

# LEGAL SERVICES

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## MEMORANDUM

September 2, 2010

**SUBJECT:** Bill relating to the operation of vending facilities on public property (Work Order No. 27-LS0079\A)

**TO:** Senator Bettye Davis  
Attn: Tom Obermeyer  
*OB*

**FROM:** Theresa Bannister  
Legislative Counsel

This memo accompanies a draft of the bill described above.

1. Equal protection. Although I had earlier mentioned that the limitation of vending facility license priority to blind persons might raise an equal protection question, I no longer believe that to be the case. Since this appears to be an economic matter, under federal law the scrutiny is minimal; all that is needed is that it needs to be is rationally related to a legitimate state interest, and the selection by the legislature of one type of persons with disabilities (here, blind persons) to receive the benefit does not appear to present a problem.<sup>1</sup> Under state equal protection requirements, as an economic matter, minimum scrutiny merely requires showing that the state's objectives are legitimate and that the legislation bears a substantial relationship to its purpose.<sup>2</sup>
2. Direct notification of blind persons. Can the agency use its vocational rehabilitation records to contact blind persons directly, or are they confidential? How do you want the agency to work with a private organization to contact blind persons directly?

If I may be of further assistance, please advise.

TLB:plm  
10-296.plm

Enclosure

<sup>1</sup> See New Hampshire v. Department of Education, 2003 U.S. Dist. LEXIS, 92 - 95 (D.N.H. 2003), aff'd in part and vacated in part New Hampshire v. Ramsey, 366 F.3d 1, 2004 U.S. App. LEXIS 8475 (1st Cir. N.H. 2004).

<sup>2</sup> See Glover v. State Department of Transportation, Alaska Marine Highway System, 175 P.3d 1240, 1257 (Alaska 2008).