

5872--A

2013-2014 Regular Sessions

I N A S S E M B L Y

March 7, 2013

Introduced by M. of A. ORTIZ, MAGNARELLI, MOSLEY, TITONE, PERRY, ROBERTS, RAIA, WALTER, SKARTADOS, CUSICK, STEC, SANTABARBARA, THIELE, SWEENEY, SIMANOWITZ, GIGLIO, MONTESANO, MALLIOTAKIS, BRINDISI, LUPARDO, CURRAN, DIPIETRO, GRAF, TENNEY, ZEBROWSKI, WEISENBERG, JOHNS, SCARBOROUGH, COLTON, BORELLI, PAULIN -- Multi-Sponsored by -- M. of A. ABBATE, CLARK, CROUCH, DUPREY, KOLB, McDONALD, McDONOUGH, McKEVITT, McLAUGHLIN, PALMESANO, RA, SCHIMEL -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- 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:

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:

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

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1 (A) "AGENCY" MEANS ANY DEPARTMENT, BOARD, BUREAU, COMMISSION, DIVI-
2 SION, OFFICE, COUNCIL, COMMITTEE OR OFFICER OF THE STATE, OR A PUBLIC
3 BENEFIT CORPORATION OR PUBLIC AUTHORITY AT LEAST ONE OF WHOSE MEMBERS IS
4 APPOINTED BY THE GOVERNOR, AUTHORIZED BY LAW TO MAKE RULES OR TO MAKE
5 FINAL DECISIONS IN ADJUDICATORY PROCEEDINGS BUT SHALL NOT INCLUDE THE
6 GOVERNOR, AGENCIES IN THE LEGISLATIVE AND JUDICIAL BRANCHES, AGENCIES
7 CREATED BY INTERSTATE COMPACT OR INTERNATIONAL AGREEMENT, THE DIVISION
8 OF MILITARY AND NAVAL AFFAIRS TO THE EXTENT IT EXERCISES ITS RESPONSI-
9 BILITY FOR MILITARY AND NAVAL AFFAIRS, THE DIVISION OF STATE POLICE, THE
10 IDENTIFICATION AND INTELLIGENCE UNIT OF THE DIVISION OF CRIMINAL JUSTICE
11 SERVICES, THE STATE INSURANCE FUND, THE UNEMPLOYMENT INSURANCE APPEAL
12 BOARD, AND EXCEPT FOR PURPOSES OF SUBDIVISION ONE OF SECTION TWO HUNDRED
13 TWO-D OF THE STATE ADMINISTRATIVE PROCEDURE ACT, THE WORKERS' COMPEN-
14 SATION BOARD AND EXCEPT FOR PURPOSES OF ARTICLE TWO OF THE STATE ADMIN-
15 ISTRATIVE PROCEDURE ACT, THE STATE DIVISION OF PAROLE AND THE DEPARTMENT
16 OF CORRECTIONS AND COMMUNITY SUPERVISION;

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

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

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

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

39 4. DUTIES OF AGENCY HEADS. IN ORDER TO IMPLEMENT THE PROVISIONS AND
40 POLICY ESTABLISHED IN SUBDIVISION THREE OF THIS SECTION, HEADS OF AGEN-
41 CIES SHALL:

42 (A) DEVELOP A STRATEGY TO IMPLEMENT THE PROVISIONS AND POLICY ESTAB-
43 LISHED IN SUBDIVISION THREE OF THIS SECTION; AND SHALL PUBLICLY PUBLISH
44 SUCH STRATEGY;

45 (B) MAKE THE AGENCY'S STRATEGY PUBLICLY AVAILABLE, HAVE SUCH STRATEGY
46 POSTED UPON THE WEBSITE OF SUCH AGENCY; AND REPORT ANNUALLY TO THE
47 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
48 ASSEMBLY, THE CHAIR OF THE SENATE STANDING COMMITTEE ON VETERANS, HOME-
49 LAND SECURITY AND MILITARY AFFAIRS, AND THE CHAIR OF THE ASSEMBLY STAND-
50 ING COMMITTEE ON VETERANS AFFAIRS ON THE IMPLEMENTATION OF THE AGENCY'S
51 STRATEGY;

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

54 (D) INCLUDE DEVELOPMENT AND IMPLEMENTATION OF THE AGENCY'S STRATEGY
55 AND ACHIEVEMENTS IN FURTHERANCE OF THE STRATEGY AS SIGNIFICANT ELEMENTS

1 IN ANY PERFORMANCE PLANS OF THE AGENCY'S DESIGNATED AGENCY SENIOR-LEVEL
2 OFFICIAL AND CHIEF ACQUISITION OR PROCUREMENT OFFICER; AND

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

4 (I) RESERVING AGENCY CONTRACTS EXCLUSIVELY FOR SERVICE-DISABLED VETER-
5 AN BUSINESSES;

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

8 (III) ENCOURAGING AGENCY CONTRACTORS TO SUBCONTRACT WITH SERVICE-DISA-
9 BLED VETERAN BUSINESSES AND ACTIVELY MONITORING AND EVALUATING AGENCY
10 CONTRACTORS' EFFORTS TO DO SO;

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

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

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

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

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

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

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

37 6. DUTIES OF COMMISSIONER OF THE OFFICE OF GENERAL SERVICES. THE
38 COMMISSIONER OF GENERAL SERVICES, IN COORDINATION WITH THE DEPARTMENT OF
39 AUDIT AND CONTROL AND THE DEPARTMENT OF LAW, SHALL:

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

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

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

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

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

51 (C) ESTABLISH AND MAINTAIN, TOGETHER WITH THE COMMISSIONER OF LABOR, A
52 TRANSITION ASSISTANCE PROGRAM AND A DISABILITY TRANSITION ASSISTANCE
53 PROGRAM TO EDUCATE SEPARATING SERVICE MEMBERS AS TO THE BENEFITS AVAIL-
54 ABLE TO SERVICE-DISABLED VETERAN BUSINESSES AND AS TO POTENTIAL ENTRE-
55 PRENEURIAL OPPORTUNITIES; AND

1 (D) DISCLOSE PERSONALLY IDENTIFYING INFORMATION ON SERVICE-DISABLED
2 VETERANS TO OTHER AGENCIES WHO REQUIRE SUCH INFORMATION IN ORDER TO
3 DISCHARGE THE DIVISION'S RESPONSIBILITIES UNDER THIS SECTION.
4 S 2. This act shall take effect immediately.