

HOUSE No. 03595

The Commonwealth of Massachusetts

PRESENTED BY:

Jason M. Lewis, (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act to promote employment for people with disabilities.

PETITION OF:

NAME:

Jeff Calnan

DISTRICT/ADDRESS:

100 Wildwood Street

Winchester, MA 01890

HOUSE No. 03595

By Mr. Lewis of Winchester (by request), a petition (accompanied by bill, House, No. [BILL NUMBER]) of Jeff Calnan for legislation to promote employment for people with disabilities by establishing a council for purchasing from persons with disabilities. Children, Families and Persons with Disabilities.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to promote employment for people with disabilities.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 The General Laws are hereby amended by inserting after chapter 7B the following chapter:-
- 2 Chapter 7C
- 3 State Use Act.
- 4 Section 1. In this chapter, the following words and phrases shall have the following meanings,
- 5 unless the context requires otherwise:-
- 6 “Central nonprofit agency”, a nonprofit agency approved pursuant to rules of the council
- 7 to facilitate the equitable distribution of orders for the services of: (1) qualified individuals; and
- 8 (2) community rehabilitation programs.

9 “Community rehabilitation program”, a nonprofit entity: (1) that is organized under the laws of
10 the United States or this state, operated in the interest of persons with disabilities and operated so
11 that no part of the income of which inures to the benefit of any shareholder or other person; (2)
12 that complies with applicable occupational health and safety standards as required by federal or
13 state law; and (3) that, in the provision of services, whether or not procured under this chapter,
14 employs during the state fiscal year at least 75 per cent persons with disabilities in direct labor
15 for the provision of services;

16 “Council”, the commonwealth of Massachusetts council for purchasing from persons with
17 disabilities.

18 “Direct labor”, all work directly relating to the provision of services, but not work required for or
19 relating to supervision, administration or inspection.

20 “Local public body”, a political subdivision of the state and the political subdivision's
21 agencies, instrumentalities and institutions.

22 “Persons with disabilities”, persons who have a mental or physical impairment that constitutes or
23 results in a substantial impediment to employment as deemed by the federal Rehabilitation Act
24 of 1973.

25 “Qualified individual”, a person with a disability who is a business owner, or a business
26 that is primarily owned and operated by persons with disabilities that employs at least 75 per cent
27 persons with disabilities in the provision of direct labor, which has been approved by the council
28 to provide services to state agencies and local public bodies. A person who is receiving services
29 pursuant to an individualized plan of employment from the vocational rehabilitation division of

30 the public education department or from the commission for the blind shall be presumed to be a
31 person with disability, as shall a person who is receiving supplemental security income or social
32 security benefits based on disability.

33 “State agency”, a department, commission, council, board, committee, institution, legislative
34 body, agency, government corporation, educational institution or official of the executive,
35 legislative or judicial branch of state government.

36 “State purchasing agent”, the state purchasing agent of the operational services division of the
37 executive office for administration and finance.

38 Section 2. There shall be within the executive office for administration and finance, but not
39 subject to its control, the commonwealth of Massachusetts council for purchasing from persons
40 with disabilities. The council shall be composed of the following 9 members: the state
41 purchasing agent or the agent's designee; (1) 2 persons, appointed by the governor, who
42 represent state agencies that purchase significant amounts of goods and services from the private
43 sector, or their designees; (2) 1 person, appointed by the governor, who is a state-employed
44 vocational rehabilitation counselor and who is familiar with employment needs of persons with
45 disabilities and with current pricing and marketing of goods and services; (3) 2 persons with
46 disabilities; (4) 1 person who is familiar with employment needs of persons with disabilities and
47 with current pricing and marketing of goods and services; and (5) 2 persons who represent
48 community rehabilitation programs that provide employment services to persons with
49 disabilities, all selected by mutual agreement of the persons appointed in clauses (1), (2) and (3)
50 of this section.

51 Council members shall be appointed for 3 year terms. Vacancies shall be filled in the same
52 manner as for original appointments. A member appointed to fill a vacancy shall serve for the
53 remainder of the term for that vacancy. Council members shall continue to serve beyond the
54 expiration of their terms until new members are appointed.

55 The council shall elect a chair from among its members. Seven members of the council shall
56 constitute a quorum in order to conduct the council's business. Council members shall serve
57 without compensation or cost reimbursement.

58 Section 3. The council shall adopt rules that:

59 (1) determine which services provided by persons with disabilities are suitable for sale to state
60 agencies and local public bodies;

61 (2) establish, maintain and publish a list of all the services identified in clause (1). The council
62 shall periodically review and revise this list as products or services are added or removed. The
63 council shall make the list available to all purchasing officials of state agencies and local public
64 bodies;

65 (3) verify the fair market prices of the services identified in clause (1) and periodically revise the
66 fair market prices in accordance with changing market conditions to ensure that services offer the
67 best value for state agencies and local public bodies. In verifying the fair market value of
68 services, the council shall consider amounts being paid for similar services purchased by the
69 federal government, the state and local public bodies and by private businesses, and the actual
70 cost of performing the services at a community rehabilitation program, taking into consideration
71 the benefits associated with employing persons with disabilities;

72 (4) establish a procedure to certify eligible community rehabilitation programs and qualified
73 individuals that have services suitable for procurement by state agencies and local public bodies
74 that will be placed on the list established in clause (2);

75 (5) establish a procedure for approval of a central nonprofit agency that shall hold contracts,
76 facilitate the equitable distribution of orders for services to be procured by state agencies and
77 local public bodies and market approved services to state agencies and local public bodies;

78 (6) establish procedures for the operation of the approved central nonprofit agency, including a
79 fee structure for its services;

80 (7) address any other matter necessary to the proper administration of this chapter; and

81 (8) ensure that the work provides opportunities for integration with nondisabled persons, fair pay
82 and adds value to the service provided.

83 Section 4. The council shall, not later than 180 days following the close of each fiscal year,
84 submit to the governor, the legislature and each community rehabilitation program a report that
85 includes the names of the council members serving during the preceding fiscal year, the dates of
86 council meetings during that year and any recommendations for changes to this chapter.

87 Section 5. A state agency or local public body intending to procure a service on a list published
88 by the council shall, in accordance with rules of the council, procure the service at the price
89 established by the council if the service is available within the period required by the state
90 agency or local public body. Procurement pursuant to this chapter shall be exempt from the
91 provisions of chapter 7, section 29B of chapter 29 and chapter 30B.

92 Section 6. The council and a state agency or local public body may enter into a cooperative
93 agreement for effective coordination of the objectives of this chapter and any other law requiring
94 procurement of services from a state agency or local public body.

95 Section 7. (a) Contracts for supplies manufactured by and services performed by persons with
96 disabilities shall be entered into in accordance with this section without the requirement for
97 competitive bidding. Persons with disabilities must make an appreciable contribution in
98 manufacturing an item or performing a service.

99 (b) When a state agency or local public body enters into a contract under this section with a cost
100 exceeding \$300,000 per year, the department entering into such contract, in cooperation with the
101 purchasing agency, shall conduct an annual review to confirm compliance with the contract and
102 the requirements of this section. The annual review shall include, but not be limited to, an
103 assessment of all requirements related to appreciable contribution. If the department, in
104 cooperation with the purchasing agency, determines that persons with disabilities are not making
105 an appreciable contribution in the manufacturing of an item or the performance of a service or an
106 agency for persons with disabilities is not in compliance with other requirements of this section,
107 the department shall give an agency for persons with disabilities 45 days in which to remedy the
108 deficiency. If the agency for persons with disabilities fails to remedy the deficiency within 45
109 days, the agency for persons with disabilities shall be deemed to be in noncompliance with the
110 contract, and the purchasing agency may terminate the contract and seek to procure the item or
111 service through a competitive bidding process. Nothing in this section shall preclude a
112 purchasing agency from procuring an item or service through an emergency contract when an
113 agency for persons with disabilities is deemed to be in noncompliance.