

Amendment No. 6

Senate Amendment to Senate Bill No. 54 (BDR 38-370)

Proposed by: Senate Committee on Health and Human Services**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION			Initial and Date	SENATE ACTION			Initial and Date
Adopted	☐	Lost	☐ _____	Adopted	☐	Lost	☐ _____
Concurred In	☐	Not	☐ _____	Concurred In	☐	Not	☐ _____
Receded	☐	Not	☐ _____	Receded	☐	Not	☐ _____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

KRO/JWP



Date: 3/28/2013

S.B. No. 54—Revises provisions governing the operation of certain vending stands by persons who are blind or visually impaired. (BDR 38-370)



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; ~~prohibiting any person or governmental entity from requiring the payment of rent for or certain fees or assessments related to the portion of the building or property where certain vending stands are located;~~ restricting the devices 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; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Under existing law, the Bureau of Services to Persons Who are Blind or Visually Impaired of the Rehabilitation Division of the Department of Employment, Training and Rehabilitation is required to establish, where suitable, vending stands in property owned, leased or occupied by the State or any of its political subdivisions, with certain exceptions, with the consent of the state or local governmental department or agency charged with maintaining the building or property. (NRS 277A.320, 426.640, 426.670) Similar agreements for the establishment of vending stands in a privately owned building are authorized between the Bureau and the private building owner. (NRS 426.685)

Sections 1 and 2 of this bill prohibit a private building owner or governmental agency that owns or controls a building or property in or on which a vending stand is established from requiring the Bureau or the operator of the vending stand to pay any rent, ~~for or a~~ fee or assessment that is based on the square footage of the portion of the building or property where the vending stand is located. An example of such a prohibited fee or assessment is a fee for the maintenance of landscaping or a common area. Sections 1 and 2 authorize such a

private building owner or governmental agency to enter into an agreement with the Bureau to recover the increases in utility costs or other expenses where there is a direct, measurable and proportional increase in such costs or expenses as a result of the operation of the vending stand. Any conflicting provision in any contract or other agreement relating to such a vending stand is declared to be void. **Section 3** of this bill exempts any contract or other agreement relating to a vending stand in force on the effective date of this bill between the Bureau or a licensee and the owner of a private building in which the vending stand is established from the provisions of **section 2** during the current term of the contract or other agreement.

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

Section 1. NRS 426.670 is hereby amended to read as follows:

426.670 1. The Bureau shall:

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

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

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

(d) Except as otherwise provided in this paragraph, execute contracts or agreements with persons who are blind to manage or operate vending stands or do both. The agreements may concern finances, management, operation and other matters concerning the stands. The Bureau shall not execute a contract or agreement which obligates the Bureau, under any circumstances, to make payments on a loan to a person who is blind.

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

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

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

3. The Bureau may, by regulation, provide:

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

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

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

(a) Shall not require the Bureau or the operator of the vending stand to pay any rent, for or a fee or assessment that is based on the square footage of the

portion of the building or property where the vending stand is located. Such a prohibited fee or assessment includes, without limitation, a fee for the maintenance of landscaping or a common area.

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

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

Sec. 2. NRS 426.685 is hereby amended to read as follows:

426.685 1. The Bureau may establish vending stands in privately owned buildings, if the building owner in each instance consents and enters into ~~that~~ a contract or other agreement approved by the Bureau.

2. The owner of a building in which a vending stand is established pursuant to subsection 1 ~~shall~~:

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

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

↪ Any provision in a contract or other agreement relating to a vending stand established pursuant to subsection 1 that conflicts with this subsection is void.

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

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

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