

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" 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, R.S. 39:1594(J)(1) and  
3 1604.4, and R.S. 47:34(C)(2)(d)(i), 287.749(C)(2)(d)(i), 302(BB)(95), 305.38,  
4 321(P)(95), 321.1(I)(95), 331(V)(95), and 337.9(D)(17) and to repeal R.S. 23:3024  
5 and 3025 and R.S. 39:1554(D)(1)(b), relative to the preference for goods  
6 manufactured or services performed; to provide for employment of individuals with  
7 disabilities; to provide for the creation of a council; to provide for certain definitions;  
8 to provide for the exemption of competitive bidding requirements; to provide for tax  
9 credits; to provide 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 5 conditions prescribed by the sheriff, his work release privileges may be withdrawn.  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 or 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 or supported employment providers as defined in R.S.  
 25 39:1604.4, or in training programs designed to improve the skills and abilities of the  
 26 inmate.

\* \* \*

1 Section 2. R.S. 38:2261 is hereby amended and reenacted to read as follows:

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

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

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

19 C. ~~The provisions of this Section shall not be construed to limit or otherwise~~  
20 ~~affect the provisions of R.S. 23:3024 and 23:3025 regarding the sheltered industries~~  
21 ~~program for individuals who are blind.~~

22 ~~D. C. There is created within the Louisiana Department of Health a council~~  
23 ~~whose function shall be to~~ The State Use Council for the Purchase of Goods and  
24 Services Provided by Individuals with Disabilities established pursuant to R.S.  
25 39:1604.4(C) shall coordinate and facilitate the carrying out of the provisions of this  
26 Section. The membership of this council shall be determined by the secretary of the  
27 Louisiana Department of Health.

28 E. D. For the purposes of this Section, the following terms are defined as  
29 follows:

1           (1) ~~"Direct labor" means all labor involved in the manufacture of goods or~~  
2           ~~the performance of services except for supervision, instruction, administration, and~~  
3           ~~shipping~~ "Goods manufactured and services performed by individuals with  
4           ~~disabilities"~~ shall have the meaning as defined in R.S. 39:1604.4(E).

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

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

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

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

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

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

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



1           ~~B. The provisions of this Section shall not be construed to limit or otherwise~~  
2           ~~affect the provisions of R.S. 23:3024 and 3025 regarding the sheltered industries~~  
3           ~~program for individuals who are blind.~~

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

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

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

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

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

1           E: D. For the purposes of this Section, the following terms are defined as  
2 follows:

3           (1) "Central nonprofit agency for individuals with disabilities" means an  
4 agency that:

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

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

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

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

16           ~~(2)~~(4) "Goods manufactured and services performed by individuals with  
17 severe disabilities" means goods and services for which not less than ~~seventy-five~~  
18 forty percent of the man-hours of direct labor required for manufacture or  
19 performance is provided by individuals with ~~severe~~ disabilities.

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

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

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

28           ~~(4)~~(5) "Individuals with ~~severe~~ disabilities" means individuals with a  
29 physical, behavioral, developmental, intellectual, sensory, mental, or substance abuse



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

3   \*       \*       \*

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

5           (i) a client of a sheltered workshop or a supported employment provider as  
6 defined in R.S. 39:1604.4;

7   \*       \*       \*

8           §287.749. Jobs credit

9   \*       \*       \*

10           C. Eligible employees are defined as follows:

11   \*       \*       \*

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

14   \*       \*       \*

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

16           (i) a client of a sheltered workshop or a supported employment provider as  
17 defined in R.S. 39:1604.4;

18   \*       \*       \*

19           §302. Imposition of tax

20   \*       \*       \*

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

26   \*       \*       \*

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

29   \*       \*       \*



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

3 \* \* \*

4 §331. Imposition of tax

5 \* \* \*

6 V. 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 or supported employment  
13 providers as defined in R.S. 39:1604.4, as provided in R.S. 47:305.38.

14 \* \* \*

15 §337.9. Exemptions applicable to local tax in Chapters 2, 2-A, and 2-B; other  
16 exemptions applicable

17 \* \* \*

18 D.

19 \* \* \*

20 (17) R.S. 47:305.38, "key words": sheltered workshops or supported  
21 employment providers as defined in R.S. 39:1604.4, for persons with intellectual  
22 disabilities.

23 \* \* \*

24 Section 5. R.S. 23:3024 and 3025 and R.S. 39:1554(D)(1)(b) are hereby repealed in  
25 their entirety.

26 Section 6. This Act shall become effective on July 1, 2019; if vetoed by the governor  
27 and subsequently approved by the legislature, this Act shall become effective on July 1,  
28 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 Reengrossed

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, establishes 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 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 five 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 and adds "supported employment providers" throughout present law.

Effective July 1, 2019.

(Amends R.S. 15:711(B) and 1111(B), R.S. 38:2261, R.S. 39:1594(J)(1) and 1604.4, 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); Repeals R.S. 23:3024 and 3025 and R.S. 39:1554(D)(1)(b))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Appropriations to the original bill:

1. Technical correction to reinstate "sheltered workshops" to present law for work release programs, job credits, and tax exemptions.

The House Floor Amendments to the engrossed bill:

1. Make technical corrections.
2. Add sensory to the list of disabilities.
3. Change the percentage of man-hours of direct labor from 25% to 40% in the definition of "goods manufactured and services performed by individuals with disabilities".
4. Change the definition of "supported employment provider" to include nonprofit organizations, programs or entities in compliance with a central nonprofit agency for individuals with disabilities.
5. Repeal provisions regarding the sheltered industries program for individuals who are blind.