

FIRST REGULAR SESSION

HOUSE BILL NO. 1069

98TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BURLISON.

2291H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 208.856 and 208.859, RSMo, and to enact in lieu thereof two new sections relating to the Missouri quality home care council, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 208.856 and 208.859, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 208.856 and 208.859, to read as follows:

208.856. [The Missouri Quality Home Care Council.]

1. Effective January 31, 2009, the Missouri quality home care council is hereby created to ensure the availability and improve the quality of home care services by recruiting, training and stabilizing the personal care attendant workforce. Expenses of the council in carrying out its powers and duties shall be paid from any appropriations for that purpose by the general assembly. The council shall be assigned to the department of health and senior services with supervision by the department extending only to budgeting and reporting as provided by subdivisions (4) and (5) of subsection 6 of section 1 of the Reorganization Act of 1974. Supervision by the department shall not extend to matters relating to policies, regulatory functions or other matters specifically delegated to the council by sections 208.850 to 208.871 and the director of the department or any employee of the department, either directly or indirectly, shall not participate or interfere with the activities of the council in any manner not specifically provided by law.

2. The council shall consist of [eleven] **twelve** members. **All members except those appointed by the speaker of the house of representatives and the president pro tempore of the senate shall be** appointed by the governor with the advice and consent of the senate as follows:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 (1) [Six] **Three** members shall be current or former recipients of personal care assistance
19 services under the consumer directed services program, or its successor program or programs.
20 [Two] **One** of the consumer members shall have received services for a period of at least one
21 year, [two] **one** shall have received services for a period of at least two years, and [two] **one** shall
22 have received services for a period of at least three years. In order to ensure that at least one of
23 the consumer members has personal knowledge of challenges rural consumers face, at least one
24 of these members shall be a resident of a third class county;

25 (2) [One member shall be a representative of the Missouri department of health and
26 senior services, or its successor entity;

27 (3)] Two members shall be representatives of Missouri centers for independent living,
28 or their successor entities;

29 [(4) One member shall be a representative of the governor's council on disabilities, or
30 its successor entity;

31 (5) One member shall be a representative of the governor's advisory council on aging,
32 or its successor entity]

33 **(3) Two members from the house of representatives to be appointed by the speaker**
34 **of the house of representatives;**

35 **(4) Two members from the senate to be appointed by the president pro tempore of**
36 **the senate; and**

37 **(5) Three members shall be representatives of companies that provide vendor**
38 **services for consumer directed services. Two of those members shall represent for-profit**
39 **companies and one shall represent not-for-profit companies.**

40 3. Each member of the council shall serve a term of three years, except the first [eleven]
41 **twelve** members who shall serve staggered terms as follows: [three recipient members and the
42 department of health and senior services member] **one recipient member, one centers for**
43 **independent living member, and two vendor company members** shall serve one-year terms,
44 [two recipient members and one centers for independent living member] **the house of**
45 **representatives and senate members** shall serve two-year terms, and [one recipient member,
46 one centers for independent living member, and the council on disabilities and advisory council
47 on aging members] **two recipient members, one centers for independent living member, and**
48 **one vendor company member** shall serve three-year terms. The initial members of the council
49 shall be appointed by the governor by March 1, [2009] **2016**. If a vacancy occurs, the governor
50 will appoint a replacement for the remainder of the departing member's term. Commission
51 members shall be eligible for reappointment but shall serve no more than two terms. In making
52 appointments, the governor shall consider nominations or recommendations from the agencies
53 or groups represented on the council. Members of the council shall serve without compensation,

54 but shall be reimbursed their actual and necessary expenses. The governor may remove a council
55 member for good cause.

208.859. [The powers and duties of the council.]

2 The council shall have the following powers and duties:

3 (1) Assess the size, quality and stability of the home care workforce in Missouri and the
4 ability of the existing workforce to meet the growing and changing needs of both aging and
5 disabled consumers;

6 (2) Encourage eligible individuals to serve as personal care attendants;

7 (3) Provide training on a voluntary basis, either directly or through contracts, in
8 cooperation with vendors, as defined in subdivision (5) of section 208.865, for prospective and
9 current personal care attendants;

10 (4) Recommend minimum qualifications for personal care attendants to the department
11 of health and senior services;

12 (5) Establish and maintain a statewide list of eligible, available personal care attendants,
13 in cooperation with vendors, including attendants available to provide respite and replacement
14 services. In order to facilitate the creation of such a list, all vendors shall provide the council
15 with the list of persons eligible to be a personal care attendant which vendors are required to
16 maintain under subsection 4 of section 208.906 and subdivision (3) of subsection 1 of section
17 208.918. The council shall ensure that all personal care attendants placed on the statewide list
18 are registered with the family care safety registry as provided in sections 210.900 to 210.936 and
19 are not listed on any of the background check lists in the family care safety registry, absent a
20 good cause waiver obtained from the department pursuant to section 192.2495. All consumers
21 seeking personal care attendants, whether or not they are participants in the consumer directed
22 services program, shall have access to the statewide list;

23 (6) Provide routine, emergency, respite, and replacement referrals of eligible and
24 available personal care attendants to vendors and consumers;

25 (7) In cooperation with the Missouri state highway patrol, the department of social
26 services' children's division, the department of mental health, the department of health and senior
27 services, and vendors and on an on-going basis, assess existing mechanisms for preventing abuse
28 and neglect of consumers in the home care setting and recommend improvements to those
29 agencies and the general assembly. As part of this duty, members and employees of the council
30 shall have access to the employee disqualification list established in section 192.2490 and the
31 family care safety registry. Members and employees of the council shall report to the department
32 of health and senior services when they have reasonable cause to believe that a consumer has
33 been abused or neglected as defined in section 192.2400, subject to the same standards set forth
34 in section 208.912;

35 (8) Recommend the wage rate or rates to be paid personal care attendants and any
36 economic benefits to be received by personal care attendants to the general assembly. **Such**
37 **recommendations shall not be implemented until the fiscal year in which specific**
38 **appropriations are made by the general assembly to fund such recommendations.** The
39 department shall retain its existing authority to establish the Medicaid reimbursement rate for
40 personal care assistance services under subsection 2 of section 208.903;

41 (9) Establish other terms and conditions of employment of personal care attendants
42 consistent with consumers' right to hire, fire, train, and supervise personal care attendants;

43 (10) Cooperate with the department of health and senior services and vendors to improve
44 the provision of personal care assistance services;

45 (11) In carrying out its powers and duties under sections 208.850 to 208.871, the council
46 may:

47 (a) Make and execute contracts and all other instruments necessary or convenient for the
48 performance of its duties or exercise of its powers;

49 (b) [Issue rules under the Missouri administrative procedures act, chapter 536, as
50 necessary for the purposes and policies of sections 208.850 to 208.871. Any rule or portion of
51 a rule, as that term is defined in section 536.010, that is created under the authority delegated in
52 this section, shall become effective only if it complies with and is subject to all of the provisions
53 of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable
54 and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to
55 delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional,
56 then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2008,
57 shall be invalid and void;

58 (c) [Establish offices, employ an executive director and such other staff as is necessary
59 to carry out its functions and fix their compensation, retain contractors as necessary and prescribe
60 their duties and power, incur expenses, and create such liabilities as are reasonable and proper
61 for the administration of sections 208.850 to 208.871;

62 [(d)] (c) Solicit and accept for use any grant of money, services or property from the
63 federal government, the state, or any political subdivision or agency thereof, including federal
64 matching funds under Title XIX of the federal Social Security Act, and do all things necessary
65 to cooperate with the federal government, the state, or any political subdivision or agency thereof
66 in making an application for any grant;

67 [(e)] (d) Keep records and engage in research and the gathering of relevant statistics;

68 [(f)] (e) Acquire, hold, or dispose of personal property or any interest therein, and
69 contract for, lease, or otherwise provide facilities for the activities conducted under this measure;

70 [(g)] (f) Sue and be sued in its own name;

71 [(h)] (g) Delegate to the appropriate persons the power to execute contracts and other
72 instruments on its behalf and delegate any of its powers and duties if consistent with the purposes
73 of sections 208.850 to 208.871; and

74 [(i)] (h) Do other acts necessary or convenient to execute the powers expressly granted
75 to it.

 Section B. Because immediate action is necessary to ensure the availability and improve
2 the quality of home care services for elderly and disabled individuals, the repeal and reenactment
3 of sections 208.856 and 208.859 of section A of this act is deemed necessary for the immediate
4 preservation of the public health, welfare, peace, and safety, and is hereby declared to be an
5 emergency act within the meaning of the constitution, and the repeal and reenactment of sections
6 208.856 and 208.859 of section A of this act shall be in full force and effect upon its passage and
7 approval.

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