

2016 -- S 2552

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LC004465
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS

Introduced By: Senators Cote, Felag, Lynch Prata, Nesselbush, and Pearson

Date Introduced: February 25, 2016

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.** - As used in this chapter, the following words have the following
18 meaning:

19 (1) "Compliance" means the condition existing when a contractor has met and

1 implemented the requirements of this chapter.

2 (2) "Contract" means a mutually binding legal relationship or any modification thereof
3 obligating the seller to furnish supplies or services, including construction, and the buyer to pay
4 for them. For purposes of this chapter, a lease is a contract.

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

7 (4) "Noncompliance" means the condition existing when a recipient or contractor has
8 failed to implement the requirements of this chapter.

9 (5) "Veteran" shall mean all forms of military service members that are defined in chapter
10 22 of title 30.

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

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

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

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

34 **37-14.2-6. Sanctions.** -- (a) The director of the department of administration shall have

1 the power to impose sanctions upon contractors not in compliance with this chapter and shall
2 include, but not be limited to:

3 (1) Suspension of payments;

4 (2) Termination of the contract;

5 (3) Recovery by the state of ten percent (10%) of the contract award price as liquidated
6 damages; and

7 (4) Denial of right to participate in future projects for up to three (3) years.

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

10 **37-14.2-7. Reporting.** -- By August 1, 2017 and each August 1 thereafter, the department
11 of administration shall submit an annual report to the governor, speaker of the house, senate
12 president and associate director of veterans' affairs for the period from July 1 to June 30 on the
13 actual utilization of veteran-owned small business enterprises as contractors, subcontractors,
14 suppliers and professional service providers for the state. The annual report shall include a list of
15 all veteran-owned small businesses that participated as contractors, subcontractors, suppliers and
16 professional service providers for the state during the previous fiscal year.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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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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