



HOUSE OF REPRESENTATIVES
FOURTEENTH NORTHERN MARIANAS COMMONWEALTH LEGISLATURE
FOURTH SPECIAL SESSION, 2005

PUBLIC LAW NO. 14-81
H. B. No. 14-357

AN ACT

To transfer the Office of Vocational Rehabilitation from the Department of Public Health to the Office of the Governor, and for other purposes.

**BE IT ENACTED BY THE FOURTEENTH NORTHERN MARIANAS COMMONWEALTH
LEGISLATURE:**

1 **Section 1. Findings and Purpose.** The Legislature finds that the current placement
2 of the Office of Vocational Rehabilitation within the Department of Public Health is
3 inappropriate due to the disparity of the nature and intent of services provided. The purpose
4 of the Department of Public Health is to protect the public from threats of public health, to
5 provide access to essential and quality health care, and to educate the public about
6 preventative health and empower them to take responsibility. The primary purpose of the
7 Office of Vocational Rehabilitation is to assist eligible individuals with disabilities to prepare
8 for, secure, retain, or regain employment and independence. The Office of Vocational
9 Rehabilitation does not directly provide health-related, medical, or physical and mental
10 restoration services as does the Department of Public Health. In fact, the U.S. Department of
11 Education, Office of Special Education and Rehabilitative Services, the grantor agency for
12 vocational rehabilitation programs, declared an Information Memorandum, IM-01-44, dated
13 September 25, 2001, that “While state VR agencies may, under certain conditions, expend
14 VR program funds to pay for the diagnosis and treatment of an eligible individual’s physical
15 or mental impairment when necessary for the individual to achieve his or her employment
16 goal (see section 103(a)(6) of the Rehabilitation Act and 34 CFR § 361.48(e) of the VR
17 program regulations), the provision of medical care is not the primary purpose of the VR
18 program.” Instead the VR program is “designed to assess, plan, develop, and provide
19 vocational rehabilitation services for individuals with disabilities, consistent with their

1 strengths, resources, priorities, concerns, abilities, capabilities, interests, and informed choice,
2 so that such individuals may prepare for and engage in gainful employment (see section
3 100(a)(2) of the Rehabilitation Act). Thus, the VR program is not a 'health plan' and the
4 definition of health care provider does not apply to VR programs." The placement of the
5 Office of Vocational Rehabilitation within the Department of Public Health is inconsistent
6 with national organizational settings and creates misperceptions of the functions and intent of
7 the program. A memorandum issued by Acting Governor Jesus C. Borja dated September 29,
8 1995, recognized that the placement of the Office of Vocational Rehabilitation in the
9 Department of Public Health was problematic and transferred the Office of Vocational
10 Rehabilitation to the Office of the Governor. A recent finding by the Attorney General's
11 Office declared the memo to be legally ineffective and that the placement of the Office of
12 Vocational Rehabilitation within the Office of the Governor was in violation of 1 CMC
13 § 2603. The Legislature believes that placing the Office of Vocational Rehabilitation within
14 the Office of the Governor, notwithstanding any provisions of law, would result in more
15 efficient overall administration of the program and accountability for the management and
16 expenditure of federal funds.

17 **Section 2. Placement to the Office of the Governor.** The Office of Vocational
18 Rehabilitation is hereby transferred from the Department of Public Health and placed under
19 the Office of the Governor. In accordance with the conditions and requirements of 34 CFR
20 Sec. 361.13, the Office of Vocational Rehabilitation shall be the Designated State Agency
21 and the Designated State Unit. At minimum, the Director of the Office of Vocational
22 Rehabilitation shall be responsible for:

- 23 (1) All decisions affecting eligibility for vocational rehabilitation services,
24 the nature and scope of available services, and the provision of these services.
- 25 (2) The determination to close the record of services of an individual who
26 has achieved an employment outcome in accordance with 34 CFR Sec. 361.56.
- 27 (3) Policy formulation and implementation.
- 28 (4) The allocation and expenditure of vocational rehabilitation funds.

1 The responsibility for these functions may not be delegated to any other agency or
2 individual. The Director of the Office of Vocational Rehabilitation shall also have signature
3 authority for any agreements with the federal funding agency, the State Plan for vocational
4 rehabilitation services, and any inter-agency agreements.

5 **Section 3. State Rehabilitation Council.** As mandated by Sec. 105(a)(1) of the
6 Rehabilitation Act Amendments of 1998, a State Rehabilitation Council has been established
7 to advise and evaluate the performance of the Office of Vocational Rehabilitation among
8 other duties. The State Rehabilitation Council is hereby assigned to the Office of the
9 Governor.

10 **Section 4. Transition.** All records and property (including office equipment) of the
11 Office of Vocational Rehabilitation within the Department of Public Health, and all records
12 and property used primarily in the administration of the Office of Vocational Rehabilitation
13 within the Department of Public Health and all personnel used in the administration and
14 operations of the Office of Vocational Rehabilitation within the Department of Public Health
15 will be retained by the Office of Vocational Rehabilitation when it is transferred to the Office
16 of the Governor. The unexpended balance of appropriations, allocations, allotments, or other
17 funds available for the use by the Office of Vocational Rehabilitation within the Department
18 of Public Health shall be transferred to the Office of the Governor. In the absence of such
19 funds, an amount shall be included for the liquidation of obligations incurred prior to the
20 transfer.

21 **Section 5. Funding.** The Director of the Office of Vocational Rehabilitation shall
22 include in an annual budget request to the Governor and the Legislature for the matching
23 requirements of the federal program funds.

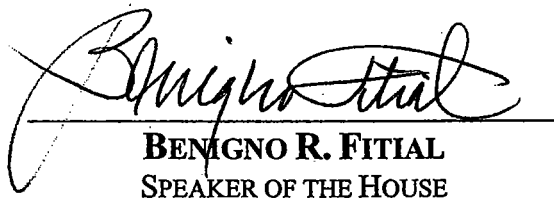
24 **Section 6. Appointment.** The Director of the Office of Vocational Rehabilitation
25 shall be appointed by the Governor and serve at the pleasure of the Governor.

26 **Section 7. Severability.** If any provision of this Act or the application of any such
27 provision to any person or circumstance should be held invalid by a court of competent
28 jurisdiction, the remainder of this Act or the application of its provisions to persons or
29 circumstances other than those to which it is held invalid shall not be affected thereby.

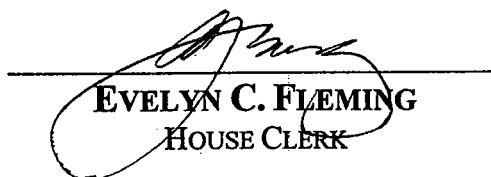
1 **Section 8. Savings Clause.** This Act and any repealer contained herein shall not be
2 construed as affecting any existing right acquired under contract or acquired under statutes
3 repealed or under any rule, regulation, or order adopted under the statutes. Repealers
4 contained in this Act shall not affect any proceeding instituted under or pursuant to prior law.
5 The enactment of the Act shall not have the effect of terminating, or in any way modifying,
6 any liability, civil or criminal, which shall already be in existence on the date this Act
7 becomes effective.

8 **Section 9. Effective Date.** This Act shall take effect upon its approval by the
9 Governor or becoming law without such approval.

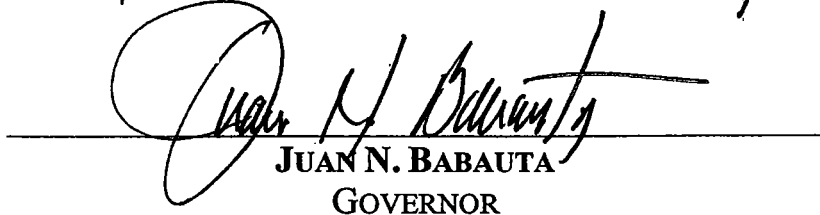
CERTIFIED BY:


BENIGNO R. FITIAL
SPEAKER OF THE HOUSE

ATTESTED TO BY:


EVELYN C. FLEMING
HOUSE CLERK

Approved on this 29th day of July, 2005


JUAN N. BABAUTA
GOVERNOR

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS