

JAN 26 2009

A BILL FOR AN ACT

RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR INDEPENDENT LIVING SERVICES AND CENTERS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The statewide council on independent living was
2 created by Act 197, Session Laws of Hawaii 1993 (codified as
3 section 348-9, Hawaii Revised Statutes), and placed within the
4 department of human services.

5 Act 84, Session Laws of Hawaii 1995, removed the statewide
6 council on independent living from the department of human
7 services to conform with the 1992 amendment to the federal
8 Rehabilitation Act of 1973, as amended, title 29 United States
9 Code section 796d, which requires states to establish a
10 statewide independent living council to receive federal
11 financial assistance and prohibited a statewide independent
12 living council from being placed within a state agency in order
13 to receive the federal financial assistance. Act 84 retained
14 the statewide council on independent living but made the
15 statewide council on independent living a temporary agency with
16 a repeal date of June 30, 1998, at which time section 348-9 was
17 to be reenacted. On June 30, 1998, Act 84 was repealed and the

1 statewide council on independent living was again
2 administratively placed in the department of human services. No
3 other laws were passed after 1998 to remove the statewide
4 council on independent living from placement in the department
5 of human services.

6 Federal law, title 29 United States Code section 796d,
7 still requires the State to establish a statewide independent
8 living council, which still cannot be established as an entity
9 within a state agency for the State to be eligible to receive
10 federal financial assistance.

11 Section 348-9, Hawaii Revised Statutes, was well intended,
12 but it does not conform to the federal requirements for a
13 statewide independent living council, and has resulted in
14 confusion. Repealing section 348-9 will abolish the
15 nonconforming statewide council on independent living.

16 The purposes of this bill are to repeal section 348-9,
17 Hawaii Revised Statutes, to abolish the statewide council on
18 independent living established within the department of human
19 services in section 348-9, Hawaii Revised Statutes, to conform
20 to federal law, which prohibits a statewide independent living
21 council from being within a state agency, and to thereby allow
22 for compliance with the federal requirement for the receipt of

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1 federal financial assistance through the preparation of the
2 state plan that is required by federal law.

3 SECTION 2. Section 348-9, Hawaii Revised Statutes, is
4 repealed.

5 ~~["§348-9 Statewide council on independent living. (a)~~

6 ~~There is established within the department of human services a~~
7 ~~statewide council on independent living. The council shall~~
8 ~~consist of nineteen members appointed by the governor as~~
9 ~~provided in section 26-34 and without regard to section 78-4.~~

10 ~~The members shall include:~~

11 ~~(1) At least one director of a center [for] independent~~
12 ~~living chosen by the directors of centers for~~
13 ~~independent living;~~

14 ~~(2) An employee of the department as an ex officio~~
15 ~~nonvoting member; and~~

16 ~~(3) Members of other state agencies that provide services~~
17 ~~for individuals with disabilities as ex officio~~
18 ~~nonvoting members.~~

19 ~~(b) The council may also include:~~

20 ~~(1) Additional representatives from centers for~~
21 ~~independent living;~~

- 1 ~~(2) Parents and guardians of individuals with~~
 - 2 ~~disabilities;~~
 - 3 ~~(3) Advocates of and for individuals with disabilities;~~
 - 4 ~~(4) Representatives from private business;~~
 - 5 ~~(5) Representatives from organizations that provide~~
 - 6 ~~services; and~~
 - 7 ~~(6) Other appropriate individuals;~~
- 8 ~~provided that the council shall include at least one member from~~
- 9 ~~each county; and provided further that a majority of the council~~
- 10 ~~shall be individuals with disabilities who are not employed by~~
- 11 ~~any state agency or center for independent living. The council~~
- 12 ~~shall elect a chairperson from the membership. Each member~~
- 13 ~~shall serve a term of three years and may not serve more than~~
- 14 ~~two consecutive full terms.~~
- 15 ~~(c) The council members shall serve without compensation~~
- 16 ~~but shall be reimbursed for reasonable expenses, including~~
- 17 ~~travel expenses, necessary for the performance of their duties.~~
- 18 ~~(d) The council shall:~~
- 19 ~~(1) Develop and submit jointly with the department a state~~
 - 20 ~~plan;~~
 - 21 ~~(2) Monitor, review, and evaluate the implementation of~~
 - 22 ~~the state plan;~~

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1 ~~(3) Coordinate activities with the state rehabilitation~~
2 ~~council; and~~

3 ~~(4) Submit to the commissioner of the rehabilitation~~
4 ~~services administration such periodic reports as are~~
5 ~~requested."]~~

6 SECTION 3. Statutory material to be repealed is bracketed
7 and stricken.

8 SECTION 4. This Act shall take effect upon its approval.

9

10

INTRODUCED BY:



BY REQUEST

11

Report Title:

Federal Financial Assistance for Independent Living Services and Centers

Description:

Repeals section 348-9, Hawaii Revised Statutes, that establishes the Statewide Council on Independent Living.

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JUSTIFICATION SHEET

DEPARTMENT: Human Services.

TITLE: A BILL FOR AN ACT RELATING TO FEDERAL FINANCIAL ASSISTANCE FOR INDEPENDENT LIVING SERVICES AND CENTERS.

PURPOSE: To abolish the Statewide Council on Independent Living (SCIL), established within the Department of Human Services in section 348-9, Hawaii Revised Statutes, to conform to federal law. Federal law, title 29 United States Code section 796d, requires the State to establish a statewide independent living council, which cannot be established as an entity within a state agency for the State to be eligible to receive federal financial assistance.

MEANS: Repeal section 348-9, Hawaii Revised Statutes (HRS).

JUSTIFICATION: The Statewide Council on Independent Living was created by Act 197, Session Laws of Hawaii 1993 (codified as section 348-9, Hawaii Revised Statutes), and placed within the department of human services.

Act 84, Session Laws of Hawaii 1995, removed the statewide council on independent living from the department of human services to conform with the 1992 amendment to the federal Rehabilitation Act of 1973, as amended, title 29 United States Code section 796d, which requires states to establish a statewide independent living council to receive federal financial assistance and prohibited a statewide independent living council from being placed within a state agency in order to receive the federal financial assistance. Act 84 retained the statewide council on independent living but made the statewide council on independent living a temporary agency with a repeal date of June 30, 1998, at which time section 348-

9 was to be reenacted. On June 30, 1998, Act 84 was repealed and the statewide council on independent living was again administratively placed in the department of human services. No other laws were passed after 1998 to remove the statewide council on independent living from placement in the department of human services.

Federal law, title 29 United States Code section 796d, still requires the State to establish a statewide independent living council, which still cannot be established as an entity within a state agency for the State to be eligible to receive federal financial assistance.

Section 348-9, Hawaii Revised Statutes, was well intended, but it does not conform to the federal requirements for a statewide independent living council, and has resulted in confusion. Repealing section 348-9 will abolish the nonconforming statewide council on independent living.

Repealing section 348-9, Hawaii Revised Statutes, to abolish the statewide council to conform to federal law, which prohibits a statewide independent living council from being within a state agency, will allow for compliance with the federal requirement for the receipt of federal financial assistance through the preparation of the state plan that is required by federal law.

Impact on the public: Eliminate confusion as to the status of the statewide independent living council. The State will continue to receive federal financial assistance to be used for services to those eligible.

Impact on the department and other agencies:
None.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM
DESIGNATION: HMS 802

OTHER AFFECTED
AGENCIES: None.

EFFECTIVE DATE: Upon approval.