

2012 -- H 7628

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LC01662
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS - SMALL DISABILITY BUSINESS
ENTERPRISES

Introduced By: Representatives Walsh, and Serpa

Date Introduced: February 16, 2012

Referred To: House Small Business

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 37-2.2-1, 37-2.2-2, 37-2.2-3.1 and 37-2.2-4 of the General Laws in
2 Chapter 37-2.2 entitled "Disability Business Enterprises" are hereby amended to read as follows:

3 **37-2.2-1. Short title and purpose.** -- This chapter shall be known as the "Disability
4 Business Enterprises Act." The purpose of this chapter is to carry out the state's policy of
5 supporting the fullest possible participation of small disadvantaged businesses owned and
6 controlled by persons with disabilities ~~or where sixty percent (60%) of the work hours or direct~~
7 ~~labor is performed by employees who are persons with disabilities, or non-profit rehabilitation~~
8 ~~facilities~~ in state funded and state directed public construction, public projects, and in state
9 purchases of goods and services. This includes assisting disadvantaged disability businesses ~~and~~
10 ~~non-profit rehabilitation facilities~~ throughout the life of contracts in which they participate.

11 **37-2.2-2. Definitions.** -- As used in this chapter, the following words and phrases shall
12 have the following meanings unless the context shall indicate another or different meaning or
13 intent:

14 (1) "Persons with disabilities" or "person with a disability" shall mean any individual
15 who has a physical or mental impairment which constitutes a substantial barrier to employment as
16 certified by the department of behavioral healthcare, developmental disabilities and hospitals.

17 ~~(2) "Products" shall mean any goods or merchandise provided by persons with~~
18 ~~disabilities if not less than sixty percent (60%) of the work hours or direct labor required for the~~

1 ~~products are performed by persons with disabilities.~~

2 ~~(3) "Rehabilitation facility" or "rehabilitation facilities" shall mean a facility which is~~
3 ~~operated for the primary purpose of providing vocational rehabilitation services to and gainful~~
4 ~~employment for persons with disabilities. The rehabilitation services, listed below, may be~~
5 ~~provided directly or by the facility's parent corporation. The facility must provide singly or in~~
6 ~~combination one or more of the following services for persons with disabilities:~~

7 ~~(i) Comprehensive rehabilitation services which shall include under one management:~~
8 ~~medical, psychological, social, and vocational services;~~

9 ~~(ii) Testing, fitting, or training in the use of prosthetic and orthotic services;~~

10 ~~(iii) Pre-vocational evaluation or recreational therapy;~~

11 ~~(iv) Physical and occupational therapy;~~

12 ~~(v) Speech and hearing services;~~

13 ~~(vi) Psychological and social services;~~

14 ~~(vii) Evaluation;~~

15 ~~(viii) Personal and work adjustment;~~

16 ~~(ix) Vocational training in combination with other rehabilitation services;~~

17 ~~(x) Evaluation or control of special disabilities; and~~

18 ~~(xi) Transitional or long-term employment for persons who have severe disabilities and~~
19 ~~cannot be readily absorbed into the competitive labor market.~~

20 ~~(4) (2)~~ "Services" shall mean any services provided by persons with disabilities if not
21 less than sixty percent (60%) of the work hours or direct labor required for the services are
22 performed by persons with disabilities.

23 ~~(5) (3)~~ "Small disadvantaged businesses owned and controlled by persons with
24 disabilities " shall mean small business concern, which is at least fifty-one percent (51%) owned
25 by one or more person(s) with disabilities or, in the case of a publicly owned business, at least
26 fifty-one percent (51%) of the stock of which is owned by one or more disabled person, whose
27 management and daily business operations are controlled by one or more person(s) with
28 disabilities, and have fifty or fewer employees.

29 ~~(6) (4)~~ "A physical or mental impairment" shall mean any physiological disorder or
30 condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body
31 systems: neurological; musculoskeletal; special sense organs; respiratory, including speech
32 organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and
33 endocrine; or any mental psychological disorder, such as mental retardation, organic brain
34 syndrome, emotional or mental illness, and specific learning disabilities.

1 ~~(7) "Vocational rehabilitation services" shall mean any goods and services including~~
2 ~~diagnostic and related services necessary to render a person with a disability fit to engage in a~~
3 ~~gainful occupation and services to the families of persons with disabilities when those services~~
4 ~~will contribute substantially to the rehabilitation of those individuals.~~

5 **37-2.2-3.1. Policy and applicability.** -- (a) It is the policy of the state of Rhode Island
6 that small disadvantaged disability businesses shall have the maximum opportunity to participate
7 in the performance of procurements and projects as outlined in this chapter. This chapter shall
8 apply to any and all state purchasing, including, but not limited to, the procurement of goods and
9 services, construction projects, or contracts funded in whole or in part by state funds, or funds
10 which, in accordance with a federal grant or otherwise, the state expends or administers or in
11 which the state is a signatory to the construction contract.

12 (b) The director of administration, in consultation with the governor's commission on
13 disabilities, is authorized and directed to establish rules and ~~regulations~~ regulation formulas for
14 awarding contracts to small disadvantaged businesses owned and controlled by persons with
15 disabilities in the procurement of goods, services, construction projects, or contracts funded in
16 whole or in part by state funds, in accordance with section 37-2-9(b)(14) on or before January 1,
17 2013.

18 **37-2.2-4. Disability business enterprise committee -- Membership -- Duties.** -- (a)
19 There is hereby established within the governor's commission on disabilities a committee,
20 consisting of ~~nine (9)~~ seven (7) persons, to be known as the disability business enterprise
21 committee.

22 (b) The committee, shall consist of the director of the department of human services or
23 his or her designee; the director of the department of behavioral healthcare, developmental
24 disabilities and hospitals or his or her designee; the director of the economic development
25 corporation or his or her designee; the ~~state purchasing agent~~ director of administration or his or
26 her designee; and ~~two (2)~~ three (3) persons with disabilities ~~and three (3) representatives of~~
27 ~~rehabilitation facilities in the state of Rhode Island~~ appointed by the chairperson of the governor's
28 commission on disabilities. All members of the committee shall serve without compensation. Of
29 the number appointed originally under this chapter, one-third (1/3) shall be appointed for a term
30 of one year; one-third (1/3) shall be appointed for a term of two (2) years; and one-third (1/3)
31 shall be appointed for a term of three (3) years. Thereafter, vacancies created by expiration of
32 terms shall be filled with appointments for terms of three (3) years. Members whose terms expire
33 may be reappointed to succeed themselves. The chairperson of the governor's commission on
34 disabilities or his or her designee shall serve as chairperson of the committee. The members of the

1 committee shall elect a vice chairperson and other officers as are necessary from amongst
2 themselves annually.

3 (c) The governor's commission on disabilities shall promulgate such rules and
4 regulations, in accordance with the Administrative Procedures Act, chapter 35 of title 42, as are
5 necessary and proper to ensure responsible management, operation, oversight of the committee,
6 and ensure that all ~~facilities, both nonprofit and profit-making,~~ businesses referred to in ~~sections~~
7 ~~37-2.2-3 and~~ section 37-2.2-3.1 meet all applicable government regulations and standards,
8 including those of the United States department of labor, the state department of human services,
9 and the chief purchasing officer with regard to developing a program which involves small
10 disadvantaged businesses as contractors, section 37-2-9(b)(14).

11 (d) The committee shall establish a procedure to certify small disadvantaged disability
12 businesses ~~and rehabilitation facilities~~ that qualify ~~under their regulation for a preference~~ under
13 section ~~37-2.2-3 or~~ 37-2.2-3.1 and submit a list of the certified small disadvantaged disability
14 businesses ~~and rehabilitation facilities~~ and the products and services provided by them to the chief
15 purchasing officer at least once a year. The chief purchasing officer shall utilize that procurement
16 list in the program which involves small disadvantaged businesses as contractors established by
17 subsection 37-2-9(b)(14).

18
19 SECTION 2. Section 37-2.2-3 of the General Laws in Chapter 37-2.2 entitled "Disability
20 Business Enterprises" is hereby repealed.

21 ~~**37-2.2-3. Preference for products and services produced by persons with disabilities.**~~
22 ~~— (a) Whenever any products made, manufactured by, or services provided by nonprofit~~
23 ~~rehabilitation facilities, or in profit making facilities where sixty percent (60%) of the work hours~~
24 ~~or direct labor is performed by employees who are disabled, meet the requirements of any~~
25 ~~department, institution, or agency supported, in whole or in part, by the state as to quantity,~~
26 ~~quality, and price, those products shall have preference over products or services from other~~
27 ~~providers.~~

28 ~~(b) All departments, institutions, and agencies supported, in whole or in part, by the state~~
29 ~~shall purchase articles made or manufactured and services provided by persons with disabilities.~~
30 ~~Any political subdivision of the state may purchase those articles and services directly from those~~
31 ~~agencies.~~

32 ~~(c) A list describing the styles, designs, sizes, and varieties of articles made by persons~~
33 ~~with disabilities and describing all available services and subcontract work which can be provided~~
34 ~~by those persons shall be prepared by the governor's commission on disabilities, disability~~

1 ~~business enterprise committee in cooperation with the state office of rehabilitation services. The~~
2 ~~governor's commission on disabilities shall cooperate with various facilities for persons with~~
3 ~~disabilities by submitting necessary information concerning the products and services to the state~~
4 ~~purchasing agent.~~

5 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would focus the disability business enterprise program to assisting small
2 businesses owned by persons with disabilities. The act would eliminate the conflicts between this
3 program and the chapter 37-2.4 habilitation procurement program.

4 This act would take effect upon passage.

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