or budgets. The commissioner shall from time to time during the fiscal year review the budgets and expenditures of the various programs and if funds are not needed for the program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw such funds as are unencumbered and reallocate them to other programs. He may withdraw funds from any program which is not being administered in accordance with its approved plan and budget and with relevant department rules.

Subd. 3. The grant may not exceed an amount equal to 75 percent of the normal operating expenses of the long-term sheltered workshop or work activity program. Wages paid clients or long-term workers are to be excluded in determining operating cost. In the event that there

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are inadequate funds appropriated to meet the foregoing provisions in full, they shall be prorated proportionately.

Subd. 4. In addition to the powers already conferred on him by law, the commissioner shall promulgate rules in regard to the following matters:

(a) State certification of all long-term sheltered workshops and work activity programs;

(b) Eligibility of community long-term sheltered workshops and work activity programs to receive state grants;

(c) Standards for qualification of personnel and quality of professional service and for in-service training and education leave programs for personnel;

(d) Eligibility for service so that no person will be denied service on the basis of race, creed or color;

(e) Regulatory fees for consultation services; and

(f) Standards and criteria by which handicapped persons are to be judged eligible for the services.

**Sec. 9. EFFECT OF TRANSFER TO DEPARTMENT OF VOCATIONAL REHABILITATION.** Subdivision 1. **TRANSFER OF ADMINISTRATIVE FUNCTIONS.** The powers, duties and functions of the Minnesota state department of education relating to vocational rehabilitation are transferred to the department of vocational rehabilitation. The commissioner of vocational rehabilitation shall be the successor to the powers and duties of the former assistant commissioner of vocational rehabilitation within the department of education and to the powers and duties of the board of education relative to vocational rehabilitation.

**Subd. 2. TRANSFER NOT TO CONSTITUTE NEW AUTHORITY.** Except as provided herein, the transfer of powers, duties and functions under sections 1 to 9 shall not constitute the creation of a new authority, but shall constitute a continuation of the powers, duties and functions. For the purpose of succession, all rights, authorities, powers, duties, functions and obligations existing at the time of the transfer shall continue with the same force and effect as if no transfer had been made.

**Subd. 3. CONTINUATION OF RULES AND REGULATIONS.** Any order, rule or regulation issued or existing and in force at the time of the transfer of powers, duties and functions under sections 1 to 9 shall continue in full force and effect as an order, rule or regulation of the department, or program under the control of the commissioner, until the order, rule or regulation is amended, repealed or superseded, or the

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program terminated.

**Subd. 4. TRANSFER NOT TO AFFECT LEGAL ACTION.** The transfer of powers, duties and functions as provided in sections 1 to 9 shall not affect any action or proceeding whether of an administrative, civil or criminal nature pending at the time of the transfer, but the action shall be prosecuted or defended in the name of the commissioner or his designee, and the commissioner or his designee, upon application to the appropriate court, shall be substituted as a party to the action or proceeding. No contract entered into according to law shall be affected by the transfer, but shall be performed as if the transfer had not occurred.

**Subd. 5. PENSION RIGHTS CONTINUED.** The rights and privileges of any official, appointee or employee who is a member or beneficiary of any public pension or retirement system at the time of this transfer shall not be affected by the transfer.

**Subd. 6. TRANSFER OF STATUTORY REFERENCE.** Whenever a person or authority whose powers, duties and functions are transferred hereunder is referred to in any statute, contract or document, the reference or designation shall be deemed to refer to the department or officer to which the powers, duties and functions have been transferred.

**Subd. 7. CONTINUATION OF RIGHTS OF EMPLOYMENT.** All officers and employees in the classified service, pursuant to the provisions of the state personnel act, of the division of vocational rehabilitation are transferred to the department of vocational rehabilitation, and the employees shall not lose any rights now accorded them by law.

**Subd. 8. TRANSFER OF EXISTING APPROPRIATIONS.** The unencumbered and unexpended balance of all funds appropriated to the department of education for vocational rehabilitation purposes are transferred and reappropriated to the department of vocational rehabilitation for the purposes of sections 1 to 9.

**Sec. 10. REPEALER.** Minnesota Statutes 1974, Sections 121.29, 121.30, 121.301, 121.31, 121.32, 121.33, 121.331, 121.71, 121.711, 121.712, 121.713 and 121.714 are repealed.

**Sec. 11. [129A.09] USE OF FEDERAL FUNDS.** Notwithstanding the provisions of Laws 1975, Chapter 433, Section 2, Subdivision 9, any additional federal funds which become available to the state of Minnesota for vocational rehabilitation purposes after March 1, 1976 and April 1 of each fiscal year thereafter as a result of a reallocation of funds returned by other states or release of additional funds may be carried over and expended in the next fiscal year. The state of Minnesota shall have earned these funds in the year they are received with state expenditures in accordance with the federal-state formula in effect for that year. These funds shall be subject to the provisions of section 9, subdivision 8 of this act.

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Sec. 12. **EFFECTIVE DATE.** Sections 1 to 10 of this act take effect July 1, 1977. Section 11 of this act is effective the day following final enactment.

Approved April 20, 1976.

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**CHAPTER 333—H.F.No.500**

[Coded in Part]

*An act relating to energy; authorizing the director of the Minnesota energy agency to appoint certain employees; establishing an energy conservation information center; prohibiting the use of certain gas lamps; requiring certain reports to the legislature; requiring promulgation of energy conservation rules; requiring surveys of certain public buildings; providing for solar energy performance standards; providing for monitoring of energy research; providing compensation and expense reimbursement for public members of the energy commission; appropriating money; amending Minnesota Statutes 1974, Sections 116H.02, by adding subdivisions; 116H.03, Subdivision 3; 116H.12, by adding subdivisions; and Chapter 116H, by adding sections.*

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

Section 1. Minnesota Statutes 1974, Section 116H.02, is amended by adding a subdivision to read:

**Subd. 10. ENERGY; RESEARCH.** “Decorative gas lamp” means a device installed for the purpose of producing illumination by burning natural, mixed, or LP gas and utilizing either a mantle or an open flame, but does not include portable camp lanterns or gas lamps.

Sec. 2. Minnesota Statutes 1974, Section 116H.02, is amended by adding a subdivision to read:

**Subd. 11.** “Solar energy system” means a set of devices whose primary purpose is to collect solar energy and convert and store it for useful purposes including heating and cooling buildings or other energy-using processes, or to produce generated power by means of any combination of collecting, transferring, or converting solar-generated energy.

Sec. 3. Minnesota Statutes 1974, Section 116H.03, Subdivision 3, is amended to read:

Subd. 3. The director shall be appointed by the governor with the advice and consent of the senate, to a four-year term which shall coincide with the term of the governor and until his successor is duly appointed and qualified. In appointing the director the governor should give due consideration to the listing of names submitted by the com-

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