

HOUSE BILL REPORT

ESB 5041

As Passed House:
February 28, 2010

Title: An act relating to state contracts with veteran-owned businesses.

Brief Description: Encouraging state contracts with veteran-owned businesses.

Sponsors: Senators Kilmer, Swecker, Hobbs, Shin, Kauffman, Franklin, Marr, Rockefeller, Haugen, Eide, Kastama and McAuliffe; by request of Joint Committee on Veterans' and Military Affairs.

Brief History:

Committee Activity:

State Government & Tribal Affairs: 2/18/10, 2/23/10 [DP].

Floor Activity:

Passed House: 2/28/10, 94-0.

Brief Summary of Engrossed Bill

- Creates a statewide program to increase state procurement contracts with veteran-owned businesses.

HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 8 members: Representatives Hunt, Chair; Appleton, Vice Chair; Armstrong, Ranking Minority Member; Alexander, Flannigan, Hurst, Miloscia and Taylor.

Staff: Tracey O'Brien (786-7196).

Background:

State agencies must use a competitive bidding process when purchasing goods and services. The competitive bid process requires the agency to perform a public solicitation for bidders and to award the contract to the lowest responsible bidder. However, if a contract is worth less than \$35,000, agencies may use an alternative process where the agency solicits three bids from vendors on a pre-approved list maintained by the Department of General

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Administration (GA). The agency may consider other factors besides price and is not required to award the contract to the lowest bidder.

In 2007 the Legislature enacted a bill requiring the Department of Veterans Affairs (DVA) to develop and maintain a list of veteran-owned businesses on the DVA website. The purpose of the bill is to mitigate economic impacts incurred by veteran-owned businesses as a result of military service. To qualify as a veteran-owned business, the business must be 51 percent owned and controlled by a veteran or an active or reserve member in any branch of the armed forces of the United States (U.S.), including the National Guard, U.S. Coast Guard, and Armed Forces Reserves.

The statutory definition of "veteran" is a person who has received an honorable discharge or received a discharge for medical reasons with an honorable record, and who has served in one of the following capacities:

- as a member in any branch of the U.S. armed forces and has fulfilled his or her initial military service obligation;
- as a member of the women's air forces service pilots;
- as a member of the Armed Forces Reserves, National Guard, or U.S. Coast Guard and has been called into federal service by a presidential select reserve call up for at least 180 cumulative days;
- as a civil service crewmember with service aboard a U.S. Army transport service or U.S. naval transportation service vessel in oceangoing service from December 7, 1941, through December 31, 1946;
- as a member of the Philippine Armed Forces/Scouts during the period of armed conflict from December 7, 1941, through August 15, 1945; or
- a U.S. documented merchant mariner with service aboard an oceangoing vessel operated by the Department of Defense or its agents, from both June 25, 1950, through July 27, 1953, in Korean territorial waters and from August 5, 1964, through May 7, 1975, in Vietnam territorial waters, and who received a military commendation.

Summary of Bill:

State agencies are encouraged to award 3 percent of all procurement contracts under \$35,000 in value to certified veteran-owned businesses. The DVA shall develop a procedure for certifying veteran-owned businesses and maintain a list of veteran-owned businesses on the DVA's public website. The GA shall identify all certified veteran-owned businesses in the GA's vendor registry.

The Department of Transportation shall adopt rules for bids and award of contracts related to the construction or maintenance of a state highway that do not exceed \$100,000 to enable a larger number of veteran-owned contractors to effectively complete for the contract.

The DVA and other state agencies must perform outreach to veteran-owned businesses in order to increase the opportunities for veteran-owned businesses to sell goods and services to the state.

State agencies must work to match agency procurement records with the DVA's database to establish how many procurement contracts are being awarded to veteran-owned businesses. The DVA shall consult with other agencies to determine what specific information must be reported to the DVA.

The DVA is directed to adopt rules to implement this act.

This act is not intended to create a cause of action or entitlement in an individual or class of individuals.

For the purposes of this act, "state agency" includes the state of Washington and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions.

A veteran includes the statutory definition of veteran and active or reserve members in any branch of the U.S. Armed Forces, including National Guard, Coast Guard, and Armed Forces Reserves.

"Procurement" is defined as the purchase, lease, or rental of any goods and services, including professional services.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) In 2004 the federal government adopted a similar program to the one proposed in this bill. Two years ago, the Legislature created a DVA registry for veteran-owned businesses, and this bill is the logical next step. Creating a goal, not a mandate, to increase the opportunities for participation in state contracts by veteran-owned businesses recognizes the contributions of this state's veterans and service members who put their lives on the line in the defense of our Constitution. It is estimated that one in seven businesses are veteran-owned and it is time to open the doors to state contracting opportunities to them. Given our economic climate, we need to encourage small businesses to grow.

(Opposed) None.

Persons Testifying: Senator Kilmer, prime sponsor; John Lee, Washington State Department of Veterans Affairs; Craig Christian, Environment International Government; Kyra Paulli, Environment International Government; Doug Roulstone, Thomas James International; Mark S. Tiernan, Aegis Group, Incorporated; Dennis Primoli, Veterans Legislative Coalition; Steve Menard, Metal Benders; Gary Brackett, Tacoma-Pierce County Chamber; and Ralph Iharra, Diverse America Network.

Persons Signed In To Testify But Not Testifying: None.