

SENATE BILL NO. 482

BY SENATORS HEITMEIER, JOHNS, MARTINY AND MURRAY

1 AN ACT

2 To amend and reenact R.S. 23:3001, 3021, the introductory paragraph of R.S. 23:3022,
3 3023(A), (D), and (E), 3032(A), 3041, 3042(5), 3043(A) and (B), 3044(A), the
4 introductory paragraph of (B), and (F), and 3045, and to enact R.S. 23:3022(8) and
5 (9), 3023(F), (G), and (H), and (I), and 3042(8) and (9), and to repeal R.S. 23:3031,
6 relative to Louisiana Rehabilitation Services; to provide for acceptance of federal act
7 to promote vocational rehabilitation; to provide relative to prevention of blindness,
8 vocational training, and rehabilitation; to provide relative to definitions; to provide
9 relative to expenditures; to provide for an effective date; and to provide for related
10 matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. R.S. 23:3001, 3021, the introductory paragraph of R.S. 23:3022, 3023(A),
13 (D), and (E), 3032(A), 3041, 3042(5), 3043(A) and (B), 3044(A), the introductory paragraph
14 of (B), and (F), and 3045 are hereby amended and reenacted , and R.S. 23:3022(8) and (9),
15 3023 (F), (G), and (H), and (I), and 3042(8) and (9) are hereby enacted to read as follows:

16 §3001. Acceptance of federal act to promote vocational rehabilitation

17 The state of Louisiana accepts the provisions and benefits of the ~~act of~~
18 ~~Congress~~ **Act of Congress** entitled "An act to provide for the promotion of vocational
19 rehabilitation of persons disabled in industry or otherwise and their return to civil
20 employment", 29 ~~U.S.C.A. §701~~ **U.S.C. 701** et seq., and will observe and comply
21 with all requirements of such act.

22 * * *

23 §3021. Prevention of blindness, vocational training, and rehabilitation

24 **A.** ~~The Louisiana Workforce Commission~~ **Rehabilitation Services** may
25 establish and administer an adequate system of conservation of sight and prevention
26 of blindness, vocational training, and rehabilitation for the blind and may make ~~the~~

1 such rules and regulations necessary for the efficient administration thereof.

2 **B. For purposes of this Part, a person who is blind means a person who,**
 3 **after examination by a licensed physician skilled in diseases of the eye or by a**
 4 **licensed optometrist, has been determined to have not more than 20/200 central**
 5 **visual acuity in the better eye with correcting lenses, or an equally disabling loss**
 6 **of the visual field as evidenced by a limitation to the field of vision in the better**
 7 **eye to such a degree that its widest diameter subtends an angle of no greater**
 8 **than twenty degrees.**

9 **C. Louisiana Rehabilitation Services shall submit quarterly reports and**
 10 **an annual report to the legislature on the performance of the agency's programs**
 11 **for blind persons. This annual report shall be submitted no later than sixty**
 12 **days prior to the convening of the regular legislative session.**

13 **D. Louisiana Rehabilitation Services shall be the designated state unit**
 14 **as defined by the Rehabilitation Act of 1973, 29 U.S.C. 701, et seq., as amended,**
 15 **and 34 CFR Part 361.**

16 §3022. Powers of the Louisiana Workforce Commission **Rehabilitation Services**

17 The Louisiana Workforce Commission **Rehabilitation Services** may:

18 * * *

19 **(8) Exercise all the duties and responsibilities of the designated state unit**
 20 **as defined by the Rehabilitation Act 1973, 29 U.S.C. 701, et seq., as amended,**
 21 **and 34 CFR Part 361.**

22 **(9) Act as the state licensing agency for the administration of the**
 23 **Randolph-Sheppard Act and the Business Enterprise Program.**

24 §3023. Preference **Priority** to individuals who are blind in operation of concessions
 25 in public buildings

26 A. State agencies, boards, commissions, and institutions owning,
 27 maintaining, **occupying**, or controlling state property shall in all cases give
 28 preference **priority** to individuals who are blind, under the administration of the
 29 Louisiana Workforce Commission **Rehabilitation Services**, in the operation of
 30 vending stands, vending machines, **cafeterias**, and other small business concessions

1 to be operated ~~on the premises~~ **in the portions, or portions thereof, of properties**
 2 **that those state agencies, boards, commissions, and institutions own, maintain,**
 3 **occupy, or control.** No other vending stands, vending machines, **cafeterias,** or small
 4 business concessions shall be operated on the same premises with vending stands,
 5 vending machines, **cafeterias,** or other small business concessions operated, or
 6 contemplated, under the provisions of this Section. ~~No~~ **Except as provided under**
 7 **this Part and the Randolph-Sheppard Act, no** individual who is blind, under this
 8 Subpart, shall be required to pay any **involuntary** fee, service charge, or equivalent
 9 thereof upon the operation of a vending stand, vending machines, **cafeterias,** and
 10 other small business concessions in public buildings or premises, nor shall an
 11 individual who is blind be disturbed in the security of the operation of the vending
 12 stand, vending machine, **cafeteria,** and other small business concession in any way,
 13 without reasonable or just cause.

14 * * *

15 D. ~~The provisions of this Section shall not apply to the New Orleans Home~~
 16 ~~and Rehabilitation Center or the Villa Feliciana Medical Complex within the~~
 17 ~~Department of Health and Hospitals, when operating canteens, vending stands,~~
 18 ~~vending machines, or other such vending services on the premises for clients and~~
 19 ~~employees when such operations are provided directly by the institution.~~ **Louisiana**
 20 **Rehabilitation Services shall promulgate, pursuant to the Administrative**
 21 **Procedure Act, and enforce the rules and regulations necessary to establish**
 22 **employment and training targets for persons who are blind or otherwise**
 23 **disabled for all blind vendors employing greater than ten employees and for all**
 24 **businesses servicing facilities under this Part with greater than ten employees.**
 25 **Blind vendors and businesses servicing facilities under this Part operating**
 26 **under contracts and permits ratified or issued prior to promulgation of the**
 27 **rules and regulations shall be exempt from the rules and regulations.**

28 E. ~~The Louisiana Workforce Commission~~ **Rehabilitation Services** is hereby
 29 authorized to enter into contingency fee contracts for the identification, development,
 30 and generation of unassigned income from vending machines located on state,

1 federal, and other property pursuant to the provisions of the Randolph-Sheppard Act
2 **and for the identification, development, and generation of job placement and**
3 **training opportunities for persons who are blind or otherwise disabled on**
4 **properties owned, maintained, occupied, or controlled by state agencies, boards,**
5 **commissions, or other institutions.** Any such contract shall be awarded pursuant
6 to a request for proposals in accordance with Chapter 16 of Title 39 of the Louisiana
7 Revised Statutes of 1950.

8 **F. For any claim or controversy between state agencies, boards,**
9 **commissions, and institutions regarding the state priority for blind vendors, the**
10 **generation of unassigned income, or the job placement and training of persons**
11 **who are blind or disabled not resolved by mutual agreement, a full evidentiary**
12 **hearing shall be conducted by an impartial and qualified official designated by**
13 **Louisiana Rehabilitation Services with no involvement or vested interest in the**
14 **dispute at issue. The hearing officer shall make a written report of the evidence**
15 **presented, the laws and rules used in determining a resolution, and the**
16 **resolution itself. This report shall be issued to all parties within thirty calendar**
17 **days of the conclusion of the full evidentiary hearing. The decision shall be final**
18 **and conclusive unless fraudulent, or unless either party institutes a suit**
19 **pursuant to R.S. 23:3023(G).**

20 **G. The Nineteenth Judicial District Court, subject to appeal or review**
21 **by the First Circuit Court of Appeal or by the Supreme Court, as otherwise**
22 **permitted in civil cases by law and the state constitution, shall have jurisdiction**
23 **over any matters in connection with a petition for review of a decision made**
24 **pursuant to this Subpart, following the exhaustion of administrative remedies**
25 **as provided by law or regulation.**

26 **H. Louisiana Rehabilitation Services shall provide each licensed blind**
27 **vendor the opportunity for due process for any claim or controversy arising**
28 **from the operation of the Business Enterprise Program in accordance with the**
29 **Randolph-Sheppard Act.**

30 **I. The provisions of this Section shall not apply to any twenty-four hour**

1 residential healthcare facility within the Department of Health and Hospitals.

2 * * *

3 §3032. Exemption of persons who are blind from license, privilege, or vocational
4 tax; limitation

5 A. Any person who is blind as defined in this ~~Subpart~~ **Part** may exercise the
6 privileges of peddler, news dealer, or lunch counter operator, or may exercise the
7 right to trade, traffic, or sell any merchandise, whether on foot, by vehicle, or in
8 stores, when the stock of goods on hand, or the equipment or capital stock of the
9 enterprises, never exceeds the sum of two thousand dollars. These privileges may be
10 exercised in any of the parishes of the state, including incorporated towns and cities,
11 without the payment of any license, privilege, or vocational tax, which is presently
12 or may be hereafter imposed by law, by the state, or any parish or municipality.

13 * * *

14 §3041. Purpose

15 The purpose of this Part is to provide for the enhancement of programs for
16 persons disabled through blindness by the establishment of a trust fund in the state
17 treasury to be funded by monies received by ~~the Louisiana Workforce Commission~~
18 ~~through contractual arrangements with providers who place~~ **Rehabilitation Services**
19 **from certain vending stands**, vending machines, **cafeterias, and other small**
20 **business concessions** on state, federal, and other property **pursuant to the**
21 **Randolph-Sheppard Act and other sources**. The purpose of the Blind Vendors
22 Trust Fund is to provide assistance to Louisiana citizens who are legally blind and
23 who participate in the Blind Enterprise Program established through the federal
24 Randolph-Sheppard Act.

25 §3042. Definitions

26 As used in this Chapter, the following terms shall have the following
27 meanings:

28 * * *

29 (5) "Department" means ~~the Louisiana Workforce Commission~~
30 **Rehabilitation Services**.

* * *

1
2 **(8) "Active Participation" means an ongoing process of good-faith**
3 **negotiations between Louisiana Rehabilitation Services and the Louisiana Blind**
4 **Vendors Elected Committee to achieve joint planning of policies, procedures,**
5 **standards, rules, and regulations affecting the overall operation of the Business**
6 **Enterprise Program prior to implementation by Louisiana Rehabilitation**
7 **Services. Louisiana Rehabilitation Services shall have final authority and**
8 **responsibility in all decisions relative to the administration and operation of the**
9 **Business Enterprise Program. Active participation shall include the**
10 **requirements set forth in 34 CFR 395.14 (b)(1), (3), and (4).**

11 **(9) "Management Services" means supervision, inspection, quality**
12 **control, consultation, accounting, regulating, in-service training, and other**
13 **related services provided on a systematic basis to support and improve vending**
14 **facilities operated by blind vendors. Management services do not include those**
15 **services or costs which pertain to the on-going operation of an individual facility**
16 **after the initial establishment period.**

17 §3043. Blind Vendors Trust Fund

18 A. There is hereby established a special fund in the state treasury to be
19 known as the Blind Vendors Trust Fund which shall consist of monies collected from
20 certain **vending stands**, vending machines, **cafeterias, and other small business**
21 **concessions** located on state, federal, and other property pursuant to the Randolph-
22 Sheppard Act. The fund may receive monies from any source. In addition, the
23 legislature may make annual appropriations to the trust fund for the purposes set
24 forth in this Part.

25 B. All monies collected under this Part shall be forwarded by the department
26 to the state treasurer upon receipt. After deposit in the Bond Security and
27 Redemption Fund as required by Article VII, Section 9(B) of the Constitution of
28 Louisiana, an amount equal to all amounts so received shall be credited to the Blind
29 Vendors Trust Fund account under ~~the Louisiana Workforce Commission~~
30 **Rehabilitation Services.**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30

* * *

§3044. Blind Vendors Trust Fund ~~Advisory~~ Board; creation; membership

A. There is hereby created the Blind Vendors Trust Fund ~~Advisory~~ Board within the agency.

B. The Blind Vendors Trust Fund ~~Advisory~~ Board shall be composed of nine members as follows:

* * *

F. The board shall **actively participate with the agency in the following:**

(1) ~~Advise and make recommendations to the agency for the promulgation of~~ **Promulgating policies, procedures, standards,** rules, and regulations necessary to implement the provisions of this Part.

(2) ~~Monitor, evaluate, and review~~ **Monitoring, evaluating, and reviewing** the development and quality of services and programs funded through the fund.

(3) **Developing an annual list of potential vending locations on state, federal, or other property.**

§3045. Expenditures

A. Money in the trust fund from vending machines located on federal property shall be distributed for the primary purpose of the establishment and maintenance of retirement or pension plans, for health insurance, and contributions for the provisions of paid sick leave and vacation time for blind vendors, if approved by majority vote of blind vendors licensed by the department after the department has provided to each vendor information on all matters relevant to such purposes. Income not expended for the primary purpose as set out in this Subsection shall be used for the maintenance and replacement of equipment, the purchase of new equipment, management services, and securing a fair return to vendors, or as provided by state or federal guidelines **with the active participation of the Blind Vendors Trust Fund Board.**

B. Money in the trust fund from vending machines located on state-owned property or on property leased by the state or any state agency, or on other property shall be distributed for any purpose ~~associated~~ **consistent** with the provisions of the

