

SECOND REGULAR SESSION

# SENATE BILL NO. 807

89TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MAXWELL.

Read 1st time January 21, 1998, and 1,000 copies ordered printed.

TERRY L. SPIELER, Secretary.

S2073.06I

## AN ACT

To repeal sections 205.969 and 205.970, RSMo 1994, and section 205.968, RSMo Supp. 1997, relating to services for persons with developmental disabilities, and to enact three new sections relating to the same subject.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 205.969 and 205.970, RSMo 1994, and section 205.968, RSMo Supp. 1997, are repealed and three new sections enacted in lieu thereof, to be known as sections 205.968, 205.969 and 205.970, to read as follows:

205.968. 1. As set forth in section 205.971, when a levy is approved by the voters, the governing body of any county or city not within a county of this state shall establish a board of directors. The board of directors shall be a legal entity empowered to establish and/or operate a sheltered workshop as defined in section 178.900, RSMo, residence facilities, or related services, for the care or employment, or both, of handicapped persons. The facility may operate at one or more locations in the county or city not within a county. Once established, the board may, in its own name engage in and contract for any and all types of services, actions or endeavors, not contrary to the law, necessary to the successful and efficient prosecution and continuation of the business and purposes for which it is created, and may purchase, receive, lease or otherwise acquire, own, hold, improve, use, sell, convey, exchange, transfer, and otherwise dispose of real and personal property, or any interest therein, or other assets wherever situated and may incur liability and may borrow money at rates of interest up to the market rate published by the Missouri division of finance. **All new related services provided after August 28, 1998, shall be provided pursuant to a contract with the board.** The board shall be taken and considered

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

as a "political subdivision" as the term is defined in section 70.600, RSMo, for the purposes of sections 70.600 to 70.755, RSMo.

2. Services may only be provided for those persons defined as handicapped persons in section 178.900, RSMo, and those persons defined as handicapped persons in this section whether or not employed at the facility or in the community, and for persons who are handicapped due to developmental disability. Persons having substantial functional limitations due to a mental illness as defined in section 630.005, RSMo, shall not be eligible for services under the provisions of sections 205.968 to 205.972 except that those persons may participate in services under the provisions of sections 205.968 to 205.972. All persons otherwise eligible for facilities or services under this section shall be eligible regardless of their age; except that, individuals employed in sheltered workshops must be at least sixteen years of age. **County boards shall establish an advisory council consisting of consumers, families, providers, a county commissioner or his/her representative and other interests within their community. The advisory council shall coordinate an independent community needs assessment, assist in the development of a plan that addresses the needs identified through the assessment, and provide an annual report of the progress of the plans implementation in the community.** The board may, in its discretion, impose limitations with respect to individuals to be served and services to be provided. Such limitations shall be reasonable in the light of available funds, needs of the persons and community to be served as assessed by the board, and the appropriateness and efficiency of combining services to persons with various types of handicaps or disabilities.

3. For the purposes of sections 205.968 to 205.972, the term

(1) "Developmental disability" shall mean either or both paragraph (a) or (b) of this subsection:

(a) A disability which is attributable to mental retardation, cerebral palsy, autism, epilepsy, a learning disability related to a brain dysfunction or a similar condition found by comprehensive evaluation to be closely related to such conditions, or to require habilitation similar to that required for mentally retarded persons; and

a. which originated before age eighteen; and

b. which can be expected to continue indefinitely;

(b) A developmental disability as defined in section 630.005, RSMo;

(2) "Handicapped person" shall mean a person who is lower range educable or upper range trainable mentally retarded or a person who has a developmental disability; **and**

(3) **"Related services" shall mean those services or supports, or both, needed by an individual with a developmental disability, regardless of age, due to the disability.**

205.969. 1. The board [may] **shall** provide a sheltered workshop program for the county or city not within a county and as part of the program shall conduct work and developmental

programs as provided by section 178.910, RSMo, pursuant to rules and standards developed and adopted by the department of elementary and secondary education.

2. The board [may] **shall** provide [places of residence and related activity or social centers] **appropriations of residential services** for those eligible persons.

**3. The board may provide appropriations for related services for eligible persons which may include but not limited to children's services, services for the elderly, community employment and community living services and other services as deemed appropriate as a result of the community needs assessment.**

205.970. 1. When approved by the voters pursuant to section 205.971, the governing body of the county or city not within a county shall appoint a board of directors consisting of a total of nine members, two of whom shall be related by blood or marriage within the third degree to a handicapped person as defined in section 205.968, and four of whom shall be public members. At least seven of the board members shall be residents of the county or city not within a county where the [facility is located] **tax is levied**. [After September 28, 1979,] All board members shall be appointed to serve for a term of three years, except that of the first board appointed [after September 28, 1979], three members shall be appointed for one-year terms, three members for two-year terms and three members for three-year terms. Board members may be reappointed. The directors shall not receive compensation for their services, but may be reimbursed for their actual and necessary expenses.

2. The administrative control and management of the [facility] **activities of the board** shall rest solely with the board, and the board shall employ all necessary personnel, fix their compensation, and provide suitable quarters and equipment for the operation of the [facility] **activities of the board** from funds made available for this purpose.

3. Notwithstanding any provision of law to the contrary, and irrespective of whether or not a county sheltered workshop or residence facility has been established, the board may contract to provide services relating in whole or in part to the services which the board may provide to handicapped persons as defined in [this law] **section 205.968** and for such purpose may expend the tax funds or other funds.

4. The board shall elect a chairman, vice chairman, treasurer, and such other officers as it deems necessary for its membership. Before taking office, the treasurer shall furnish a surety bond, in an amount to be determined and in a form to be approved by the board, for the faithful performance of [his] **the treasurer's** duties and faithful accounting of all moneys that may come into [his] **the treasurer's** hands. The treasurer shall enter into the surety bond with a surety company authorized to do business in Missouri, and the cost of such bond shall be paid by the board of directors.

5. The board shall set rules for **eligibility**, admission to the **facilities and participation in the services** [facility,] and shall do all other things necessary to carry out the purposes of

sections 205.968 to 205.972.

6. The board may contract with any not for profit corporation including any corporation which is incorporated for the purpose of implementing the provisions of sections 178.900 to 178.970, RSMo, for any common services, or for the common use of any property of either group.

7. The board may accept any gift of property or money for the use and benefit of the [facility] **board in providing services pursuant to sections 205.968 to 205.972**, and the board is authorized to sell or exchange any such property which it believes would be to the benefit of the [facility] **purposes of sections 205.968 to 205.972** so long as the proceeds are used exclusively for [facility] **the purposes provided for in sections 205.968 to 205.972**. The board shall have exclusive control of all gifts, property or money it may accept; of all interest or other proceeds which may accrue from the investment of such gifts or money or from the sale of such property; of all tax revenues collected by the county on behalf of the [facilities or services] **board**; and of all other funds granted, appropriated, or loaned to it by the federal government, the state, or its political subdivisions so long as these resources are used solely [to benefit the facility or related services] **by the board to accomplish the purposes of sections 205.968 to 205.972**, except those paid for transportation purposes under the provisions of section 94.645, RSMo.

8. Any board member may, following notice and an opportunity to be heard, be removed from office by a majority vote of the other members of the board for any of the following grounds:

- (1) Failure to attend five consecutive meetings, without good cause;
- (2) Conduct prejudicial to the good order and efficient operation of the facility or services;

or

- (3) Neglect of duty.

The chairman of the board shall preside at such removal hearing, unless he or she is the person sought to be removed. In which case the hearing shall be presided over by another member elected by the majority vote of the other board members. All interested parties may present testimony and arguments at such hearing, and the witnesses shall be sworn by oath or affirmation before testifying. Any interested party may, at his or her own expense, record the proceedings.

9. Vacancies in the board occasioned by removals, resignations or otherwise shall be reported by the board chairman to the mayor's office of a city not within a county or the county commission or county executive officer and shall be filled in like manner as original appointments; except that, if the vacancy occurs during an unexpired term, the appointment shall be for only the unexpired portion of that term.

10. Individual board members shall not be eligible for employment by the board within twelve months of termination of service as a member of the board.

11. No person shall be employed by the board who is related within the third degree by blood or by marriage to any member of the board.

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