

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1189

S.P. 393

In Senate, March 6, 2003

An Act To Establish the Commission for the Blind

Reference to the Committee on State and Local Government suggested and ordered printed.

A handwritten signature in black ink, reading 'Joy J. O'Brien'.

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator GILMAN of Cumberland.
Cosponsored by Representative McLAUGHLIN of Cape Elizabeth and
Senator: NASS of York, Representatives: McKENNEY of Cumberland, MOORE of Standish.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §285, sub-§1, ¶H,** as amended by PL 2001, c. 667, Pt. E, §1, is further amended to read:

6 H. A blind person operating a vending facility pursuant to
8 ~~Title-26,--section-1418-F~~ section 19606 under the direction
10 of the ~~Department--of--Labor,--Division--for--the--Blind--and~~
Visually-Impaired Commission for the Blind;

12 **Sec. 2. 5 MRSA §1822,** as amended by PL 1995, c. 560, Pt. F, §4, is further amended to read:

14 **§1822. Blind-made products**

16 -A- ~~The~~ The Blind-made Products Committee, ~~comprising~~ composed
18 of the State Purchasing Agent, and the Director of the ~~Bureau-of~~
~~Rehabilitation-Services-and-the-Director-of-the-Division-for-the~~
20 Blind-and-Visually-Impaired,--Bureau-of-Rehabilitation-Services,
Commission for the Blind and in this section and sections 1823
22 and 1824 called "the committee," shall determine the price of all
24 products that meet specifications prescribed by the State
26 Purchasing Agent, are agreeable to all members of the committee
28 and are manufactured by the Maine Center for the Blind and
30 Visually Impaired and offered for sale to the State or a
32 political subdivision, governmental agency or public benefit
corporation of the State. The committee shall revise prices from
time to time in accordance with changing cost factors and shall
make rules and regulations regarding selection of products, time
of delivery and other relevant matters necessary to carry out the
purpose of this section and sections 1823 and 1824.

34 **Sec. 3. 5 MRSA c. 513** is enacted to read:

36 **CHAPTER 513**

38 **COMMISSION FOR THE BLIND**

40 **§19601. Definitions**

42 As used in this chapter, unless the context otherwise
indicates, the following terms have the following meanings.

44 1. **Blind person.** "Blind person" means a person having not
46 more than 20/200 central visual acuity in the better eye after
correction or an equally disabling loss of the visual field so
48 that the widest diameter of the visual field subtends an angle no
greater than 20 degrees.

2 2. Commission. "Commission" means the Commission for the
Blind.

4 3. Director. "Director" means the Director of the
Commission for the Blind.

6 4. Jurisdiction. "Jurisdiction" means the control of the
8 maintenance, operation and protection of public buildings and
property of the State or of a county or a municipality.

10 5. Licensing agency. "Licensing agency" means the
12 Commission for the Blind, which is the state agency designated by
the Rehabilitation Services Administration in the United States
14 Department of Education to issue licenses to blind persons for
the operation of vending facilities.

16 6. Manager. "Manager" means the blind person, duly
18 licensed by the commission, who personally operates the vending
facility.

20 7. Public building or property. "Public building or
22 property" means a building or land owned, leased or occupied by a
department, agency or authority of the State or a county or a
24 municipality of the State.

26 8. Vending facility. "Vending facility" means a
28 restaurant, a cafeteria, including the cafeteria located in the
Cross Office Building in Augusta, a snack bar, a vending machine
for food and beverages and goods and services customarily offered
30 in connection with a restaurant, a cafeteria, a snack bar or a
vending machine.

32 **§19602. Commission established**

34 The Commission for the Blind is established in the Executive
36 Department to carry out the purposes of this chapter. The
commission is directly responsible to the Governor and serves as
38 an advisory, consultative, coordinating, administrative and
research agency as specified in this chapter.

40 **§19603. Organization**

42 1. Director. The executive head of the commission is the
44 director and is appointed by the Governor to serve at the
pleasure of the Governor. The director shall supervise and
46 administer the affairs of the commission.

48 2. Qualifications. The director must be qualified by
50 education, training and experience in planning or public
administration and in issues concerning blindness and visual
impairment.

2 3. Structure. The director shall exercise the powers of the
3 commission and is responsible for the execution of its duties.
4 The director shall: appoint and remove the staff of the
5 commission and prescribe the staff's duties as may be necessary
6 to implement the purposes of this chapter. Professional
7 employees authorized by this chapter must be hired as
8 unclassified employees. All other employees are subject to those
9 civil service and personnel policies established for state
10 employees generally and must be paid salaries at rates of pay
11 comparable to those of state employees with equivalent
12 responsibilities in other state agencies. The director may
13 employ such statistical, clerical and other office help as
14 required and authorized by the commission's budget.

16 **§19604. Duties**

18 The commission shall:

20 1. Policy. Assist the Governor in the formulation,
21 coordination and management of policy regarding services to and
22 issues having an impact on the persons in this State who are
23 blind or visually impaired or are family members of persons who
24 are blind or visually impaired;

26 2. Coordination. Work with other agencies within State
27 Government and in the private sector dealing with issues of
28 blindness and visual impairment to promote coordination of policy
29 development and service delivery, to minimize duplication of
30 effort and to maximize available resources;

32 3. Services program. Provide a program of services for the
33 blind, including prevention of blindness, locating of blind
34 persons, vocational guidance and training of the blind, placement
35 of blind persons in employment, assistance to local schools in
36 meeting the special needs of blind students, instruction of adult
37 blind persons in their homes and other social services to the
38 blind;

40 4. Act for the State. Act for the State in the initiation
41 of or participation in any multigovernmental agency program
42 relative to the purposes of this chapter;

44 5. Budget. Prepare and submit for executive and legislative
45 action the budget for the commission;

2 6. Report. Make reports at least annually to the Governor
and to the Legislature detailing the activities of the office
4 and, after consultation with and approval by the Governor, submit
such recommendations for legislative action as determined
6 necessary to further the purposes of this chapter;

8 7. Governor's request. Perform such other duties as the
Governor requests; and

10 8. Rules. Adopt such routine technical rules pursuant to
Title 5, chapter 375, subchapter 2-A as the director determines
12 necessary to implement this chapter.

14 **§19605. Education of blind children**

16 1. Commission services. The commission shall provide the
18 following services to blind and visually impaired persons from
birth to 21 years of age:

20 A. Itinerant teacher services;

22 B. Mobility instruction;

24 C. Braille instruction;

26 D. Low-vision services;

28 E. Special aids and supplies needed to participate in the
educational process; and

30 F. Advocacy, counseling and guidance services to students
32 and their parents.

34 2. School administrative units. Nothing in this section
relieves school administrative units from fulfilling their
36 responsibilities under Title 20-A, Part 4, subpart 1.

38 **§19606. Business enterprise program**

40 1. Program. The commission shall conduct a business
42 enterprise program pursuant to this subsection. To provide blind
persons with remunerative employment, enlarge the economic
44 opportunities of blind persons and encourage blind persons to
become self-supporting, the officer, board or other authority in
46 charge of a public building or property shall grant to the
commission authority:

48 A. To install in that building or property a vending
50 facility whenever a vending facility may be operated by a
blind person; and

2 B. To place vending machines operated by the commission in
4 a building or property if a vending facility operated by a
6 blind person is not warranted. Income from these vending
 machines must be used for the purposes set forth in this
 section.

8 2. Preference. The officer, board or other authority in
10 charge of a public building or property shall:

12 A. Adopt policies and take actions necessary to ensure that
14 blind persons are given preference in the establishment and
 the operation of vending facilities on property under its
 jurisdiction;

16 B. Cooperate with the commission in surveys of properties
18 and buildings under its control in order to find suitable
20 locations for the operation of vending facilities by
 managers and, after a determination that a facility may be
 operated by a manager, shall cooperate with the commission
 in the installation of a vending facility;

22 C. To achieve and protect the preference of blind persons
24 in the operation of vending facilities, arrange for the
26 assignment of the income derived from vending machines that
28 are located in reasonable proximity to and in direct
30 competition with a vending facility for which authority is
32 granted pursuant to this section to the manager or managers
34 affected. A vending machine that vends articles authorized
 for vending pursuant to section 19601, subsection 8 and is
 so located that it attracts customers who would otherwise
 patronize the vending facility is considered to be in
 reasonable proximity to and in direct competition with the
 vending facility;

36 D. Inform the commission not less than 60 days prior to the
38 termination, issuance or renewal of a contract for the
 operation of a vending facility; and

40 E. Allow the commission to place vending machines in a
42 building where a vending facility operated by a manager
44 would not be feasible. Income from these machines accrues
 to the set-aside account for purposes stated in subsection 1.

46 3. Construction; remodeling; planning for vending
48 facility. To carry out the purposes of this section, when new
50 construction, remodeling, leasing, acquisition or improvement of
 public buildings or properties is authorized, the agency
 directing that construction, remodeling, leasing, acquisition or
 improvement shall, when the size of the building or property

2 warrants, make available suitable space and facilities for
3 vending facilities to be operated in the building or property by
4 blind persons.

5 A. If a suitable location is available for a vending
6 facility that requires the construction of a portable
7 building, the commission may construct such a building and
8 may have the use of the land on which to construct the
9 building.

10 B. This section does not apply to or authorize the
11 installation of vending facilities in a building wholly used
12 by a correctional or mental institution or by an educational
13 institution of any type supported in whole or in part from
14 public funds, unless that educational institution is a
15 university, college, junior college or a technical college.

16 C. If a vending facility not under the control of the
17 commission exists in a building or on property of the State,
18 a county or a municipality, the person having jurisdiction
19 over that building or property shall give preference to the
20 commission to continue operation of the vending facility
21 when an existing lease or contract expires or is terminated.

22 4. Fees prohibited generally. Except as provided in
23 paragraph A, a rental fee may not be required or received for the
24 granting of authority to the commission to operate a vending
25 facility.

26 A. A rental fee or other fee may be charged to the operator
27 only if the vending facility is located on commercial
28 municipal property, including a public airport, where the
29 following conditions are met:

30 (1) The vending facility generates revenue primarily
31 from the general public at large rather than from
32 public employees;

33 (2) The vending facility occupies space for which
34 there are other competing retail commercial uses and
35 other retail users are, in fact, renting nearby public
36 space on the property; and

37 (3) The public owner depends on generating revenue
38 from the space occupied by the vending facility.

39 Any rent or other fee charged to the operator must be less
40 than what would otherwise be charged to a competing
41 commercial tenant and must be pursuant to a written
42 agreement. The terms of the agreement must adequately
43 compensate the public owner for the use of the space.

2 account for the value of investments made by the commission
3 to create or maintain the vending facility.

4 B. This subsection applies to the rental of vending
5 facilities and the renewal of any rental agreement after the
6 effective date of this section.

7 5. Commission duties. In carrying out this section the
8 commission shall:

9 A. Maintain a roster of blind persons eligible to become
10 managers including those blind persons to whom licenses have
11 been issued;

12 B. Appoint a hearing board when a manager wishes to appeal
13 a decision. The hearing board must consist of 3 persons,
14 one chosen by the manager, one chosen by the commission and
15 the 3rd person chosen by the other 2 persons. The decision
16 of the hearing board is final;

17 C. Determine the right to, the title to and the interest in
18 vending facility equipment and stock;

19 D. Provide managers appropriate notice of their civil
20 rights;

21 E. Conduct surveys to find locations where vending
22 facilities may be operated by blind persons and establish
23 vending facilities as it determines appropriate;

24 F. Provide management and supervisory services determined
25 necessary to ensure that each vending facility is operated
26 in the most effective and productive manner possible;

27 G. Provide plans and specifications for proposed vending
28 facilities and equipment to the appropriate officer, board
29 or authority for approval prior to installation; and

30 H. Take any other action necessary or appropriate to carry
31 out the purposes of this section.

32 **§19607. Mandatory report of blindness; notice of services**

33 Whenever, upon examination at a clinic, hospital or other
34 institution, or elsewhere, by a physician, optometrist,
35 institutional superintendent or other qualified person, the
36 visual acuity of a person is found to be with correction 20/200
37 or less in the better eye, or the peripheral field of the
38 person's vision is found to have contracted to a 20-degree
39 diameter or less, regardless of visual acuity, the person
40 conducting the examination shall, within 30 days, report to the

2 director the result of the examination and that blindness of the
3 person examined has been established. The report may not be made
4 if the person examined so requests. If blindness of the person
5 examined has been established, the commission shall inform and
6 advise that person as to services for the blind provided by the
7 commission.

8 **Sec. 4. 26 MRSA c. 19, sub-c. 2, art. 7, as amended, is repealed.**

10 **Sec. 5. Transition provisions.**

12 1. The Commission for the Blind is the successor in every
13 way to the powers, duties and functions of the former Division
14 for the Blind and Visually Impaired within the Department of
15 Labor, Bureau of Rehabilitation Services.

16 2. All existing rules, regulations and procedures in
17 effect, in operation or adopted in or by the Division for the
18 Blind and Visually Impaired or any of its administrative units or
19 officers are hereby declared in effect and continue in effect
20 until rescinded, revised or amended by the proper authority.

22 3. All existing contracts, agreements and compacts
23 currently in effect in the Division for the Blind and Visually
24 Impaired continue in effect until they expire.

26 4. Any positions authorized and allocated subject to the
27 personnel laws, except the director, to the former division are
28 transferred to the Commission for the Blind and may continue to
29 be authorized.

32 5. All records, property and equipment previously belonging
33 to or allocated for the use of the former division become, on the
34 effective date of this Act, part of the property of the
35 commission.

38 **SUMMARY**

40 This bill establishes the Commission for the Blind to report
41 directly to the Governor. Under the bill, the commission is the
42 successor to the Department of Labor, Bureau of Rehabilitation
43 Services, Division for the Blind and Visually Impaired, as that
44 division is repealed in this bill. This commission will assist
45 the Governor in the formulation, coordination and management of
46 policy regarding services for and issues having an impact on
47 those who are blind or visually impaired or are family members of
48

2 persons who are blind or visually impaired and will work to
ensure coordination of public and private agencies dealing with
issues of blindness and visual impairment.

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