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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS

Introduced By: Senators Cote, Felag, Pearson, Doyle, and Nesselbush

Date Introduced: January 22, 2015

Referred To: Senate Special Legislation and Veterans Affairs

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 37 of the General Laws entitled "PUBLIC PROPERTY AND  
2 WORKS" is hereby amended by adding thereto the following chapter:

3 CHAPTER 14.2

4 VETERAN-OWNED BUSINESS ENTERPRISES

5 **37-14.2-1. Purpose.** - The purposes of this chapter are to honor the courageous members  
6 of the military for their service and to assist them by increasing opportunities for active duty and  
7 veteran-owned small businesses to participate in state agency contracts and subcontracts, and to  
8 carry out the state's policy of supporting the fullest possible participation of firms owned and  
9 controlled by individuals actively serving or veterans in state funded and state directed public  
10 construction programs and projects and in state purchases of goods and services. This includes  
11 assisting such businesses throughout the life of contracts in which they participate.

12 **37-14.2-2. Applicability.** - This chapter shall apply to any and all state purchasing,  
13 including, but not limited to, the procurement of goods, services, construction projects, or  
14 contracts funded in whole or in part by state funds, or funds which, in accordance with a federal  
15 grant or otherwise, the state expends or administers or in which the state is a signatory to the  
16 construction contract.

17 **37-14.2-3. Definitions.** - (a) "Compliance" means the condition existing when a  
18 contractor has met and implemented the requirements of this chapter.

19 (b) "Contract" means a mutually binding legal relationship or any modification thereof

1 obligating the seller to furnish supplies or services, including construction, and the buyer to pay  
2 for them. For purposes of this chapter, a lease is a contract.

3 (c) "Contractor" means one who participates, through a contract or subcontract, in any  
4 procurement or program covered by this chapter and includes lessees and material suppliers.

5 (d) "Veteran" shall mean all forms of military service members that are defined in chapter  
6 22 of title 30.

7 (e) "Veteran-owned small business enterprise" means a business that has been verified by  
8 the United States Department of Veterans' Affairs in accordance with 38 CFR 74, and may  
9 include a business owned by a surviving spouse or permanent caregiver of a veteran as provided  
10 by 38 CFR part 74.

11 (f) "Noncompliance" means the condition existing when a recipient or contractor has  
12 failed to implement the requirements of this chapter.

13 **37-14.2-4. Veteran-owned small business enterprise participation.** - The state annual  
14 goal for veteran-owned small business enterprises to participate in state contracts shall be no less  
15 than three percent (3%) of the total value of all contracts available to businesses in each fiscal  
16 year. In order to achieve this goal veteran-owned small business enterprises shall be included in  
17 all procurements and construction projects under this chapter and shall be awarded a minimum of  
18 three percent (3%) of the dollar value of the entire procurement or project. The director of the  
19 department of administration is further authorized to establish by rules and regulation formulas  
20 for giving veteran-owned small business enterprises a preference in contract and subcontract  
21 awards.

22 **37-14.2-5. Establishment of criteria, guidelines and certification.** -- (a) The director of  
23 the department of administration shall in consultation with the division of veterans' affairs  
24 establish, by rule and regulations adopted in accordance with chapter 35 of title 42, standards  
25 which shall determine whether a construction project is covered by this chapter, compliance  
26 formulas, procedures for implementation, and procedures for enforcement which are not  
27 inconsistent with 49 CFR 23. As to Rhode Island department of transportation contracts, the  
28 director of administration may delegate this authority to the director of transportation.

29 (b) The director of the department of administration may establish additional criteria to  
30 certify veteran-owned small business enterprises and maintain and update publicly accessible lists  
31 of veteran-owned small business enterprises that are certified by the department.

32 **37-14.2-6. Sanctions.** -- (a) The director of the department of administration shall have  
33 the power to impose sanctions upon contractors not in compliance with this chapter and shall  
34 include, but not be limited to:

- 1           (1) Suspension of payments;  
2           (2) Termination of the contract;  
3           (3) Recovery by the state of ten percent (10%) of the contract award price as liquidated  
4 damages; and  
5           (4) Denial of right to participate in future projects for up to three (3) years.

6           (b) As to Rhode Island department of transportation contracts, the director of the  
7 department of administration may delegate this authority to the director of transportation.

8           **37-14.2-7. Reporting. --** By August 1, 2016 and each August 1 thereafter, the department  
9 of administration shall submit an annual report to the governor, speaker of the house, senate  
10 president and associate director of veterans' affairs for the period from July 1 to June 30 on the  
11 actual utilization of veteran-owned small business enterprises as contractors, subcontractors,  
12 suppliers and professional service providers for the state. The annual report shall include a list of  
13 all veteran-owned small businesses that participated as contractors, subcontractors, suppliers and  
14 professional service providers for the state during the previous fiscal year.

15           SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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RELATING TO PUBLIC PROPERTY AND WORKS

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- 1 This act would create a veteran's preference in the issuance of state contracts.
- 2 This act would take effect upon passage.

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