

SENATE BILL NO. 54—COMMITTEE ON  
HEALTH AND HUMAN SERVICES

(ON BEHALF OF THE DEPARTMENT OF EMPLOYMENT,  
TRAINING AND REHABILITATION)

PREFILED DECEMBER 20, 2012

Referred to Committee on Health and Human Services

SUMMARY—Revises provisions governing the operation of certain vending stands by persons who are blind or visually impaired. (BDR 38-370)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to persons with disabilities; restricting the terms of certain agreements relating to vending stands established by the Bureau of Services to Persons Who Are Blind or Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation; authorizing such agreements to provide for the recovery by certain persons and entities of increases in utility costs or other expenses resulting from the operation of such vending stands; revising provisions governing the Business Enterprise Account for Persons Who Are Blind; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

- 1 Under existing law, the Bureau of Services to Persons Who Are Blind or  
2 Visually Impaired of the Rehabilitation Division of the Department of  
3 Employment, Training and Rehabilitation is required to establish, where suitable,  
4 vending stands in property owned, leased or occupied by the State or any of its  
5 political subdivisions, with certain exceptions, with the consent of the state or local  
6 governmental department or agency charged with maintaining the building or  
7 property. (NRS 277A.320, 426.640, 426.670) Similar agreements for the  
8 establishment of vending stands in a privately owned building are authorized  
9 between the Bureau and the private building owner. (NRS 426.685)  
10 **Sections 1 and 2** of this bill prohibit a private building owner or governmental  
11 agency that owns or controls a building or property in or on which a vending stand



12 is established from requiring the Bureau or the operator of the vending stand to pay  
13 any rent, fee or assessment that is based on the square footage of the portion of the  
14 building or property where the vending stand is located. An example of such a  
15 prohibited fee or assessment is a fee for the maintenance of landscaping or a  
16 common area. **Sections 1 and 2** authorize such a private building owner or  
17 governmental agency to enter into an agreement with the Bureau to recover the  
18 increases in utility costs or other expenses where there is a direct, measurable and  
19 proportional increase in such costs or expenses as a result of the operation of the  
20 vending stand. Any conflicting provision in any contract or other agreement  
21 relating to such a vending stand is declared to be void. **Section 3** of this bill  
22 exempts any contract or other agreement relating to a vending stand in force on the  
23 effective date of this bill between the Bureau or a licensee and the owner of a  
24 private building in which the vending stand is established from the provisions of  
25 **section 2** during the current term of the contract or other agreement.

26 Existing law establishes the Business Enterprise Account for Persons Who Are  
27 Blind and provides that if the Account is dissolved, any money remaining in the  
28 Account reverts to the State General Fund. (NRS 426.675) **Section 1.5** of this bill  
29 provides, instead, that if the Account is dissolved or the Vending Stand Program is  
30 terminated, the Administrator of the Rehabilitation Division shall, within 60 days:  
31 (1) provide an accounting of the money remaining in the Account to all licensed  
32 vending stand operators; and (2) distribute to each such operator his or her  
33 proportionate share of that money. **Section 1.5** also requires the Division to adopt  
34 regulations to carry out those provisions.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 426.670 is hereby amended to read as follows:  
2 426.670 1. The Bureau shall:

3 (a) Make surveys of public buildings or properties to determine  
4 their suitability as locations for vending stands to be operated by  
5 persons who are blind and advise the heads of departments or  
6 agencies charged with the maintenance of the buildings or properties  
7 of its findings.

8 (b) With the consent of the respective heads of departments or  
9 agencies charged with the maintenance of the buildings or  
10 properties, establish vending stands in those locations which the  
11 Bureau has determined to be suitable. ~~The~~ *Except as otherwise*  
12 *provided in subsection 4, the* Bureau may enter into leases , ~~for~~  
13 *licensing agreements or other contracts or agreements* therefor.

14 (c) Select, train, license and assign qualified persons who are  
15 blind to manage or operate vending stands or do both.

16 (d) Except as otherwise provided in this paragraph, execute  
17 contracts or agreements with persons who are blind to manage or  
18 operate vending stands or do both. The agreements may concern  
19 finances, management, operation and other matters concerning the  
20 stands. The Bureau shall not execute a contract or agreement which



1 obligates the Bureau, under any circumstances, to make payments  
2 on a loan to a person who is blind.

3 (e) When the Bureau deems such action appropriate, impose and  
4 collect license fees for the privilege of operating vending stands.

5 (f) Establish and effectuate such regulations as it may deem  
6 necessary to ensure the proper and satisfactory operation of vending  
7 stands. The regulations must provide a method for setting aside  
8 money from the revenues of vending stands and provide for the  
9 payment and collection thereof.

10 2. The Bureau may enter into contracts with vendors for the  
11 establishment and operation of vending stands. These contracts must  
12 include provisions for the payment of commissions to the Bureau  
13 based on revenues from the vending stands. The Bureau may assign  
14 the commissions to licensed operators for the maintenance of their  
15 incomes.

16 3. The Bureau may, by regulation, provide:

17 (a) Methods for recovering the cost of establishing vending  
18 stands.

19 (b) Penalties for failing to file reports or make payments  
20 required by NRS 426.630 to 426.720, inclusive, or a regulation  
21 adopted pursuant to those sections when they are due.

22 ***4. A department or agency that has care, custody and control***  
23 ***of a public building or property in or on which a vending stand is***  
24 ***established:***

25 ***(a) Shall not require the Bureau or the operator of the vending***  
26 ***stand to pay any rent, fee or assessment that is based on the square***  
27 ***footage of the portion of the building or property where the***  
28 ***vending stand is located. Such a prohibited fee or assessment***  
29 ***includes, without limitation, a fee for the maintenance of***  
30 ***landscaping or a common area.***

31 ***(b) May enter into an agreement with the Bureau to recover***  
32 ***the increases in utility costs or other expenses where there is a***  
33 ***direct, measurable and proportional increase in such costs or***  
34 ***expenses as a result of the operation of the vending stand.***

35 ***↪ Any provision in a lease, licensing agreement, contract or other***  
36 ***agreement relating to a vending stand established pursuant to this***  
37 ***section that conflicts with this subsection is void.***

38 **Sec. 1.5.** NRS 426.675 is hereby amended to read as follows:

39 426.675 1. The Business Enterprise Account for Persons  
40 Who Are Blind is hereby created within the State General Fund and  
41 must be managed by the Administrator of the Division.

42 2. Money received by the Bureau under the provisions of NRS  
43 426.670, except commissions assigned to licensed vending stand  
44 operators, must:



1 (a) Be deposited in the Business Enterprise Account for Persons  
2 Who Are Blind.

3 (b) Except as otherwise provided in subsection 4, remain in the  
4 Account and not revert to the State General Fund.

5 (c) Be used for:

6 (1) Purchasing, maintaining or replacing vending stands or  
7 the equipment therein;

8 (2) Maintaining a stock of equipment, parts, accessories and  
9 merchandise used or planned for use in the Vending Stand Program;  
10 and

11 (3) Other purposes, consistent with NRS 426.640, as may be  
12 provided by regulation.

13 3. Purchases made pursuant to paragraph (c) of subsection 2  
14 are exempt from the provisions of the State Purchasing Act at the  
15 discretion of the Administrator of the Purchasing Division of the  
16 Department of Administration or his or her designated  
17 representative, but the Bureau shall:

18 (a) Maintain current inventory records of all equipment, parts,  
19 accessories and merchandise charged to the Business Enterprise  
20 Account for Persons Who Are Blind;

21 (b) Conduct a periodic physical count of all such equipment,  
22 parts, accessories and merchandise; and

23 (c) Reconcile the results of the periodic physical count with the  
24 inventory records and cash balance in the Account.

25 4. If the Business Enterprise Account for Persons Who Are  
26 Blind is dissolved ~~[- any money remaining therein reverts to the~~  
27 ~~State General Fund.]~~ *or the Vending Stand Program is terminated,*  
28 *the Administrator of the Division shall, within 60 days after the*  
29 *dissolution or termination:*

30 *(a) Provide an accounting of the money remaining in the*  
31 *Account to all licensed vending stand operators; and*

32 *(b) Distribute any money remaining in the Account to each*  
33 *such operator in the same proportion as the money deposited in*  
34 *the Account and attributable to that operator bears to all the*  
35 *money remaining in the Account.*

36 *↪ The Division shall, in consultation with the Nevada Committee*  
37 *of Blind Vendors or its successor organization, adopt regulations*  
38 *to carry out the provisions of this subsection.*

39 5. Money from any source which may lawfully be used for the  
40 Vending Stand Program may be transferred or deposited by the  
41 Bureau to the Business Enterprise Account for Persons Who Are  
42 Blind.

43 6. The interest and income earned on the money in the  
44 Business Enterprise Account for Persons Who Are Blind, after  
45 deducting any applicable charges, must be credited to the Account.



1     **Sec. 2.** NRS 426.685 is hereby amended to read as follows:  
2     426.685 **1.** The Bureau may establish vending stands in  
3 privately owned buildings, if the building owner in each instance  
4 consents and enters into ~~an~~ **a contract or other** agreement  
5 approved by the Bureau.

6     **2.** *The owner of a building in which a vending stand is*  
7 *established pursuant to subsection 1:*

8     **(a)** *Shall not require the Bureau or the operator of the vending*  
9 *stand to pay any rent, fee or assessment that is based on the square*  
10 *footage of the portion of the building or property where the*  
11 *vending stand is located. Such a prohibited fee or assessment*  
12 *includes, without limitation, a fee for the maintenance of*  
13 *landscaping or a common area.*

14     **(b)** *May enter into an agreement with the Bureau to recover*  
15 *the increases in utility costs or other expenses where there is a*  
16 *direct, measurable and proportional increase in such costs or*  
17 *expenses as a result of the operation of the vending stand.*

18     **↳** *Any provision in a contract or other agreement relating to a*  
19 *vending stand established pursuant to subsection 1 that conflicts*  
20 *with this subsection is void.*

21     **Sec. 3.** 1. The provisions of NRS 426.670, as amended by  
22 section 1 of this act, apply to any contract or other agreement  
23 relating to a vending stand entered into before, on or after the  
24 effective date of this act.

25     2. The provisions of NRS 426.685, as amended by section 2 of  
26 this act, do not apply to any contract or other agreement relating to a  
27 vending stand entered into before the effective date of this act  
28 during the current term of the contract or other agreement, but do  
29 apply to any extension or renewal of such a contract or other  
30 agreement and to any contract or other agreement entered into on or  
31 after the effective date of this act.

32     **Sec. 4.** This act becomes effective upon passage and approval.

