WEST VIRGINIA LEGISLATURE
REGULAR SESSION, 1971

ENROLLED

SENATE BILL NO. 149

(By Mr. McCOURT, Mr. President)

PASSED MARCH 13, 1971

In Effect Ninety Days From Passage

FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 4-2-71
AN ACT to amend chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article ten-g, relating to the operation of food service in public office buildings by the West Virginia society for the blind and severely disabled.

Be it enacted by the Legislature of West Virginia:

That chapter eighteen of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article ten-g, to read as follows:
ARTICLE 10G. PROVIDING OF FOOD SERVICE IN PUBLIC OFFICE BUILDINGS BY THE WEST VIRGINIA SOCIETY FOR THE BLIND AND SEVERELY DISABLED.

§18-10G-1. Policy and purposes; construction.

1 It is hereby declared to be the policy of this state and the purposes of this article to provide blind and severely disabled persons with the maximum opportunities for remunerative employment and for training for such employment; to enlarge the economic opportunities of the blind and severely disabled; and to stimulate them to greater effort in striving to make themselves self-supporting. This article shall be construed so as to most effectively carry out this policy and to accomplish these purposes.

§18-10G-2. Definitions.

1 For the purpose of this article:

2 (a) "Public office building" shall mean and include the state capitol, all county courthouses, all city and town halls, all buildings used primarily for governmental offices of the state and of any county, city and town within the state, but shall not include public school buildings
and buildings of institutions under the jurisdiction of the West Virginia board of regents, the department of health, the department of mental health, the department of natural resources or the commissioner of public institutions.

(b) "Food service" shall mean and include a restaurant, cafeteria, snack bar, vending machine for the dispensing of foods, beverages, confections, tobacco, or other products for human consumption, and other facilities for the sale or providing of goods and services of the types customarily offered in connection with the operation of any of the foregoing: Provided, That the term "food service" shall not include, and there is expressly excepted therefrom, goods and services sold, dispensed, or provided by the veterans administration and the facilities for the sale, dispensing, or providing thereof.

(c) "Society" shall mean the West Virginia society for the blind and severely disabled, a nonstock corporation.

(d) "Governmental agency" shall mean and include the state of West Virginia, each instrumentality and
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27 agency thereof, and every county, city and town within
28 and every political subdivision of, the state of West Vir-
29 ginia, except county boards of education, the West Vir-
30 ginia board of regents, the department of health, the de-
31 partment of mental health, the department of natural
32 resources or the commissioner of public institutions.

§18-10G-3. Operation of food service in public office buildings
by West Virginia division of vocational rehabilitation; operation of food service by governmental
agency in violation of article prohibited.

1 (a) If a governmental agency proposes operating in
2 a public office building a food service, whether such op-
3 eration be of a food service in existence on the effective
4 date of this article or be one thereafter to be instituted,
5 the governmental agency, before continuing such exist-
6 ing operation beyond the period of six months imme-
7 diately following the effective date of this article or
8 before instituting such proposed new operation, shall
9 in writing offer to the society the opportunity to operate
10 such food service in such public office building.
(b) If the society within sixty days from the receipt of the offer mentioned in subsection (a) of this section elects to operate such food service as is mentioned in the offer and if the governmental agency by which such offer shall have been made does not, within such sixty-day period, make the determination of inability mentioned in subsection (d) of this section in the manner prescribed in that subsection, the society may institute and conduct the operation of such proposed food service in such public office building without the payment of rent or other compensation for the premises occupied by it in the rendition of such service therein or for the privilege of conducting such operation.

(c) If the society under the authority of subsection (b) of this section shall institute and conduct the operation of such food service as is mentioned therein, the governmental agency shall not during the course of such operation, operate a food service in such public office building or by contract, lease, license, or otherwise, permit any other person, firm, corporation, or agency so to do.
(d) If within sixty days from the receipt by the society of the offer mentioned in subsection (a) of this section, the society shall reject or shall fail to accept the offer, or the governmental agency by which the offer was made shall, in good faith and after a full and thorough study of the relevant circumstances, determine that the society is unable satisfactorily to operate such proposed food service, or the society shall have accepted such offer, but, within the period of six months from such acceptance, shall have failed to institute such food service, such proposed food service may thereupon be provided in such other manner as may be permitted by law, free from the requirements of this article, and if so instituted, the society shall not thereafter, without the express permission of the offering agency, institute such proposed food service in the public office building designated in such offer. If the governmental agency by which such offer shall have been made shall make the determination of inability of the society to operate the proposed food service, the governmental agency shall, within the aforementioned sixty-day period, provide
the society with a full written statement of the reasons upon which such determination was predicated, and a food service shall not be operated in such public office building free from the requirements of this article until the written statement mentioned in this subsection shall have first been given.

(e) Notwithstanding any other provisions contained in this article, no governmental agency shall by reason of the provisions of this article take any action which will result in the violation of the terms of any valid contract, lease or license existing on the effective date hereof, nor shall such governmental agency be precluded from extending the period of such an existing contract, lease or license upon the same terms, and with the same contracting parties, as in the contract, lease or license so extended.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Russell B. Beall
Chairman Senate Committee

Phyllis Rukledge
Chairman House Committee

Originated in the Senate.

To take effect 90 days from passage.

Earl H. Ray
Clerk of the Senate

Clerk of the House of Delegates

C. L. Hancher
President of the Senate

Lewis A. McManus
Speaker House of Delegates

The within approved this the 1st day of April, 1971.

Arch A. Byrne
Governor
PRESENTED TO THE
GOVERNOR

Date 3/17/71
Time 11:50 a.m.