

Date of Hearing: April 6, 2015

**ASSEMBLY COMMITTEE ON TRANSPORTATION**

Jim Frazier, Chair

AB 1353 (Patterson) – As Introduced February 27, 2015

**SUBJECT:** Highway rest areas: vending machines: utility costs

**SUMMARY:** Prohibits the California Department of Transportation (Caltrans) from being reimbursed for utility costs of vending facilities operated under the Business Enterprises Program for the Blind at safety roadside rest areas; requires Caltrans to pay utility costs (e.g., fees for electricity, water, and sewage services) associated with these vending activities.

**EXISTING LAW:**

- 1) Establishes the Business Enterprises Program within the Department of Rehabilitation to provide blind persons with remunerative employment, to enlarge economic opportunities for the blind, and to stimulate the blind to strive to make themselves self-supporting.
- 2) Gives blind persons priority to vending facilities on any state property including, for example, cafeterias, snack bars, and automatic vending machines.
- 3) Prohibits the Department of Rehabilitation from allowing the placement of a blind vendor in a vending facility unless the director first determines that the facility produces or is likely to produce an adequate net income for a blind vendor.
- 4) Directs Caltrans to allow the placement of vending facilities in safety roadside rest areas, unless prohibited by federal law; requires Caltrans to give priority for vending facilities to blind vendors operating within the Business Enterprises Program.
- 5) Requires blind vendors to reimburse Caltrans for the costs of maintenance, operations, design review, and other activities related to the operation of vending machines in safety roadside rest areas.
- 6) As set forth in Department of Rehabilitation regulations, specifically requires blind vendors to be solely responsible for payment of all rent or utility charges in accordance with the terms and conditions of the vendor operating agreement, permit, or contract.
- 7) As set forth in federal regulations, permits vending machines in safety roadside rest areas, under certain conditions, including that states must give priority to operate vending machine to blind persons. Federal regulations also specifically provide that costs of installation, operation, and maintenance of all vending machines are not eligible for federal reimbursement.

**FISCAL EFFECT:** The Assembly Appropriations Committee analysis of last year's AB 1602 (Patterson), an identical bill, estimated annual costs in the range of \$200,000 to \$250,000 for Caltrans to pay vending machine utility costs at the state's 29 roadside rest areas.

**COMMENTS:** The Business Enterprises Program is a food service organization with operations in government facilities as well as in private industry. Blind vendors receive ongoing support from the Department of Rehabilitation as long as they remain in the program. This support may include such benefits as financial assistance for buying new appliances and equipment, various training opportunities, upward mobility support, business counseling services, fiscal oversight, and guidance to assist with their financial responsibilities. Vendors pay up to 6% of their net sales to the Department of Rehabilitation for deposit into a trust fund, which in turn is used to pay for services provided in the program. Vendors are required to secure all necessary business and health permits, obtain required insurance policies, hire and supervise employees, pay business and sales taxes, develop menus, and purchase merchandise for sale.

The current interagency agreement between the Department of Rehabilitation and Caltrans provides for vending machines in 29 safety roadside rest areas. Consistent with state law and regulations, the interagency agreement requires vendors to pay for utility costs at these sites. Ten of the sites have independent electric meters. Plans are in the works to convert all vending locations to independent meters. At these sites, vendors pay utility costs directly to the electricity provider. At the remaining sites, the interagency agreement requires vendors to pay \$200 per month per vending site for costs incurred by Caltrans for electricity.

Not all vendors in the Business Enterprises Program are required to pay for utilities. For instance, vending facilities in state buildings within the purview of the Department of General Services do not pay utility costs. On the other hand, Caltrans is not alone in charging for utilities. For example, facilities on county government properties generally pay utility costs and a cursory review of other state laws indicates that charging vendors in safety roadside rest areas for utilities is not uncommon. Furthermore, that practice is not inconsistent with the requirement that vendors cover other operating costs like rent and utilities for use of private property used to support their vending businesses, such as warehouses used to store vending merchandise.

The author introduced this bill to remedy what he believes is an inequity in the Business Enterprises Program with respect to requirements that vendors pay utility costs. The author argues that vendors operating vending machines in state buildings do not pay utility costs (because state agencies absorb the electricity costs) while vendors that operate vending machines at safety roadside rest areas do. The author introduced this bill to "ensure that all participants in the Business Enterprises Program for the Blind are treated equally."

Supporters of this bill are concerned that Caltrans' plans to install independent electric meters at safety roadside rest areas will put vendors out of business. They argue that this will negatively affect motorists who rely on safety roadside rest area vending facilities for refreshment during a break from driving.

There are 29 vending locations currently provided for in the interagency agreement between the Department of Rehabilitation and Caltrans, with an average of 9 vending machines at each safety roadside rest area. According to the author's office, utility cost estimates for existing vending facilities that have independent electric meters range from a low of \$350 a month in winter

months to a high of \$900 in summer months. Under this bill, Caltrans will be responsible for incurring all utility costs associated with these vending machines.

*Previous legislation:* The author introduced an identical bill last year, AB 1602 (Patterson). AB 1602 passed out of the Assembly with no "NO" votes but was ultimately held in the Senate Appropriations Committee on the suspense file.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Council for the Blind  
Resources for Independence  
26 private citizens

**Opposition**

None on file

**Analysis Prepared by:** Janet Dawson / TRANS. / (916) 319-2093