

Approved: 2/15/99
Date

MINUTES OF THE SENATE WAYS AND MEANS.

The meeting was called to order by Chairperson Dave Kerr at 11:00 a.m. on February 10, 1999 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Alan Conroy, Legislative Research Department
Debra Hollon, Legislative Research Department
Rae Anne Davis, Legislative Research Department
Norman Furse, Revisor of Statutes
Michael Corrigan, Revisor of Statutes
Judy Bromich, Administrative Assistant
Ann Deitcher, Committee Secretary

Conferees appearing before the committee: Alan Conroy, Legislative Research Department
Michael Corrigan, Revisor of Statutes
Joyce Cussimano, Commissioner of Kansas
Rehabilitation Services
Michael Byington of "Envision"
Carol Hands-Keedy of "Kansas Assoc. for the Blind"

Others attending: See attached list.

SB 175 **Concerning vending facilities operated by blind persons**

Alan Conroy spoke to the Committee in regard to the changes in SB 175 from the words *so far as feasible* to *with the right of first refusal*. (Page 1, line 24).

Appearing before the Committee as a proponent, was Joyce Cussimano, Commissioner of the Kansas Rehabilitation Services. She explained how the Business Enterprise Program (BEP) initiated the revision in **SB 175** because the words *as far as feasible* have been misinterpreted by some building managers to mean no preference should be given to BEP. (Attachment 1).

There was discussion as to the change of wording being an improvement. The Commissioner said that the term *right of first refusal* would still be a step up from what they have.

Chairman Kerr read from Black's Law Dictionary the definition of *right of first refusal*, pointing out that while it actually referred to real estate, it explained it as "right to have first opportunity to purchase real estate when such becomes available, or right to meet any other offer". He said that he felt the last sentence meant that if someone comes in with a lower price, the only way the blind person would get it is to meet that price. He felt that what they wanted was, *right of first refusal regardless of price*.

Michael Byington of "Envision" spoke to the Committee in support of **SB 175**. (Attachment 2).

Another proponent to appear before the Committee was Carol Hands-Keedy of "Kansas Association for the Blind". (Attachment 3).

It was agreed by the Committee that **SB 175** might not be right for Ways and Means. It would be better if sent to another committee, perhaps the Judiciary.

SB 213 **Concerning the continuing the SRS transition oversight committee in existence**

Michael Corrigan of the Revisor of Statutes Office, explained the primary policy changes in **SB 213**. (Attachment 4).

Senator Morris, Chairman of the SRS Transition Oversight Committee, spoke of the changes in the makeup of the Committee, saying that the overall size was the same, six members from each house making a total of 12.

It was moved by Senator Feleciano and seconded by Senator Salisbury that **SB 213** be adopted as amended. The motion carried on a roll call vote.

The meeting was adjourned at 12:05. The next meeting is scheduled for Thursday, February 11.

SENATE WAYS AND MEANS COMMITTEE GUEST LIST

DATE: 2/10/99

NAME	REPRESENTING
Ken Bahr	K Environmental Consulting
Mike Hutches	SRS
Vickilyn Helmer	LOB
LEE SCHMIOT	LEE SCHMIOT DESIGN
Eric Pugh	Osawatomie High
Aaron Marshall	Osawatomie High School
John Howard	Osawatomie High School
Nathan Jones	Osawatomie High School
Tim Bauder	Osawatomie High School
Kaylyn Carlson	Washington University School of Education
Josie Torrez	KS Council on Developmental Disab.
Shannon Jones	SILCK
Margie Gienewright	Missouri Tool for Kansas
Russell Roeder M.Ed	KARVI
Michael Runtgen	ENVISION
DENNIS ROEBELS	Kansas Rehabilitation Services
Joyce A. Cushman	SRS - KS Rehab Serv.

**State of Kansas
Department of Social
& Rehabilitation Services**

Rochelle Chronister, Secretary
Janet Schalansky, Deputy
Secretary

For additional information, contact:

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Laura Howard, Special Assistant
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Topeka, Kansas 66612-1570
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For fiscal information, contact:

SRS Finance Office
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Topeka, Kansas 66612-1570
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**Ways and Means
February 10, 1999**

**Testimony: SB175: Concerning vending facilities operated by persons
who are legally blind.**

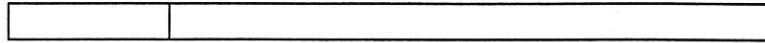
**Kansas Rehabilitation Services
Joyce A. Cussimano, Commissioner
(785) 267-5301, Ext. 219**

Senate Ways and Means Committee

Date 2/10/99

Attachment # 1-1

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SB175: Concerning vending facilities operated by persons who are legally blind.
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**Kansas Department of Social and Rehabilitation Service
Rochelle Chronister, Secretary**

**Ways and Means
SB175: Concerning vending facilities operated by
persons who are legally blind.**

February 10, 1999

SENATE BILL No. 175

BUSINESS ENTERPRISE PROGRAM

This proposed legislation clarifies the intent of the Little Randolph-Sheppard Act of 1970 about **preference** for the licensed Business Enterprise Program (BEP) vendors. Services for the Blind is the State Licensing Agency (SLA) for the Business Enterprise Program, a program designed to offer employment opportunities to persons who are legally blind, a population that traditionally has a 70% unemployment rate and regularly faces job discrimination in the work place. Licensed BEP vendors are self-employed and operate food services or vending machine routes.

The request for this revision was initiated by the BEP Vendors' Committee, a group elected by all the licensed vendors for the purpose of BEP management in partnership with the SLA. Some building managers in state, county, and city facilities have interpreted the current language "*as far as feasible*" to mean no preference should be given to BEP. Three counties, one city, and one state agency have recently refused to give preference. This was not the original intent of the Little Randolph-Sheppard legislation.

It should be noted that BEP has no relationship to the "State Use Law" which requires state agencies and school districts to purchase specific items from Kansas Industries for the Blind and other sheltered workshops for persons with disabilities.

BEP Facts:

- Currently operates nine cafeterias, three snack bars, and 28 vending locations.
- Has total statewide sales of \$1.92 million, generating sales taxes of \$113,000.
- Contributes to the Kansas economy by purchasing goods and services totaling \$1.28 million from wholesalers, retailers, and manufacturers in the private sector.
- Contributes to the Kansas workforce by paying salaries of \$ 350,000 a year and employing 38 workers.
- No state general funds support this program. The SLA assesses fees based on licensed vendor earnings. These fees are used in lieu of state general funds to

Kansas Department of Social and Rehabilitation Services • Rochelle Chronister, Secretary

match federal funds at the match rate of 21.3% to 78.7%.

Legislative History:

In 1936, Congress enacted the Randolph-Sheppard Act to legislate preference for persons who were legally blind to operate food services and vending operations at federal locations. 1970, the Kansas legislature recognized the value of this employment program and enacted what is called the "Little Randolph-Sheppard Act" (KSA-75-3337 et. seq.) expanding preference for BEP beyond federal locations to include state, county, and city facilities.

Current BEP Operation:

- BEP may provide a commission from vending machines or negotiate prices as an incentive to do business with BEP as is done in the private sector.
- BEP is increasing the efficiency and effectiveness of the program to better serve building managers and customers.
- The SLA has encouraged the modest expansion of BEP by developing eleven new operations in SFY 99 with four other operations in development.



Choices & resources for people who are blind or low vision

Envision®

**PLEASE REPLY TO: Michael Byington, Director
Envision Governmental Affairs Office
924 S. Kansas Ave
Topeka, Kansas 66612
(785) 354-4747 (Topeka Office)
(785) 575-7477 (pager)
(785) 354-4646 (FAX)
mbyingto@ink.org or
michael.byington@envisionus.com**

February 10, 1999

TO: Senate Ways and Means

SUBJECT: Support for Senate Bill 175

What many of you probably know of the Business Enterprises Program of the Kansas Division of Services for the Blind or the federal Randolph-Sheppard program is probably restricted to a few blind concession or cafeteria managers whom you may have met or with whom you may have done business. Obviously, Don Westuba, who manages and supervises concessions here in the Capitol, is a blind vendor you probably know or have seen. Many of you are also familiar with the work of Debbie Brummer, a blind vendor who manages and supervises the cafeteria operations across the street in Landon State Office Building, or Kathy Dawson, the blind vendor who manages and supervises the concession stand in the Basement just as you come through the tunnel into the Docking Building. Some of you may have federal courthouses where blind vendors have cafeterias or concessions in your districts, or there may be a city or county building in your area which participates in the program.

801 Senate Ways and Means Committee

Tel : Date 2/10/99

Web Attachment # 2-1

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What I want to share with you now, is some of the history and logic behind this program at both federal and State levels. This will then lead to an understanding as to why Senate Bill 175 is so important and should be adopted.

In the 1930s during the depression, unemployment among all working age persons rose exponentially in many areas of our country. Levels of 10% unemployment to 25% unemployment were quite common. During this time, however, we begin to also attempt to compute unemployment statistics for our nation's blind and legally blind Americans. Although original sampling procedures were probably less than comprehensive, figures of 92% to 99% unemployment were determined among our Nation's blind.

This is the environment which lead to Senator Jennings Randolph and a member of Congress named Sheppard, teaming their efforts to create the federal Randolph-Sheppard program to assure that the concessions in federal facilities would be managed by persons who are blind. Training programs were established to insure that motivated blind managers trained would have the requisite management skills.

At the same time this program was developing at the federal level, many States, including Kansas, were just getting around to creating a State Commission, Department, or Division of Blind Services to serve, rehabilitate, and help create employment opportunities for the blind of the particular State. Kansas was among these States, and its Division of Services for the Blind was created largely through the efforts of volunteer blind lobbyists who worked at the highest levels with Legislators and State officials to design the programming.

Following the federal example, all States now have created little Randolph-Sheppard Programs to bring the concept of the federal program for blind vendors to State, county, and city buildings. State blind services agencies in all 50 States now handle the training for both the State program blind vendors and the ones who work in the federal buildings under the federal Randolph-Sheppard program in the particular state. In Kansas, our little Randolph-Sheppard program is referred to as the Business Enterprises Program, and this is the subject of Senate Bill 175.

This program began in Kansas in the late 1930s when Legislators requested

that an attended coffee service be made available to them during long sessions. Two blind people who were taking some rehabilitation training through the newly created Kansas Division of Services for the Blind were thus sent to the Capitol with 16 cinder blocks, a couple of boards, some cups, and a couple of 30 cup coffee makers. Those two blind people are in their 90s today, but they are both still living and one of them recently recalled the incident for me.

Both at federal and State levels, the vending programs have been part of a strategy concerning employment for people who are blind and legally blind which has helped. The problems have not been solved, but things have improved. According to 1990 census data, unemployment among working age blind and legally blind today stands at around 74%. This is still too high. We still need to do more to avoid wasting the potential of a capable blind workforce, but at least the statistics are down from being in the 90 percentiles as they were 50 to 60 years ago.

In Kansas, at one time, we had 36 cafeterias or concessions managed by blind Kansans under the Business Enterprises Program. Now there are around 20 locations. I hedge on the exact figure, because, after many years of control by the same bureaucrats, the Business Enterprises Program in Kansas has been moved under new administrative control. Though inexperienced, the new folks in charge are enthusiastic. They are currently working on getting several new locations going, and I do not know the status on just what has gotten open and what has not. It may be the first time after many years of lethargy, however, when the program actually has the potential to get larger.

This brings us to the problem addressed by Senate Bill 175. The Kansas version of this national program currently says that blind vendors, licensed by the Kansas Division of Services for the Blind, should have a "preference" with regard to locations in new, or newly renovated State, County and City buildings. "Preference" is a largely undefined term from a legal standpoint. Many would assume that it means "right of first refusal" but State administrators, City Councils, and County Commissions have not always seen it that way. In the history of the Kansas program, decisions as to what "preference means with regard to the blind persons' right to operate facilities in covered buildings, are all over the map. For example, if a City manager, mayor, county administrator, State issuer of contracts, etc. has

a brother-in-law in the concession business, the preference seems to mean a lot less than it does when such factors do not exist.

Senate Bill 175 clears up the inaccuracies of language. The term "right of first refusal" is much easier to understand and specific as compared to "preference." This clarity is needed.

We are talking about an excellent program here. We are talking about a population of Kansas Citizens where unemployment is very high. We are talking about buildings which are supported with tax payer dollars. This program has earned the right to be well defined, and to be able to grow. It is a program which has been largely ignored in Kansas for many years and allowed to atrophy because of non-specific in its enabling law. Now there is evidence that it might be turning around. Blind consumers of Kansas certainly do not support all of the decisions that have been made by the new, in-experienced program administrators, but there is much encouragement and optimism about the direction they want to take the program, and the experience of leadership is growing. This legislation is needed to help with the growth of a good program, and it needs to be adopted. Thank you for your consideration of these matters.



**Kansas Association for the Blind
and Visually Impaired, Inc.**

AN AFFILIATE
OF THE
AMERICAN COUNCIL
OF THE BLIND

February 10, 1999

TO: Senate Ways and Means

FROM: Carole Hands-Keedy, Lobbyist

SUBJECT: Senate Bill 175 - SUPPORT

The Kansas Association for the Blind and Visually Impaired, Inc. (KABVI) strongly supports this legislation. Our Organization has long taken the position that the Business Enterprises Program in the State of Kansas needs to be strengthened, as is evidenced by the attached resolution, 97-02.

Senate Bill 175 would meet the provisions called for in our resolution to strengthen the program. It would help efficiently procure new locations in order to provide gainful employment opportunities for blind Kansans.

Senate Ways and Means Committee

Post Office Box 292

/

Topeka, Kansas

Date 2/9/99

Attachment # 3-1

RESOLUTION 97-02

WHEREAS, The Kansas Business Enterprises Program has diminished in size from over 30 locations in the 1970s to under 20 locations at this time; and

WHEREAS, The Little Randolph-Sheppard Act of Kansas, K.S.A. 75-3337 et seq. requires a preference be given to blind vendors in City, County, and State locations; and

WHEREAS, blatant disregard for this law is evidenced by the fact that such facilities as the City building and the Art Museum in Wichita; The City Building, Police Station/Sheriff's Office, and Docking State Office Building in Topeka, as well as a large number of other buildings and programs covered under K.S.A. 75-3337 et seq. are allowing the operation of food services outside of the law; and

WHEREAS, the City of Topeka is currently planning to operate a food service concession in its newly renovated public library; the State of Kansas is taking over the majority of space available in a number of empty buildings in downtown Topeka including, but not limited to: the New England Building and the Macy's Building; and several other cities in Kansas have now become large enough so as to be expanding City and County facilities;

NOW, THEREFORE, BE IT RESOLVED that the Kansas Association for the Blind and Visually Impaired, in convention assembled in Wichita this 23rd day of August, 1997, urges the leadership of the Kansas Department of Social and Rehabilitation Services (SRS), and particularly new administrators responsible for the Kansas Business Enterprises Program, to work aggressively and pro-actively with the SRS Legal Division to insure that new locations are opened in all viable City, County, and State properties, and to insure that the flagrant disregard for the provisions of K.S.A. 75-3337 et seq. cease immediately;

BE IT FURTHER RESOLVED, that once facilities under construction are secured for the Kansas Business Enterprises Program, this organization urges that Business Enterprises Program Administrators and SRS Legal staff be directed to place major emphasis on correction of current violations of the law which exist in the character of presently operating, non-compliant, food services operations in City, County, and State facilities;

BE IT FURTHER RESOLVED that copies of this resolution be sent to Governor Bill Graves; Rochelle Chronister, Secretary, Kansas Department of Rehabilitation Services; Joyce Cussimano, Commissioner, Rehabilitation Services; Suzannah Erhart, Director, Kansas Division of Services for the Blind; Bill Loebel, Administrator, Kansas Division of Services for the Blind; David Wright, Administrator, Kansas Division of Services for the Blind, and to KABVI's representatives on the DSB Consumer Advisory Committee to the Kansas Division of Services for the Blind.

MEMORANDUM

TO: Senate Ways and Means Committee
FROM: Mike Corrigan, Assistant Revisor
DATE: February 10, 1999
SUBJECT: Senate Bill No. 213

Pursuant to section 85(c) of 1998 SB 495, the SRS Transition Oversight Committee will be abolished on June 30, 1999. This subsection was patterned on 1998 SB 394 as amended by this Committee and was included by proviso in 1998 SB 495, last year's comprehensive appropriation bill, as a one year extension after 1998 SB 394 died in the House. 1999 Senate Bill No. 213 would provide for the continuation of the Committee until June 30, 2001.

The primary policy changes in the bill are:

1. To continue the Committee in existence for two years.
2. To amend the composition of the Committee as follows:
 - (a) The House Appropriations Committee Chairperson's three appointments would be limited to House Appropriations Committee members;
 - (b) the Senate Ways and Means Committee Chairperson's three appointments would be limited to Senate Ways and Means Committee members;
 - (c) the members appointed by the Speaker of the House of Representatives from the House Committee on Health and Human Services would be increased from two to three;
 - (d) the members appointed by the Senate President from the Senate Committee on Public Health and Welfare would be increased from two to three; and
 - (e) since the Health Care Reform Oversight Committee (K.S.A. 1998 Supp. 46-2506) was abolished on December 31, 1998, the provision relating to appointments from such Committee is stricken.

Senate Ways and Means Committee

Date 2/10/99

Attachment # 4-1

3. The members serving on June 30, 1999, will have their terms continued until June 30, 2000. The terms of members appointed to serve for terms commencing on July 1, 2000, would expire on January 8, 2001, the first day of the regular session after the election in 2000. The terms of members appointed to serve for terms commencing on January 8, 2001, would expire on June 30, 2001.
4. To prescribe that the Chair and Vice-Chair of the Committee will serve for terms of one year; the terms of the Senate Chair and House Vice-Chair serving on June 30, 1999, will have their terms continued until June 30, 2000. For the period from June 30, 2000, through June 30, 2001, a House Chair and Senate Vice-Chair will be appointed.
5. The Committee is given an expanded charge that substantially conforms to the charge prescribed by section 85(c) of 1998 SB 495, including monitoring, reviewing and making recommendations on SRS and Department on Aging program privatization and SRS implementation of federal welfare reform laws, although the duties relating to the monitoring of the closure evaluation contract are completed and are deleted.

Technical changes further include providing for the appointment in cases of vacancies and removing the provision excluding legislators who represent districts including any part of Douglas County or Shawnee County, which was removed in section 85(c) of 1998 SB 495, which continued the Committee. Further amendments provide reporting requirements for an interim report to the Legislature in 2000 and a final report in 2001.