

HOUSE BILL NO. 468

INTRODUCED BY J. BAHR

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4 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CERTAIN STATE AGENCIES TO DEVELOP A
5 COORDINATED PLAN RELATED TO INTEGRATED EMPLOYMENT OPPORTUNITIES FOR PERSONS WITH
6 DISABILITIES; REQUIRING THE DEPARTMENT OF ADMINISTRATION TO DEVELOP A RELATED POLICY
7 FOR STATE HIRING PRACTICES; ADDING TO THE DUTIES OF THE DEPARTMENT OF LABOR AND
8 INDUSTRY, THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, AND THE
9 SUPERINTENDENT OF PUBLIC INSTRUCTION; AMENDING SECTIONS 2-18-102, 20-7-403, 53-2-111,
10 53-2-1203, AND 53-20-203, MCA; AND PROVIDING AN EFFECTIVE DATE."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 NEW SECTION. **Section 1. Competitive integrated employment -- definitions.** (1) (a) The
15 department of labor and industry, the department of public health and human services, and the office of public
16 instruction shall develop a coordinated plan to implement methods or procedures intended to promote competitive
17 integrated employment of a person of working age who has disabilities.

18 (b) An agency listed in subsection (1)(a) may incorporate other existing programs under the agency's
19 purview in pursuit of the competitive integrated employment goals and may work with the department of
20 administration in developing a coordinated plan as provided in subsection (1)(a).

21 (c) Each agency listed in subsection (1)(a) shall take the lead within the area of its expertise as follows:

22 (i) The department of labor and industry shall charge the state workforce innovation board provided for
23 in 53-2-1203, job service offices, and the apprenticeship program with informing employers of the goal of
24 increasing competitive integrated employment for persons with disabilities and of the support available to both
25 employers and their employees with disabilities.

26 (ii) The department of public health and human services shall direct the divisions responsible for providing
27 services to persons with disabilities, including those related to vocational rehabilitation and other employment
28 services, to work with case managers, persons with disabilities, and potential employers regarding
29 accommodations for persons with disabilities and the use of various tools to help employees with disabilities do
30 their jobs.

1 (iii) The office of public instruction shall develop job training curricula that recognizes the importance of
2 transitions between training and work experience, including the use of apprenticeships or on-the-job training to
3 aid in school-to-work transitions, and incorporate competitive integrated employment into the activities undertaken
4 under 20-7-403.

5 (2) The department of labor and industry shall coordinate semiannual meetings of representatives of
6 each department listed in subsection (1) and report annually to the state workforce investment board and the
7 legislature, as provided in 5-11-210, on:

8 (a) steps taken by each agency listed in subsection (1) in the past year to implement competitive
9 integrated employment for persons with disabilities. This portion of the report also must include information that
10 the department of administration is to provide as required under 2-18-102.

11 (b) performance improvement targets determined under subsection (3);

12 (c) barriers to implementation and possible solutions; and

13 (d) data from the past year related to employer contacts, number of persons with disabilities who
14 received publicly funded services in each department, the type of services received, the types of jobs used for
15 competitive integrated employment, and to the extent possible the number of competitive integrated employment
16 jobs that were full-time or part-time.

17 (3) Each department and the office of public instruction shall work with stakeholders to develop
18 performance improvement targets for each area.

19 (4) As used in this section, the following definitions apply:

20 (a) "Competitive integrated employment" means work that is performed on a full-time or part-time basis
21 for which an individual is paid at least the minimum wage as provided in 39-3-409 and that is not less than the
22 customary rate paid by an employer for the same or similar work performed by employees who do not have
23 disabilities and who have similar training, experience, and skills. The term may include self-employment if the
24 work yields an income similar to that received by a self-employed individual who does not have disabilities but
25 who has similar training, experience, and skills.

26 (b) "Disability" means a physical or mental impairment that substantially limits one or more major life
27 activities, such as writing, seeing, hearing, speaking, or mobility, and that limits the individual's ability to obtain,
28 retain, or advance in employment. The term includes developmental disabilities as defined in 53-20-102.

29 (c) "Working age" means an age that is at least 16 years of age or older and includes the age at which
30 a child with a developmental disability may become eligible for transition services.

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2 **Section 2.** Section 2-18-102, MCA, is amended to read:

3 **"2-18-102. Personnel administration -- general policy setting -- oversight.** (1) Except as otherwise
4 provided by law or collective bargaining agreement, the department shall:

5 (a) exercise leadership in the development of effective personnel administration within the several
6 agencies in the state and make available the facilities of the department to this end;

7 (b) foster and develop programs for recruitment and selection of capable persons for employment and
8 for the improvement of employee effectiveness, including training, ethical conduct, safety, health, counseling,
9 welfare, discipline, grievances, and evaluation for productivity and retention in permanent status;

10 (c) foster, develop, and promote job sharing in agencies;

11 (d) investigate from time to time the operation and effect of parts 1 through 3 of this chapter and the
12 policies made under those parts and report the findings and recommendations to the governor; This includes
13 reporting on the implementation of the practices in subsection (1)(g) as provided in [section 1].

14 (e) establish policies, procedures, and forms for the maintenance of records of all employees in the state
15 service;

16 (f) apply and carry out parts 1 through 3 and the policies under those parts and perform any other lawful
17 acts that may be necessary or desirable to carry out the purposes and provisions of parts 1 through 3; and

18 (g) establish policies that help state agencies implement hiring practices enabling competitive integrated
19 employment, as defined in [section 1].

20 (2) The department may delegate authority granted to it under parts 1 through 3 to agencies in the state
21 service that effectively demonstrate the ability to carry out the provisions of parts 1 through 3, provided that the
22 agencies remain in compliance with policies, procedures, timetables, and standards established by the
23 department.

24 (3) The department shall develop and issue personnel policies for the state and shall adopt policies or
25 rules to implement this part, except 2-18-111. Adequate public notice must be given to all interested parties of
26 proposed changes or additions to the personnel policies before the date on which they are to take effect. If
27 requested by any of the affected parties, the department shall schedule a public hearing on proposed changes
28 or additions to the personnel policies before the date on which they are to take effect.

29 (4) The department shall develop model rules of conduct for all state employees based upon the
30 provisions of Title 2, chapter 2. The department shall provide employees with a pamphlet summarizing the

1 provisions of Title 2, chapter 2. Each state agency shall adopt the model rules of conduct and additional rules
2 appropriate to the specific circumstances of the agency.

3 (5) Except as otherwise provided by law, the office of budget and program planning shall:

4 (a) approve any salary increase proposed by an agency that exceeds an employee's occupational wage
5 range prior to the increase going into effect;

6 (b) monitor the way each agency compensates its employees within the parameters of the occupational
7 wage range for each occupation; and

8 (c) provide a report in an electronic format to the legislative finance committee identifying any agency
9 that provides a base salary for an employee that exceeds the occupational wage range for the employee's
10 occupation and the reasons for the differences.

11 (6) The provisions of subsection (5)(a) do not apply to employees of the following agencies:

12 (a) the department of justice;

13 (b) the office of public instruction;

14 (c) the public service commission;

15 (d) the secretary of state; and

16 (e) the state auditor's office.

17 (7) The agencies listed in subsection (6) shall provide required budget information on personal services,
18 and pay increases above the occupational wage range for these agencies are not required to be included in the
19 executive budget in accordance with Title 17, chapter 7, part 1.

20 (8) The department of administration shall adopt rules and procedures for job classification.

21 (9) An agency may not change the classification of an occupation or its related job evaluation factors until
22 the agency submits the proposed changes to and receives approval from the department of administration."
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24 **Section 3.** Section 20-7-403, MCA, is amended to read:

25 **"20-7-403. Duties of superintendent of public instruction.** The superintendent of public instruction
26 shall supervise and coordinate the conduct of special education in the state by:

27 (1) recommending to the board of public education adoption of those policies necessary to establish a
28 planned and coordinated program of special education in the state;

29 (2) administering the policies adopted by the board of public education;

30 (3) certifying special education teachers on the basis of the special qualifications for the teachers as

- 1 prescribed by the board of public education;
- 2 (4) establishing procedures to be used by school district personnel in identifying a child with a disability;
- 3 (5) preparing appropriate technical assistance documents to assist local districts in implementing special
4 education policies and procedures;
- 5 (6) seeking for local districts appropriate interdisciplinary assistance from public and private agencies
6 in identifying the special education needs of children, in planning programs, and in admitting and discharging
7 children from those programs;
- 8 (7) assisting local school districts, institutions, and other agencies in developing full-service programs
9 for a child with a disability;
- 10 (8) providing technical assistance to district superintendents, principals, teachers, and trustees;
- 11 (9) conducting conferences, offering advice, and otherwise cooperating with parents and other interested
12 persons;
- 13 (10) ensuring appropriate training and instructional material for persons appointed as surrogate parents
14 that outlines their duties toward the child, limitations on what they may do for the child, duties in relation to the
15 child's records, sources of assistance available to the surrogate parent, and the need to seek competent legal
16 assistance in implementing hearing or appeal procedures;
- 17 (11) ensuring that the requirements of the Individuals With Disabilities Education Act are met and that
18 each educational program for a child with a disability, including a homeless child with a disability, administered
19 within the state, including each program administered by any other agency, is under the general supervision of
20 the superintendent of public instruction, meets the education standards of the board of public education, and
21 meets the requirements of the superintendent of public instruction, reserving to the other agencies and political
22 subdivisions their full responsibilities for other aspects of the care of children needing special education or for
23 providing or paying for some or all of the costs of a free appropriate public education to a child with a disability
24 within the state; The requirements in this subsection include cooperation with the department of labor and
25 industry and the department of public health and human services in implementing a competitive integrated
26 employment program as provided in [section 1].
- 27 (12) contracting for the delivery of audiological services to those children allowed by Montana law in
28 accordance with policies of the board of public education; and
- 29 (13) except for those children who qualify for residential services under the Montana public mental health
30 program pursuant to Title 53, chapter 6, contracting with a public school district or a private residential facility for

1 the provision of a free appropriate public education for a child placed in an in-state residential facility or children's
2 psychiatric hospital."

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4 **Section 4.** Section 53-2-111, MCA, is amended to read:

5 **"53-2-111. Coordination of certain workforce development programs -- requirement for agreement**
6 **between agencies.** (1) The department shall enter into agreements with the department of labor and industry
7 concerning the administration and coordination of the following workforce development programs:

8 (a) the employment and training program provided for in 53-2-903;

9 (b) the competitive integrated employment program provided for in [section 1];

10 ~~(b)~~(c) the cash assistance employment and training program provided for in Title 53, chapter 4;

11 ~~(c)~~(d) blind and low-vision services provided for in Title 53, chapter 7, part 3; and

12 ~~(d)~~(e) vocational rehabilitation training, including counseling, advocacy, and assistive technology,
13 provided for in Title 53, chapter 7, part 1.

14 (2) The department shall ensure that agreements entered into under subsection (1) are consistent with
15 the requirements of federal rules and regulations that are applicable to the programs contained in subsections
16 (1)(a) through ~~(1)(d)~~ (1)(e)."

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18 **Section 5.** Section 53-2-1203, MCA, is amended to read:

19 **"53-2-1203. Montana state workforce innovation board -- membership -- duties.** (1) There is a
20 Montana state workforce innovation board.

21 (2) The board:

22 (a) must consist of individuals who fulfill the membership roles and selection criteria required by section
23 101(b)(1) of the Act, 29 U.S.C. 3111(b)(1); and

24 (b) may include individuals who fulfill the membership roles and selection criteria permitted by section
25 101(b)(1) of the Act, 29 U.S.C. 3111(b)(1), including at least one representative of a community-based
26 organization serving the employment, training, or educational needs of individuals with barriers to employment.

27 (3) The governor shall consider the special needs of Montana's hard-to-serve Indian population and the
28 state's relationship with tribal governments when making appointments to the board.

29 (4) The board shall perform the functions described in section 101(d) of the Act, 29 U.S.C. 3111(d). The
30 board shall, as part of its duty to identify barriers to employment under 29 U.S.C. 3111(d)(3)(B), accept reports

1 provided under [section 1] and encourage employers in the state to promote competitive integrated employment,
2 as defined in [section 1]."

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4 **Section 6.** Section 53-20-203, MCA, is amended to read:

5 **"53-20-203. Responsibilities of department.** The department shall:

6 (1) take cognizance of matters affecting the citizens of the state who are persons with developmental
7 disabilities;

8 (2) initiate a preventive developmental disabilities program that must include but not be limited to the
9 implementation of developmental disabilities care, treatment, prevention, and research as can best be
10 accomplished by community-centered services. Every means must be used to initiate and operate the service
11 program in cooperation with local agencies under the provisions of 53-20-205.

12 (3) collect and disseminate information relating to developmental disabilities;

13 (4) prepare an annual comprehensive plan for the initiation and maintenance of developmental
14 disabilities services in the state. The services must include but may not be limited to community comprehensive
15 developmental disabilities services as referred to in 53-20-202 and competitive integrated employment activities
16 described in [section 1].

17 (5) provide by rule for the evaluation of:

18 (a) persons who apply for services;

19 (b) persons admitted into a program at a developmental disability facility; and

20 (c) persons residing at or released from the Montana developmental center into a community home, in
21 accordance with the requirements established in 53-20-225;

22 (6) receive from agencies of the government of the United States and other agencies, persons or groups
23 of persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies, materials, and
24 contributions to initiate and maintain developmental disabilities services within the state;

25 (7) require that habilitation plans be developed, implemented, and continuously maintained for all
26 persons with developmental disabilities who are served through a community-based program funded by the state;
27 and

28 (8) use funds available for cases in which special medical or material assistance is necessary to
29 rehabilitate children with developmental disabilities or children with physical disabilities if the assistance is not
30 otherwise provided for by law."

