

2019 Regular Session

HOUSE BILL NO. 333

BY REPRESENTATIVE CONNICK

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

PURCHASING/PROCUREMENT CD: Creates the State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities and institutes "supported employment provider" as the successor term for "sheltered workshop" in laws on public procurement, public contracts, taxation, and work release programs

1 AN ACT

2 To amend and reenact R.S. 15:711(B) and 1111(B), R.S. 38:2261(A), (B), (D), and (E), R.S.
3 39:1594(J)(1), 1604.4, (A), (C), (D), and (E), and R.S. 47:34(C)(2)(d)(i),
4 287.749(C)(2)(d)(i), 302(BB)(95), 305.38, 321(P)(95), 321.1(I)(95), 331(V)(95), and
5 337.9(D)(17), relative to the preference for goods manufactured or services
6 performed; to provide for employment of individuals with disabilities; to provide for
7 the creation of a council; to provide for certain definitions; to provide for the
8 exemption of competitive bidding requirements; to provide for tax credits; to provide
9 for an effective date; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 15:711(B) and 1111(B) are hereby amended and reenacted to read
12 as follows:

13 §711. Work release program

14 * * *

15 B. Each sheriff shall establish written rules for the administration of the work
16 release program and shall determine those inmates who may participate in the release
17 program, except that no inmate may participate in the program if his sentence so

1 stipulates. Inmates sentenced to the Department of Corrections who are in the
 2 custody of the sheriff shall not be eligible for work release unless such inmates are
 3 in compliance with standards for work release within the department and written
 4 approval of the secretary of the department is obtained. If any inmate violates the
 5 conditions prescribed by the sheriff, his work release privileges may be withdrawn.
 6 Failure to report to or return from the planned employment shall be considered an
 7 escape under the provisions of R.S. 14:110. The sheriff may approve as work release
 8 privileges, placement in universities, colleges, technical, vocational or trade schools
 9 or in ~~sheltered workshops~~ supported employment providers as defined in R.S.
 10 39:1604.4, or in training programs designed to improve the skills and abilities of the
 11 inmate.

* * *

13 §1111. Work release program

* * *

15 B. The department shall establish rules for the administration of the work
 16 release program and shall determine those inmates who may participate in the release
 17 program. Any inmate sentenced to imprisonment at hard labor shall be eligible at
 18 any time during his sentence to participate in the work release program, subject to
 19 the provisions of this Part. If any inmate violates the conditions prescribed by the
 20 department, his work release privileges may be withdrawn. Failure to report to or
 21 return from the planned employment shall be considered an escape under the
 22 provisions of R.S. 14:110. The department may approve as work release privileges,
 23 placement in universities, colleges, technical, vocational or trade schools, or in
 24 ~~sheltered workshops~~ supported employment providers as defined in R.S. 39:1604.4,
 25 or in training programs designed to improve the skills and abilities of the inmate.

* * *

27 Section 2. R.S. 38:2261, (A), (B), (D), and (E) are hereby amended and reenacted
 28 to read as follows:

1 §2261. Preference for goods manufactured, or services performed, ~~by sheltered~~
2 ~~workshops~~ by individuals with disabilities through supported employment
3 providers; non-applicability of competitive bidding requirements;
4 coordinating council

5 A. Every agency, ~~board, commission, department, or other instrumentality~~
6 ~~of the state~~ as defined in R.S. 39:1556 shall give a preference in its purchasing
7 practices to goods manufactured and services performed by individuals with ~~severe~~
8 ~~disabilities in state-operated and state-supported sheltered workshops~~ through
9 supported employment providers.

10 B. The requirements for competitive bidding contained in Part II of this
11 Chapter shall be inapplicable to cases in which an agency, ~~board, commission,~~
12 ~~department, or other instrumentality of the state~~ can utilize as defined in R.S.
13 39:1556 ~~uses~~ goods manufactured, or services performed, by individuals with ~~severe~~
14 ~~disabilities in state-operated and state-supported sheltered workshops~~ through
15 supported employment providers, provided the goods manufactured or services
16 performed are equal in quality and reasonable in the rate charged based upon those
17 goods and services available from other providers.

18 * * *

19 D. ~~There is created within the Louisiana Department of Health a council~~
20 ~~whose function shall be to~~ The State Council for the Purchase of Goods and Services
21 Provided by Individuals with Disabilities established pursuant to R.S. 39:1604.4(C)
22 shall coordinate and facilitate the carrying out of the provisions of this Section. The
23 membership of this council shall be determined by the secretary of the Louisiana
24 Department of Health.

25 E. For the purposes of this Section, the following terms are defined as
26 follows:

27 (1) ~~"Direct labor" means all labor involved in the manufacture of goods or~~
28 ~~the performance of services except for supervision, instruction, administration, and~~

1 ~~shipping~~ "Goods manufactured and services performed by individuals with
2 disabilities" shall have the meaning as defined in R.S. 39:1604.4(E).

3 (2) ~~"Goods manufactured and services performed by individuals with severe~~
4 ~~disabilities"~~ means goods and services for which not less than seventy-five percent
5 of the man-hours of direct labor required for manufacture or performance is provided
6 by individuals with severe disabilities "Individuals with disabilities" shall have the
7 meaning as defined in R.S. 39:1604.4(E).

8 (3) ~~"Individuals with severe disabilities"~~ means individuals with a physical,
9 mental, or substance abuse disability which constitutes a substantial obstacle to their
10 employment and is of such a nature as to prevent an individual from engaging in
11 normal competitive employment "Supported employment provider" shall have the
12 meaning as defined in R.S. 39:1604.4(E).

13 (4) ~~"Qualified nonprofit agency for individuals with severe disabilities"~~
14 ~~means an agency that:~~

15 (a) ~~Is incorporated under the Louisiana Nonprofit Corporation Law and~~
16 ~~operated in the interests of individuals with severe disabilities, and the income of~~
17 ~~which does not inure in whole or in part to the benefit of any shareholder or other~~
18 ~~private individual.~~

19 (b) ~~Complies with any applicable occupational health and safety standards~~
20 ~~provided by the statutes or regulations of this state or of the United States.~~

21 (5) ~~"Sheltered workshop"~~ means a facility designed to provide gainful
22 employment for individuals with severe disabilities who cannot be absorbed into the
23 competitive labor market or to provide interim employment for such individuals
24 when employment opportunities for them in the competitive labor market do not
25 exist.

26 (6) ~~"State-operated sheltered workshop"~~ means a sheltered workshop staffed
27 by state agency personnel.

1 ~~(7) "State-supported sheltered workshop" means a sheltered workshop~~
2 ~~funded in whole or in part by the state and staffed by personnel from a qualified~~
3 ~~nonprofit agency for individuals with severe disabilities.~~

4 Section 3. R.S. 39:1594(J)(1), 1604.4, (A), (C), (D), and (E) are hereby amended and
5 reenacted to read as follows:

6 §1594. Competitive sealed bids

7 * * *

8 J. Exemption.

9 (1) Purchases of goods manufactured by or services performed by
10 individuals with ~~severe disabilities in state-operated and state-supported sheltered~~
11 ~~workshops~~ through supported employment providers as defined in R.S. 39:1604.4
12 shall be exempt from the provisions of this Section. This exemption shall also apply
13 to goods and services procured by ~~purchase order~~ directly from a central nonprofit
14 agency contracting under R.S. 39:1604.4 to assist ~~qualified sheltered workshops~~; any
15 ~~purchase order shall be issued directly to the central nonprofit agency for all goods~~
16 ~~and services within the exemption provided under this Subsection~~ supported
17 employment providers.

18 * * *

19 §1604.4. Preference for goods manufactured, or services performed, ~~by sheltered~~
20 ~~workshops~~ by individuals with disabilities through supported employment
21 providers; definitions; coordinating council

22 A. Every ~~governmental body~~ agency shall give a preference in its purchasing
23 practices to goods manufactured and services performed by individuals with ~~severe~~
24 ~~disabilities in state-operated and state-supported sheltered workshops~~ through
25 supported employment providers, provided such goods manufactured or services
26 performed are equal in quality and reasonable in the rate charged based upon those
27 goods and services available from other providers.

28 * * *

1 C. There is hereby created within the Louisiana Department of Health, a
 2 ~~council~~ the "State Use Council for the Purchase of Goods and Services Provided by
 3 Individuals with Disabilities", herein after referred to as "council", whose function
 4 shall be to coordinate and facilitate ~~the carrying out of the~~ provisions of this Section
 5 and the provisions of R.S. 38:2261. ~~The membership of this council shall be~~
 6 ~~determined by the secretary of the Louisiana Department of Health. It shall have~~
 7 ~~authority to designate and contract with a central nonprofit agency to assist sheltered~~
 8 ~~workshops in submitting applications for the selection of suitable goods and services,~~
 9 ~~to facilitate the allocation of orders among qualified sheltered workshops, and~~
 10 ~~otherwise to assist the council in performing its functions.~~

11 (1) The membership of the council shall be determined by the secretary of the
 12 Louisiana Department of Health.

13 (2) The council shall have authority to designate and contract with a central
 14 nonprofit agency to assist supported employment providers in submitting
 15 applications for the selection of suitable goods and services, to facilitate the
 16 allocation of orders among qualified supported employment providers, and otherwise
 17 to assist the council in performing its functions.

18 (3) The council shall solicit and evaluate competitive sealed proposals
 19 pursuant to R.S. 39:1595 at least every five years to designate and contract with a
 20 central nonprofit agency.

21 D. The Louisiana Department of Health may adopt, promulgate, and enforce
 22 such rules and regulations as are necessary and appropriate to implement the
 23 provisions of this Section and the provisions of R.S. 38:2261. The regulations shall
 24 be promulgated in accordance with the Administrative Procedure Act, R.S. 49:950
 25 et seq.

26 E. For the purposes of this Section, the following terms are defined as
 27 follows:

28 (1) "Central nonprofit agency for individuals with disabilities" means an
 29 agency that:

1 (a) Is incorporated under the Louisiana Nonprofit Corporation Law and
2 operated in the interests of individuals with disabilities, and the income of which
3 does not inure in whole or in part to the benefit of any shareholder or other private
4 individual.

5 (b) Complies with any applicable occupational health and safety standards
6 provided by the statutes or regulations of this state and of the United States.

7 (2) "Client" means an individual with a disability who is employed by a
8 supported employment provider.

9 (3) "Direct labor" means all labor involved in the manufacture of goods or
10 the performance of services except for supervision, instruction, administration, and
11 shipping.

12 ~~(2)~~(4) "Goods manufactured and services performed by individuals with
13 severe disabilities" means goods and services for which not less than seventy-five
14 twenty-five percent of the man-hours of direct labor required for manufacture or
15 performance is provided by individuals with severe disabilities.

16 ~~(3) "Qualified nonprofit agency for individuals with severe disabilities"~~
17 ~~means an agency that:~~

18 ~~(a) Is incorporated under the Louisiana Nonprofit Corporation Law and~~
19 ~~operated in the interests of individuals with severe disabilities, and the income of~~
20 ~~which does not inure in whole or in part to the benefit of any shareholder or other~~
21 ~~private individual.~~

22 ~~(b) Complies with any applicable occupational health and safety standards~~
23 ~~provided by the statutes or regulations of this state or of the United States.~~

24 ~~(4)~~(5) "Individuals with severe disabilities" means individuals with a
25 physical, behavioral, developmental, intellectual, mental, or substance abuse
26 ~~disability~~ addictive disorder ~~which constitutes a substantial obstacle to their~~
27 ~~employment and is of such a nature as to prevent an individual from engaging in~~
28 ~~normal competitive employment.~~

1 ~~(5)(6)~~ "Sheltered workshop" means a facility designed to provide gainful
2 employment for individuals with severe disabilities who cannot be absorbed into the
3 competitive labor market or to provide interim employment for such individuals
4 when employment opportunities for them in the competitive labor market do not
5 exist. "Supported employment provider" means an organization, program, or other
6 entity which provides gainful, competitive, integrated employment, training and
7 rehabilitation services for individuals with disabilities. In Fiscal Years 2019-2020
8 and 2020-2021, "supported employment provider" shall also include any sheltered
9 workshop transitioning to a model of gainful, competitive, integrated employment,
10 training and rehabilitation services for individuals with disabilities.

11 ~~(6)~~ "State-operated sheltered workshop" means a sheltered workshop staffed
12 by state agency personnel.

13 ~~(7)~~ "State-supported sheltered workshop" means a sheltered workshop
14 funded in whole or in part by the state and staffed by personnel from a qualified
15 nonprofit agency for individuals with severe disabilities.

16 Section 4. R.S. 47:34(C)(2)(d)(i), 287.749(C)(2)(d)(i), 302(BB)(95), 305.38,
17 321(P)(95), 321.1(I)(95), 331(V)(95), and 337.9(D)(17) are hereby amended and reenacted
18 to read as follows:

19 §34. Corporation tax credit

20 * * *

21 C. Eligible employees are defined as follows:

22 * * *

23 (2) A "new economically disadvantaged employee" is a new employee who
24 is any of the following:

25 * * *

26 (d) where such status presents significant barriers to employment:

27 (i) a client of a ~~sheltered workshop~~ supported employment provider as
28 defined in R.S. 1604.4;

29 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 §287.749. Jobs credit

2 * * *

3 C. Eligible employees are defined as follows:

4 * * *

5 (2) A "new economically disadvantaged employee" means a new employee
6 who is any of the following:

7 * * *

8 (d) where such status presents significant barriers to employment:

9 (i) a client of a ~~sheltered workshop~~ supported employment provider as
10 defined in R.S. 39:1604.4;

11 * * *

12 §302. Imposition of tax

13 * * *

14 BB. Notwithstanding any other provision of law to the contrary, including
15 but not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
16 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
17 levied pursuant to the provisions of this Section, except for the retail sale, use,
18 consumption, distribution, or storage for use or consumption of the following:

19 * * *

20 (95) Sales or purchases by ~~sheltered workshops~~ supported employment
21 providers as defined in R.S. 39:1604.4, as provided in R.S. 47:305.38.

22 * * *

23 §305.38. Exclusions and exemptions; ~~sheltered workshop~~ supported employment
24 provider for persons with intellectual disabilities

25 The sale at retail, the use, the consumption, the distribution, and the storage
26 for use or consumption in this state of each item or article of tangible personal
27 property by a ~~sheltered workshop~~ supported employment provider as defined in R.S.
28 39:1604.4 for persons with intellectual disabilities licensed by the Department of
29 Children and Family Services as a day developmental training center for persons

1 with intellectual disabilities shall not be subject to the sales and use taxes levied by
2 the state or by any political subdivision thereof.

3 * * *

4 §321. Imposition of tax

5 * * *

6 P. Notwithstanding any other provision of law to the contrary, including but
7 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
8 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
9 levied pursuant to the provisions of this Section, except for the retail sale, use,
10 consumption, distribution, or storage for use or consumption of the following:

11 * * *

12 (95) Sales or purchases by ~~sheltered workshops~~ supported employment
13 providers as defined in R.S. 39:1604.4, as provided in R.S. 47:305.38.

14 * * *

15 §321.1. Imposition of tax

16 * * *

17 I. Notwithstanding any other provision of law to the contrary, including but
18 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,
19 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
20 levied pursuant to the provisions of this Section, except for the retail sale, use,
21 consumption, distribution, or storage for use or consumption of the following:

22 * * *

23 (95) Sales or purchases by ~~sheltered workshops~~ supported employment
24 providers as defined in R.S. 39:1604.4, as provided in R.S. 47:305.38.

25 * * *

26 §331. Imposition of tax

27 * * *

28 V. Notwithstanding any other provision of law to the contrary, including but
29 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,

1 through June 30, 2025, there shall be no exemptions and no exclusions to the tax
2 levied pursuant to the provisions of this Section, except for the retail sale, use,
3 consumption, distribution, or storage for use or consumption of the following:

4 * * *

5 (95) Sales or purchases by ~~sheltered workshops~~ supported employment
6 providers as defined in R.S. 39:1604.4, as provided in R.S. 47:305.38.

7 * * *

8 §337.9. Exemptions applicable to local tax in Chapters 2, 2-A, and 2-B; other
9 exemptions applicable

10 * * *

11 D.

12 * * *

13 (17) R.S. 47:305.38, "key words": ~~sheltered workshops~~ supported
14 employment providers as defined in R.S. 39:1604.4, for persons with intellectual
15 disabilities.

16 * * *

17 Section 5. This Act shall become effective on July 1, 2019; if vetoed by the governor
18 and subsequently approved by the legislature, this Act shall become effective on July 1,
19 2019, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 333 Original

2019 Regular Session

Connick

Abstract: Creates the State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities for the coordination and facilitation of purchases of goods manufactured and services performed by individuals with disabilities through a supported employment provider.

Present law provides for the preference of goods manufactured, or services performed by individuals with severe disabilities in state-operated and state-supported sheltered workshops, the exemption from competitive bidding requirements, and provides for certain definitions. Present law further provides for the creation of a council by the La. Department of Health (LDH) whose membership is determined by the secretary of LDH to coordinate

and facilitate the provisions of present law, and provides the council with authority to designate and contract with a central nonprofit agency.

Proposed law retains present law but changes the preference from individuals with severe disabilities to individuals with disabilities through supported employment providers. Proposed law further retains present law for exemptions from the competitive bidding requirement provided the goods and services are equal in quality and reasonable in the rate charged based on goods and services available from other providers.

Proposed law retains present law but renames the council the "State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities" and provides for the council to solicit and evaluate competitive sealed proposals at least every 5 years to designate and contract with a central nonprofit agency.

Proposed law adds definitions for "individuals with disabilities" and "supported employment provider" and repeals certain definitions. Proposed law provides for "supporting employment provider" to include "sheltered workshops" transitioning into a "supporting employment provider" for fiscal years 2019-2020 and 2020-2021.

Present law provides for sheriffs to place inmates in work release programs including in sheltered workshops, and provides for tax credits and exemptions for sheltered workshops.

Proposed law retains present law but replaces the term "sheltered workshops" with "supported employment providers" throughout present law.

Effective July 1, 2019.

(Amends R.S. 15:711(B) and 1111(B), R.S. 38:2261, (A), (B), (D), and (E), R.S. 39:1594(J)(1), 1604.4, (A), (C), (D), and (E), and R.S. 47:34(C)(2)(d)(i), 287.749(C)(2)(d)(i), 302(BB)(95), 305.38, 321(P)(95), 321.1(I)(95), 331(V)(95), and 337.9(D)(17))