

CHAPTER.....

AN ACT relating to mental retardation; authorizing the Division of Mental Health and Developmental Services of the Department of Health and Human Services to regulate the provision of jobs and day training services to persons with mental retardation and persons with related conditions; prohibiting the provision of such services without a certificate issued by the Division; deleting provisions governing community centers for training persons with mental retardation and persons with related conditions; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law provides for the regulation of qualified community-based training centers for the care and training of persons with mental and functional retardation. (NRS 435.130-435.320) **Section 23** of this bill repeals various provisions governing community training centers, and **sections 2-11, 14 and 15** of this bill instead authorize the Division of Mental Health and Development Services of the Department of Health and Human Services to certify and regulate persons who provide jobs and day training services to persons with mental retardation and persons with related conditions. **Section 5** requires a person to obtain a certificate from the Division to provide jobs and day training services to such persons. **Section 7** authorizes the Division to investigate a person who applies for a certificate, and **section 8** authorizes the Division to bring an action to enjoin any person who provides jobs and day training services without a certificate or after the certificate of the person has been suspended. **Section 14** requires the Division to adopt regulations governing the provision of jobs and day training services.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 435 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 11, inclusive, of this act.

Sec. 2. *“Certificate” means a certificate which authorizes a natural person or entity to provide jobs and day training services and which is issued pursuant to NRS 435.130 to 435.310, inclusive, and sections 2 to 11, inclusive, of this act, and the regulations adopted pursuant thereto.*

Sec. 3. *“Jobs and day training services” means individualized services for day habilitation, prevocational, employment and supported employment:*

1. *Which are provided:*
 - (a) *For compensation;*



(b) *In a division facility or in the community; and*
(c) *To a person with mental retardation or person with related conditions who is served by the Division; and*

2. *Which are designed to assist the person in:*

(a) *Learning or maintaining skills;*

(b) *Succeeding in paid or unpaid employment;*

(c) *Increasing self-sufficiency, including, without limitation, training and habilitation services; and*

(d) *Contributing to his community.*

Sec. 4. *“Nonprofit organization” means a partnership, firm, corporation or association that is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3).*

Sec. 5. 1. *A nonprofit organization, state or local government or agency thereof shall not provide jobs and day training services in this State without first obtaining a certificate from the Division.*

2. *A natural person other than a person who is employed by an entity listed in subsection 1 shall not provide jobs and day training services in this State without first obtaining a certificate from the Division.*

Sec. 6. (Deleted by amendment.)

Sec. 7. *The Division may:*

1. *Upon receipt of an application for a certificate, conduct an investigation into the qualifications of the personnel, methods of operation, policies and purposes of any natural person, nonprofit organization, state or local government or agency thereof proposing to provide jobs and day training services;*

2. *Upon receipt of a complaint against a natural person, nonprofit organization, state or local government or agency thereof providing jobs and day training services, except for a complaint concerning the cost of services, conduct an investigation into the qualifications of the personnel, methods of operation, policies, procedures and records of the provider of jobs and day training services; and*

3. *Employ such professional, technical and clerical assistance as it deems necessary to carry out the provisions of NRS 435.130 to 435.310, inclusive, and sections 2 to 11, inclusive, of this act.*

Sec. 8. 1. *The Division may bring an action in the name of the State of Nevada to enjoin any natural person, nonprofit organization, state or local government or agency thereof from providing jobs and day training services:*

(a) *Without first obtaining a certificate from the Division; or*



(b) After the certificate has been revoked or suspended by the Division.

2. It is sufficient in such an action to allege that the defendant did, on a certain date and in a certain place, provide jobs and day training services without a certificate.

Sec. 9. *1. A natural person who applies for the issuance or renewal of a certificate must submit to the Division the statement prescribed by the Division of Welfare and Supportive Services of the Department pursuant to NRS 425.520. The statement must be completed and signed by the applicant.*

2. The Division shall include the statement required pursuant to subsection 1 in:

(a) The application or any other forms that must be submitted for the issuance or renewal of the certificate; or

(b) A separate form prescribed by the Division.

3. A certificate may not be issued or renewed by the Division if the applicant is a natural person who:

(a) Fails to submit the statement required pursuant to subsection 1; or

(b) Indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order.

4. If an applicant indicates on the statement submitted pursuant to subsection 1 that he is subject to a court order for the support of a child and is not in compliance with the order or a plan approved by the district attorney or other public agency enforcing the order for the repayment of the amount owed pursuant to the order, the Division shall advise the applicant to contact the district attorney or other public agency enforcing the order to determine the actions that the applicant may take to satisfy the arrearage.

Sec. 10. *The application of a natural person who applies for the issuance of a certificate must include the social security number of the applicant.*

Sec. 11. *1. If the Division receives a copy of a court order issued pursuant to NRS 425.540 that provides for the suspension of all professional, occupational and recreational licenses, certificates and permits issued to a natural person who is the holder of a certificate, the Division shall deem the certificate issued to that person to be suspended at the end of the 30th day after the date the court order was issued unless the Division*



receives a letter issued to the holder of the certificate by the district attorney or other public agency pursuant to NRS 425.550 stating that the holder of the certificate has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

2. The Division shall reinstate a certificate that has been suspended by a district court pursuant to NRS 425.540 if the Division receives a letter issued by the district attorney or other public agency pursuant to NRS 425.550 to the person whose certificate was suspended stating that the person whose certificate was suspended has complied with the subpoena or warrant or has satisfied the arrearage pursuant to NRS 425.560.

Sec. 12. NRS 435.130 is hereby amended to read as follows:

435.130 The intent of the Legislature in the enactment of NRS 435.130 to ~~[435.320,]~~ **435.310**, inclusive, *and sections 2 to 11, inclusive, of this act* is to aid persons with mental ~~[or functional]~~ retardation and persons with related conditions who are not served by existing programs ~~[to receive]~~ *in receiving* high-quality care and training in an effort to help them become useful citizens.

Sec. 13. NRS 435.140 is hereby amended to read as follows:

435.140 As used in NRS 435.130 to ~~[435.320,]~~ **435.310**, inclusive, *and sections 2 to 11, inclusive, of this act*, unless the context otherwise requires, the words and terms defined in ~~[NRS 435.170, 435.180 and 435.190]~~ *sections 2, 3 and 4 of this act* have the meanings ascribed to them in ~~[such]~~ *those* sections.

Sec. 14. NRS 435.220 is hereby amended to read as follows:

435.220 **1.** The Division ~~[may establish all rules, regulations and standards not inconsistent with the provisions of NRS 435.130 to 435.320, inclusive, which it deems necessary in order to carry out the purposes of such sections and to set qualification standards for centers to receive the aid provided for by such sections.]~~ *shall adopt regulations governing jobs and day training services, including, without limitation, regulations that set forth:*

(a) Standards for the provision of quality care and training by providers of jobs and day training services;

(b) The requirements for the issuance and renewal of a certificate; and

(c) The rights of consumers of jobs and day training services, including, without limitation, the right of a consumer to file a complaint and the procedure for filing the complaint.

2. The Division may enter into such agreements with public and private agencies as it deems necessary for the provision of jobs and day training services.



Sec. 15. NRS 435.310 is hereby amended to read as follows:

435.310 ~~[Centers with a certificate of qualification]~~ *A provider of jobs and day training services certified pursuant to NRS 435.130 to 435.310, inclusive, and sections 2 to 11, inclusive, of this act* may enter into contracts with authorized county and school officials *and public and private agencies* to give care and training to ~~[enrollees]~~ *persons with mental retardation and persons with related conditions* who would also qualify for care or training programs offered by the public schools or by county welfare programs.

Sec. 16. NRS 332.117 is hereby amended to read as follows:

332.117 1. In accordance with the Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations established pursuant to NRS 334.025, a governing body of a local government or its authorized representative may award, without complying with the requirements for competitive bidding set forth in this chapter, a contract for services or for the purchase of supplies, materials, equipment or labor to ~~[an]~~ *a nonprofit* organization or agency whose primary purpose is the training and employment of persons with a mental or physical disability, including, without limitation, a ~~[community-based training center for the care and training of persons with mental or functional retardation described in chapter 435 of NRS.]~~ *provider of jobs and day training services certified pursuant to NRS 435.130 to 435.310, inclusive, and sections 2 to 11, inclusive, of this act.*

2. ~~[An]~~ *A nonprofit* organization or agency that:

(a) Wishes to submit a bid for such a contract must:

(1) Register with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation as required pursuant to NRS 334.025; and

(2) Establish a fair-market price for those services, supplies, materials, equipment or labor by conducting a market survey and must include the survey with the bid submitted to the local government.

(b) Is awarded such a contract must report quarterly to the Rehabilitation Division as required pursuant to NRS 334.025.

3. As used in this section, "nonprofit organization or agency" means an organization or agency that is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3).

Sec. 17. NRS 333.375 is hereby amended to read as follows:

333.375 1. The provisions of NRS 331.100 notwithstanding, and in accordance with the Program to Encourage and Facilitate



Purchases by Agencies of Commodities and Services From Organizations established pursuant to NRS 334.025, the Purchasing Division may award without accepting competitive bids a contract for services or the purchase of commodities to **nonprofit** organizations or agencies whose primary purpose is the training and employment of persons with a mental or physical disability, including, without limitation, a ~~community based training center for the care and training of persons with mental or functional retardation described in chapter 435 of NRS.~~ **provider of jobs and day training services certified pursuant to NRS 435.130 to 435.310, inclusive, and sections 2 to 11, inclusive, of this act.**

2. ~~[An]~~ **A nonprofit** organization or agency that:

(a) Wishes to submit a bid for such a contract must:

(1) Register with the Rehabilitation Division of the Department of Employment, Training and Rehabilitation as required pursuant to NRS 334.025; and

(2) Establish a fair-market price for those services or commodities by conducting a market survey and must include the survey with the bid submitted to the Purchasing Division.

(b) Is awarded such a contract must report quarterly to the Rehabilitation Division as required pursuant to NRS 334.025.

3. **As used in this section, "nonprofit organization or agency" means an organization or agency that is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3).**

Sec. 18. NRS 334.025 is hereby amended to read as follows:

334.025 1. The Rehabilitation Division of the Department of Employment, Training and Rehabilitation shall establish and administer a Program to Encourage and Facilitate Purchases by Agencies of Commodities and Services From Organizations.

2. The Program may include:

(a) A method for assisting an agency that wishes to purchase commodities or services from an organization to locate such commodities and services that meet the needs of the agency;

(b) A method for assisting an organization to locate an agency that wishes to purchase commodities or services from organizations;

(c) A method for encouraging agencies to purchase commodities and services from organizations;

(d) A method to review objections to an award of a contract to an organization, which method must be limited to a review of the process used for awarding the contract to ensure that the appropriate procedures were followed in awarding the contract;

(e) The establishment of a percentage, not to exceed 4 percent, of the full amount of payment to an organization which is awarded a



contract for all commodities and services to be provided to the agency pursuant to the contract that is sufficient to pay the cost to the Rehabilitation Division of establishing and administering the Program; and

(f) A method for collecting information from an agency in a report to the Rehabilitation Division, which report may include, without limitation:

(1) The number of persons with mental or physical disabilities currently employed at the agency; and

(2) The number of contracts the agency has entered into pursuant to the Program which are currently in effect and a list of the organizations with which the agency has entered such contracts.

3. An organization that wishes to participate in the Program must register with the Rehabilitation Division on a form prescribed by the Administrator before contacting any agency concerning entering into a contract pursuant to the Program.

4. In administering the Program, the Rehabilitation Division shall, upon request of an agency or organization, assist the agency or organization in establishing a contract for the purchase of commodities or services.

5. A contract entered into pursuant to the Program must provide for a payment to the Rehabilitation Division in an amount equal to the full amount of payment to the organization for all commodities and services to be provided to the agency pursuant to the contract multiplied by the percentage established pursuant to paragraph (e) of subsection 2.

6. An organization that has entered into a contract with an agency pursuant to the Program shall report quarterly to the Rehabilitation Division, on a form prescribed by the Administrator, such information as the Rehabilitation Division deems necessary to administer the Program.

7. The Administrator may adopt regulations to carry out the provisions of this section.

8. As used in this section:

(a) "Administrator" means the Administrator of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation.

(b) "Agency" means a local government as defined in NRS 332.015 and using agencies as defined in NRS 333.020.

(c) "Organization" means an organization *that is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3)* whose primary purpose is the training and employment of persons with mental or physical disabilities, including, without limitation,



~~[community based training centers for the care and training of persons with physical or mental retardation described in chapter 435 of NRS.] a provider of jobs and day training services certified pursuant to NRS 435.130 to 435.310, inclusive, and sections 2 to 11, inclusive, of this act.~~

Sec. 19. NRS 373.117 is hereby amended to read as follows:

373.117 1. A regional transportation commission, a county whose population is less than 100,000 or an incorporated city within such a county may establish or operate a public transit system consisting of:

(a) Regular routes and fixed schedules to serve the public;

(b) Nonemergency medical transportation of persons to facilitate their ~~[use of a center]~~ *participation in jobs and day training services* as defined in ~~[NRS 435.170.]~~ *section 3 of this act* if the transportation is available upon request and without regard to regular routes or fixed schedules;

(c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or

(d) In a county whose population is less than 100,000 or an incorporated city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

2. A regional transportation commission may lease vehicles to or from or enter into other contracts with a private operator for the provision of such a system.

3. In a county whose population is less than 400,000, such a system may also provide service which includes:

(a) Minor deviations from the regular routes and fixed schedules required by paragraph (a) of subsection 1 on a recurring basis to serve the public transportation needs of passengers. The deviations must not exceed one-half mile from the regular routes.

(b) The transporting of persons other than those specified in paragraph (b), (c) or (d) of subsection 1 upon request without regard to regular routes or fixed schedules ~~[]~~ if the service is provided by a common motor carrier which has a certificate of public convenience and necessity issued by the Nevada Transportation Authority pursuant to NRS 706.386 to 706.411, inclusive, and the service is subject to the rules and regulations adopted by the Nevada Transportation Authority for a fully regulated carrier.

4. Notwithstanding the provisions of chapter 332 of NRS or NRS 625.530, a regional transportation commission may utilize a turnkey procurement process to select a person to design, build,



operate and maintain, or any combination thereof, a fixed guideway system, including, without limitation, any minimum operable segment thereof. The commission shall determine whether to utilize turnkey procurement for a fixed guideway project before the completion of the preliminary engineering phase of the project. In making that determination, the commission shall evaluate whether turnkey procurement is the most cost-effective method of constructing the project on schedule and in satisfaction of its transportation objectives.

5. Notwithstanding the provisions of chapter 332 of NRS, a regional transportation commission may utilize a competitive negotiation procurement process to procure rolling stock for a fixed guideway project. The award of a contract under such a process must be made to the person whose proposal is determined to be the most advantageous to the commission, based on price and other factors specified in the procurement documents.

6. If a commission develops a fixed guideway project, the Department of Transportation is hereby designated to serve as the oversight agency to ensure compliance with the federal safety regulations for rail fixed guideway systems set forth in 49 C.F.R. Part 659.

7. As used in this section:

(a) "Fully regulated carrier" means a common carrier or contract carrier of passengers or household goods who is required to obtain from the Nevada Transportation Authority a certificate of public convenience and necessity or a contract carrier's permit and whose rates, routes and services are subject to regulation by the Nevada Transportation Authority.

(b) "Minimum operable segment" means the shortest portion of a fixed guideway system that is technically capable of providing viable public transportation between two end points.

(c) "Public transit system" means a system employing motor buses, rails or any other means of conveyance, by whatever type of power, operated for public use in the conveyance of persons.

(d) "Turnkey procurement" means a competitive procurement process by which a person is selected by a regional transportation commission, based on evaluation criteria established by the commission, to design, build, operate and maintain, or any combination thereof, a fixed guideway system, or a portion thereof, in accordance with performance criteria and technical specifications established by the commission.



Sec. 20. NRS 377A.130 is hereby amended to read as follows:

377A.130 A public transit system may, in addition to providing local transportation within a county, provide:

1. Services to assist commuters in communicating with others to share rides;
2. Transportation for elderly persons and persons with disabilities, including, without limitation, nonemergency medical transportation of persons to facilitate their ~~use of a center~~ *participation in jobs and day training services* as defined in ~~NRS 435.170;~~ *section 3 of this act*;
3. Parking for the convenience of passengers on the system;
4. Stations and other necessary facilities to ensure the comfort and safety of passengers; and
5. Transportation that is available pursuant to NRS 373.117.

Sec. 21. NRS 608.255 is hereby amended to read as follows:

608.255 For the purposes of this chapter and any other statutory or constitutional provision governing the minimum wage paid to an employee, the following relationships do not constitute employment relationships and are therefore not subject to those provisions:

1. The relationship between a rehabilitation facility or workshop established by the Department of Employment, Training and Rehabilitation pursuant to chapter 615 of NRS and an individual with a disability who is participating in a training or rehabilitative program of such a facility or workshop.

2. The relationship between a ~~community-based training center that~~ *provider of jobs and day training services which is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3) and which* has been issued a certificate ~~of qualification~~ by the Division of Mental Health and Developmental Services of the Department of Health and Human Services pursuant to NRS 435.130 to ~~435.320;~~ *435.310, inclusive, and sections 2 to 11, inclusive, of this act* and ~~an enrollee~~ *a person with mental retardation or person with related conditions* participating in a ~~training or rehabilitative~~ *jobs and day training services* program . ~~of such a center.~~

Sec. 22. NRS 706.745 is hereby amended to read as follows:

706.745 1. The provisions of NRS 706.386 and 706.421 do not apply to:

- (a) Ambulances;
- (b) Hearses; or
- (c) Common motor carriers or contract motor carriers that are providing transportation services pursuant to a contract with the



Department of Health and Human Services entered into pursuant to NRS 422.2705.

2. A common motor carrier that enters into an agreement for the purchase of its service by an incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transit consisting of:

(a) Regular routes and fixed schedules;

(b) Nonemergency medical transportation of persons to facilitate their ~~[use of a center]~~ *participation in jobs and day training services* as defined in ~~[NRS 435.170.]~~ *section 3 of this act* if the transportation is available upon request and without regard to regular routes or fixed schedules;

(c) Nonmedical transportation of persons with disabilities without regard to regular routes or fixed schedules; or

(d) In a county whose population is less than 100,000 or an incorporated city within such a county, nonmedical transportation of persons if the transportation is available by reservation 1 day in advance of the transportation and without regard to regular routes or fixed schedules.

3. Under any agreement for a system of public transit that provides for the transportation of passengers that is described in subsection 2:

(a) The public entity shall provide for any required safety inspections; or

(b) If the public entity is unable to do so, the Authority shall provide for any required safety inspections.

4. In addition to the requirements of subsection 3, under an agreement for a system of public transit that provides for the transportation of passengers that is described in:

(a) Paragraph (a) of subsection 2, the public entity shall establish the routes and fares.

(b) Paragraph (c) or (d) of subsection 2, the common motor carrier:

(1) May provide transportation to any passenger who can board a vehicle with minimal assistance from the operator of the vehicle.

(2) Shall not offer medical assistance as part of its transportation service.

5. A nonprofit carrier of elderly persons or persons with disabilities is not required to obtain a certificate of public convenience and necessity to operate as a common motor carrier of such passengers only, but such a carrier is not exempt from



inspection by the Authority to determine whether its vehicles and their operation are safe.

6. An incorporated city, county or regional transportation commission is not required to obtain a certificate of public convenience and necessity to operate a system of public transportation.

7. Before an incorporated city or a county enters into an agreement with a common motor carrier for a system of public transit that provides for the transportation of passengers that is described in paragraph (c) or (d) of subsection 2 in an area of the incorporated city or an area of the county, it must determine that:

(a) There are no other common motor carriers of passengers who are authorized to provide such services in that area; or

(b) Although there are other common motor carriers of passengers who are authorized to provide such services in the area, the common motor carriers of passengers do not wish to provide, or are not capable of providing, such services.

Sec. 23. NRS 435.170, 435.180, 435.190, 435.230, 435.240, 435.250, 435.260, 435.280, 435.290, 435.300 and 435.320 are hereby repealed.

Sec. 24. Notwithstanding the provisions of section 5 of this act, a natural person, partnership, firm, corporation, association, state or local government or agency thereof is not required to possess a certificate issued by the Division of Mental Health and Developmental Services of the Department of Health and Human Services to provide jobs and day training services in this State before January 1, 2010, unless the Division establishes, by regulation, an earlier date for compliance with section 5 of this act.

Sec. 25. The regulations of the Division of Mental Health and Developmental Services of the Department of Health and Human Services which are codified as NAC 435.200 to 435.350, inclusive, remain in effect and may be enforced until the Division adopts regulations to repeal or replace those regulations.

Sec. 26. 1. This act becomes effective upon passage and approval for the purpose of adopting regulations and on July 1, 2009, for all other purposes.

2. Sections 9, 10 and 11 of this act expire by limitation on the date on which the provisions of 42 U.S.C. § 666 requiring each state to establish procedures under which the state has authority to withhold or suspend, or to restrict the use of professional, occupational and recreational licenses of persons who:



(a) Have failed to comply with the subpoena or warrant relating to a proceeding to determine the paternity of a child or to establish or enforce an obligation for the support of a child; or

(b) Are in arrears in the payment for the support of one or more children,

↳ are repealed by the Congress of the United States.

