

## Amendment No. 607

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

**Proposed by:** Assembly 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	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

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: 5/20/2013

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; restricting the ~~{devices}~~ 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:**

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, 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.

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

**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:*

*(a) Shall not require the Bureau or the operator of the vending stand to pay any rent, 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. 1.5. NRS 426.675 is hereby amended to read as follows:**

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

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

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

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

(c) Be used for:

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

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

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

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

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

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

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

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

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

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

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

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

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

**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:*

*(a) Shall not require the Bureau or the operator of the vending stand to pay any rent, 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.