

2011 -- S 0352

LC01101

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS - DISABILITY BUSINESS ENTERPRISES

Introduced By: Senators Lanzi, Tassoni, DeVall, Nesselbush, and DiPalma

Date Introduced: February 16, 2011

Referred To: Senate Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 37-2.2-2, 37-2.2-3, 37-2.2-3.1 and 37-2.2-4 of the General Laws in
2 Chapter 37-2.2 entitled "Disability Business Enterprises" are hereby amended to read as follows:

3 **37-2.2-2. Definitions.** -- As used in this chapter, the following words and phrases shall
4 have the following meanings unless the context shall indicate another or different meaning or
5 intent:

6 (1) "Persons with disabilities" or "person with a disability" shall mean any individual
7 who has a physical or mental impairment which constitutes a substantial barrier to employment as
8 certified by the department of human services or the department of mental health, retardation, and
9 hospitals.

10 (2) "Products" shall mean any goods or merchandise provided by persons with
11 disabilities if not less than sixty percent (60%) of the work hours or direct labor required for the
12 products are performed by persons with disabilities.

13 (3) "Rehabilitation facility" or "rehabilitation facilities" shall mean a facility which is
14 operated for the primary purpose of providing vocational rehabilitation services to and gainful
15 employment for persons with disabilities. The rehabilitation services, listed below, may be
16 provided directly or by the facility's parent corporation. The facility must provide singly or in
17 combination one or more of the following services for persons with disabilities:

18 (i) Comprehensive rehabilitation services which shall include under one management:

1 medical, psychological, social, and vocational services;
2 (ii) Testing, fitting, or training in the use of prosthetic and orthotic services;
3 (iii) Pre-vocational evaluation or recreational therapy;
4 (iv) Physical and occupational therapy;
5 (v) Speech and hearing services;
6 (vi) Psychological and social services;
7 (vii) Evaluation;
8 (viii) Personal and work adjustment;
9 (ix) Vocational training in combination with other rehabilitation services;
10 (x) Evaluation or control of special disabilities; and
11 (xi) Transitional or long-term employment for persons who have severe disabilities and
12 cannot be readily absorbed into the competitive labor market.

13 (4) "Services" shall mean any services provided by persons with disabilities if not less
14 than sixty percent (60%) of the work hours or direct labor required for the services are performed
15 by persons with disabilities.

16 (5) "Small disadvantaged businesses owned and controlled by persons with disabilities "
17 shall mean small business concern, which is at least fifty-one percent (51%) owned by one or
18 more person(s) with disabilities or, in the case of a publicly owned business, at least fifty-one
19 percent (51%) of the stock of which is owned by one or more disabled person, whose
20 management and daily business operations are controlled by one or more person(s) with
21 disabilities, and have fifty or fewer employees.

22 (6) "A physical or mental impairment" shall mean any physiological disorder or
23 condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body
24 systems: neurological; musculoskeletal; special sense organs; respiratory, including speech
25 organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and
26 endocrine; or any mental psychological disorder, such as mental retardation, organic brain
27 syndrome, emotional or mental illness, and specific learning disabilities.

28 (7) "Vocational rehabilitation services" shall mean any goods and services including
29 diagnostic and related services necessary to render a person with a disability fit to engage in a
30 gainful occupation and services to the families of persons with disabilities when those services
31 will contribute substantially to the rehabilitation of those individuals.

32 (8) "Direct labor" shall mean and include include all work required for preparation,
33 processing, and packing of a commodity, or work directly relating to the performance of a
34 service, but not supervision, administration, inspection or shipping.

1 **37-2.2-3. Preference for products and services produced by persons with disabilities.**

2 -- (a) Whenever any products made, manufactured by, or services provided by nonprofit
3 rehabilitation facilities, or in profit making facilities where sixty percent (60%) of the work hours
4 or direct labor is performed by employees who are disabled, meet the requirements of any
5 department, institution, or agency supported, in whole or in part, by the state as to quantity,
6 quality, and price, those products shall have preference over products or services from other
7 providers.

8 (b) All departments, institutions, and agencies supported, in whole or in part, by the state
9 shall purchase articles made or manufactured and services provided by persons with disabilities.
10 Any political subdivision of the state may purchase those articles and services directly from those
11 agencies. If any government entity intends to procure any commodity or service on the
12 procurement list, that entity shall, in accordance with rules and regulations of the disability
13 business enterprise committee, procure such commodity or service, at the price established by the
14 committee, from any certified rehabilitation facility or small disadvantaged businesses owned and
15 controlled by persons with disabilities, if the commodity or service is available within the period
16 required by that government entity, except that this section shall not apply with respect to the
17 procurement of any commodity which is available for procurement from an industry established
18 pursuant to chapter 13-7 ("Prisoner Made Goods") or chapter 40-9 ("Services for People who are
19 Blind or Visually Impaired") of the general laws.

20 (c) A procurement list describing the styles, designs, sizes, and varieties of articles made
21 by persons with disabilities and describing all available services and subcontract work which can
22 be provided by those persons shall be prepared by the governor's commission on disabilities',
23 disability business enterprise committee in cooperation with the state office of rehabilitation
24 services. The governor's commission on disabilities shall cooperate with various facilities for
25 persons with disabilities by submitting necessary information concerning the products and
26 services to the state purchasing agent.

27 **37-2.2-3.1. Policy and applicability.** -- It is the policy of the state of Rhode Island that
28 small disadvantaged disability businesses shall have the maximum opportunity to participate in
29 the performance of procurements and projects as outlined in this chapter. This chapter shall apply
30 to any and all state purchasing, including, but not limited to, the procurement of goods and
31 services, construction projects, or contracts funded in whole or in part by state funds, or funds
32 which, in accordance with a federal grant or otherwise, the state expends or administers or in
33 which the state is a signatory to the construction contract.

34 The director of administration, in consultation with the governor's commission on

1 disabilities, is authorized and directed to establish rules and ~~regulations~~ [regulation formulas](#) for
2 awarding contracts to small disadvantaged businesses owned and controlled by persons with
3 disabilities in the procurement of goods, services, construction projects, or contracts funded in
4 whole or in part by state funds, in accordance with section 37-2-9(b)(14) [on or before September](#)
5 [30, 2011](#).

6 **37-2.2-4. Disability business enterprise committee -- Membership -- Duties.** -- (a)

7 There is hereby established within the governor's commission on disabilities a committee,
8 consisting of nine (9) persons, to be known as the disability business enterprise committee.

9 (b) The committee, shall consist of the director of the department of human services or
10 his or her designee; the director of the department of mental health, retardation, and hospitals or
11 his or her designee; the director of the economic development corporation or his or her designee;
12 the state purchasing agent or his or her designee; and two (2) persons with disabilities and three
13 (3) representatives of rehabilitation facilities in the state of Rhode Island appointed by the
14 chairperson of the governor's commission on disabilities. All members of the committee shall
15 serve without compensation. Of the number appointed originally under this chapter, one-third
16 (1/3) shall be appointed for a term of one year; one-third (1/3) shall be appointed for a term of
17 two (2) years; and one-third (1/3) shall be appointed for a term of three (3) years. Thereafter,
18 vacancies created by expiration of terms shall be filled with appointments for terms of three (3)
19 years. Members whose terms expire may be reappointed to succeed themselves. The chairperson
20 of the governor's commission on disabilities or his or her designee shall serve as chairperson of
21 the committee. The members of the committee shall elect a vice chairperson and other officers as
22 are necessary from amongst themselves annually.

23 (c) The governor's commission on disabilities shall promulgate such rules and
24 regulations, in accordance with the Administrative Procedures Act, chapter 35 of title 42, as are
25 necessary and proper to ensure responsible management, operation, oversight of the committee,
26 and ensure that all facilities, both nonprofit and profit-making, referred to in sections 37-2.2-3
27 and 37-2.2-3.1 meet all applicable government regulations and standards, including those of the
28 United States department of labor, the state department of human services, and the chief
29 purchasing officer with regard to developing a program which involves small disadvantaged
30 businesses as contractors, section 37-2-9(b)(14).

31 (d) The committee shall establish a procedure to certify small disadvantaged disability
32 businesses and rehabilitation facilities that qualify under their regulation for a preference under
33 section 37-2.2-3 or 37-2.2-3.1 and submit a list of the certified small disadvantaged disability
34 businesses and rehabilitation facilities and the products and services provided by them to the chief

1 purchasing officer at least once a year. The chief purchasing officer shall utilize that procurement
2 list in the program which involves small disadvantaged businesses as contractors established by
3 section 37-2-9(b)(14).

4 (e) The committee shall determine the fair market price of commodities and services
5 which are contained on the procurement list and which are offered for sale to the government by
6 any certified rehabilitation facility or small disadvantaged businesses owned and controlled by
7 persons with disabilities. The committee shall also revise from time to time in accordance with
8 changing market conditions its price determinations with respect to such commodities and
9 services. The committee may make rules and regulations regarding: (1) Specifications for
10 commodities and services on the procurement list; (2) The time of their delivery; and (3) Such
11 other matters as may be necessary to carry out the purposes herein.

12 SECTION 2. This act shall take effect on July 1, 2011.

=====
LC01101
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS - DISABILITY BUSINESS
ENTERPRISES

1 This act would authorize the disability business enterprise committee to determine the
2 fair market price of commodities and services which are contained on the procurement list and
3 which are offered for sale to the government by any certified rehabilitation facility or small
4 disadvantaged businesses owned and controlled by persons with disabilities. This act would also
5 require the department of administration to issue regulations for awarding contracts to small
6 disadvantaged businesses owned and controlled by persons with disabilities in the procurement of
7 goods, services, construction projects, or contracts funded in whole or in part by state funds on or
8 before September 30, 2011.

9 This act would take effect on July 1, 2011.

=====
LC01101
=====