

4734

2011-2012 Regular Sessions

I N S E N A T E

April 18, 2011

Introduced by Sen. DeFRANCISCO -- read twice and ordered printed, and
when printed to be committed to the Committee on Veterans, Homeland
Security and Military Affairs

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

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

1 Section 1. The executive law is amended by adding a new section 369 to
2 read as follows:
3 S 369. STATE CONTRACT PREFERENCE FOR SERVICE DISABLED VETERAN OWNED
4 SMALL BUSINESSES. 1. LEGISLATIVE FINDINGS AND DETERMINATIONS. THE LEGIS-
5 LATURE HEREBY FINDS AND DETERMINES THAT IT SHALL BE THE POLICY OF THE
6 STATE OF NEW YORK TO STRENGTHEN OPPORTUNITIES IN STATE CONTRACTING FOR
7 SERVICE-DISABLED VETERAN OWNED SMALL BUSINESSES.
8 THE LEGISLATURE HEREBY FURTHER FINDS AND DETERMINES THAT NEW YORK
9 STATE SHOULD HONOR THE EXTRAORDINARY SERVICE RENDERED TO OUR STATE AND
10 THE UNITED STATES BY VETERANS WITH DISABILITIES INCURRED OR AGGRAVATED
11 IN THE LINE OF DUTY DURING ACTIVE SERVICE WITH THE ARMED FORCES BY
12 PROVIDING A CONTRACT PREFERENCE TO ALL SERVICE-DISABLED VETERAN BUSI-
13 NESSES.
14 2. DEFINITIONS. WHEN USED IN THIS SECTION, THE FOLLOWING TERMS SHALL
15 MEAN AND BE DEFINED AS FOLLOWS:
16 (A) "AGENCY" MEANS ANY DEPARTMENT, BOARD, BUREAU, COMMISSION, DIVI-
17 SION, OFFICE, COUNCIL, COMMITTEE OR OFFICER OF THE STATE, OR A PUBLIC
18 BENEFIT CORPORATION OR PUBLIC AUTHORITY AT LEAST ONE OF WHOSE MEMBERS IS
19 APPOINTED BY THE GOVERNOR, AUTHORIZED BY LAW TO MAKE RULES OR TO MAKE
20 FINAL DECISIONS IN ADJUDICATORY PROCEEDINGS BUT SHALL NOT INCLUDE THE
21 GOVERNOR, AGENCIES IN THE LEGISLATIVE AND JUDICIAL BRANCHES, AGENCIES
22 CREATED BY INTERSTATE COMPACT OR INTERNATIONAL AGREEMENT, THE DIVISION
23 OF MILITARY AND NAVAL AFFAIRS TO THE EXTENT IT EXERCISES ITS RESPONSI-
24 BILITY FOR MILITARY AND NAVAL AFFAIRS, THE DIVISION OF STATE POLICE, THE

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

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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 CORRECTIONAL SERVICES;

(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 PRESIDENT PRO TEMPORE 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;

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

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

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

12 (A) DESIGNATE AN APPROPRIATE ENTITY WITHIN THE DIVISION FOR SMALL
13 BUSINESS THAT SHALL, IN COORDINATION WITH THE DIVISION OF VETERANS
14 AFFAIRS AND THE OFFICE OF THE STATE COMPTROLLER, PROVIDE TO SERVICE-DIS-
15 ABLED VETERAN BUSINESSES INFORMATION AND ASSISTANCE CONCERNING PARTIC-
16 IPATION IN STATE CONTRACTING;

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

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

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

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

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

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

35 7. DUTIES OF THE DIRECTOR OF THE DIVISION OF VETERANS AFFAIRS. THE
36 DIRECTOR OF THE DIVISION OF VETERANS AFFAIRS SHALL:

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

39 (B) ESTABLISH A REGISTRATION PROGRAM OF SERVICE-DISABLED VETERAN BUSI-
40 NESSES AND ESTABLISH AND MAINTAIN A DATABASE WITH REGARD TO SERVICE-DIS-
41 ABLED VETERAN BUSINESSES, FOR USE BY AGENCIES IN THEIR IMPLEMENTATION OF
42 THIS SECTION;

43 (C) ESTABLISH AND MAINTAIN, TOGETHER WITH THE COMMISSIONER OF LABOR, A
44 TRANSITION ASSISTANCE PROGRAM AND A DISABILITY TRANSITION ASSISTANCE
45 PROGRAM TO EDUCATE SEPARATING SERVICE MEMBERS AS TO THE BENEFITS AVAIL-
46 ABLE TO SERVICE-DISABLED VETERAN BUSINESSES AND AS TO POTENTIAL ENTRE-
47 PRENEURIAL OPPORTUNITIES; AND

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

51 S 2. This act shall take effect immediately.