
SUBSTITUTE HOUSE BILL 2221

State of Washington 60th Legislature 2007 Regular Session

By House Committee on Community & Economic Development & Trade
(originally sponsored by Representatives Pettigrew, Hudgins, Kenney
and Moeller)

READ FIRST TIME 02/26/07.

1 AN ACT Relating to assistance for disadvantaged contractors; adding
2 new sections to chapter 39.19 RCW; adding a new section to chapter
3 48.01 RCW; and providing an expiration date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** DEFINITIONS. The definitions in this
6 section apply throughout this chapter unless the context clearly
7 requires otherwise.

8 (1) "Bond" includes a bid bond, payment bond, or performance bond.

9 (2) "Director" means the director of the office of minority and
10 women's business enterprises.

11 (3) "Disadvantaged contractor" means a business that is: (a)
12 Registered as a contractor under chapter 18.27 RCW or licensed as a
13 contractor under chapter 19.28 RCW; and (b) designated by the director
14 as a disadvantaged contractor in accordance with section 2 of this act.

15 (4) "Fund" means the disadvantaged contractor bonding program fund
16 created in section 5 of this act.

17 (5) "Office" means the office of minority and women's business
18 enterprises.

1 (6) "Qualified disadvantaged contractor" means a disadvantaged
2 contractor that is participating in the contractor assistance program
3 established in section 3 of this act.

4 (7) "Qualified small business contractor" means a small business
5 contractor that is participating in the contractor assistance program
6 established in section 3 of this act.

7 (8) "Small business contractor" means a business that: (a) Is
8 registered as a contractor under chapter 18.27 RCW or licensed as a
9 contractor under chapter 19.28 RCW; and (b) does not exceed the size
10 limitations for construction and electrical contractors as set forth in
11 the current table of North American industry classification system
12 (NAICS) codes and corresponding industry size standards.

13 (9) "Surety company" means a company authorized by the insurance
14 commissioner to issue bonds as surety.

15 NEW SECTION. **Sec. 2.** DISADVANTAGED CONTRACTORS. The director
16 shall determine whether a business that is registered as a contractor
17 under chapter 18.27 RCW or licensed as a contractor under chapter 19.28
18 RCW is a disadvantaged contractor, and shall adopt rules establishing
19 the criteria and procedures for making this determination. The
20 business owner or owners shall be required to show both social and
21 economic disadvantage based on the following:

22 (1) The relative financial resources of the business as well as the
23 personal wealth of the owner or owners of the business;

24 (2) Social disadvantage based on any of the following:

25 (a) Color, ethnic origin, gender, or physical disability;

26 (b) Location in an area of high unemployment or a qualified census
27 tract; or

28 (c) Other factors not common to other small businesses; and

29 (3) Economic disadvantage based on business size thresholds and
30 eligibility criteria developed in rule that are designed to stimulate
31 economic development through contract awards to businesses located in
32 qualified census tracts.

33 NEW SECTION. **Sec. 3.** CONTRACTOR ASSISTANCE PROGRAM. The director
34 shall contract with nonprofit organizations to provide technical
35 assistance to disadvantaged and small business contractors to become
36 more competitive by developing or improving their business operations

1 skills. During the 2007-2009 biennium, the director shall enter into
2 two contracts to provide technical assistance to disadvantaged and
3 small business contractors, with one contract for contractors located
4 west of the crest of the Cascade mountains, and the other for
5 contractors located east of the crest of the Cascade mountains. Up to
6 fifty percent of the contractors that receive technical assistance may
7 be small business contractors.

8 NEW SECTION. **Sec. 4.** BOND GUARANTEE PROGRAM. (1) The director
9 may guarantee bonds executed by sureties for qualified disadvantaged
10 contractors or qualified small business contractors as principals on
11 contracts that are estimated to cost five hundred thousand dollars or
12 less and that are with the state, any political subdivision, or any
13 person as the obligee. The director, as guarantor, may exercise all
14 the rights and powers of a company authorized by the insurance
15 commissioner to guarantee bonds under Title 48 RCW but otherwise is not
16 subject to any laws related to a guaranty company under Title 48 RCW or
17 to any rules of the insurance commissioner. Up to fifty percent of the
18 guarantees may be for bonds executed by sureties for small business
19 contractors.

20 (2) The director shall adopt rules establishing procedures for
21 submission, review, and approval of applications for bond guarantees
22 under this section.

23 (3) In accordance with rules adopted pursuant to this section, the
24 director may guarantee up to ninety percent of the loss incurred and
25 paid by sureties on bonds guaranteed under subsection (1) of this
26 section.

27 (4) The penal sum amounts of all outstanding guarantees made by the
28 director under this section shall not exceed three times the amount of
29 moneys in the fund.

30 (5) The director may approve one application per fiscal year from
31 each surety bond company for bond guarantees in an amount requested to
32 support one fiscal year of that company's activity under this section.
33 A surety bond company that applies for a bond guarantee under this
34 subsection, whether or not the guarantee is approved, is not restricted
35 from also applying for individual bond guarantees under subsection (1)
36 of this section.

1 (6) By December 1, 2008, the director shall submit a report to the
2 appropriate committees of the legislature on the status and results of
3 the bond guarantee program, including the number and dollar amount of
4 claims against the state arising from bonds guaranteed under this
5 section.

6 NEW SECTION. **Sec. 5.** FUND. (1) The contractor assistance and
7 bond guarantee program fund is created in the custody of the state
8 treasurer. Only the director or the director's designee may authorize
9 expenditures from the fund. The fund and all disbursements from the
10 fund are subject to the allotment procedure under chapter 43.88 RCW,
11 but an appropriation is not required for expenditures. Nothing in
12 section 4 of this act grants or pledges to any obligee or other person
13 any state moneys other than the moneys in the fund.

14 (2) For the 2007-09 biennium, two million two hundred thousand
15 dollars in receipts from the fines and penalties assessed by the office
16 of the insurance commissioner under Title 48 RCW shall be deposited
17 into the fund. Of that amount, up to two hundred thousand dollars may
18 be expended from the fund only for the contractor assistance program
19 created in section 3 of this act, and up to two million dollars may be
20 expended from the fund only for claims against the state arising
21 against a bond of the contractor.

22 NEW SECTION. **Sec. 6.** A new section is added to chapter 48.01 RCW
23 to read as follows:

24 RECEIPTS FROM FINES AND PENALTIES. Except as otherwise provided in
25 this title, for the 2007-09 biennium, the first two million two hundred
26 thousand dollars in receipts from fines and penalties assessed by the
27 office of the insurance commissioner under Title 48 RCW shall be
28 deposited in the fund created in section 5 of this act.

29 NEW SECTION. **Sec. 7.** EXPIRATION DATE. Sections 1 through 5 of
30 this act expire July 1, 2009.

31 NEW SECTION. **Sec. 8.** CODIFICATION. Sections 1 through 5 of this
32 act are each added to chapter 39.19 RCW.

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