

HOUSE BILL No. 2388

By Committee on Health and Human Services

2-14

AN ACT concerning blind persons; creating a commission for the blind and visually impaired.

Be it enacted by the Legislature of the State of Kansas:

Section 1. This act shall be known and may be cited as the commission for the blind and visually impaired act.

Sec. 2. The purposes of the commission for the blind and visually impaired act are to assist blind and visually impaired persons in gaining remunerative employment, learning and maintaining skills needed to live in community settings, increasing economic opportunities for blind and visually impaired persons, increasing the available occupational range and diversity for blind and visually impaired persons, and stimulating other efforts that aid blind and visually impaired persons in becoming self-supporting.

Sec. 3. As used in this act, unless the context clearly shows otherwise:

(a) "Blind person or visually impaired person" means:

(1) A person having sight which is so defective as to seriously limit such person's ability to engage in the ordinary vocations and activities of life; or

(2) a person eligible and licensed as a blind vending facility operator under K.S.A. 75-3337 *et seq.*, and amendments thereto:

(A) Having no greater than $\frac{20}{200}$ central visual acuity in the better eye after correction; or

(B) having an equally disabling loss of the visual field in which the widest diameter of the visual field subtends an angle no greater than twenty degrees.

(b) "Board" means the governing board of the commission.

(c) "Visually impaired person" means a person whose best corrected vision in the better eye is not greater than $\frac{20}{70}$ but is better than light perception or light projection or whose visual fields have a maximum diameter of no greater than 30 degrees.

(d) "Commission" means the commission for the blind and visually impaired.

(e) "Committee of blind vendors" means the committee created pursuant to 20 U.S.C. 107b-1.

1 (f) “State workforce investment board” means the board authorized
2 by the federal workforce investment partnership act of 1998 and estab-
3 lished in Kansas.

4 (g) “Vending facility” means:

5 (1) Shelters, counters, shelving, display and wall cases, refrigerating
6 apparatus and other appropriate auxiliary equipment necessary for the
7 vending of articles approved by the office, agency, person having control
8 of the property on which the vending facility is located or licensed blind
9 vendor; and

10 (2) manual or coin-operated vending machines or similar devices for
11 vending articles approved by the office, agency, person having control of
12 the property on which the vending facility is located or licensed blind
13 vendor.

14 (h) “Vending facility program” means the program established and
15 maintained pursuant to K.S.A. 75-3337 *et seq.*, and amendments thereto.

16 Sec. 4. (a) The commission for the blind and visually impaired is
17 hereby created. The governing board of the commission shall consist of
18 five members appointed by the governor with the approval of a majority
19 of the members of the legislature. All board members shall have reason-
20 able knowledge or experience in issues related to blindness which may
21 include, but is not limited to, reasonable knowledge or experience ac-
22 quired through membership in consumer organizations of the blind or
23 visually impaired; experience in delivering services to people who are
24 blind; or documented academic expertise in the field of blindness and
25 visual impairment. No board member shall be a current employee of the
26 commission. At least three board members shall be blind persons; one
27 member shall be a member or designee of the national federation of the
28 blind of Kansas; one member shall be a member or designee of the Kansas
29 association for the blind and visually impaired, inc., an affiliate of the
30 American council of the blind; and one member may be a member of
31 another consumer organization of the blind.

32 (b) Board members shall be appointed for staggered terms with the
33 initial members appointed for terms as follows: Two members for terms
34 ending on December 31, 2004, and three members for terms ending
35 December 31, 2006. Subsequent appointments shall be for terms of four
36 years with no board member appointed to more than two consecutive
37 terms. Board members whose terms have expired shall continue to serve
38 until their successors have been appointed and qualified. In the case of
39 a vacancy, the governor shall appoint a successor for the unexpired term.
40 Board members may be removed for cause.

41 (c) A majority of the board members constitutes a quorum for the
42 transaction of business. The board shall annually elect a chairperson from
43 its membership.

1 (d) Board members attending meetings of such authority, or attend-
2 ing a subcommittee meeting thereof authorized by such authority, shall
3 be paid compensation, subsistence allowances, mileage and other ex-
4 penses provided in K.S.A. 75-3223, and amendments thereto, except that
5 compensation shall be \$70 per diem and expenses shall be included for
6 driving services and reader services in the performance of official duties.

7 Sec. 5. (a) The commission shall employ a director as the adminis-
8 trative officer of the commission. The director shall hire employees as
9 necessary for the efficient operation of the commission. The director shall
10 serve at the pleasure of the commission.

11 (b) The commission shall have power: (1) To establish standards of
12 qualification for personnel employed by the commission; and (2) to em-
13 ploy necessary field agents, teachers and other personnel in accordance
14 with such standards and set their compensation. All employees of the
15 commission, except the director, shall be included within the classified
16 civil service.

17 Sec. 6. (a) The commission shall:

18 (1) Apply for, receive and administer money from any state or federal
19 agency to be used for purposes relating to blindness, including federal
20 funds relating to vocational rehabilitation of blind persons, including so-
21 cial security trust funds received by the state of Kansas as a result of the
22 successful rehabilitation of blind citizens, but excluding funds adminis-
23 tered by the Kansas state library for the operation of the Kansas library
24 for the blind and physically handicapped or funds administered by the
25 Kansas state board of education or Kansas department of education for
26 the operation of the Kansas state school for the blind;

27 (2) receive on behalf of the state any gifts, donations or bequests from
28 any source to be used in carrying out the purposes of the commission for
29 the blind and visually impaired act;

30 (3) promote self-support of blind persons;

31 (4) provide itinerant training of alternative skills of blindness, includ-
32 ing, but not limited to, braille, the long white cane for independent travel,
33 adaptive technology, low vision aids and lifestyle maintenance;

34 (5) establish, equip and maintain a residential training center with
35 qualified instructors for comprehensive prevocational training of eligible
36 blind persons. The center shall also provide comprehensive independent
37 living training, braille training and other adaptive communications strat-
38 egies, training in use of adaptive and assistive technology to compensate
39 for, and negate, the impacts of blindness or low vision, as well as orien-
40 tation and mobility, and adjustment counseling for blind persons;

41 (6) administer and operate a vending facility program in the state, as
42 the designated licensing agency pursuant to the federal Randolph-Shep-
43 pard act, as amended, 20 U.S.C. 107 *et seq.*, for the benefit of blind

1 persons;

2 (7) contract for the purchase of information services for blind per-
3 sons; and

4 (8) perform other duties necessary to fulfill the purposes of the com-
5 mission for the blind and visually impaired act.

6 (b) The commission may perform educational services relating to
7 blindness and may cooperate and consult with other public and private
8 agencies relating to educational issues.

9 Sec. 7. To promote self-support of blind persons:

10 (a) The commission shall:

11 (1) Provide placement and career development services;

12 (2) provide prevocational training;

13 (3) support integration with and access to community-based educa-
14 tional and vocational training opportunities;

15 (4) support informed vocational choices made by persons who are
16 blind or visually impaired;

17 (5) implement employer outreach and cultivation; and

18 (6) develop inservice community-based recruitment and networking
19 resources.

20 (b) The commission may:

21 (1) Maintain employment data bases;

22 (2) facilitate small business enterprises; and

23 (3) develop recommendations for state contract preferences.

24 Sec. 8. (a) For a person to qualify for blindness-related services from
25 the commission, the commission shall find such person to be: (1) A blind
26 person as defined in this act; (2) a visually impaired person as defined in
27 this act; or (3) a person who is experiencing a deteriorating condition
28 which is expected to result in blindness. A person seeking to qualify for
29 blindness-related services shall obtain an eye examination from a licensed
30 ophthalmologist or optometrist of such person's choice, cooperate with
31 appropriate commission agents who shall arrange for the applicant's eyes
32 to be examined by an ophthalmologist or optometrist of the commission's
33 designation, and at the commission's expense, or provide other certifying
34 evidence of existing or potential visual impairment as required by the
35 rules and regulations of the commission.

36 (b) The commission shall maintain a list of all ophthalmologists and
37 optometrists currently licensed in Kansas and establish procedures for a
38 person to obtain evidence to verify that such person qualifies for blind-
39 ness-related services.

40 Sec. 9. (a) The commission is authorized to accept the provisions of
41 the federal rehabilitation act of 1973, as amended, 29 U.S.C. 701 *et seq.*,
42 and to cooperate with the United States government in any way necessary
43 to enable the commission to receive federal funds for the vocational re-

1 habilitation of blind persons as provided in such act, federal funds allo-
2 cated under chapter II of the rehabilitation act for the rehabilitation or
3 independent living assistance for older blind americans, and the provi-
4 sions of titles II and XVI of the federal social security act, as amended,
5 42 U.S.C. 301 *et seq.*

6 (b) The commission shall provide vocational rehabilitation services
7 for blind persons, including, but not limited to, prevocational training,
8 maintenance during training, transportation, occupational tools and
9 equipment, vocational training, medical and surgical care and hospitaliza-
10 tion and prosthetic appliances.

11 Sec. 10. For the purpose of providing blind persons with remuner-
12 ative employment, enlarging the economic opportunities of blind persons
13 and stimulating blind persons to greater efforts in striving to make them-
14 selves self-supporting, the commission shall administer and operate vend-
15 ing facilities programs pursuant to the federal Randolph-Sheppard act, as
16 amended, 20 U.S.C. 107 *et seq.* Blind persons licensed by the commission
17 pursuant to its rules and regulations are authorized to operate vending
18 facilities in any state-owned or controlled building, on any state-owned
19 or controlled property, or on any county, city or municipally owned or
20 controlled property, when, in the judgment of the director of the com-
21 mission, such vending facilities may be properly and satisfactorily oper-
22 ated by blind persons. All vending facilities authorized under this section
23 shall conform to the provisions of K.S.A. 75-3337 *et seq.*, and amendments
24 thereto, and all references to the division of services for the blind, or the
25 Kansas division of services for the blind in K.S.A. 75-3317 *et seq.*, and
26 amendments thereto, shall henceforth be regarded as referring to the
27 commission for the blind and visually impaired.

28 Sec. 11. (a) The commission for the blind and visually impaired cash
29 fund is hereby created. On July 1, 2003, all funds held by the Kansas
30 department of social and rehabilitation services, and which have in the
31 traditional practice of the Kansas department of social and rehabilitation
32 services, been used to provide assistance to persons who are blind and
33 visually impaired, shall be transferred to the commission for the blind
34 and visually impaired cash fund. Such funds to be transferred accordingly
35 shall include all case services funds held in accounts of personnel, or
36 vacant personnel positions, which shall transfer to the commission for the
37 blind and visually impaired, any remaining balances in the Kansas indus-
38 tries for the blind fee fund or other fee funds designated for purposes
39 relating to services for blind Kansans, and any grants targeted solely or
40 for the majority purposes of serving the blind and visually impaired. In
41 no case shall a percentage of vocational rehabilitation funding and reha-
42 bilitation services funding be transferred to the commission for the blind
43 and visually impaired, which is less than the percentage of vocational

1 rehabilitation and rehabilitation services funding which would have been
2 allocated to the Kansas division of services for the blind by the Kansas
3 department of social and rehabilitation services under funding formulas
4 in effect immediately prior to December 1, 2000. Any custodial funds,
5 gifts, trusts and federal grants attributable to the Kansas division of serv-
6 ices for the blind within the department of social and rehabilitation serv-
7 ices shall be transferred and attributable to the commission for the blind
8 and visually impaired. The fund shall contain money received pursuant
9 to the commission for the blind and visually impaired act and shall include
10 a percentage of the net proceeds from the operation of vending facilities.
11 The net proceeds from the operation of vending facilities shall accrue to
12 the blind vending facility operator, except for the percentage of the net
13 proceeds that shall revert to the cash fund. Such fund shall be used for
14 supervision and other administrative purposes as necessary. The com-
15 mission, in consultation with the committee of blind vendors, shall de-
16 termine the percentage of the net proceeds that reverts to the fund after
17 an investigation to reveal the gross proceeds, cost of operation, amount
18 necessary to replenish the stock of merchandise and the business needs
19 of the blind vending facility operator. All equipment purchased using fund
20 moneys is the property of the state and shall be disposed of only by sale
21 at a fair market price. Any money in the fund available for investment
22 shall be invested by the state investment officer pursuant to applicable
23 Kansas laws.

24 (b) The commission shall file a separate state plan for services to blind
25 Kansans under appropriate provisions of the federal rehabilitation act,
26 and as prescribed by the rehabilitation services administration of the
27 United States department of education.

28 Sec. 12. The commission shall provide an opportunity for a fair hear-
29 ing to any person applying for or receiving services who is dissatisfied
30 with any action or failure to act arising from the operation or administra-
31 tion of any service or program authorized under the commission for the
32 blind and visually impaired act.

33 Sec. 13. The commission shall adopt rules and regulations to imple-
34 ment the purposes of this act.

35 Sec. 14. (a) All property, equipment, supplies, personnel and posi-
36 tions which belonged to, were allocated to, or were used to support the
37 Kansas division of services for the blind within the department of social
38 and rehabilitation services prior to December 1, 2003, are hereby trans-
39 ferred to the commission for the blind and visually impaired. Additionally,
40 any position within the division of rehabilitation services of the depart-
41 ment of social and rehabilitation services on July 1, 2003, which is engaged
42 in providing services to blind and visually impaired Kansans as 51% or
43 more of the caseload assigned to that position, or for 51% or more of the

1 work hours assigned to that position, shall also transfer to the commission
2 for the blind and visually impaired. Furthermore, a percentage of support
3 staff proportional to the total of direct services staff transferred shall also
4 be transferred to the commission for the blind and visually impaired.

5 (b) All existing contracts and agreements in effect on July 1, 2003, as
6 to the division of rehabilitation services for the blind within the depart-
7 ment of social and rehabilitation services are binding and effective upon
8 the commission for the blind and visually impaired.

9 Sec. 15. (a) The rehabilitation council to the commission is created
10 to aid in providing services for blind persons. The council shall consist of
11 no more than 15 members who shall be appointed by the governor. The
12 initial members of the council are as follows: Five members shall be
13 appointed for terms of one year, five members for terms of two years and
14 the remaining members for terms of three years. The governor shall des-
15 ignate the length of term of office of each member of the council when
16 first appointed. Thereafter their successors shall serve for terms of three
17 years. In appointing members to the council, the governor shall give due
18 consideration to the geographical distribution of blind persons within the
19 state with a view to apportioning membership on the council in accord-
20 ance with such distribution. The governor shall appoint representatives
21 of the following as terms expire or vacancies occur: (1) At least two rep-
22 resentatives of blindness advocacy groups representing blind persons, to
23 accord fair representation to the several organizations of the blind; (2) at
24 least one representative who is a current or former applicant or recipient
25 of vocational rehabilitation services; (3) a representative from the client
26 assistance program; (4) a qualified vocational rehabilitation counselor with
27 knowledge of and experience with vocational rehabilitation programs,
28 who shall be a nonvoting member if employed by the commission; (5) a
29 representative of a community rehabilitation program service provider;
30 (6) four representatives of business, industry and labor; (7) a represen-
31 tative of a parent training and information center; (8) at least one rep-
32 resentative of individuals with multiple disabilities, including blindness,
33 who have difficulty in representing themselves or are unable to represent
34 themselves due to their disabilities; and (9) a representative of the state-
35 wide independent living council. A majority of the members of the council
36 shall be blind persons who are not employed by the commission. In case
37 of vacancy in the office of any member, such person's successor shall be
38 appointed for the unexpired term.

39 (b) Members of the council shall be reimbursed for the performance
40 of their official duties as provided in subsections (b), (c) and (d) of K.S.A.
41 75-3223, and amendments thereto, except that expenses shall include, if
42 documented as necessary, reimbursement for reader services and driver
43 services.

1 (c) The council shall hold at least four meetings a year at such times
2 and places as determined by the council. A chairperson and such other
3 officers as may be necessary shall be elected by the council by majority
4 vote for terms of office as determined by the council.

5 (d) The director of the commission shall serve as an ex officio mem-
6 ber of the council in a nonvoting capacity. The director shall furnish any
7 data required by the council in carrying out its functions subject to the
8 limitations prescribed by law relating to the confidentiality of information
9 with respect to individual clients.

10 (e) The council shall, after consulting with the state workforce in-
11 vestment board:

12 (1) Review and analyze the rehabilitation services provided by the
13 commission and provide advice to the director of the commission, partic-
14 ularly with respect to eligibility for and the extent, scope and effectiveness
15 of services and the impact of other agencies on the success of clients;

16 (2) in partnership with the commission and its director, develop,
17 agree to and review state goals and priorities on the preparation of ap-
18 plications, the state plan, the strategic plan, reports, needs assessment
19 and evaluations required by federal law;

20 (3) review and analyze the effectiveness of and consumer satisfaction
21 with other public and private agencies providing services to blind persons,
22 including achieved employment outcomes and the provision of health and
23 related benefits;

24 (4) prepare and submit an annual report to the director of the com-
25 mission, the governor and the United States commissioner of rehabilita-
26 tion services on the status of vocational rehabilitation services operated
27 by the commission. This report shall also be made available to the public;

28 (5) coordinate with other councils in the state that serve disabled
29 persons;

30 (6) advise the commission and provide for coordination and the es-
31 tablishment of working relations with the statewide independent living
32 council and centers for independent living; and

33 (7) perform other duties that the council determines to be
34 appropriate.

35 Sec. 16. This act shall take effect and be in force from and after its
36 publication in the statute book.

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