

2019 Regular Session

HOUSE BILL NO. 333

BY REPRESENTATIVES CONNICK AND LEGER

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  
18 stipulates. Inmates sentenced to the Department of Corrections who are in the  
19 custody of the sheriff shall not be eligible for work release unless such inmates are  
20 in compliance with standards for work release within the department and written  
21 approval of the secretary of the department is obtained. If any inmate violates the

1 conditions prescribed by the sheriff, his work release privileges may be withdrawn.  
 2 Failure to report to or return from the planned employment shall be considered an  
 3 escape under the provisions of R.S. 14:110. The sheriff may approve as work release  
 4 privileges, placement in universities, colleges, technical, vocational or trade schools  
 5 or in sheltered workshops or supported employment providers as defined in R.S.  
 6 39:1604.4, or in training programs designed to improve the skills and abilities of the  
 7 inmate.

8 \* \* \*

9 §1111. Work release program

10 \* \* \*

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 16 department, his work release privileges may be withdrawn.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

23 \* \* \*

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

25 §2261. Preference for goods manufactured, or services performed, ~~by sheltered~~  
 26 ~~workshops~~ by individuals with disabilities through supported employment  
 27 providers; non-applicability of competitive bidding requirements;  
 28 coordinating council

29 A. Every agency, ~~board, commission, department, or other instrumentality~~  
 30 ~~of the state~~ as defined in R.S. 39:1556 shall give a preference in its purchasing

1 practices to goods manufactured and services performed by individuals with severe  
 2 disabilities ~~in state-operated and state-supported sheltered workshops through~~  
 3 supported employment providers.

4 B. The requirements for competitive bidding contained in Part II of this  
 5 Chapter shall be inapplicable to cases in which an agency, ~~board, commission,~~  
 6 ~~department, or other instrumentality of the state can utilize~~ as defined in R.S.  
 7 39:1556 uses goods manufactured, or services performed, by individuals with severe  
 8 disabilities ~~in state-operated and state-supported sheltered workshops through~~  
 9 supported employment providers, provided the goods manufactured or services  
 10 performed are equal in quality and reasonable in the rate charged based upon those  
 11 goods and services available from other providers.

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

15 ~~D. C.~~ There is created within the Louisiana Department of Health a council  
 16 whose function shall be to The State Use Council for the Purchase of Goods and  
 17 Services Provided by Individuals with Disabilities established pursuant to R.S.  
 18 39:1604.4(B) shall coordinate and facilitate the carrying out of the provisions of this  
 19 Section. The membership of this council shall be determined by the secretary of the  
 20 Louisiana Department of Health.

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

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

27 (2) ~~"Goods manufactured and services performed by individuals with severe~~  
 28 ~~disabilities" means goods and services for which not less than seventy-five percent~~  
 29 ~~of the man-hours of direct labor required for manufacture or performance is provided~~

1 by individuals with severe disabilities "Individuals with disabilities" shall have the  
2 meaning as defined in R.S. 39:1604.4(D).

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

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

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

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

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

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

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

26 Section 3. R.S. 39:1594(J)(1) and 1604.4 are hereby amended and reenacted to read  
27 as follows:

28 §1594. Competitive sealed bids

29 \* \* \*

1 J. Exemption.

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

11 \* \* \*

12 §1604.4. Preference for goods manufactured, or services performed, ~~by sheltered~~  
13 ~~workshops~~ by individuals with disabilities through supported employment  
14 providers; definitions; coordinating council

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

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

24 ~~C. B.~~ There is hereby created within the Louisiana Department of Health, a  
25 ~~council~~ the "State Use Council for the Purchase of Goods and Services Provided by  
26 Individuals with Disabilities", hereinafter referred to as "council", whose function  
27 shall be to coordinate and facilitate ~~the carrying out of~~ the provisions of this Section  
28 and the provisions of R.S. 38:2261. ~~The membership of this council shall be~~  
29 ~~determined by the secretary of the Louisiana Department of Health. It shall have~~  
30 ~~authority to designate and contract with a central nonprofit agency to assist sheltered~~

1            ~~workshops in submitting applications for the selection of suitable goods and services,~~  
 2            ~~to facilitate the allocation of orders among qualified sheltered workshops, and~~  
 3            ~~otherwise to assist the council in performing its functions.~~

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

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

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

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

19           ~~E. D.~~ For the purposes of this Section, the following terms are defined as  
 20           follows:

21           (1) "Central nonprofit agency for individuals with disabilities" means an  
 22           agency that:

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

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

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

1                   (3) "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.

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

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

10                   ~~(a)~~ Is incorporated under the Louisiana Nonprofit Corporation Law and  
 11                   operated in the interests of individuals with severe disabilities, and the income of  
 12                   which does not inure in whole or in part to the benefit of any shareholder or other  
 13                   private individual:

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

16                   ~~(4)~~(5) "Individuals with severe disabilities" means individuals with a  
 17                   physical, behavioral, developmental, intellectual, sensory, mental, or substance abuse  
 18                   disability addictive disorder which constitutes a substantial obstacle to their  
 19                   employment and is of such a nature as to prevent an individual from engaging in  
 20                   normal competitive employment.

21                   ~~(5)~~(6) "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. "Supported employment provider" means a nonprofit organization, program,  
 26                   or entity as defined by R.S. 12:201 et seq., which provides gainful, competitive,  
 27                   integrated employment, training, and rehabilitation services for individuals with  
 28                   disabilities in compliance with a central nonprofit agency for individuals with  
 29                   disabilities. In Fiscal Years 2019-2020 and 2020-2021, "supported employment  
 30                   provider" shall also include any sheltered workshop transitioning to a model of

1 gainful, competitive, integrated employment, training, and rehabilitation services for  
2 individuals with disabilities.

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

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

8 Section 4. R.S. 47:34(C)(2)(d)(i), 287.749(C)(2)(d)(i), 302(BB)(95), 305.38,  
9 321(P)(95), 321.1(I)(95), 331(V)(95), and 337.9(D)(17) are hereby amended and reenacted  
10 to read as follows:

11 §34. Corporation tax credit

12 \* \* \*

13 C. Eligible employees are defined as follows:

14 \* \* \*

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

17 \* \* \*

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

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

21 \* \* \*

22 §287.749. Jobs credit

23 \* \* \*

24 C. Eligible employees are defined as follows:

25 \* \* \*

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

28 \* \* \*

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

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

3 \* \* \*

4 §302. Imposition of tax

5 \* \* \*

6 BB. Notwithstanding any other provision of law to the contrary, including  
7 but 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 §305.38. Exclusions and exemptions; sheltered workshop or supported employment  
16 provider for persons with intellectual disabilities

17 The sale at retail, the use, the consumption, the distribution, and the storage  
18 for use or consumption in this state of each item or article of tangible personal  
19 property by a sheltered workshop or a supported employment provider as defined in  
20 R.S. 39:1604.4 for persons with intellectual disabilities licensed by the Department  
21 of Children and Family Services as a day developmental training center for persons  
22 with intellectual disabilities shall not be subject to the sales and use taxes levied by  
23 the state or by any political subdivision thereof.

24 \* \* \*

25 §321. Imposition of tax

26 \* \* \*

27 P. Notwithstanding any other provision of law to the contrary, including but  
28 not limited to any contrary provisions of this Chapter, beginning July 1, 2018,  
29 through June 30, 2025, there shall be no exemptions and no exclusions to the tax

1 levied pursuant to the provisions of this Section, except for the retail sale, use,  
2 consumption, distribution, or storage for use or consumption of the following:

3 \* \* \*

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

6 \* \* \*

7 §321.1. Imposition of tax

8 \* \* \*

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

14 \* \* \*

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

17 \* \* \*

18 §331. Imposition of tax

19 \* \* \*

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

25 \* \* \*

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

28 \* \* \*

1           §337.9. Exemptions applicable to local tax in Chapters 2, 2-A, and 2-B; other  
2                           exemptions applicable

3   \*       \*       \*

4                           D.

5   \*       \*       \*

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

9   \*       \*       \*

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

12                   Section 6. This Act shall become effective on July 1, 2019; if vetoed by the governor  
13                   and subsequently approved by the legislature, this Act shall become effective on July 1,  
14                   2019, or on the day following such approval by the legislature, whichever is later.

\_\_\_\_\_  
SPEAKER OF THE HOUSE OF REPRESENTATIVES

\_\_\_\_\_  
PRESIDENT OF THE SENATE

\_\_\_\_\_  
GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_