

LEGISLATURE OF NEBRASKA
NINETY-SIXTH LEGISLATURE
FIRST SESSION
LEGISLATIVE BILL 352

Introduced by Crosby, 29; Lynch, 13; Dw. Pedersen, 39; Bourne, 8

Read first time January 12, 1999

Committee: Health and Human Services

A BILL

1 FOR AN ACT relating to blind persons; to amend sections 83-210.01
2 to 83-210.03, 83-211, 83-211.02, and 84-1604.01, Revised
3 Statutes Supplement, 1998; to adopt the Commission for
4 the Blind and Visually Impaired Act; to eliminate
5 provisions relating to the Department of Health and Human
6 Services; to harmonize provisions; to repeal the original
7 sections; and to outright repeal sections 83-210.04 to
8 83-210.07, and 83-212, Revised Statutes Supplement, 1998.
9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 16 of this act shall be known
2 and may be cited as the Commission for the Blind and Visually
3 Impaired Act.

4 Sec. 2. The purpose of the Commission for the Blind and
5 Visually Impaired Act is to assist blind persons in gaining
6 remunerative employment, to enlarge economic opportunities for
7 blind persons, to increase the available occupational range and
8 diversity for blind persons, and to stimulate other efforts that
9 aid blind persons in becoming self-supporting.

10 Sec. 3. For purposes of the Commission for the Blind and
11 Visually Impaired Act:

12 (1) Blind person means:

13 (a) A person having sight which is so defective as to
14 seriously limit his or her ability to engage in the ordinary
15 vocations and activities of life; or

16 (b) A person, to be eligible and licensed as a blind
17 vending facility operator under section 11 of this act:

18 (i) Having no greater than 20/200 central visual acuity
19 in the better eye after correction; or

20 (ii) Having an equally disabling loss of the visual field
21 in which the widest diameter of the visual field subtends an angle
22 no greater than twenty degrees;

23 (2) Board means the governing board of the Commission for
24 the Blind and Visually Impaired;

25 (3) Commission means Commission for the Blind and
26 Visually Impaired;

27 (4) Committee of blind vendors means the committee
28 created pursuant to 20 U.S.C. 107b-1;

1 (5) State workforce investment board means the board
2 authorized by the federal Workforce Investment Partnership Act of
3 1998, and established in Nebraska;

4 (6) Vending facility means:

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

10 (b) Manual or coin-operated vending machines or similar
11 devices for vending articles approved by the office, agency, or
12 person having control of the property on which the vending facility
13 is located; and

14 (7) Vending facility program means the program
15 established and maintained pursuant to section 11 of this act.

16 Sec. 4. (1) The Commission for the Blind and Visually
17 Impaired is created. The governing board of the commission shall
18 consist of five members appointed by the Governor with the approval
19 of a majority of the members of the Legislature. All board members
20 shall have reasonable knowledge or experience in issues related to
21 blindness which may include, but is not limited to, reasonable
22 knowledge or experience acquired through membership in consumer
23 organizations of the blind. No board member or his or her
24 immediate family shall be a current employee of the commission. At
25 least three board members shall be blind persons: One member shall
26 be a member or designee of the National Federation of the Blind of
27 Nebraska; one member shall be a member or designee of the American
28 Council of the Blind of Nebraska; and one member may be a member of

1 another consumer organization of the blind.

2 (2) Board members shall be appointed for staggered terms
3 with the initial members appointed for terms as follows: Two
4 members for terms ending on December 31, 2001, and three members
5 for terms ending December 31, 2003. Subsequent appointments shall
6 be for terms of four years with no board member appointed to more
7 than two consecutive terms. Board members whose terms have expired
8 shall continue to serve until their successors have been appointed.
9 In the case of a vacancy, the Governor shall appoint a successor
10 for the unexpired term. Board members may be removed for cause.

11 (3) A majority of the board members constitutes a quorum
12 for the transaction of business. The board shall annually elect a
13 chairperson from its membership.

14 (4) Board members shall receive a per diem of seventy
15 dollars for each day spent in the performance of their official
16 duties and shall be reimbursed for their actual and necessary
17 expenses incurred in the performance of their official duties as
18 provided in sections 81-1174 to 81-1177. Aside from the provisions
19 of this subsection, a board member shall not receive other
20 compensation, perquisites, or allowances for the performance of
21 official duties.

22 Sec. 5. Section 83-211, Revised Statutes Supplement,
23 1998, is amended to read:

24 ~~83-211.~~ (1) The commission shall employ a director who
25 is the administrative officer of the commission. The director
26 shall hire employees as necessary for the efficient operation of
27 the commission. The director shall serve at the pleasure of the
28 commission.

1 ~~(2) The commission~~ The Department of Health and Human
 2 ~~Services~~ shall have power in each instance ~~(1)~~ (a) to establish
 3 standards of qualification for personnel employed pursuant to the
 4 Commission for the Blind and Visually Impaired Act and ~~(b)~~ in
 5 ~~carrying out sections 83-210.01 to 83-210.07~~ and ~~(2)~~ to employ
 6 necessary field agents, teachers, and other personnel in accordance
 7 with such standards and fix their compensation. All employees of
 8 the commission, except the director, shall be included within the
 9 State Personnel System.

10 Sec. 6. Section 83-211.02, Revised Statutes Supplement,
 11 1998, is amended to read:

12 ~~83-211.02.~~ (1) The rehabilitation ~~advisory~~ council to
 13 the ~~Department of Health and Human Services~~ commission is created
 14 to aid in providing services for ~~the visually impaired~~ blind
 15 persons. The council shall consist of not to exceed fifteen
 16 members who shall be appointed by the Governor. Five members shall
 17 be appointed for terms of one year, five members for terms of two
 18 years, and ~~five~~ the remaining members for terms of three years with
 19 the Governor designating the expiration of the term of office of
 20 each member of the council when first appointed. Thereafter their
 21 successors shall serve for terms of three years. In appointing
 22 members to the council, the Governor shall give due consideration
 23 to the geographical distribution of ~~visually impaired~~ blind persons
 24 within the state with a view to apportioning membership on the
 25 council in accordance with such distribution. ~~The~~ After the
 26 effective date of this act, the Governor shall appoint a vocational
 27 rehabilitation counselor who, if employed by the Director of
 28 Rehabilitation Services for the Visually Impaired, shall be a

1 ~~nonvoting member, and at least one representative from each of the~~
2 ~~following representatives of the following as terms expire or~~
3 ~~vacancies occur: (a) At least two representatives of blindness~~
4 ~~advocacy The statewide Independent Living Council; (b) a parent~~
5 ~~training and information center; (c) the Client Assistance Program;~~
6 ~~(d) a community rehabilitation program service provider; (e)~~
7 ~~business, industry, or labor; (f) advocacy groups representing of~~
8 ~~blind and visually impaired persons, to accord fair representation~~
9 ~~to the several organizations of the blind, and visually impaired;~~
10 ~~and (g) applicants or recipients (b) at least one representative~~
11 ~~who is a current or former applicant or recipient of vocational~~
12 ~~rehabilitation services; (c) a representative from the Client~~
13 ~~Assistance Program; (d) a qualified vocational rehabilitation~~
14 ~~counselor with knowledge of and experience with vocational~~
15 ~~rehabilitation programs, who shall be a nonvoting member if~~
16 ~~employed by the commission; (e) a representative of at the time of~~
17 ~~appointment or at some time prior to being appointed a community~~
18 ~~rehabilitation program service provider; (f) four representatives~~
19 ~~of business, industry, and labor; (g) a representative of a parent~~
20 ~~training and information center; (h) at least one representative of~~
21 ~~individuals with multiple disabilities, including blindness, who~~
22 ~~have difficulty in representing themselves or are unable to~~
23 ~~represent themselves due to their disabilities; and (i) a~~
24 ~~representative of the statewide Independent Living Council. A~~
25 ~~majority of the members of the council shall be blind or visually~~
26 ~~impaired persons who are not employed by the commission. In case~~
27 ~~of vacancy in the office of any member, his or her successor shall~~
28 ~~be appointed for the unexpired term.~~

1 (2) Members of the council who are not state employees
2 shall receive thirty dollars per day for each day engaged in the
3 duties of the council. Members of the council shall be reimbursed
4 for their actual and necessary expenses incurred in the performance
5 of their official duties as provided in sections 81-1174 to
6 81-1177.

7 (3) The council shall hold four meetings a year at such
8 times and places as determined by the council. A chairperson and
9 such other officers as may be necessary shall be elected by the
10 council by majority vote for terms of office as determined by the
11 council.

12 (4) The director of the commission employed pursuant to
13 section 5 of this act individual designated by the Department of
14 Health and Human Services as the Director of Rehabilitation
15 Services for the Visually Impaired shall serve as an ex officio
16 member of the council in a nonvoting capacity. The director shall
17 furnish any data required by the council in carrying out its
18 functions subject to the limitations prescribed by law relating to
19 the confidentiality of information with respect to individual
20 clients.

21 (5) The council shall, after consulting with the state
22 workforce investment board:

23 (a) Review and analyze the rehabilitation services
24 provided by the commission ~~Director of Rehabilitation Services for~~
25 ~~the Visually Impaired~~ and provide advice to the director of the
26 commission, particularly with respect to eligibility for and the
27 extent, scope, and effectiveness of services and the impact of
28 other agencies on the success of clients;

1 (b) In partnership with Advise the commission and its
2 director, develop, agree to, and review state goals and priorities
3 ~~Director of Rehabilitation Services for the Visually Impaired~~ on
4 the preparation of applications, the state plan, the strategic
5 plan, reports, needs assessments, and evaluations required by
6 federal law;

7 (c) Review and analyze the effectiveness of and consumer
8 satisfaction with other public and private agencies providing
9 services to blind ~~or visually impaired~~ persons, including achieved
10 employment outcomes and the provision of health and related
11 benefits;

12 (d) Prepare and submit an annual report to the ~~Director~~
13 ~~of Health and Human Services~~ director of the commission, the
14 Governor, and the Commissioner of Rehabilitation Services on the
15 status of vocational rehabilitation services operated by the
16 ~~Director of Rehabilitation Services for the Visually Impaired~~
17 commission. This report shall also be made available to the
18 public;

19 (e) Coordinate with other councils in the state that
20 serve disabled persons;

21 (f) Advise the ~~Director of Rehabilitation Services for~~
22 ~~the Visually Impaired~~ commission and provide for coordination and
23 the establishment of working relations with the statewide
24 Independent Living Council and centers for independent living; and

25 (g) Perform other duties that the council determines to
26 be appropriate.

27 Sec. 7. (1) The Commission for the Blind and Visually
28 Impaired shall:

1 (a) Apply for, receive, and administer money from any
2 state or federal agency to be used for purposes relating to
3 blindness, including federal funds relating to vocational
4 rehabilitation of blind persons as provided in subsection (1) of
5 section 10 of this act;

6 (b) Receive on behalf of the state any gifts, donations,
7 or bequests from any source to be used in carrying out the purposes
8 of the Commission for the Blind and Visually Impaired Act;

9 (c) Promote self-support of blind persons as provided in
10 sections 8, 9, and 11 of this act;

11 (d) Provide itinerant training of alternative skills of
12 blindness, including, but not limited to, braille, the long white
13 cane for independent travel, adaptive technology, and lifestyle
14 maintenance;

15 (e) Establish, equip, and maintain a residential training
16 center with qualified instructors for comprehensive prevocational
17 training of eligible blind persons. The center shall also provide
18 comprehensive independent living training as well as orientation
19 and adjustment counseling for blind persons;

20 (f) Administer and operate a vending facility program in
21 the state, in its capacity as the designated licensing agency
22 pursuant to the federal Randolph-Sheppard Act, as amended, 20
23 U.S.C. 107 et seq., for the benefit of blind persons;

24 (g) Contract for the purchase of information services for
25 blind persons; and

26 (h) Perform other duties necessary to fulfill the
27 purposes of the act.

28 (2) The commission may perform educational services

1 relating to blindness and may cooperate and consult with other
2 public and private agencies relating to educational issues.

3 Sec. 8. To promote self-support of blind persons:

4 (1) The commission shall:

5 (a) Provide placement and career development services;

6 (b) Provide prevocational training;

7 (c) Support integration with and access to
8 community-based educational and vocational training opportunities;

9 (d) Implement employer outreach and cultivation; and

10 (e) Develop inservice community-based recruitment and
11 networking resources; and

12 (2) The commission may:

13 (a) Maintain employment data bases;

14 (b) Facilitate small business incubation; and

15 (c) Develop recommendations for state contract
16 preferences.

17 Sec. 9. (1) For a person to qualify for
18 blindness-related services from the commission, the commission
19 shall find such person to be: (a) A blind person as defined in
20 subdivision (1)(a) of section 3 of this act; or (b) a person who is
21 experiencing a deteriorating condition which is expected to result
22 in blindness. A person seeking to qualify for blindness-related
23 services may obtain an eye examination from a licensed
24 ophthalmologist or optometrist of his or her choice or provide
25 other certifying evidence of existing or potential visual
26 impairment as required by the rules and regulations of the
27 commission.

28 (2) The commission shall maintain a list of all

1 ophthalmologists and optometrists currently licensed in Nebraska
 2 and establish procedures for persons to obtain evidence to verify
 3 that he or she qualifies for blindness-related services.

4 (3) When an eye examination is required for a person
 5 seeking to qualify for blindness-related services, the commission
 6 shall pay the cost pursuant to its rules and regulations. The
 7 commission may assist any person seeking to qualify for
 8 blindness-related services under the Commission for the Blind and
 9 Visually Impaired Act in arranging an eye examination or obtaining
 10 other evidence pursuant to this section.

11 Sec. 10. Section 83-210.02, Revised Statutes Supplement,
 12 1998, is amended to read:

13 ~~83-210.02.~~ (1) ~~The Department of Health and Human~~
 14 ~~Services is hereby~~ commission is authorized to accept the
 15 provisions of ~~Public Law 112, Ninety-third Congress of the United~~
 16 ~~States and all amendments thereto~~ the federal Rehabilitation Act of
 17 1973, as amended, 29 U.S.C. 701 et seq., and to cooperate with the
 18 United States Government in any way necessary to enable the
 19 ~~department~~ commission to receive federal funds for the vocational
 20 rehabilitation of ~~the blind persons~~ as provided in such public law
 21 act and the provisions of Titles II and XVI of the federal Social
 22 Security Act, and any amendments thereto as amended, 42 U.S.C. 301
 23 et seq.

24 (2) The commission ~~Department of Health and Human~~
 25 ~~Services (a) may collect, interpret, and disseminate information~~
 26 ~~relating to the cause, prevention, and cure of blindness and (b)~~
 27 shall provide vocational rehabilitation services for the blind
 28 persons, including, but not limited to, prevocational training,

1 maintenance during training, transportation, occupational tools and
 2 equipment, vocational training, medical and surgical care and
 3 hospitalization, and prosthetic appliances. ~~7 vocational training,~~
 4 ~~maintenance during training, transportation, and occupational tools~~
 5 ~~and equipment.~~

6 Sec. 11. Section 83-210.03, Revised Statutes Supplement,
 7 1998, is amended to read:

8 ~~83-210.03.~~ For the purpose of providing blind persons
 9 with remunerative employment, enlarging the economic opportunities
 10 of ~~the~~ blind persons, and stimulating ~~the~~ blind persons to greater
 11 efforts in striving to make themselves self-supporting, ~~blind the~~
 12 commission shall administer and operate vending facilities programs
 13 pursuant to the federal Randolph-Sheppard Act, as amended, 20
 14 U.S.C. 107 et seq. Blind persons licensed under the provisions of
 15 sections 83-210.03 to 83-210.06 shall be by the commission pursuant
 16 to its rules and regulations are authorized to operate vending
 17 ~~operations in~~ facilities in any federally owned building or on any
 18 federally owned or controlled property, any state-owned building or
 19 on any state-owned or controlled property, or any county, city, or
 20 municipally owned or controlled property with the approval of the
 21 local governing body, where, when, in the judgment of the Director
 22 of Health and Human Services director of the commission, such
 23 vending businesses facilities may be properly and satisfactorily
 24 operated by blind persons.

25 Sec. 12. Section 83-210.01, Revised Statutes Supplement,
 26 1998, is amended to read:

27 ~~83-210.01.~~ There is hereby created a fund, ~~to be known~~
 28 ~~as the~~ The Small Business Enterprises Cash Fund is created. ~~7 from~~

1 which shall be appropriated such amounts as are available therefrom
2 and as shall be considered incident to the administration of
3 sections ~~83-210.03 to 83-210.07~~. The fund shall contain money
4 received pursuant to the Commission for the Blind and Visually
5 Impaired Act and shall include a percentage of the net proceeds
6 derived from the operation of ~~enterprises provided pursuant to~~
7 ~~sections 83-210.03 to 83-210.07~~ vending facilities which do not
8 employ more than three full-time people or the equivalent thereof
9 if part-time employees are utilized. The net proceeds from the
10 operation of ~~such enterprises~~ vending facilities shall accrue to
11 the blind vending facility operator, except for the percentage of
12 the net proceeds that shall revert to the cash fund. Such fund
13 shall be used for supervision and ~~such~~ other administrative
14 purposes as ~~shall be~~ necessary. The commission, in consultation
15 with the Committee of Blind Vendors, shall determine the percentage
16 of the net proceeds that ~~shall revert~~ reverts to the cash fund
17 ~~shall be determined by the department~~ after an investigation ~~has~~
18 ~~been made~~ to reveal the gross proceeds, cost of operation, amount
19 necessary to replenish the stock of merchandise, and the business
20 needs of the blind individual vending facility operator. All
21 equipment purchased from ~~such~~ the cash fund ~~shall be~~ is the
22 property of the state and shall be disposed of only by sale at a
23 fair market price. Any money in the cash fund available for
24 investment shall be invested by the state investment officer
25 pursuant to the Nebraska Capital Expansion Act and the Nebraska
26 State Funds Investment Act.

27 Sec. 13. The commission shall file an annual report with
28 the Governor and the Clerk of the Legislature, prior to each

1 regular session of the Legislature, which details the activities
2 and expenditures of the commission and shall include separately
3 information related to the activities and expenditures of the
4 vending facility program as well as estimates of anticipated
5 expenditures and anticipated revenue available to the vending
6 facility program from all sources.

7 Sec. 14. The commission shall provide an opportunity for
8 a fair hearing to any person applying for or receiving services who
9 is dissatisfied with any action or failure to act arising from the
10 operation or administration of any service or program authorized
11 under the Commission for the Blind and Visually Impaired Act.

12 Sec. 15. The commission shall adopt rules and
13 regulations as necessary to implement the purposes of the
14 Commission for the Blind and Visually Impaired Act.

15 Sec. 16. (1) All property, equipment, supplies, and
16 personnel which belonged to, were allocated to, or were used to
17 support the Division of Rehabilitation Services for the Visually
18 Impaired within the Department of Health and Human Services prior
19 to the operative date of this act are transferred to the Commission
20 for the Blind and Visually Impaired.

21 (2) All existing contracts and agreements in effect on
22 the operative date of this act as to the Division of Rehabilitation
23 Services for the Visually Impaired within the Department of Health
24 and Human Services are binding and effective upon the Commission
25 for the Blind and Visually Impaired.

26 Sec. 17. Section 84-1604.01, Revised Statutes
27 Supplement, 1998, is amended to read:

28 84-1604.01. Any person who is blind as defined in

1 section 3 of this act ~~83-212~~ and who provides services under
2 contract to the State of Nebraska to a disabled person as defined
3 in section 68-1503 shall be afforded the opportunity to enroll in
4 the state employees group health insurance program until age
5 sixty-five. Eligible persons electing this option shall be
6 responsible for the entire premium cost and an administrative fee
7 consistent with that allowed by federal guidelines for continuation
8 of health insurance.

9 Sec. 18. Original sections 83-210.01 to 83-210.03,
10 83-211, 83-211.02, and 84-1604.01, Revised Statutes Supplement,
11 1998, are repealed.

12 Sec. 19. The following sections are outright repealed:
13 Sections 83-210.04 to 83-210.07 and 83-212, Revised Statutes
14 Supplement, 1998.