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Rehabilitation Act of 1973: 109th Congress Legislation, FY2006 Budget Request, and FY2006 Appropriations

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Summary

The Rehabilitation Act of 1973 is the nation's major program to provide comprehensive vocational rehabilitation (VR) services to help people with physical and mental disabilities achieve employment goals and full integration into society. Authorization of appropriations for the Rehabilitation Act expired in FY2003. H.R. 27, the Job Training Improvement Act of 2005, passed by the House on March 2, 2005, and S. 1021, the Workforce Investment Act Amendments of 2005, reported by the Senate Health, Education, Labor and Pensions (HELP) Committee on September 7, 2005, would reauthorize the act through FY2011. The Rehabilitation Act amendments are part of bills that would reauthorize programs authorized by the Workforce Investment Act (WIA). In other action, P.L. 109-82 (H.R. 3864) signed September 30, 2005, amends the act to provide VR services to assist persons with disabilities affected by Hurricanes Katrina and Rita.

The President requested \$3 billion for the act for FY2006, a 0.1% increase over FY2005. The budget request would eliminate four programs authorized under the act (programs for migrant and seasonal farmworkers, recreational activities, supported employment state grants, and projects with industry (PWI)). The budget also proposed to allow states to move Title I of the Rehabilitation Act into a Consolidated Workforce Investment state grant for employment services.

Ultimately, Congress appropriated more than \$3.1 billion for the act for FY2006. This appropriation included funding for the four programs that the President had sought to eliminate. All appropriations for programs under the act, with the exception of state VR grants, were later reduced by 1% as part of the across-the-board funding rescission mandated by the Defense Appropriations Act (P.L. 109-148).

This report will not be updated.

Contents

Background	1
109 th Congress Legislation	2
VR Program Funds Used to Support the Workforce Investment Act (WIA) System	2
Transition of Students with Disabilities From School to Vocational Rehabilitation Services	3
Appointment of the Commissioner of the Rehabilitation Services Administration (RSA)	4
Coordination of the VR Program with Ticket to Work	4
Title I Allotment Formula	4
FY2006 Budget Request	5
FY2006 Appropriations	6

List of Tables

Table 1. Vocational Rehabilitation and Related Programs, FY2003-FY2006 Funding	7
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Rehabilitation Act of 1973: 109th Congress Legislation, FY2006 Budget Request, and FY2006 Appropriations

Background

The Rehabilitation Act was originally enacted in 1920 as a means of returning injured workers to their jobs. The program was expanded in 1943 to help meet the manpower shortage after the entry of the United States into World War II. The Rehabilitation Act of 1973 provides comprehensive vocational rehabilitation (VR) services designed to help individuals with physical and mental disabilities become employable and achieve independence and integration into society. The act has been amended six times since 1973.¹ Title I, the federal-state VR program, is the primary federal program assisting individuals with disabilities prepare for, obtain, and retain employment. Funding for this program represents 87% of total FY2005 federal funding for the act. Funds are administered by VR agencies designated by each state and are allocated to states according to a formula that is based on state population and per capita income. States with lower per capita income receive a comparatively higher allotment. States are required to match federal funds, and the matching ratio is 78.7% federal to 21.3% state.²

People are eligible for Title I VR services if they have a physical or mental impairment that substantially impedes employment. Under the law, all individuals with disabilities are presumed to have the potential to engage in employment and to benefit from VR services. The program is required to give priority to people with the most significant disabilities. There are about 1.2 million individuals with disabilities in various phases of the vocational rehabilitation process within the VR system. In FY2003, VR agencies assisted 217,557 persons achieve an employment outcome.³

Other programs authorized under the act include client assistance (Title I); research and training activities administered by the National Institute on Disability and Rehabilitation Research (NIDRR) (Title II); training and demonstration programs (Title III); the National Council on Disability, an independent federal agency whose purpose is to promote policies, programs, and practices to provide equal opportunity for all people with disabilities (Title IV); programs to promote the rights of persons with disabilities (Title V); Projects with Industry and Supported Employment State

¹ The Rehabilitation Act was amended in 1974 (P.L. 93-651), 1978 (P.L. 95-602), 1984 (P.L. 98-221), 1986 (P.L. 99-506), 1992 (P.L. 102-569), and 1998 (P.L. 105-220).

² P.L. 105-220, Title IV, Aug. 7, 1998, 112 Stat, 1102.

³ Rehabilitation Services Administration (911 data base).

Grants (Title VI); and Independent Living Services and Centers for Independent Living (Title VII).⁴

109th Congress Legislation

Authorization of appropriations for the Rehabilitation Act of 1973 expired at the end of FY2003. However, under provisions of the Rehabilitation Act, Title I of the act was automatically extended for one additional year through FY2004. Other programs under the act were extended for one year through FY2004 under provisions of the General Education Provisions Act (GEPA). For FY2005 and FY2006, Congress has continued funding for the act through appropriations legislation for the Departments of Labor, Education, Health and Human Services, and related agencies.

During the 108th Congress, both the House and the Senate approved legislation to reauthorize the act through FY2009, but no final action was taken. In the 109th Congress, H.R. 27, passed by the House on March 2, 2005,⁵ and S. 1021, reported by the Senate Health, Education, Labor, and Pensions (HELP) Committee,⁶ would extend authorization of appropriations for the act through FY2011. The Rehabilitation Act amendments are part of bills that would also reauthorize programs authorized by the Workforce Investment Act (WIA). Following are selected provisions of the 109th Congress bills.

VR Program Funds Used to Support the Workforce Investment Act (WIA) System

The Workforce Investment Act (WIA), enacted in 1998 (P.L. 105-220), is intended to consolidate, coordinate, and improve a variety of employment, training, literacy and VR programs for adults under the oversight of local workforce investment boards.⁷ Each board is responsible for developing a one-stop system intended to provide a coordinated and “seamless” system of employment and training opportunities for individuals. The law requires partnerships among programs that provide employment services; the federal-state VR program is a required partner in the one-stop system, along with other programs such as vocational education and welfare-to-work programs. Although persons with disabilities may receive services under the one-stop system, the federal-state VR program is the primary source of VR services for this group.

⁴ For a description of all programs authorized under the act, see CRS Report RL31378, *Rehabilitation Act: Programs and Funding*, by Sidath Panangala.

⁵ U.S. Congress, House of Representatives, Committee on Education and Workforce, *Job Training Improvement Act of 2005*, H.Rept. 109-9.

⁶ Senate Committee on Health, Education, Labor and Pensions, *Workforce Investment Act of 2005*, S.Rept. 109-134.

⁷ For background on WIA, see CRS Report 97-536, *Job Training Under the Workforce Investment Act (WIA): An Overview*, by Ann Lordeman. For a description of WIA changes proposed in H.R. 27 and S. 9, see CRS Report RL32778, *Workforce Investment Act of 1998: Reauthorization of Job Training Programs*, by Ann Lordeman.

Under current provisions of WIA and the Rehabilitation Act, there is no requirement that VR funds must be used to provide support to WIA one-stop systems; however, each required partner must develop a memorandum of understanding with a local workforce board to determine how operating costs will be funded. H.R. 27 would require that each state's governor determine how much of the administrative funds of required one-stop partners, including state VR agencies, could be used to pay part of the infrastructure (i.e., nonpersonnel) costs of one-stop centers' operations. This would mean that some of the funds allocated to states for VR services could, at the option of the governor, be used to contribute toward the state's one-stop infrastructure system.

S. 1021 would require local WIA boards and one-stop partners to determine how much local partners must contribute toward the one-stop system. If local areas fail to reach agreement, the governor would determine an amount to be contributed by one-stop partners from their administrative funds, subject to a federally prescribed cap. The cap would apply to all federal funds allotted to a partner program. For the federal-state VR program, the cap would increase from 0.75 to 1.5% over a five-year period. (Other caps would apply to other partner programs; for example, for WIA programs and the employment service, the cap would be 3%, and for other programs, 1.5%.)

Transition of Students with Disabilities From School to Vocational Rehabilitation Services

Under current law, state VR plans are required to coordinate with state education officials to facilitate the transition of students with disabilities from school to receipt of VR services. State VR and education agencies must develop interagency agreements that, at a minimum, provide for consultation and technical assistance to assist education agencies to plan for transition of students from school to post-school activities, describe the financial responsibilities of each agency, determine which agency will be the lead agency, and provide for student outreach, among other things. Some policymakers have been concerned that not enough coordination exists between educational institutions and the VR program, resulting in lack of effective planning for transition of students with disabilities to post-school employment.

Both H.R. 27 and S. 1021 include provisions to expand student transition services for students with disabilities. The bills would require that states reserve from Title I allotments a specific amount of funds for expanded transition services. The total amount reserved for transition services for all states would be \$50 million in the first year (and subsequent years) when funds appropriated for Title I exceed the FY2004 level by at least \$100 million. S. 1021 would limit administrative costs to implement transition services to 5% of the funds reserved. Under both bills, state agencies would be required to use these funds to facilitate student transition from school to VR services; improve student achievement of post-school goals; provide them career guidance and exploration and job search assistance; and conduct outreach activities. S. 1021 also would require that a student's individualized plan for employment (IPE) include a description of his/her projected post-school employment outcome and the specific transition services needed to achieve the outcome. In both bills, students are defined as those eligible for VR services; eligible

and receiving services under the Individuals with Disabilities Education Act (IDEA); or eligible under Section 504 of the Rehabilitation Act;⁸ H.R. 27 refers to students age 16-21, and S. 1021, to students age 14-21.

Appointment of the Commissioner of the Rehabilitation Services Administration (RSA)

Under current law, the Commissioner of the Rehabilitation Services Administration (RSA) is appointed by the President and approved by the Senate. H.R. 27 would change this provision to require that the Secretary of Education, rather than the President, appoint a Director of RSA. The Director would not have to be approved by the Senate. S. 1021 does not include this proposed change.

Coordination of the VR Program with Ticket to Work

Both Title I of the Rehabilitation Act and the Ticket to Work and Work Incentives Improvement Act of 1999 (P.L. 106-70) (Ticket Program) provide rehabilitation services to persons with disabilities. State VR agencies provide services directly as well as through other providers approved by the state; the Ticket Program offers vouchers so that individuals may choose rehabilitation services providers from an approved employment network (EN). S. 1021 includes a number of provisions to coordinate VR services with services provided through the Ticket Program. These include requirements that VR agencies inform clients about the Ticket Program and how to contact ENs established under the program, and that an individual's IPE include a list of services the individual is to receive as part of his/her work plan under the Ticket Program.

S. 1021 also would require the Government Accountability Office (GAO) to conduct a study on the interaction of the Title I VR program with the Ticket Program, including the impact of the interaction on beneficiaries, rehabilitation programs and state VR agencies. The HELP Committee report indicates that the study is intended to assist Congress resolve challenges that the two programs face as they attempt to serve similar populations. H.R. 27 does not contain these provisions.

Title I Allotment Formula

Title I VR funds are allocated to states according to a formula that takes into account state population and per capita income. Data used to calculate a state's allotment are updated annually. In addition, the law requires that Title I appropriations be increased by the annual percentage increase in the CPI. Some states have been concerned that because data used to calculate each state's annual allotment percentage are adjusted to account for population changes from year to year, they may not receive full benefit of the annual CPI adjustment. That is, even though a state's caseload may increase or even remain the same, if it loses population

⁸ Section 504 prohibits discrimination against individuals with disabilities by any program or activity that receives federal funding.

compared to other states whose population is growing, it may not receive the full CPI increase.

S. 1021 would address this issue in two ways. First, states that did not receive a full CPI would be given first priority to receive any funds that may be available for reallocation to other states. Some states have unused federal funds at the end of a year due to their inability to garner state match for these funds; these funds are, therefore, available for reallocation to other states. Secondly, the bill would require GAO to study the relationship between the Title I state allotment formula and the ability of states to provide VR services in accordance with state plan requirements. The Senate HELP Committee report indicates that the study will assist Congress to determine what steps can be taken to help resolve funding inequities among state VR agencies. H.R. 27 does not contain these provisions.

In other legislation related to reallocated funds, P.L. 109-82 (signed September 30, 2005) provides assistance to people with disabilities in states affected by Hurricanes Katrina and Rita. The law requires the Commissioner of RSA to give priority for reallocated funds to affected states. It also allows the Commissioner to waive the required non-federal match for FY2005 for affected states that receive reallocated funds, and in the case of Louisiana, that receive federal funds that were relinquished due to that state's inability to meet the required non-federal matching amount. The law also allows affected states to use reallocated funds for VR services to help people with disabilities work in reconstruction or other disaster assistance activities and to pay for VR services for people who do not meet the affected states' order of selection criteria (which specify the states' priorities for how people will be served if the state cannot serve all people with disabilities under their VR programs.)

FY2006 Budget Request

The Administration requested \$3 billion for Rehabilitation Act programs for FY2006, an increase of 0.1% over the FY2005 amount (**Table 1**). The request for the Title I VR program is \$2.7 billion, an increase of 3.1%, which meets the statutory requirement that the program be increased in accordance with the CPI adjustment. In addition, as part of its overall job training proposals, the Administration proposed consolidation of certain job training programs under a Workforce Incentive Plus Consolidation Grant program. Certain programs would form a base of the consolidated program and would include adult training, the dislocated worker program, youth training and the Employment Service. States would be given an option to consolidate the VR program, along with other programs, under the Consolidated Grant program. States choosing to consolidate programs would submit a single state integration plan, but would not be allowed to reduce levels for target populations, including people with disabilities.

The Administration also proposed to eliminate four programs authorized under the Rehabilitation Act — programs for migrant and seasonal farmworkers, recreational activities, supported employment state grants, and projects with industry (PWI). The Administration maintains that these programs are now an integral part

of the program, and therefore no longer need separate funding streams to ensure provision of services.

FY2006 Appropriations

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006, P.L. 109-149, was signed by the President on December 30, 2005. This law appropriates just over \$3.13 billion to the Department of Education for programs and services provided under the Rehabilitation Act of 1973. This appropriation includes funds for the four programs that the Administration had proposed eliminating. The appropriation for the Architectural and Transportation Barriers Compliance Board is contained in the Transportation, Treasury, Housing, and Urban Development, The Judiciary, The District of Columbia, and Independent Agencies Appropriations Act, 2006, P.L. 109-115. This appropriation, combined with the appropriations found in P.L. 109-149, brings the total FY2006 appropriation for rehabilitation services and disability research to more than \$3.13 billion. Each of these appropriations, with the exception of those for state VR grants, is subject to a 1% rescission as provided in the Department of Defense Appropriations Act, 2006, P.L. 109-148.

Table 1. Vocational Rehabilitation and Related Programs, FY2003-FY2006 Funding
(\$ in thousands)

Programs	FY2003 Actual	FY2004 Actual	FY2005 Enacted	FY2006 Request	FY2006 Initial Appropriation	1% Across the Board Rescission^a	FY2006 Final Appropriation
Title I — Vocational Rehabilitation (VR) Services							
Federal-state VR program	\$2,533,492	\$2,584,162	\$2,635,845	\$2,720,192	\$2,720,192	\$0	\$2,720,192
Client assistance program	12,068	11,997	11,901	11,901	11,901	119	11,782
Total	2,545,560	2,596,159	2,647,746	2,732,093	2,732,093	119	2,731,974
Title II — Research and Training							
National institute on disability and rehabilitation research (NIDRR)	109,285	106,652	107,783	107,783	107,783	1,078	106,705
Total	109,285	106,652	107,783	107,783	107,783	1,078	106,705
Title III — Training and Demonstration Projects							
Training	39,371	39,139	38,826	38,826	38,826	388	38,438
Demonstration and training programs	20,895	24,286	25,607	6,577	6,577	66	6,511
Migrant and seasonal farmworkers	2,335	2,321	2,302	not requested	2,302	23	2,279
Recreational programs	2,579	2,564	2,543	not requested	2,543	25	2,518
Total	65,180	68,310	69,278	45,403	50,248	502	49,746
Title IV — National Council on Disability							
National Council on Disability	2,840	3,021	3,371	2,800	3,144	31	3,113
Total	2,840	3,021	3,371	2,800	3,144	31	3,113
Title V — Rights and Advocacy							
Architectural and transportation barriers compliance board	5,194	5,401	5,686	5,941	5,941 ^b	59	5,882
Protection and advocacy of individual rights (PAIR)	16,890	16,790	16,656	16,656	16,656	167	16,489
Total	22,084	22,191	22,342	22,597	22,597	226	22,371

CRS-8

Programs	FY2003 Actual	FY2004 Actual	FY2005 Enacted	FY2006 Request	FY2006 Initial Appropriation	1% Across the Board Rescission ^a	FY2006 Final Appropriation
Title VI — Employment Opportunities							
Projects with industry	21,928	21,799	21,625	not requested	19,735	197	19,538
Supported employment state grants	37,904	37,680	37,379	not requested	30,000	300	29,700
Total	59,832	59,479	59,004	0	49,735	497	49,238
Title VII — Independent Living Services and Centers for Independent Living							
State allotments for independent living services	22,151	22,020	22,816	22,816	22,816	228	22,588
Centers for independent living	69,545	73,563	75,392	75,392	75,392	754	74,638
Independent living services for the older blind	27,818	31,811	33,227	33,227	33,227	332	32,895
Total	119,514	127,394	131,435	131,435	131,435	1,314	130,121
Evaluation	994	988	1,488	1,488	1,488	15	1,473
Program improvement activities	894	889	843	843	843	8	835
Total: Programs under the Rehabilitation Act	2,926,183	2,985,083	3,043,290	3,044,442	3,099,366	3,790	3,095,576
Related Programs							
Helen Keller Center	8,660	8,666	10,581	8,597	8,597	86	8,511
Assistive technology	26,824	25,943	25,737	not requested	27,000	270	26,730
Alternative financing program	—	—	4,023	15,000	3,760	38	3,722
Total: Rehabilitation service and disability research	2,953,633	3,011,270	3,074,574	3,059,298	3,138,723	4,184	3,134,539

Source: U. S. Department of Education, *FY2006 Justification of Appropriation Estimates to the Congress*; U.S. Department of Education, *Fiscal Year 2006 Congressional Action*; P.L. 109-49; and P.L. 109-115.

a. Mandated by P.L. 109-148.

b. This appropriation is contained in P.L. 109-115.