

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Senator Jan Meyers at
Chairperson

10 a.m./~~p.m.~~ on February 28, 1984 in room 526-S of the Capitol.

All members were present except:

Senator Francisco, Excused

Committee staff present:

Emalene Correll, Legislative Research Department

Conferees appearing before the committee:

Debra Brummer, Randolph-Sheppard Vendors of Kansas, Inc.
Michael Byington, Kansas Association for Blind and Visually Impaired, Inc.
Richard A. Schutz, Director, Division of Services for the Blind, SRS
Dr. Joseph Hollowell, Department of Health and Environment
Mary Ellen Conlee, Wichita
Al Ward, Kansas Restaurant Association

Others present: see attached list

SB 754 - Vending facilities, operation by blind persons

SB 755 - Food service establishments operated by persons licensed by
division of services for blind

Debra Brummer, Lobbyist, Randolph-Sheppard Vendors of Kansas, Inc., testified in support of SB 754 and SB 755, and distributed testimony stating that KSA 75-337 contains inadequate enforcement statutes, and there are facilities in Kansas where private vendors, not licensed by the Division of Services for the Blind, have been allowed facility contracts. The statute calling for binding arbitration to resolve such situations is weak and imposes no time limit for resolution. SB 754 would make the process of getting arbitration a little easier and will reduce the time taken in the arbitration process. SB 755 is aimed at enforcing past and future violations, and adds one more criteria for the yearly inspection. (Attachment #1).

Ms. Brummer distributed testimony from Mike Rusk, President, Board of Directors, Randolph-Sheppard Vendors of Kansas, in support of SB 754 and SB 755. In his written statement Mr. Rusk said that both of these bills would increase opportunities for blind vendors, which would be advantageous for both the economic health of the State of Kansas and blind constituents living here. His testimony included a table showing the Net Effect of the Vending Facilities Program on State and Federal Government Budgets. (Attachment #2).

In answer to a question from the committee, Ms. Brummer stated that they were not contacted when the facilities in the Wyandotte County Court House were bid.

Michael Byington, Lobbyist, Kansas Association for the Blind and Visually Impaired, Inc., testified in support of SB 754 and SB 755, and distributed testimony stating that most of the vending facilities operated by the Division of Services for the Blind are either large full-service cafeterias or major vending machine operations, and the operators are also highly trained and extremely competent food service managers. The program is a money maker for the state and not a money loser. The vendors pay an assessment to the state just as a private corporation pays rent, and they pay the same taxes any other businessman pays. Mr. Byington said that SB 754 and SB 755 expedite the process of arbitration and provide adequate enforcement. (Attachment #3).

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10 a.m. ~~p.m.~~ on February 28, 1984

Richard A. Schutz, Director, Division of Services for the Blind, SRS, distributed a written statement regarding SB 755, which stated that this bill would ensure that qualified blind persons are given the intended preference in operation of vending facilities on state, county and city property, and SRS encourages favorable consideration of this bill. (Attachment #4).

Dr. Joseph Hollowell, DH&E, distributed testimony to the committee on SB 755, which stated that this bill would require the Secretary of DH&E to review all food service establishment locations and food vending machine locations to determine if such facilities are being operated by individuals licensed by SRS. This bill is intended to promote the management of vending facilities by the visually handicapped, and DH&E would be able to enforce the law should the bill pass. (Attachment #5).

There was discussion concerning how well informed the cities and counties are as to the rights of the blind vendors to operate in state, county and city buildings.

Mary Ellen Conlee, Wichita, testified in opposition to SB 755, and distributed a letter from Leo Weston, President, City Hall Cafeteria, Wichita, stating that this bill would be unfair to the blind, the customer, and the taxpayer, and he asked that SB 755 be set aside for further study. (Attachment #6). Ms. Conlee testified that they have been pleased with the facilities that Mr. Weston provides and would be disturbed to go through a yearly process of offering that facility to other people. They would like an opportunity to look at this bill more closely.

Al Ward, Kansas Restaurant Association, testified in opposition to SB 755, and particularly objected to Lines 76 and 235. He stated that KRA feels that the Division of Services for the Blind has every opportunity to bid on locations and that is how it should be.

Senator Meyers concluded the hearing on SB 754 and SB 755, and asked the committee for discussion and action on HB 2368 and SB 656, both pertaining to adult care homes. One would require surety bonds and the other allow recovery of costs of receivership.

There was concern expressed as to whether surety bonds would be available on the market. Secretary Sabol, DH&E, stated that they felt that SB 656 would more specifically address their concerns. HB 2368 is opposed by the nursing home industry, but they have no objection to SB 656. It was suggested that certain provisions in HB 2368 be stricken, and provisions in SB 656 substituted therefor. Senator Morris objected to this and said he would prefer to work SB 656 on its own.

Senator Johnston moved that SB 656 be reported favorably. Senator Bogina seconded the motion and it carried.

Senator Vidricksen moved that HB 2368 be reported unfavorably. Senator Ehrlich seconded the motion and it carried.

Senator Morris moved that the minutes of February 15, 16 and 17, 1984, be approved. Senator Hayden seconded the motion and it carried.

The meeting was adjourned.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-28-84

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

DICK HUMMEL

Ks HEALTH CARE ASSN

J.F. SMITH

DMPREMIER MGMT.
STATE OFFICE BLDG. CAFETERIA

Bill NACE

D/A B&G SERVICE

Steve Pargin

KDHE

Al WARG

Kans. Restaurant Assn.

B. J. Stahl

KDHE

J.G. Hollowell

"

KEITH R. LANDIS

CHRISTIAN SCIENCE COMMITTEE
ON PUBLICATION FOR KANSAS

Evelyn Mathews

Kansas State Nurses Assn.

Larry Waymire

KVS Manager

Kathy Dawson

KVS Manager

Rob Kawata

Daily Kansan, Ky

Richard Schutz

SR S

Michael J. Byington

Ks. Assn for Blind and Visually
Impaired

Frances Rastner

Ks Food Dealers Assn

Diane Bolloff

KSNA

Mary Ellen Conley

City of Wichita

John Schneider

SR S

Ed Marston

Legis of Ks Management

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TO: Senate Public Health and Welfare

FROM: Debra Brummer, Lobbyist, Randolph-Sheppard Vendors of Kansas Inc.

SUBJECT: Senate Bill 754 and Senate Bill 755

BACKGROUND

K.S.A. 75-3337 et seq. is the Kansas law governing the operation of vending facilities managed by blind individuals licensed through the Division of Services for the Blind. Usually these facilities are located in state, city, or county buildings, and most of K.S.A. 75-3337 et seq. relates to state, city, and county participation in the program. The law assures such licensed blind individuals the right to operate such facilities in all state, city, and county buildings excluding those under the State Park and Resource Authority or the Kansas Turnpike Authority. This law further requires that when state, city, or county buildings are built, renovated, or remodeled, the State Division of Services for the Blind must be consulted as to where the vending facility shall be located, and as to where electrical and plumbing outlets shall be located to accommodate the type of facility deemed appropriate by the Division of Services for the Blind, -ie- full service cafeteria, vending machine facility, or dry and packaged goods stand.

✓ A major problem is that K.S.A. 75-3337 contains inadequate enforcement statutes. The law specifically provides that the secretary of social and rehabilitation services and the division of services for the blind must determine that a particular property is not appropriate to support a vending facility before K.S.A. 75-3337 et seq. fails to apply. There are, however, facilities in Kansas where the law has been disregarded, and private, for profit vendors, not licensed by the Division of Services for the Blind, have been allowed facility contracts. By the time such situations are discovered, the damage has usually already been done. K.S.A. 75-3337 et seq. calls for binding arbitration to resolve such situations, but this statute is weak in that it imposes no time limit under which arbitration must be brought to resolution. Moreover, there is no vehicle to compel state, city, or county administering agencies to observe the law by submitting to binding arbitration. Furthermore, the current law makes the vendor's advocate in requesting binding arbitration the secretary of social and rehabilitation services. This individual, however competent, is rather far removed from the vending programming.

SENATE BILL 754

This bill will help solve the above outlined problems in two ways. In reference to the first way, if an individual vendor is, under the present law, having a disagreement with the

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administering agency of the building where his/her vending facility is located, he/she currently must go to the Business Enterprises Program Supervisor who must go to the director of the Division of services for the Blind who must go to the Commissioner of Rehabilitation Services who must go to the secretary of social and rehabilitation services in order to request arbitration. This is a lot of going, and by the time the going gets gone, a great deal of time has usually passed. When the disagreement involves the rights of the Division of Services for the Blind to open a vending facility in a particular building, the time taken up with this administrative red tape is unacceptable. By the time arbitrators are appointed and arbitration comes to pass, a private, for profit vendor might well already be in the building. This makes the problem much more difficult to solve. Senate Bill 754 would make the process of getting arbitration a little easier. Instead of the secretary of the social and rehabilitation services appointing the arbitrator representing the Division of Services for the Blind, this chairing arbitrator would be appointed by the Vending Facilities Committee of the Randolph-Sheppard Vendors of Kansas Inc., which is currently legislatively recognized under K.S.A. 75-3343. With the passage of this law, the Division of Services for the Blind would still be approving the move on the part of the vendors to request arbitration, but the time consuming administrative red tape would be reduced significantly. The second way in which this bill will help is in reference to the time taken in the arbitration process. Currently, an arbitration board can take an unlimited amount of time to resolve a problem. Again, when the dispute relates to the right of the Division of Services for the Blind to open a vending facility in a particular building, a private, for profit vendor could already be in operation by the time the arbitration board has finished its work. A time limit is thus needed, and Senate Bill 754 establishes that limit at 30 days.

SENATE BILL 755

As the current law, K.S.A. 75-3337 et seq., has had inadequate enforcement provisions for some time, Senate Bill 755 is aimed at enforcing past and future violations. The best means of enforcement seems to be through the Kansas Department of Health and Environment. Each year, under current law, K.S.A. 36-503 through 505, the Department of Health and Environment is charged with the responsibility of inspecting every food service establishment in the state including those on state, city, and county property, and including all food service establishments operated through the Division of Services for the Blind. Given this responsibility, Senate Bill 755 adds simply one more criteria for the yearly inspection. The Department of Health and Environment will be required to determine whether a particular food service establishment is located on state, city, or county property, not including the state park and resources authority or the Kansas Turnpike Authority, and if located on said property, will be required to determine that the vendor or vendors

operating the establishment are either licensed by the Division of Services for the Blind or that the the Division of Services for the Blind has waved its right to license vendors for that particular establishment. If this requirement is not met, as is the case with all other Department of Health and Environment requirements, the Health and Environment license for the establishment will not be renewed.

I believe these statements explain the merits of the two bills. The President of the Board of Directors of the Randolph Vendors of Kansas Inc., Mr. Mike Rusk, shall present within the context of his testimony, some information about the economic advantages enjoyed by the state of Kansas through its participation in the Business enterprises program of the Division of Services for the Blind

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TO: Senate Public Health and Welfare

FROM: Mike Rusk, President of the Board of Directors,
Randolph-Sheppard Vendors of Kansas

SUBJECT: Senate Bill 754 and Senate Bill 755

First of all, obviously I support the written and verbal testimony of my Registered Lobbyist, Mrs. Debra Brummer. I do indeed ask you to favorably report Senate Bills 754 and 755.

My testimony is related to both of these bills in that they both would increase opportunities for blind vendors in the state of Kansas. Such an increase in opportunities would be mutually advantageous for both the economic health of the state of Kansas and blind constituents living in the state.

The vending facilities under the Kansas Division of Services for the Blind have a positive economic effect on the state of Kansas. The Institute for Economic and Business Research of the University of Kansas has recently concluded a study titled, "An Economic Impact Analysis of the Blind Vending Facilities Program in Kansas." This was Directed by Robert Glass. A few noteworthy statistics from this report are here included. Attached, please find a document headed, "Table 4." This shows overall taxes, broken down by tax types, generated by the vending facilities program. Also, please find attached from the study, a document headed, "Table 5." This shows the net gain to the state above and beyond its expenditures from 1978 through 1982. It is clear from this information that the vending facilities program is definitely not a liability for the state, but rather an asset.

Increasing opportunities for vending facility operation by strengthening the enforcement of current laws would clearly increase the state's economic benefit as well as create business opportunities for individuals who otherwise would be greatly disadvantaged in the competitive employment market. It would be well to keep in mind that these individuals are operators and managers, and that often they employ local, non-handicapped workers. This factor keeps economic displacement at a virtual null. For example, let us suppose that a state, city or county building currently has a cafeteria within it which is operated by a private, for profit vendor outside of the bounds of the current K.S.A. 75-3337. Let us further suppose that this is a large food service operation employing one manager and 15 other local employees. Any new operator/manager licensed by the Division of Services for the blind who takes over this location due to better enforcement of K.S.A. 75-3337 is still going to need to employ approximately 15 local employees. Only one employee is displaced, not 16. The one managerial person displaced will often be the employee of a corporation having multiple locations, and will thus retain transfer potential.

In conclusion, it is clear that Senate Bill 754 would bring

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disputes, when necessary, to binding arbitration more quickly, and with less red tape. In doing so in reference to possible disputes over the right of the Division of Services for the Blind to open a food service in a particular building, it would resolve the issue in a timely manner, often before a private, for profit vendor has had an opportunity to open. This will be advantageous for agencies involved, blind vendors and private corporations alike. In reference to Senate Bill 755, a solid system of enforcement will be created. This will happen to the economic advantage of the state, and with only extremely minimal displacement. Please report these two bills favorably.

Table 4

The Effect of the Vending Facilities Program on Other Economic Variables

	1978 AND BEFORE	1979	1980	1981	1982	1983	1984	1985	1986
EMPLOYMENT GENERATED (Number of Jobs)	102	104	109	114	118	124	127	127	128
RETAIL SALES GENERATED (Thousands of Dollars)	759.6	775.4	820.4	866.7	915.6	964.4	997.5	1,001.4	1,003.9
TAXES GENERATED IN THOUSANDS OF DOLLARS									
RETAIL SALES TAX	28.8	27.2	27.9	28.0	28.8	30.3	31.4	31.5	31.6
STATE INCOME TAX	25.9	25.1	29.0	29.1	37.1	39.1	40.4	40.6	40.7
STATE TOTAL	54.7	52.3	56.9	57.1	65.9	69.4	71.8	72.1	72.3
FEDERAL INCOME TAX	137.8	140.7	157.2	166.1	175.4	184.8	191.1	191.9	192.3

Table 5

Net Effect on State and Federal Government Budgets

	1978	1979	1980	1981	1982
EXPENDITURES					
STATE	41,224	11,923	0	0	4,143
FEDERAL	119,472	257,788	253,018	206,431	183,607
REVENUE GENERATED					
STATE	54,700	52,300	56,900	57,100	65,900
FEDERAL	137,800	140,700	157,200	166,100	175,400
FEDERAL EXPENDITURES SAVED	152,600	175,400	194,900	191,500	180,000
NET EFFECT ON STATE AND FEDERAL GOVT. BUDGETS					
STATE	13,476	40,377	56,900	57,100	61,757
FEDERAL	170,928	58,312	99,082	151,169	171,793

Net + gain over 4^{Years} 227,610 state
651,284 Federal

#3 - 2-28-84

Kansas Association for the Blind and Visually Impaired, Inc.

February 28, 1984

TO: Senate Public Health and Welfare

FROM: Michael J. Byington, Registered Lobbyist

SUBJECT: Senate Bill 754 and Senate Bill 755

I am writing to express my organization's support of both Senate Bill 754 and Senate Bill 755. Prior to writing this testimony, I have had the opportunity to read the written testimony being submitted by Mrs. Debra Brummer, Registered Lobbyist for the Randolph-Sheppard Vendors of Kansas Inc., and by Mr. Mike Rusk, President of the Board of Directors of that organization. I can not add a lot in factual material to that which they are submitting, but I certainly know their information is correct and well researched. The Kansas Association for the Blind and Visually Impaired Inc. has been and continues to be a long standing supporter of the Vending Facilities Program operated by the Kansas Division of Services for the Blind. The leadership of my organization remains extremely familiar with the workings of blind vendors' program, and from that standpoint, I shall offer some general, but I believe necessary, information concerning blind operated vending facilities in Kansas, and shall briefly discuss the merits of each bill.

Many of you who are members of the Kansas Legislature probably only have contact with the blind operated vending facility located in the Capitol. You probably think of all Randolph-Sheppard Vending Facilities in the state as being similar to this one, and you probably assume that it is one of the larger operations. In fact, however, while the Kansas Division of Services for the Blind, and certainly my organization as well, are quite proud of the Capitol vending facility and its operator, it is one of the smaller Randolph-Sheppard facilities in the state. The facility located in the State Office Building is also one of the smaller. Most of the vending facilities operated by the Division of Services for the Blind are either large full service cafeterias or major vending machine operations. The operators, while being legally or totally blind, are also highly trained and extremely competent food service managers. I am quite certain that there is no food service operation in any state, city, or county building anywhere in Kansas which would be too complex to be handled by blind personnel trained and licensed through the Kansas Division of Services for the Blind. The Randolph-Sheppard program in Kansas is not a sheltered employment program. It is a program which offers intelligent, carefully screened blind individuals, who might otherwise be at a great disadvantage in the competitive employment market, an opportunity to become trained in management skills, and to subsequently provide a valuable service to state, city, county, and some private agencies as self-employed, tax paying businessperson. As

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statistics provided by Mr. Rusk, and compiled by the Institute for Economic and Business Research of the University of Kansas show, the program is a money maker for the state, not a money loser. This is because the program is not a free ride for the blind vendor. The vendors pay an assessment to the state just as a private corporation operator pays rent. They pay the same taxes any other self employed businessperson pays. The result of this is that the state gets around a 400% return on every penny it spends on the blind vendors' program. Meanwhile, blind persons, who might otherwise be a drain on the tax payer, end up being tax payers themselves making an income usually in excess of \$15,000.00 per year. They are not getting rich, but they are getting an honest day's pay for an honest day's work.

The blind vendors in the state have not been around asking the Kansas Legislature for things very often. They have been quiet, done their work, and helped the state make money. Now, however, they are being pushed around because the law assuring them the right to operate facilities in state, city, and county buildings, K.S.A. 75-3337 et seq. has few enforcement teeth. This is bad for qualified blind people in the state because it limits their opportunities to get into a very good employment program, and it is bad for the state as it limits it from expanding a money making program. Senate Bills 754 and 755 are directed at starting to solve this problem.

Currently, K.S.A. 75-3341 provides for binding arbitration when there is a disagreement between the vending facilities program of the Division of Services for the Blind and an administering agency of the state, or of a city or county, whose buildings house a vending facility or facilities. This right of binding arbitration also covers disputes which may occur over the right of the Division of Services for the Blind to locate a facility in a particular building. In such cases, it currently takes so long for the blind vendors to work their way up the administrative ladder to the Secretary of Social and Rehabilitation Services, which they must do in order to get an arbitrator appointed, that the binding arbitration would come too late to prevent a private, for profit, corporation vendor from opening in the building in question. This limits program expansion. Senate Bill 754 would solve the problem by not making the vendors go all the way to the Secretary of Social and Rehabilitation Services in order to get an arbitrator appointed. It would give the Vending Facilities Committee the right to make the chairing arbitrator appointment when deemed appropriate by the Division of Services for the Blind. It would also assure that no one drug their feet in bring arbitration to pass as it would set a 30 day resolution deadline.

Senate Bill 755 would provide enforcement in that it would make state, city, and county administering agencies who have disregarded K.S.A. 75-3337 et seq. and let contracts to private, for profit, corporation vendors instead of first consulting with the Division of Services for the Blind to determine whether it saw the location as feasible for a vending facility, come into compliance with the law. The mechanism would be through the yearly inspection of all food service facilities done through the Kansas Department of Health and Environment. Health and Environment licenses to operate would not be granted or renewed to food services operating on state, city, or county properties unless

the operators are either also licensed through the Kansas Division of Services for the Blind, or have waiver of right to license from the Division of Services for the Blind. This would assure the blind vendors access to locations that they have actually already had the right to be in for quite some time. Yet at the same time, as is shown through Mr. Rusk's testimony, very few sighted employees would be displaced.

In conclusion, I submit that, given the fact that the vending facilities program operated by the Division of Services for the Blind is a cost effective, money making program for the state, given the fact that expansion of such a program would be to the state's advantage, given the fact that current state laws do not offer enforcement sufficient to assure program expansion, and given the fact that Senate Bills 754 and 755 would help solve this problem, these bills should be favorably reported. Thank you.



STATE OF KANSAS

JOHN CARLIN, GOVERNOR

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

OBERT C. HARDER, SECRETARY

STATE OFFICE BUILDING
TOPEKA, KANSAS 66612

Statement Regarding Senate Bill No. 755

I. Short Title of Bill

An act concerning food service establishments; licensing of individuals by division of services for the blind; amending K.S.A. 36-504 and 36-505 and K.S.A. 1983 Supp. 36-503 and repealing the existing sections.

II. Background

Existing statutes provide for preference to be given to blind persons licensed by the Division of Services for the Blind, State Department of Social and Rehabilitation Services, in operation of vending facilities on State, county, and city property. However, there has been less than perfect compliance with this statutory provision. There has been at least one instance in the past two years or so in which blind persons referred to above have not been given preference; and, under present conditions, similar situations could occur in the future.

III. Discussion

The action proposed in Senate Bill No. 755 would as a condition of food service licensure insure that qualified blind persons are indeed given the intended preference in operation of vending facilities on State, county, and city property.

IV. SRS Position

As an advocate for blind individuals, the Department of Social and Rehabilitation Services encourages favorable consideration of this bill.

Richard A. Schutz, Ph.D., Director
Division of Services for the Blind
Social and Rehabilitation Services
296-4454
February 28, 1984

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KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON SENATE BILL NO. 755

FEBRUARY 28, 1984

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

Senate Bill 755 is intended to promote the management of vending facilities by the visually handicapped. It would require the Secretary of the Kansas Department of Health and Environment to review all food service establishment locations and food vending machine locations to determine if such facilities are being operated by individuals licensed by SRS as required by K.S.A. 75-3337 et seq. Approximately 11,000 food service establishments of which approximately 2,000 license applications are for new or change of ownership locations and 60 food vending machine companies are licensed annually by the KDHE. The food vending machine companies collectively maintain over 3,000 food vending machines at an estimated 1,200 locations. The department does not license the 1,200 individual vending machine locations and has no knowledge at this time of their addresses.

If locations are found to be in noncompliance with K.S.A. 75-3337 et seq. the Secretary of the KDHE would be required to revoke the food service establishment license in question. In the event applications were received from facilities in violation of K.S.A. 75-3337 et seq. the Secretary of the KDHE would be required to deny those applications. Without voluntary compliance with the statutes there are no other remedies available.

It is common practice for individuals and companies to make contractual arrangements for food services including substantial investments prior to contacting the KDHE for inspection services and licensing.

The department would be able to enforce the law should the bill pass.

Presented by: Joseph G. Hollowell, Jr., M.D., M.P.H.
Director, Division of Health

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CITY HALL CAFETERIA, INC.
455 N. MAIN
WICHITA, KANS. 67202

February 24, 1984

TO MEMBERS OF SENATE PUBLIC HEALTH COMMITTEE:

I am opposed to Senate Bill 755 which requires food service establishments located on city property to be operated by the blind.

Few people realize that food preparation and service is a professional field. It most certainly requires sighted persons as it involves preparing food, hot stoves, fryers, ovens, steamers, electric slicers, handling of knives, portion control, counting trays and taking cash. Some of these operations are difficult enough for sighted persons.

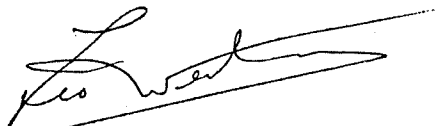
The only solution would be to hire sighted persons to work with the blind. This would increase the payroll considerably. In our operation now of one meal per day, the net profit is very, very modest. It would not absorb a higher payroll which is now 35% of the gross (high by industry standards).

I ask that SB 755, in its present form, be set aside for further study.

It would be unfair to the blind, unfair to the customer and unfair to the taxpayer.

If this bill should become law, then someone will have to pay and pay and pay. It will be the customer or the taxpayer.

Thank you.



Leo Weston, President
City Hall Cafeteria, Inc.

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