S T A T E O F N E W Y O R K

2803--A

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

Introduced by Sens. BALL, ADDABBO, AVELLA, BONACIC, CARLUCCI, FLANAGAN, O'MARA, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to state contract preference for service-disabled veteran owned small businesses

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The executive law is amended by adding a new section 369 to read as follows:

S 369. STATE CONTRACT PREFERENCE FOR SERVICE-DISABLED VETERAN OWNED SMALL BUSINESSES. 1. LEGISLATIVE FINDINGS AND DETERMINATIONS. THE LEGISLATURE HEREBY FINDS AND DETERMINES THAT IT SHALL BE THE POLICY OF THE STATE OF NEW YORK TO STRENGTHEN OPPORTUNITIES IN STATE CONTRACTING FOR SERVICE-DISABLED VETERAN OWNED SMALL BUSINESSES.

THE LEGISLATURE HEREBY FURTHER FINDS AND DETERMINES THAT NEW YORK STATE SHOULD HONOR THE EXTRAORDINARY SERVICE RENDERED TO OUR STATE AND THE UNITED STATES BY VETERANS WITH DISABILITIES INCURRED OR AGGRAVATED IN THE LINE OF DUTY DURING ACTIVE SERVICE WITH THE ARMED FORCES BY PROVIDING A CONTRACT PREFERENCE TO ALL SERVICE-DISABLED VETERAN BUSINESSES.

2. DEFINITIONS. WHEN USED IN THIS SECTION, THE FOLLOWING TERMS SHALL MEAN AND BE DEFINED AS FOLLOWS:

(A) "AGENCY" MEANS ANY DEPARTMENT, BOARD, BUREAU, COMMISSION, DIVISION, OFFICE, COUNCIL, COMMITTEE OR OFFICER OF THE STATE, OR A PUBLIC BENEFIT CORPORATION OR PUBLIC AUTHORITY AT LEAST ONE OF WHOSE MEMBERS IS APPOINTED BY THE GOVERNOR, AUTHORIZED BY LAW TO MAKE RULES OR TO MAKE FINAL DECISIONS IN ADJUDICATORY PROCEEDINGS BUT SHALL NOT INCLUDE THE GOVERNOR, AGENCIES IN THE LEGISLATIVE AND JUDICIAL BRANCHES, AGENCIES

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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CREATED BY INTERSTATE COMPACT OR INTERNATIONAL AGREEMENT, THE DIVISION OF MILITARY AND NAVAL AFFAIRS TO THE EXTENT IT EXERCISES ITS RESPONSIBILITY FOR MILITARY AND NAVAL AFFAIRS, THE DIVISION OF STATE POLICE, THE IDENTIFICATION AND INTELLIGENCE UNIT OF THE DIVISION OF CRIMINAL JUSTICE SERVICES, THE STATE INSURANCE FUND, THE UNEMPLOYMENT INSURANCE APPEAL BOARD, AND EXCEPT FOR PURPOSES OF SUBDIVISION ONE OF SECTION TWO HUNDRED TWO-D OF THE STATE ADMINISTRATIVE PROCEDURE ACT, THE WORKERS' COMPENSATION BOARD AND EXCEPT FOR PURPOSES OF ARTICLE TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT, THE STATE DIVISION OF PAROLE AND THE DEPARTMENT OF CORRECTIONS AND COMMUNITY SUPERVISION;

(B) "SERVICE-DISABLED" MEANS, WITH RESPECT TO DISABILITY, THAT THE DISABILITY WAS INCURRED OR AGGRAVATED IN THE LINE OF DUTY IN THE ACTIVE SERVICE IN THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINES, COAST GUARD, AND/OR RESERVES THEREOF, AND/OR IN THE ARMY NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD AND/OR THE NEW YORK NAVAL MILITIA;

(C) "SERVICE-DISABLED VETERAN" MEANS A VETERAN, WHO INCURRED OR AGGRAVATED A DISABILITY IN THE LINE OF DUTY IN THE ACTIVE SERVICE IN THE UNITED STATES ARMY, NAVY, AIR FORCE, MARINES, COAST GUARD, AND/OR RESERVES THEREOF, AND/OR IN THE ARMY NATIONAL GUARD, AIR NATIONAL GUARD, NEW YORK GUARD AND/OR THE NEW YORK NAVAL MILITIA; AND

(D) "SERVICE-DISABLED VETERAN BUSINESS" MEANS A SMALL BUSINESS CONCERN, EMPLOYING LESS THAN ONE HUNDRED PERSONS, OWNED AND CONTROLLED BY SERVICE-DISABLED VETERAN OR VETERANS.

3. CONTRACT PREFERENCES AND SET ASIDES. THE HEADS OF AGENCIES SHALL PROVIDE THE OPPORTUNITY FOR SERVICE-DISABLED VETERAN BUSINESSES TO SIGNIFICANTLY INCREASE THE STATE CONTRACTING AND SUBCONTRACTING OF SUCH BUSINESSES. TO ACHIEVE THAT OBJECTIVE, SUCH AGENCIES SHALL ESTABLISH A GOAL OF NOT LESS THAN THREE PERCENT FOR PARTICIPATION BY SERVICE-DISABLED VETERAN BUSINESSES IN STATE CONTRACTING, AND EACH AGENCY CONTRACTING OFFICER SHALL HAVE THE AUTHORITY TO RESERVE CERTAIN PROCUREMENTS FOR SERVICE-DISABLED VETERAN BUSINESSES IN ORDER TO ACHIEVE COMPLIANCE WITH SUCH GOAL.

4. DUTIES OF AGENCY HEADS. IN ORDER TO IMPLEMENT THE PROVISIONS AND POLICY ESTABLISHED IN SUBDIVISION THREE OF THIS SECTION, HEADS OF AGENCIES SHALL:

(A) DEVELOP A STRATEGY TO IMPLEMENT THE PROVISIONS AND POLICY ESTABLISHED IN SUBDIVISION THREE OF THIS SECTION; AND SHALL PUBLICLY PUBLISH SUCH STRATEGY;

(B) MAKE THE AGENCY'S STRATEGY PUBLICLY AVAILABLE, HAVE SUCH STRATEGY POSTED UPON THE WEBSITE OF SUCH AGENCY; AND REPORT ANNUALLY TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE CHAIR OF THE SENATE STANDING COMMITTEE ON VETERANS, HOMELAND SECURITY AND MILITARY AFFAIRS, AND THE CHAIR OF THE ASSEMBLY STANDING COMMITTEE ON VETERANS AFFAIRS ON THE IMPLEMENTATION OF THE AGENCY'S STRATEGY;

(C) DESIGNATE A SENIOR-LEVEL OFFICIAL WITHIN SUCH AGENCY WHO SHALL BE RESPONSIBLE FOR DEVELOPING AND IMPLEMENTING THE AGENCY'S STRATEGY;

(D) INCLUDE DEVELOPMENT AND IMPLEMENTATION OF THE AGENCY'S STRATEGY AND ACHIEVEMENTS IN FURTHERANCE OF THE STRATEGY AS SIGNIFICANT ELEMENTS IN ANY PERFORMANCE PLANS OF THE AGENCY'S DESIGNATED AGENCY SENIOR-LEVEL OFFICIAL AND CHIEF ACQUISITION OR PROCUREMENT OFFICER; AND

(E) INCLUDE IN THE AGENCY'S STRATEGY PLANS FOR:

(I) RESERVING AGENCY CONTRACTS EXCLUSIVELY FOR SERVICE-DISABLED VETERAN BUSINESSES;

(II) ENCOURAGING AND FACILITATING PARTICIPATION BY SERVICE-DISABLED VETERAN BUSINESSES IN COMPETITIONS FOR AWARD OF AGENCY CONTRACTS;

(III) ENCOURAGING AGENCY CONTRACTORS TO SUBCONTRACT WITH SERVICE-DISABLED VETERAN BUSINESSES AND ACTIVELY MONITORING AND EVALUATING AGENCY CONTRACTORS' EFFORTS TO DO SO;

(IV) TRAINING AGENCY PERSONNEL ON APPLICABLE LAW AND POLICIES RELATING TO PARTICIPATION OF SERVICE-DISABLED VETERAN BUSINESSES IN STATE CONTRACTING; AND

(V) DISSEMINATING INFORMATION TO SERVICE-DISABLED VETERAN BUSINESSES THAT WOULD ASSIST THESE BUSINESSES IN PARTICIPATING IN AWARDS OF AGENCY CONTRACTS.

5. DUTIES OF DEPUTY COMMISSIONER OF THE DIVISION FOR SMALL BUSINESS. THE DEPUTY COMMISSIONER RESPONSIBLE FOR HEADING THE DIVISION FOR SMALL BUSINESS WITHIN THE DEPARTMENT OF ECONOMIC DEVELOPMENT, AS ESTABLISHED PURSUANT TO SECTION ONE HUNDRED THIRTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, SHALL:

(A) DESIGNATE AN APPROPRIATE ENTITY WITHIN THE DIVISION FOR SMALL BUSINESS THAT SHALL, IN COORDINATION WITH THE DIVISION OF VETERANS AFFAIRS AND THE OFFICE OF THE STATE COMPTROLLER, PROVIDE TO SERVICE-DISABLED VETERAN BUSINESSES INFORMATION AND ASSISTANCE CONCERNING PARTICIPATION IN STATE CONTRACTING;

(B) ADVISE AND ASSIST HEADS OF AGENCIES IN THEIR IMPLEMENTATION OF SUBDIVISION THREE OF THIS SECTION;

(C) MAKE AVAILABLE TO SERVICE-DISABLED VETERAN BUSINESSES TRAINING IN STATE CONTRACTING LAW, PROCEDURES, AND PRACTICES THAT WOULD ASSIST SUCH BUSINESSES IN PARTICIPATING IN STATE CONTRACTING; AND

(D) IN COOPERATION WITH THE CHANCELLOR OF THE STATE UNIVERSITY AND THE STATE UNIVERSITY, CITY UNIVERSITY AND COMMUNITY COLLEGE SYSTEMS, DEVELOP A TRAINING PROGRAM ON STATE CONTRACTING WITH SERVICE-DISABLED VETERAN BUSINESSES AND MAKE THIS TRAINING AVAILABLE ONLINE THROUGH A CONTINUOUS LEARNING PROGRAM.

6. DUTIES OF COMMISSIONER OF THE OFFICE OF GENERAL SERVICES. THE COMMISSIONER OF THE OFFICE OF GENERAL SERVICES, IN COORDINATION WITH THE OFFICE OF THE STATE COMPTROLLER AND THE OFFICE OF THE ATTORNEY GENERAL, SHALL:

(A) ESTABLISH A STATE GOVERNMENT-WIDE ACQUISITION CONTRACT RESERVED FOR PARTICIPATION BY SERVICE-DISABLED VETERAN BUSINESSES; AND

(B) ASSIST SERVICE-DISABLED VETERAN BUSINESSES TO BE INCLUDED IN STATE SUPPLY, CONTRACTS AND REQUESTS FOR PROPOSAL SCHEDULES.

7. DUTIES OF THE STATE DIRECTOR. THE STATE DIRECTOR SHALL:

(A) ASSIST AGENCIES BY MAKING AVAILABLE SERVICES OF THE DIVISION TO FACILITATE THE PROVISIONS OF THIS SECTION;

(B) ESTABLISH A REGISTRATION PROGRAM OF SERVICE-DISABLED VETERAN BUSINESSES AND ESTABLISH AND MAINTAIN A DATABASE WITH REGARD TO SERVICE-DISABLED VETERAN BUSINESSES, FOR USE BY AGENCIES IN THEIR IMPLEMENTATION OF THIS SECTION;

(C) ESTABLISH AND MAINTAIN, TOGETHER WITH THE COMMISSIONER OF LABOR, A TRANSITION ASSISTANCE PROGRAM AND A DISABILITY TRANSITION ASSISTANCE PROGRAM TO EDUCATE SEPARATING SERVICE MEMBERS AS TO THE BENEFITS AVAILABLE TO SERVICE-DISABLED VETERAN BUSINESSES AND AS TO POTENTIAL ENTREPRENEURIAL OPPORTUNITIES; AND

(D) DISCLOSE PERSONALLY IDENTIFYING INFORMATION ON SERVICE-DISABLED VETERANS TO OTHER AGENCIES WHO REQUIRE SUCH INFORMATION IN ORDER TO DISCHARGE THE DIVISION'S RESPONSIBILITIES UNDER THIS SECTION.

S 2. This act shall take effect immediately.