



STATE OF ARKANSAS  
OFFICE OF THE ATTORNEY GENERAL  
JUSTICE BUILDING, LITTLE ROCK 72201

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STEVE CLARK  
ATTORNEY GENERAL

OPINION NO. 85-180

August 6, 1985

Ray Scott, Director  
Arkansas Department of Human Services  
Donaghey Building, Suite 1300  
7th & Main Streets  
Little Rock, Arkansas 72201

Dear Mr. Scott:

This office acknowledges receipt of your request for an official opinion. You pose the following question:

Whether a state agency when buying, leasing, or renting property, at the time of contracting must assure preference for establishing a vending facility or provide for space for vending machines to be operated by the Vending Facility Program within the Division of Services for the Blind, pursuant to Act 201 of 1969?

The answer to this question is in the affirmative. Act No. 201 of 1969, as amended (compiled at Ark. Stat. Ann. §80-2573 through 80-2585), is entitled:

An Act to Insure that Blind Persons Who Are Duly Licensed as Vending Facility Operators by the Division of Rehabilitation Services for the Blind Be Granted Preference in the Operation of Vending Facilities on State Property; and for Other Purposes.

Section 1 of Act 201 (Ark. Stat. Ann. §80-2573) provides, in pertinent part:

For the purpose of assisting blind persons to become self-supporting and to further promote employment of the blind in Arkansas, State agency administrators shall assure that preference be given to the Licensing Agency for the Blind in authorizing the operation of vending facilities on State property through the organized vending facility program operated by the licensing agency. (Emphasis supplied.)

Section 9 of Act 201 (Ark. Stat. Ann. §80-2581) provides:

It shall be the duty of the state agency administrators to negotiate and cooperate in good faith to accomplish the purpose of the Act [§§80-2573 -- 80-2585] to insure that vending facilities operated on state property provide employment opportunities for the blind and upon request of the licensing agency will prescribe regulations designed to assure that these facilities benefit the blind.

Section 10 of Act 201 (Ark. Stat. Ann. § 80-2582) provides:

In the design, construction, alteration, or renovation of state property housing or serving 50 people or more there shall be included a satisfactory site or sites with space and electrical and plumbing outlets suitable for the location and operation of a vending facility. The licensing agency will before the letting of the contract survey plans or blueprints in accordance with section 3(a) [§80-2575(a)]. This vending facility will be operated by a blind person if sufficient profit potential is available to produce a living wage. If sufficient profit potential is not available, coin operated vending machines may be installed in the site with profits accruing to the Vending Stand Program for the Blind. This also includes space or building rented, leased, or otherwise acquired for use by any department, agency, or instrumentality of the State. In new construction, major alteration, or renovation of state property where, in the opinion of the state agency administrator, complete meal type food service (cafeteria) is necessary the heavy equipment necessary for food preparation, cooking[, ] preserving, and serving such food will be furnished and installed as part of overall construction, alteration or renovation cost of the state agency.

The only situations in which a state agency is not required to provide for vending facilities or vending machines operated by licensed blind vendors are those set forth in Section 12 of Act 201 of 1969 as amended by Act No. 906 §1 of 1975, and Act No. 786, §§1 and 2 of 1983. (Compiled at Ark. Stat. Ann. §80-2584 [1983 Cum. Supp.]).

Section 12 of Act 201 (Ark. Stat. Ann. § 80-2584 [1983 Cum. Supp.]) provides:

This Act is not intended to cover those vending facilities operated by universities and colleges or the vending

facilities provided as an integral part of their services to students or as a training program for students. Neither is it intended to cover food service provided by hospitals or residential institutions of the state as direct service to patients, inmates, correctional staff, trainees, or otherwise institutionalized persons. Neither is it intended to cover the cafeteria located in the basement of the State Capitol provided that the exemption of the cafeteria located in the basement of the State Capitol Building shall in no way effect [affect] the continued operation of the Blind vending facility on the third floor of the State Capitol Building.

Your second question is:

What action must the state agency take to assure preference and be in compliance with Act 201 of 1969?

Each State agency should adopt a regulation to assure that the requirements of Act 201, as amended, are conscientiously met when the agency is planning to construct or lease buildings or office space. See Section 2 of Act 201 of 1969 (Ark. Stat. Ann. § 80-2574). Furthermore, it would be advisable for the Commissioner of the Division of Services for the Blind, which administers the Licensed Blind Vendor Program, to meet with the Director of State Building Services, to establish a method of assuring that the requirements of Act 201 are taken into account in all construction projects and also in the leasing of space.

The foregoing opinion, which I hereby approve, was prepared by Assistant Attorney General Arnold M. Jochums.

Sincerely,

  
STEVE CLARK  
Attorney General

JSC:AMJ:jk