
SENATE BILL 5041

State of Washington

61st Legislature

2009 Regular Session

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

Read first time 01/12/09. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to state contracts with veteran-owned businesses;
2 amending RCW 43.60A.010, 43.19.536, 39.80.040, and 47.28.030; adding
3 new sections to chapter 43.60A RCW; adding a new section to chapter
4 43.19 RCW; adding a new section to chapter 28B.10 RCW; adding a new
5 section to chapter 39.04 RCW; adding a new section to chapter 39.29
6 RCW; and creating new sections.

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

8 NEW SECTION. **Sec. 1.** The legislature recognizes the unique
9 sacrifices made by veterans and the substantial challenges that
10 returning veterans face after a period of military duty away from home.
11 The legislature further recognizes that veterans who own private
12 businesses may face particular hardships as a direct result of their
13 military service. The purpose of this act is to mitigate economic
14 damage to veteran-owned businesses as a result of military service, and
15 to provide opportunities to them in recognition of the outstanding
16 service they have given to their country.

17 **Sec. 2.** RCW 43.60A.010 and 2006 c 343 s 2 are each amended to read
18 as follows:

1 As used in this chapter the following words and phrases shall have
2 the following meanings unless the context clearly requires otherwise:

3 (1) "Department" means the department of veterans affairs.

4 (2) "Director" means the director of the department of veterans
5 affairs.

6 (3) "Committee" means the veterans affairs advisory committee.

7 (4) "Board" means the veterans innovations program board.

8 (5) "Goods and services" includes professional services and all
9 other goods and services.

10 (6) "Procurement" means the purchase, lease, or rental of any goods
11 or services.

12 (7) "State agency" includes the state of Washington and all
13 agencies, departments, offices, divisions, boards, commissions, and
14 correctional and other types of institutions.

15 (8) "Veteran-owned business" means a business that is certified by
16 the department to be at least fifty-one percent owned and controlled
17 by:

18 (a) A veteran as defined in RCW 41.04.007; or

19 (b) An active or reserve member in any branch of the armed forces
20 of the United States, including the national guard, coast guard, and
21 armed forces reserves.

22 NEW SECTION. Sec. 3. A new section is added to chapter 43.60A RCW
23 to read as follows:

24 (1) The department shall report to the legislature by December 2010
25 and December of each even-numbered year thereafter outlining the
26 progress made in implementing this act.

27 (2) The department shall develop a procedure for certifying
28 veteran-owned businesses and maintain a list of veteran-owned
29 businesses on the department's public web site.

30 (3) The department shall adopt rules necessary to implement this
31 act. The rules shall include instructions to agencies regarding what
32 specific information they must report to the department.

33 (4) The department shall collaborate with and may assist agencies
34 in implementing outreach to veteran-owned businesses.

35 NEW SECTION. Sec. 4. A new section is added to chapter 43.60A RCW
36 to read as follows:

1 (1) State agencies are encouraged to award three percent of all
2 procurement contracts that are exempt from competitive bidding
3 requirements under RCW 43.19.1906(2) to veteran-owned businesses
4 certified by the department under section 3 of this act.

5 (2) State agencies shall:

6 (a) Perform outreach to veteran-owned businesses in collaboration
7 with the department to increase opportunities for veteran-owned
8 businesses to sell goods and services to the state;

9 (b) Keep a record of all procurement contracts awarded to veteran-
10 owned businesses as required by the department; and

11 (c) Report by October 2010 and October of each even-numbered year
12 thereafter to the department on the progress made in implementing this
13 section as directed by the department. Agencies shall report their
14 progress in implementing subsections (1) and (2)(a) of this section,
15 and shall report the percentage of total procurement contracts that
16 have been awarded to veteran-owned businesses, expressed as a
17 percentage of dollar volume.

18 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.19 RCW
19 to read as follows:

20 The department of general administration shall identify in the
21 department's vendor registry all vendors that are veteran-owned
22 businesses as certified by the department of veterans affairs under
23 section 3 of this act.

24 **Sec. 6.** RCW 43.19.536 and 1983 c 120 s 13 are each amended to read
25 as follows:

26 (1) All contracts entered into and purchases made, including
27 leasing or renting, under this chapter on or after September 1, 1983,
28 are subject to the requirements established under chapter 39.19 RCW.

29 (2) All procurement contracts entered into under this chapter on or
30 after the effective date of this act are subject to the requirements
31 established under section 4 of this act.

32 NEW SECTION. **Sec. 7.** A new section is added to chapter 28B.10 RCW
33 to read as follows:

34 All procurement contracts entered into under this chapter on or

1 after the effective date of this act are subject to the requirements
2 established under section 4 of this act.

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 39.04 RCW
4 to read as follows:

5 All procurement contracts entered into under this chapter on or
6 after the effective date of this act are subject to the requirements
7 established under section 4 of this act.

8 NEW SECTION. **Sec. 9.** A new section is added to chapter 39.29 RCW
9 to read as follows:

10 All procurement contracts entered into under this chapter on or
11 after the effective date of this act are subject to the requirements
12 established under section 4 of this act.

13 **Sec. 10.** RCW 39.80.040 and 1981 c 61 s 4 are each amended to read
14 as follows:

15 In the procurement of architectural and engineering services, the
16 agency shall encourage firms engaged in the lawful practice of their
17 profession to submit annually a statement of qualifications and
18 performance data. The agency shall evaluate current statements of
19 qualifications and performance data on file with the agency, together
20 with those that may be submitted by other firms regarding the proposed
21 project, and shall conduct discussions with one or more firms regarding
22 anticipated concepts and the relative utility of alternative methods of
23 approach for furnishing the required services and then shall select
24 therefrom, based upon criteria established by the agency, the firm
25 deemed to be the most highly qualified to provide the services required
26 for the proposed project. Such agency procedures and guidelines shall
27 include a plan to insure that minority and women-owned firms and
28 veteran-owned firms are afforded the maximum practicable opportunity to
29 compete for and obtain public contracts for services. The level of
30 participation by minority and women-owned firms and veteran-owned firms
31 shall be consistent with their general availability within the
32 professional communities involved.

33 **Sec. 11.** RCW 47.28.030 and 2007 c 218 s 90 are each amended to
34 read as follows:

1 A state highway shall be constructed, altered, repaired, or
2 improved, and improvements located on property acquired for
3 right-of-way purposes may be repaired or renovated pending the use of
4 such right-of-way for highway purposes, by contract or state forces.
5 The work or portions thereof may be done by state forces when the
6 estimated costs thereof are less than fifty thousand dollars and
7 effective July 1, 2005, sixty thousand dollars: PROVIDED, That when
8 delay of performance of such work would jeopardize a state highway or
9 constitute a danger to the traveling public, the work may be done by
10 state forces when the estimated cost thereof is less than eighty
11 thousand dollars and effective July 1, 2005, one hundred thousand
12 dollars. When the department of transportation determines to do the
13 work by state forces, it shall enter a statement upon its records to
14 that effect, stating the reasons therefor. To enable a larger number
15 of small businesses((7)) and veteran, minority, and women contractors
16 to effectively compete for department of transportation contracts, the
17 department may adopt rules providing for bids and award of contracts
18 for the performance of work, or furnishing equipment, materials,
19 supplies, or operating services whenever any work is to be performed
20 and the engineer's estimate indicates the cost of the work would not
21 exceed eighty thousand dollars and effective July 1, 2005, one hundred
22 thousand dollars. The rules adopted under this section:

23 (1) Shall provide for competitive bids to the extent that
24 competitive sources are available except when delay of performance
25 would jeopardize life or property or inconvenience the traveling
26 public; and

27 (2) Need not require the furnishing of a bid deposit nor a
28 performance bond, but if a performance bond is not required then
29 progress payments to the contractor may be required to be made based on
30 submittal of paid invoices to substantiate proof that disbursements
31 have been made to laborers, material suppliers, mechanics, and
32 subcontractors from the previous partial payment; and

33 (3) May establish prequalification standards and procedures as an
34 alternative to those set forth in RCW 47.28.070, but the
35 prequalification standards and procedures under RCW 47.28.070 shall
36 always be sufficient.

37 The department of transportation shall comply with such goals and
38 rules as may be adopted by the office of minority and women's business

1 enterprises to implement chapter 39.19 RCW with respect to contracts
2 entered into under this chapter. The department may adopt such rules
3 as may be necessary to comply with the rules adopted by the office of
4 minority and women's business enterprises under chapter 39.19 RCW.

5 NEW SECTION. **Sec. 12.** This act is not intended to create a cause
6 of action or entitlement in an individual or class of individuals.

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