

## HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

**BILL #:** HB 55 Assistive Technology Advisory Council

**SPONSOR(S):** Tant, Salzman and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 418

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**FINAL HOUSE FLOOR ACTION:** 113 Y's

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**GOVERNOR'S ACTION:** Pending

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### SUMMARY ANALYSIS

HB 55 passed the House on March 4, 2022, as SB 418.

The bill aligns the requirements for the Florida Assistive Technology Advisory Council (Council) to the federal requirements in the Assistive Technology Act of 2004. The changes ensure that the Council membership meets federal requirements. Additionally, the bill streamlines the role of the Council by removing requirements regarding various committees and moving the responsibilities of the interagency committee to the appropriate state partner agencies.

The bill removes the current 27-member limit on Council membership and extends the time period a former member must have been off of the Council prior to being eligible for reappointment from 1 year to 3 years. The bill explicitly authorizes Council members to participate in fundraising activities on behalf of the Council, which could lead to additional funding for the Council.

The bill does not have a fiscal impact.

Subject to the Governor's veto power, the effective date of the bill is July 1, 2022.

# I. SUBSTANTIVE INFORMATION

## A. EFFECT OF CHANGES:

### Present Situation

#### Background

Assistive technology helps people with disabilities live, work, learn, and play as independently as possible. It is any device, item, gadget, tool, hardware, or software used to increase, maintain, or improve the functional capabilities of individuals of all ages who have disabilities and older adults who may find a need for assistance. Assistive technology provides people who have disabilities the option to access education and the workplace, to live within their communities, and enjoy recreational activities.<sup>1</sup>

#### Federal Assistive Technology Act

The Assistive Technology Act of 1998 was amended by the Assistive Technology Act of 2004 (Act), to recognize the substantial progress that had been made in the development of assistive technology devices that benefit individuals with disabilities.<sup>2</sup> The Act requires the Secretary of Education to support state grant programs that assist states in undertaking activities for maximizing the ability of individuals with disabilities across the human lifespan and across the wide array of disabilities.<sup>3</sup> In addition, the Act requires states to establish advisory councils for the purpose of consumer-response and consumer-driven advice to the state for planning, implementation, and evaluation of activities carried out through the grants made available by the Act.<sup>4</sup>

The state implemented advisory council must be comprised of the following members:<sup>5</sup>

- Individuals with disabilities that use assistive technology or the family members or guardians of the individuals;
- A representative of the designated State agency;
- A representative of a state center for independent living;
- A representative of the state workforce development board established under section 101 of the Workforce Innovation and Opportunity Act;
- A representative of the State educational agency; and
- Representatives of other state agencies, public agencies, or private organizations, as determined by the state.

Further, states are required to ensure a majority of the members of the advisory council are members appointed as individuals with disabilities, or family members or guardians of individuals with disabilities that use assistive technology.<sup>6</sup> The council must also be geographically representative of the state and reflect the diversity of the state regarding race, ethnicity, types of disabilities across the age span, and users of types of services that an individual with a disability may receive.<sup>7</sup>

#### Florida's Assistive Technology Advisory Council

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<sup>1</sup> Florida Alliance for Assistive Services & Technology, *What is Assistive Technology (A.T.)?*, <https://faast.org/> (last visited March 6, 2022).

<sup>2</sup> 29 U.S.C. s. 3001, et. seq.

<sup>3</sup> 29 U.S.C. s. 3003(a).

<sup>4</sup> 29 U.S.C. s. 3003(c)(2)(A).

<sup>5</sup> 29 U.S.C. s. 3003(c)(2)(B)(i).

<sup>6</sup> 29 U.S.C. s. 3003(c)(2)(B)(ii)(I). Members appointed as representatives of state agencies or other state entities do not count toward the majority membership requirement. 29 U.S.C. s. 3003(c)(2)(B)(ii)(II).

<sup>7</sup> 29 U.S.C. s. 3003(c)(2)(B)(iii).

The Assistive Technology Advisory Council (Council) is responsible for ensuring consumer involvement in the creation, application, and distribution of technology-related assistance to and for persons who have disabilities.<sup>8</sup> The Council acts as the board of directors and provides direction, through a not-for-profit corporation created by the Division of Vocational Rehabilitation (DVR) of the Department of Education, to Florida's Alliance for Assistive Services and Technology.<sup>9</sup>

The Council may not exceed 27 members at any one time. The Council must be composed of the following members:<sup>10</sup>

- Individuals who have disabilities<sup>11</sup> and who are assistive technology consumers or family members or guardians of those individuals;<sup>12</sup>
- Representatives of consumer organizations concerned with assistive technology;
- Representatives of business and industry, including the insurance industry, concerned with assistive technology;
- A representative of the Division of Vocational Rehabilitation;
- A representative of the Division of Blind Services;
- A representative of the Florida Independent Living Council;
- A representative of CareerSource Florida, Inc.;
- A representative of the Department of Education; and
- Representatives of other state agencies that provide or coordinate services for persons with disabilities.

The Council is appointed by the Commissioner of Education from a list of candidates proposed by the director of the DVR.<sup>13</sup> The Council is required to appoint two co-chairs among the membership of the Council.<sup>14</sup> Members of the Council serve for a term of 3 years and cannot serve more than two consecutive terms, and a member that has served two consecutive terms must be retired from the council for at least 1 year prior to reappointment.<sup>15</sup>

Members of the Council are required to appoint committees to focus on specific issues within the Council's mandates.<sup>16</sup> The Council's committees must include, but are not limited to:<sup>17</sup>

- An interagency committee composed of those members representing state agencies;<sup>18</sup>
- A technology-awareness committee to guide the Council's public awareness, coordination, and collaboration activities; and

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<sup>8</sup> Section 413.407, F.S.

<sup>9</sup> Section 413.407(2)(a), F.S. Florida's Alliance for Assistive Services and Technology is a project sponsored by the Department of Education for the coordination and delivery of appropriate, cost-effective, state-of-the-art assistive technology services and devices. *See Id.*

<sup>10</sup> Section 413.407(1)(a), F.S.

<sup>11</sup> A "disability" means a physical or mental impairment that constitutes or results in a substantial impediment to employment. *See s.* 413.20(7), F.S.

<sup>12</sup> These individuals must make up a majority of the membership. Section 413.407(1)(c), F.S.

<sup>13</sup> Section 413.407(1)(b), F.S.

<sup>14</sup> Section 413.407(1)(d), F.S. At least one co-chair must be an individual with a disability that utilizes assistive technology or family members of such person and neither co-chair may be an elected member, employee of a state agency, or employee of any political subdivision of the state. *Id.*

<sup>15</sup> Section 413.407(1)(e), F.S.

<sup>16</sup> Committees may request and accept in-kind contributions of personnel from public or private entities to supply such staffing as the committees deem necessary to carry out their individual mandates. *See s.* 413.407(2)(b), F.S.

<sup>17</sup> Section 413.407(2)(b), F.S.

<sup>18</sup> The interagency committee must work towards the development of cooperative agreements among government agencies and perform other duties as the council deems appropriate. The interagency committee's members must assign staff from their respective agencies to the alliance, as an in-kind contribution for a specified period of time, to review federal and state legislation and agency policies and practices and to identify both facilitators of, and barriers to, accessibility and utilization of assistive technology services, devices, and funding sources. *See s.* 413.407(2)(b)1., F.S.

- A public policy and advocacy committee to review federal and state legislation and agency policies and practices and to identify facilitators of and barriers to access and utilization of assistive technology services, devices, and funding sources.

### **Effect of the Bill**

The bill modifies the composition of the Council to allow only one representative of a consumer organization and one representative of business and industry. The bill authorizes a representative from a center for independent living, rather than from the Florida Independent Living Council. The bill also provides that a representative from another state agency that provides or coordinates services for persons with disabilities can be added to the Council if requested by a majority vote of the Council members, and that representative must be appointed by the head of the corresponding state agency. Additionally, the bill removes the requirement that Council membership may not exceed 27 members.

The bill aligns the Council membership with federal requirements that members of the Council be geographically representative of the state, reflective of the diversity of the state's population regarding race, ethnicity, age, gender, type of disability, and type of disability-related services and devices received. The bill directs the Council to elect a single chair of the Council. The bill maintains the limit of two consecutive terms for members, but revises the number of years a council member must be retired from the Council after two consecutive terms to be reappointed, from 1 year to 3 years.

The bill removes the requirement that Council members form a technology awareness committee and a public policy and advocacy committee. The bill removes the interagency committee, and assigns the duties of that committee to the members representing state agencies. The bill also allows Council members to participate in fundraising activities on behalf of the Council, which could lead to additional funding for the Council.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

None.

#### **2. Expenditures:**

None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

None.