

**Report on the
Recommendations of the
Virginia Disability Commission
2013**

Members

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BACKGROUND

The Virginia Disability Commission is the legislative body charged with identifying and recommending legislative priorities and policies for adoption or examination by the General Assembly in order to provide ongoing support in developing and reviewing services and funding related to Virginians with physical and sensory disabilities. Section 30-236 of the Code of Virginia directs the Disability Commission to convene work groups composed of persons with expertise in the matters under consideration by the Commission to assist the Commission on issues related to (i) housing and transportation, (ii) education and employment, (iii) publicly funded services, and (iv) such other issues as the Commission may deem necessary. During the 2013 interim, the Disability Commission established three work groups: Work Group #1 (Housing and Transportation), Work Group #2 (Education and Employment), and Work Group #3 (Publicly Funded Services). Each work group met three times over the course of the 2013 interim to receive information and prepare recommendations for submission to the full Disability Commission, and the full Disability Commission met three times to receive information and "identify and recommend legislative priorities and policies for adoption or examination by the General Assembly in order to provide ongoing support in developing and reviewing services and funding related to Virginians with physical and sensory disabilities," as required by § 30-232 of the Code of Virginia.

Section 30-232 provides that the Commission shall submit its recommendations to the General Assembly and the Governor by October 1 of each year. The following recommendations were adopted by the Disability Commission at its September 18, 2013, meeting.

RECOMMENDATIONS

- 1. The Code of Virginia should be amended to require that at least 10 percent of the units included in any new multifamily construction project built in the Commonwealth be accessible for individuals with disabilities.**

According to the U.S. Census Bureau, in 2010 approximately 18.7 percent of the civilian non-institutionalized population of the United States had a disability.

The federal Rehabilitation Act requires that at least five percent of the dwelling units in every newly constructed multifamily residential project containing four or more dwelling units built with federal financial assistance, but in no case less than one unit, be designed and constructed to be readily accessible to and usable by persons with mobility impairments. At least two percent of all units in every newly constructed multifamily residential project containing four or more dwelling units built with federal financial assistance, but not less than one unit, must be designed and constructed to be readily accessible to and usable by persons with sensory impairments. The federal Fair Housing Act requires that all units included in any new multifamily residential building first occupied after March 13, 1991, that contains four or more units must be accessible.

The Virginia Building Code mirrors the federal Fair Housing Act requirement that all units included in any new multifamily residential building first occupied after March 13, 1991, that contains four or more units must be accessible. The Virginia Building Code also requires

that two percent of all units in any newly constructed multifamily residential project with 20 or more units be fully accessible.

While state and federal laws requiring inclusion of accessible units in newly constructed multifamily residential projects have made some accessible housing available to individuals with disabilities, disparities between the number of individuals with disabilities and the number of accessible housing units continue to exist, resulting in a severe shortage of affordable accessible housing for individuals with disabilities.

As part of an effort to address shortages in affordable accessible housing for people with disabilities, some states have enacted laws increasing requirements related to the number or percentage of units in newly constructed multifamily residential projects that must be accessible.

The Disability Commission recommends that the minimum number of accessible units included in every newly constructed multifamily residential project containing five or more dwelling units be increased from five percent to 10 percent, to increase the availability of accessible housing for people with disabilities.

2. Section 58.1-339.7 of the Code of Virginia should be amended to increase the total amount of tax credits that may be granted through the Livable Home Tax Credit from \$1 million in any year to \$2 million in any year.

The Livable Home Tax Credit, established pursuant to § 58.1-339.7 of the Code of Virginia, is a credit against Virginia taxable income that is available to any taxpayer who purchases a new residence or retrofits or hires someone to retrofit an existing residence, provided that such new residence or the retrofitting of such existing residence is designed to improve accessibility, provide universal visitability, and meet the eligibility requirements established by guidelines developed by the Department of Housing and Community Development. The amount of the tax credit available to a qualifying individual is \$5,000 for a new qualifying residence or 50 percent of the total amount spent for the retrofitting of an existing residence, up to a maximum of \$5,000.

The Livable Home Tax Credit is also available to a licensed contractor who constructs a new residential structure or unit or retrofits or renovates an existing residential structure or unit, provided that the new residential structure or unit or the retrofitting of or renovating of the existing residential structure or unit is designed to improve accessibility, provide universal visitability, and meet eligibility requirements established by guidelines developed by the Department of Housing and Community Development in an amount not to exceed \$5,000 for the construction of a new residential structure or unit or 50 percent of the total amount expended for the retrofitting or renovating of an existing residence or residential structure or unit, not to exceed \$5,000. In the case of a licensed contractor, the tax credit may be used against individual or corporate taxable income.

Currently, the total amount of tax credits available through the Livable Home Tax Credit is capped at \$1 million. Information made available to the Disability Commission by the Department of Housing and Community Development showed that demand for the Livable Home Tax Credit increased dramatically for tax year 2011, the year that the amount of the credit available to individuals and contractors increased from \$2,000 to \$5,000, and that for tax years 2011 and 2012 the amount available for the Livable Home Tax Credit was almost fully utilized.

In order to ensure that the Livable Home Tax Credit continues to be available to individuals and contractors who construct or purchase new accessible housing units or who renovate or remodel existing units to make them accessible, the Disability Commission recommends that the total amount of tax credits available through the Livable Home Tax Credit be increased from \$1 million to \$2 million.

3. Section 15.2-2223 of the Code of Virginia, governing preparation of comprehensive plans by local planning commissions, should be amended to require that, in developing the transportation plan aspect of the comprehensive plan, the local planning commission shall take steps to align transportation with affordable accessible housing and community services to better meet the needs of individuals with disabilities.

Section 15.2-2223 of the Code of Virginia requires local planning commissions to prepare and recommend a comprehensive plan for the physical development of the territory within its jurisdiction and every governing body to adopt a comprehensive plan for the territory under its jurisdiction. As part of the comprehensive plan, each locality is required to include a transportation plan that designates a system of transportation infrastructure needs and recommendations that include the designation of new and expanded transportation facilities and that support the planned development of the territory covered by the plan, which shall include roadways, bicycle accommodations, pedestrian accommodations, railways, bridges, waterways, airports, ports, and public transportation facilities as appropriate.

The Disability Commission recommends that § 15.2-2223 be amended to include language requiring local planning commissions to take steps, when developing the transportation plan portion of the comprehensive plan, to align transportation facilities with affordable accessible housing and community services to better meet the needs of individuals with disabilities.

4. The appropriation act should include an additional \$505,990 in each year of the 2014-2016 biennial budget to restore funding to the Department for Aging and Rehabilitative Services for Long Term Employment Support Services and should include language providing that additional funding for the Long Term Employment Support Services program provided by the Department shall be used only to support those individuals who are working in supported, competitive employment, as those terms are used in federal law, and receiving at least minimum wage.

The Department for Aging and Rehabilitative Services' Long Term Employment Support Services program provides support services to individuals with significant disabilities who become employed. At the second and third meetings of Work Group #2 (Education and Employment), members of the Virginia Association of People Supporting Employment First (APSE) reported that current studies of the costs and financial benefits of the Long Term Employment Support Services program indicate that the Commonwealth receives a return on investment of \$3.50 for every \$1.00 spent to provide services through the program.

The Disability Commission recommends that \$505,990 be provided in each year of the biennium to restore funding for the Long Term Employment Support Services program to assist individuals with severe disabilities with accessing and maintaining employment and that language be included in the appropriation act providing that such additional funding be used

solely to provide services to individuals who are working in supported competitive employment and receiving at least minimum wage.

5. The appropriation act should include \$450,000 in each year of the 2014-2016 biennial budget to fund three new sites for the Project SEARCH program offered by the Department of Education and Department for Aging and Rehabilitative Services in coordination with the Virginia Commonwealth University Research and Rehabilitation Training Center and health systems throughout the Commonwealth.

Project SEARCH is a nationally recognized program that provides education and employment training for students with developmental disabilities, helping students with disabilities transition from high school to paid employment. Through Project SEARCH, students with a variety of developmental disabilities participate in a one-year, business-led, school-to-work program that takes place entirely in the workplace.

Since 2009, the Department of Education, the Department for Aging and Rehabilitative Services, and Virginia Commonwealth University's Research and Rehabilitation Training Center have partnered with health systems to offer Project SEARCH at various hospitals throughout the state. Students in Project SEARCH participate in a series of three 10-week to 12-week internships with different departments within the hospital. Since the first Project SEARCH site was established in 2009, a number of program graduates have been hired by health systems following completion of their internships.

During the 2012-2013 school year, 13 Project SEARCH programs were available in the Commonwealth. The Department of Education and Department for Aging and Rehabilitative Services reported to the Disability Commission that additional funding would allow for the establishment of three new Project SEARCH sites in hospitals in rural parts of the Commonwealth, expanding the availability of the program to unserved areas.

The Disability Commission recommends that \$450,000 be provided in each year of the biennium to fund the establishment of three new Project SEARCH sites in the Commonwealth.

6. The State Council of Higher Education for Virginia should be requested by resolution to study the effects of including students with disabilities in the definition of "underrepresented populations" in the Restructuring Higher Education Financial and Administrative Operations Act and to report its findings to the Disability Commission during the 2014 interim.

The Restructuring Higher Education Financial and Administrative Operations Act (§ 23-38.88 et seq. of the Code of Virginia) authorized during the 2005 Session of the General Assembly, established a framework for restructuring of public institutions of higher education in a manner that extended the autonomy of such institutions of higher education relating to capital building projects, procurement, and personnel while preserving certain oversight mechanisms available to the Commonwealth. Institutions of higher education interested in taking advantage of the opportunities offered by the Act are required to develop six-year academic, financial, and enrollment plans that outline tuition and fee estimates, enrollment projections, and detailed plans for meeting statewide objectives and to accept a number of accountability measures, including benchmarks related to accessibility and affordability, that must be met. Among the accountability measures applicable to an institution of higher education seeking to take advantage of the

opportunities offered by the Act is a requirement that the institution commit, to the Governor and the General Assembly, consistent with its institutional mission, to provide access to higher education for all citizens throughout the Commonwealth, including underrepresented populations, and, consistent with the requirements of subdivision 4 of § 23-9.6:1 of the Code of Virginia (governing duties of the State Council of Higher Education for Virginia) and in accordance with anticipated demand analysis, meet enrollment projections and degree estimates as agreed upon with the State Council of Higher Education for Virginia. § 23-38.88(B)(1).

At its last meeting of the 2013 interim, Work Group #2 (Education and Employment) recommended expanding the definition of "underrepresented populations" to include students with intellectual, developmental, and other disabilities. At the final meeting of the Disability Commission, due to questions about how the State Council of Higher Education for Virginia currently defines "underrepresented populations" for purposes of the performance measure and concerns over the potential fiscal impact of changing the definition of "underrepresented populations", the Commission amended the recommendation to request that the State Council of Higher Education for Virginia conduct a study of methods for increasing access to public higher education in the Commonwealth for student with intellectual and developmental disabilities and the effects of implementing such methods.

- 7. The appropriation act should include at least \$400,000 in each year of the 2014-2016 biennial budget to recapitalize the Consumer Service Fund to help individuals with physical and sensory disabilities access necessary assistive technology. Priority should be given to providing \$75,000 in each year of the 2014-2016 biennium to allow the Consumer Service Fund to assist individuals access blended funding for assistive technology. An additional \$325,000 should be provided in each year of the 2014-2016 biennium to allow the Consumer Service Fund to help other individuals access necessary assistive technology.**

The Consumer Service Fund was established in 1992 as a "fund of last resort" to help individuals with disabilities living in Virginia access assistive technology that could not be funded through existing public or private programs. Between 1993 and 2007, the Consumer Service Fund awarded approximately 1,300 grants totaling \$6.8 million. During this time, the top five uses of funds provided by the Consumer Service Fund were: purchase of hearing aids, home modifications to keep citizens in their homes and out of institutions, purchase of mobility devices, purchase of communication devices, and use of funds to match or secure funding for vehicle modifications provided by other sources.

In FY 2003, funding for the Consumer Service Fund was reduced from \$600,000 to \$474,000. In FY 2007, the Consumer Service Fund was eliminated. Since FY 2007, staff at the Assistive Technology Loan Fund and Centers for Independent Living have continued to track applications for assistance from individuals who would have qualified for assistance through the Consumer Service Fund and who, due to the elimination of the Consumer Service Fund, were denied assistance. According to the data collected, approximately 1,800 individuals seeking a total of \$4.6 million have been denied assistance due to the lack of funds.

The Disability Commission recommends that \$400,000 be provided in each year of the biennium to recapitalize the Consumer Service Fund to assist individuals with physical and sensory disabilities with accessing necessary assistive technology. If the full amount is not

available, the Disability Commission recommends that at least \$75,000 be provided in each year of the biennium to recapitalize the Consumer Service Fund to allow the Fund to help individuals who have access to a combination of funds from other sources leverage those available funds to purchase necessary assistive technology.

- 8. If funding is included in the appropriation act to recapitalize the Consumer Service Fund, language should be included in the appropriation act changing the name of the Consumer Service Fund to the Consumer Service Grant Program to more accurately reflect the purpose and function of the program.**

Prior to 2007, the Consumer Service Fund provided grants to individuals in need of assistance in accessing assistive technology. Individuals receiving grants were not required to repay the funds received. If funds are provided to recapitalize the Consumer Service Fund, the Disability Commission recommends that the name of the Consumer Service Fund program be changed to the Consumer Service Grant Program to more accurately reflect the purpose and function of the program.

- 9. The appropriation act should include \$500,000 in each year of the 2014-2016 biennial budget for the Department for Aging and Rehabilitative Services to eliminate waiting lists for the Personal Assistance Services program.**

The Department for Aging and Rehabilitative Services' Personal Assistance Services program provides funding to qualifying individuals with physical disabilities such as spinal cord injuries, cerebral palsy, or muscular dystrophy who require assistance from another person to perform nonmedical activities of daily living, including transferring, bathing, eating, dressing, or other physical activities that the individuals could perform if they did not have a physical disability. Services purchased using funds provided through the Personal Assistance Services program are consumer directed and allow the individual receiving services to remain in the community and engage more fully in all aspects of community living.

During the 2012 interim, the Disability Commission received information from the Department for Aging and Rehabilitative Services indicating that 42 individuals were on the waiting list for the Personal Assistance Services program. At the end of the 2012 interim, the Disability Commission recommended that additional funding in the amount of \$750,000 per year be provided to the Department to eliminate the waiting list. During the 2013 Session, \$250,000 was made available to the Department for this purpose. While the amount provided allowed the Department to serve an additional 10 to 13 individuals, many individuals continue to wait for services.

The Disability Commission recommends that \$500,000 be made available in each year of the biennium to eliminate the waiting list for services provided through the Department for Aging and Rehabilitative Services' Personal Assistance Services program.

- 10. The appropriation act should include \$150,000 in each year of the 2014-2016 biennial budget for the Department for Aging and Rehabilitative Services' Long Term Rehabilitation Case Management program.**

The Department for Aging and Rehabilitative Services' Long Term Rehabilitative Case Management program provides case management services for individuals with complex needs, teaching individuals and their families how to navigate the service system and facilitating access to necessary services. Case managers also work with individuals and their families to assist individuals transitioning from institutional to community-based settings. At this time, services are provided by seven regional case managers, each serving a defined geographical region of the Commonwealth. Due to increased demand for long term rehabilitative case management services, many individuals have been placed on waiting lists for services. Adding two case manager positions would allow the Department to provide additional long term rehabilitative case management services and reduce or eliminate waiting lists for services.

The Disability Commission recommends that \$150,000 be provided in each year of the 2014-2016 biennium to support two full-time regional long term rehabilitative case management positions at the Department for Aging and Rehabilitative Services.

11. The appropriation act should include \$4,530,000 in each year of the 2014-2016 biennial budget to the Department for Aging and Rehabilitative Services for brain injury services, including (i) \$1.5 million in each year for case management services to reduce waiting lists for services and to establish services in unserved regions of the Commonwealth; (ii) \$880,000 in each year to reduce waiting lists and increase access to clubhouse, day program, and other brain injury services in the Commonwealth; (iii) \$100,000 in each year for Virginia Statewide Trauma Registry coordination outreach and resource coordination services in the Commonwealth; and (iv) \$2,050,000 in each year to fund case management, day program, and resource coordination service rate increases throughout the Commonwealth.

The Department for Aging and Rehabilitative Services' Brain Injury Services Coordination Unit manages multiple programs, contracts, and federal/state grants that provide brain injury services throughout the Commonwealth. During the 2012 interim, the Disability Commission received information from the Brain Injury Alliance of Virginia and the Department for Aging and Rehabilitative Services indicating that brain injury services were not available in some areas of the state and that long waiting lists for brain injury services existed in other parts of the state. At the end of the 2012 interim, the Disability Commission recommended \$4.5 million in additional funding for brain injury services provided through the Department for Aging and Rehabilitative Services.

During the 2013 Session, the General Assembly provided an additional \$105,000 to support brain injury services. At this time, the Department is working with stakeholders to determine how best to use the funds. While the funds received in 2013 will help increase access to brain injury services, the demand for services continues to exceed availability of services.

The Disability Commission recommends that \$2,480,000 be provided in each year of the 2014-2016 biennium for brain injury services provided by the Department for Aging and Rehabilitative Services and that an additional \$2,050,000 be provided in each year of the 2014-2016 biennium to fund case management, day program, and resource coordination service rate increases throughout the Commonwealth.

12. The appropriation act should include \$55,000 in each year of the 2014-2016 biennial budget to the Department for the Deaf and Hard-of-Hearing to restore funds for outreach, information, and referral services.

The Department for the Deaf and Hard-of-Hearing provides a range of services for individuals who are deaf or hard-of-hearing, including information, outreach, and referral services that provide training for persons who are deaf and hard-of-hearing and their families; training for businesses, caregivers, public safety officials, and professionals that serve persons who have hearing loss; information about and training in local services, including where to find sign language classes, support services, and technical equipment needed to aid persons who are deaf and hard-of-hearing with their communication needs; and community education. Since 2008, budget cuts have reduced funding for outreach, information, and referral services provided by the Department for the Deaf and Hard-of-Hearing by 30 percent (approximately \$55,000). As a result the Department has seen substantial reductions in the number of individuals served, from about 80,000 in 2007 to about 28,500 in 2012.

The Disability Commission recommends that \$55,000 be provided in each year of the 2014-2016 biennium to restore funding for outreach, information, and referral services provided by the Department for the Deaf and Hard-of-Hearing.

13. The appropriation act should include \$306,866 in each year of the 2014-2016 biennial budget to restore funding for Centers for Independent Living to FY 2009 levels.

Centers for Independent Living are nonprofit nonresidential places of action and coalition where persons with disabilities develop the empowerment and skills necessary to make lifestyle choices. Centers provide services and advocacy to promote the leadership, independence, and productivity of people with disabilities and work with individuals with disabilities and members of the community to remove barriers to independence and ensure equality of persons with disabilities. Funding for Centers for Independent Living comes from federal, state, and local governments and private sources.

In FY 2012, state funding for Centers for Independent Living was reduced by \$306,866 per year. The Disability Commission recommends that \$306,866 be provided in each year of the 2014-2016 biennium to restore funding for Centers for Independent Living to FY 2009 levels.

14. The appropriation act should include \$1,060,000 in each year of the 2014-2016 biennial budget including (i) \$500,000 in each year to facilitate the transition of two existing satellite Centers for Independent Living located in Petersburg and the New River Valley to fully functioning Centers for Independent Living, (ii) \$160,000 in each year to facilitate the continued growth and expansion of two existing satellite Centers for Independent Living located in Loudoun County and the Middle Peninsula, and (iii) \$400,000 in each year to establish five new satellite Centers for Independent Living in Piedmont, Northern Neck, Southside, Planning District 14, and Lower Planning District 9, areas that currently are not served by a Center for Independent Living.

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productivity of people with disabilities and work with individuals with disabilities and members of the community to remove barriers to independence and ensure equality of persons with disabilities. Funding for Centers for Independent Living comes from federal, state, and local governments and private sources.

The Disability Commission recommends that \$500,000 be provided in each year of the 2014-2016 biennium to facilitate the transition of satellite Centers for Independent Living to fully functioning Centers for Independent Living; that \$160,000 be provided in each year of the 2014-2016 biennium to expand existing satellite Centers for Independent Living; and that \$400,000 be provided in each year of the 2014-2016 biennium to establish new satellite Centers for Independent Living in areas of the Commonwealth that currently are not served by an existing Center for Independent Living.