



Public Law 94-103
 94th Congress, H. R. 4005
 October 4, 1975

An Act

To amend the Developmental Disabilities Services and Facilities Construction Act to revise and extend the programs authorized by that Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Developmentally Disabled Assistance and Bill of Rights Act".

Developmentally Disabled Assistance and Bill of Rights Act.
 42 USC 6001 note.

TITLE I—EXTENSION AND REVISION OF THE DEVELOPMENTAL DISABILITIES SERVICES AND FACILITIES CONSTRUCTION ACT

PART A—ONE-YEAR EXTENSION OF EXISTING AUTHORITIES

EXTENSION OF EXISTING AUTHORITIES THROUGH FISCAL YEAR 1975

SEC. 101. (a) Section 122(b) and 131 of the Developmental Disabilities Services and Facilities Construction Act (hereinafter in this Act referred to as the "Act") are each amended by striking out "for the fiscal year ending June 30, 1974" and inserting in lieu thereof "each for the fiscal years ending June 30, 1974, and June 30, 1975".

42 USC 2661a, ~~post~~, p. 489.

(b) Section 137(b) (1) of the Act is amended by striking out "and June 30, 1974" and inserting in lieu thereof "June 30, 1974, and June 30, 1975".

Post, p. 492.

PART B—REVISION OF ASSISTANCE FOR UNIVERSITY AFFILIATED FACILITIES

UNIVERSITY AFFILIATED FACILITIES

SEC. 105. Part B of the Act is amended to read as follows:

"PART B—UNIVERSITY AFFILIATED FACILITIES

"Subpart 1—Demonstration and Training Grants

"GRANT AUTHORITY

"SEC. 121. (a) (1) From appropriations under section 123, the Secretary shall make grants to university affiliated facilities to assist them in meeting the cost of administering and operating—

42 USC 6031.

"(A) demonstration facilities for the provision of services for persons with developmental disabilities, and

"(B) interdisciplinary training programs for personnel needed to render specialized services for persons with developmental disabilities.

"(2) A university affiliated facility which has received a grant under paragraph (1) may apply to the Secretary for an increase in the amount of its grant under such paragraph to assist it in meeting the cost of conducting a feasibility study of the ways in which it, singly or jointly with other university affiliated facilities which have received a grant under paragraph (1), can establish and operate one or more satellite centers which would be located in areas not served by a university affiliated facility and which would provide, in coordination with demonstration facilities and training programs for which a

Satellite centers.

grant was made under paragraph (1), services for persons with developmental disabilities. If the Secretary approves an application of a university affiliated facility under this paragraph for such a study, the Secretary may for such study increase the amount of the facility's grant under paragraph (1) by an amount not to exceed \$25,000. Such a study shall be carried out in consultation with the State Planning Council for the State in which the facility is located and where the satellite center would be established.

"(b) The Secretary may make grants to pay part of the costs of establishing satellite centers and may make grants to satellite centers to pay part of their administration and operation costs. The Secretary may approve an application for a grant under this subsection only if the feasibility of establishing or operating the satellite center for which the grant is applied for has been established by a study assisted under subsection (a) (2).

"APPLICATIONS

42 USC 6032.

"SEC. 122. (a) No grant may be made under section 121 unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application may be approved by the Secretary only if the application contains or is supported by reasonable assurances that the making of the grant applied for will not result in any decrease in the level of State, local, and other non-Federal funds for services for persons with developmental disabilities and training of persons to provide such services which funds would (except for such grant) be available to the applicant, but that such grant will be used to supplement, and, to the extent practicable, to increase the level of such funds.

"(b) The Secretary shall give special consideration to applications for grants under section 121(a) for programs which demonstrate an ability and commitment to provide within a community rather than in an institution services for persons with developmental disabilities.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 6033.

"SEC. 123. (a) For the purpose of making grants under section 121 there are authorized to be appropriated \$15,000,000 for fiscal year 1976, \$18,000,000 for fiscal year 1977, and \$21,000,000 for fiscal year 1978.

"(b) (1) Of the sums appropriated under subsection (a) for fiscal years 1976 and 1977, not less than \$5,000,000 shall be made available for grants in each such fiscal year under section 121(a) (1). The remainder of the sums appropriated for such fiscal years shall be made available as follows:

"(A) First, \$750,000 shall be made available in each such fiscal year for studies described in section 121(a) (2). The portion of such \$750,000 not required for such studies shall be made available for grants under section 121(a) (1).

"(B) Second, any remaining sums shall be made available as the Secretary determines except that at least 40 per centum of such sums shall be made available for grants under section 121(b).

"(2) Of the sums appropriated under subsection (a) for fiscal year 1978, not less than \$5,500,000 shall be made available for grants in such

fiscal year under section 121 (a) (1). The remainder of the sums appropriated for such fiscal year shall be made available as the Secretary determines except that at least 40 per centum of the remainder shall be made available for grants under section 121 (b).

“Subpart 2—Construction

“PROJECTS AUTHORIZED

“SEC. 125. The Secretary may make grants—

42 USC 6041.

“(1) to university-affiliated facilities to assist them in meeting the costs of the renovation or modernization of buildings which are being used in connection with an activity assisted by a grant under section 121 (a) ; and

“(2) to university-affiliated facilities for the construction, renovation, or modernization of buildings to be used as satellite centers.

“APPLICATIONS

“SEC. 126. No grant may be made under section 125 unless an application therefor is submitted to and approved by the Secretary. Such an application shall be submitted in such form and manner, and contain such information, as the Secretary may require. Such an application may be approved by the Secretary only if it contains or is supported by reasonable assurances that—

42 USC 6042.

“(1) the plans and specifications for the project to be assisted by the grant applied for are in accord with regulations prescribed by the Secretary under section 109;

“(2) title to the site for such project is or will be vested in the applicant or in the case of a grant for a satellite center, in a public or other nonprofit entity which is to operate the center;

Post, p. 500.

“(3) adequate financial support will be available for completion of the construction, renovation, or modernization of the project and for its maintenance and operation when completed;

Financial support.

“(4) all laborers and mechanics employed by contractors or subcontractors in the performance of work on the project will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a—276a-5, known as the Davis-Bacon Act) ; and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 267c) ; and

Rates of pay.

“(5) the building which will be constructed, renovated, or modernized with the grant applied for will meet standards adopted pursuant to the Act of August 12, 1968 (42 U.S.C. 4151-4156) (known as the Architectural Barriers Act of 1968).

40 USC 276a note.

Construction standards.

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 127. For the purpose of making payments under grants under section 125, there are authorized to be appropriated \$3,000,000 for fiscal year 1976, \$3,000,000 for fiscal year 1977, and \$3,000,000 for fiscal year 1978.”

42 USC 6043.

PART C—REVISION OF ALLOTMENT PROGRAM

STATE ALLOTMENTS

SEC. 110. (a) Section 131 of the Act is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS FOR ALLOTMENTS

42 USC 6061.

“SEC. 131. For allotments under section 132, there are authorized to be appropriated \$40,000,000 for fiscal year 1976, \$50,000,000 for fiscal year 1977, and \$60,000,000 for fiscal year 1978.

42 USC 6062.

(b) Subsection (a) of section 132 of the Act is amended to read as follows:

Infra.

“(a) (1) (A) In each fiscal year, the Secretary shall, in accordance with regulations and this paragraph, allot the sums appropriated for such year under section 131 among the States on the basis of—

“(i) the population,

“(ii) the extent of need for services and facilities for persons with developmental disabilities, and

“(iii) the financial need,

of the respective States. Sums allotted to the States under this section shall be used in accordance with approved State plans under section 134 for the provision under such plans of services and facilities for persons with developmental disabilities.

42 USC 6063.

Exceptions.

“(B) (i) Except as provided by clause (ii) —

“(I) the allotment of the Virgin Islands, American Samoa, Guam, and the Trust Territory of the Pacific Islands under subparagraph (A) of this paragraph in any fiscal year shall not be less than \$50,000; and

“(II) the allotment of each other State in any fiscal year shall not be less than the greater of \$150,000, or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending June 30, 1974.

“(ii) If the amount appropriated under section 131 for any fiscal year exceeds \$50,000,000, the minimum allotment of a State for such fiscal year shall be increased by an amount which bears the same ratio to the amount determined for such State under clause (i) as the difference between the amount so appropriated and the amount authorized to be appropriated for such fiscal year bears to \$50,000,000.

“(2) In determining, for purposes of paragraph (1) (A) (ii), the extent of need in any State for services and facilities for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services specified, pursuant to section 134 (b) (5), in the State plan of such State approved under section 134.

Post, p. 490.

“(3) Sums allotted to a State in a fiscal year and designated by it for construction and remaining unobligated at the end of such year shall remain available to such State for such purpose in the next fiscal year (and in such year only), in addition to the sums allotted to such State in such next fiscal year; except that if the maximum amount which may be specified for construction (pursuant to section 134 (b) (15)) for a year plus any part of the amount so specified pursuant to such section for the preceding fiscal year and remaining unobligated at the end of such fiscal year is not sufficient to pay the Federal share of the cost of construction of a specific facility included in the construction program of the State developed pursuant to section 134 (b) (13), the amount specified pursuant to section 134 (b) (15) for such preceding year shall remain available for a second additional year for

Post, p. 490.

the purpose of paying the Federal share of the cost of construction of such facility.

"(4) Of the amount allotted to any State under paragraph (1) for fiscal year 1976, not less than 10 per centum of that allotment shall be used by such State, in accordance with the plan submitted pursuant to section 134(b) (20), for the purpose of assisting it in developing and implementing plans designed to eliminate inappropriate placement in institutions of persons with developmental disabilities; and of the amount allotted to any State under paragraph (1) for each succeeding fiscal year, not less than 30 per centum of that allotment shall be used by such State for such purpose."

Post, p. 491.

(c) Subsection (d) of section 132 of the Act is amended by inserting after "as he may fix" the following: "(but not earlier than thirty days after he has published notice of his intention to make such reallocation in the Federal Register)".

42 USC 6062.

Publication in Federal Register.

Repeal.

(d) Section 132(e) of the Act is repealed.

(e)(1) Subsection (b) of section 132 of the Act is amended by striking out "this part" each place it occurs and inserting in lieu thereof "the State plan".

42 USC 6063.

(2) Section 134(b) (4) of the Act is amended by striking out "under this part" and inserting in lieu thereof "under section 132".

42 USC 6065.

(3) Section 138 of the Act is amended by striking out "under this part" each place it occurs and inserting in lieu thereof "under section 132".

STATE PLANS

SEC. 111. (a) Subsection (b) of section 134 is amended as follows:

42 USC 6063.

(1) Paragraph (1) of such subsection is amended by striking out "a State planning and advisory council" and inserting in lieu thereof "a State Planning Council as prescribed by section 141".

Post, p. 493.

(2) Paragraph (3) of such subsection is amended by striking out "policies and procedures" and inserting in lieu thereof "priorities, policies, and procedures".

(3) Paragraph (5) of such subsection is amended to read as follows:

"(5) describe the quality, extent, and scope of treatment, services, and habilitation being provided or to be provided in implementing the State plan to persons with developmental disabilities;"

(4) Paragraph (7) of such subsection is amended to read as follows:

"(7) include provisions, meeting such requirements as the United States Civil Service Commission may prescribe, relating to the establishment and maintenance of personnel standards on a merit basis;"

(5) Paragraph (8) of such subsection is amended to read as follows:

"(8) provide that the State Planning Council be adequately staffed and identify the staff assigned to the Council;"

(6) Paragraph (9) of such subsection is amended by striking out "State planning and advisory council" and inserting in lieu thereof "State Planning Council".

(7) Paragraph (15) of such subsection is amended by striking out "50 per centum" and inserting in lieu thereof "10 per centum".

(8) Paragraph (14) of such subsection is amended by striking out "and assign" and inserting in lieu thereof "assign", and by inserting before the semicolon a comma and the following: "and require that construction of projects be done in accordance with standards prescribed by the Secretary pursuant to the Act of August 12, 1968 (42 U.S.C. 4151-4156) (known as the Architectural Barriers Act of 1968)".

(9) Such subsection is amended by striking out "and" after the semicolon at the end of paragraph (17), by redesignating paragraph (18) as paragraph (30), and by inserting the following new paragraphs after paragraph (17):

"(18) provide reasonable assurance that adequate financial support will be available to complete the construction of, and to maintain and operate when such construction is completed, any facility, the construction of which is assisted with sums allotted under section 132;

"(19) provide reasonable assurance that all laborers and mechanics employed by contractors or subcontractors in the performance of work on any construction project assisted with sums allotted under section 132 will be paid at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (40 U.S.C. 276a-276a-5, known as the Davis-Bacon Act); and the Secretary of Labor shall have with respect to the labor standards specified in this paragraph the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 5 U.S.C. Appendix) and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c);

"(20) contain a plan designed (A) to eliminate inappropriate placement in institutions of persons with developmental disabilities, and (B) to improve the quality of care and the state of surroundings of persons for whom institutional care is appropriate;

"(21) provide for the early screening, diagnosis, and evaluation (including maternal care, developmental screening, home care, infant and preschool stimulation programs, and parent counseling and training) of developmentally disabled infants and preschool children, particularly those with multiple handicaps;

"(22) provide for counseling, program coordination, follow-along services, protective services, and personal advocacy on behalf of developmentally disabled adults;

"(23) support the establishment of community programs as alternatives to institutionalization and support such programs which are designed to provide services for the care and habilitation of persons with developmental disabilities, and which utilize, to the maximum extent feasible, the resources and personnel in related community programs to assure full coordination with such programs and to assure the provision of appropriate supplemental health, educational, or social services for persons with developmental disabilities;

"(24) contain or be supported by assurances satisfactory to the Secretary that the human rights of all persons with developmental disabilities (especially those without familial protection) who are receiving treatment, services, or habilitation under programs assisted under this title will be protected;

"(25) provide for a design for implementation which shall include details on the methodology of implementation of the State plan, priorities for spending of funds provided under this part, a detailed plan for the use of such funds, specific objectives to be achieved under the State plan, a listing of the programs and resources to be used to meet such objectives, and a method for periodic evaluation of the design's effectiveness in meeting such objectives;

"(26) provide for the maximum utilization of all available community resources including volunteers serving under the Domestic Volunteer Service Act of 1973 (Public Law 93-113) and

42 USC 6062.

42 USC 4951
note.