

2018 -- S 2486

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LC004775
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS - DISABILITY BUSINESS
ENTERPRISES

Introduced By: Senator Roger Picard

Date Introduced: February 15, 2018

Referred To: Senate Special Legislation and Veterans Affairs

It is enacted by the General Assembly as follows:

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

3 **37-2.2-2. Definitions.**

4 As used in this chapter, the following words and phrases shall have the following
5 meanings unless the context shall indicate another or different meaning or intent:

6 (1) "Persons with disabilities" or "person with a disability" shall mean any individual who
7 has a physical or mental impairment which constitutes a substantial barrier to employment as
8 certified by the department of human services or the department of behavioral healthcare,
9 developmental disabilities and hospitals, [the U.S. Department of Veterans' Affairs, the Social](#)
10 [Security Administration, or any other certifying state or federal entity.](#)

11 (2) "Small disadvantaged businesses owned and controlled by persons with disabilities "
12 shall mean small business concern, which is at least fifty-one percent (51%) owned by one or
13 more person(s) with disabilities or, in the case of a publicly owned business, at least fifty-one
14 percent (51%) of the stock of which is owned by one or more disabled person, whose
15 management and daily business operations are controlled by one or more person(s) with
16 disabilities, and have fifty or fewer employees.

17 (3) "A physical or mental impairment" shall mean any physiological disorder or
18 condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body

1 systems: neurological; musculoskeletal; special sense organs; respiratory, including speech
2 organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and
3 endocrine; or any mental psychological disorder, such as mental retardation, organic brain
4 syndrome, emotional or mental illness, and specific learning disabilities.

5 **37-2.2-3.1. Policy and applicability.**

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

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

18 (c) The state's annual goal for disability business enterprises to participate in state
19 procurements and construction projects under this chapter shall be no less than three percent (3%)
20 of the total value all contracts available to businesses in each fiscal year. The director of the
21 department of administration is further authorized to establish, by rules and regulation, formulas
22 for giving disability business enterprises a preference in contract and subcontract awards.

23 SECTION 2. Chapter 37-2.2 of the General Laws entitled "Disability Business
24 Enterprises" is hereby amended by adding thereto the following sections:

25 **37-2.2-6. Sanctions.**

26 (a) The director of the department of administration shall have the power to impose
27 sanctions upon contractors not in compliance with this chapter including, but not limited to:

28 (1) Suspension of payments;

29 (2) Termination of the contract;

30 (3) Recovery by the state of ten percent (10%) of the contract award price as liquidated
31 damages; and

32 (4) Denial of right to participate in future projects for up to three (3) years.

33 **37-2.2-7. Reporting.**

34 By August 1, 2019, and each August 1 thereafter, the department of administration shall

1 submit an annual report to the governor, speaker of the house, senate president, and executive
2 secretary of the governor's commission on disabilities for the period from July 1 to June 30 on
3 the actual utilization of disability-owned small business enterprises as contractors, subcontractors,
4 suppliers, and professional service providers for the state. The annual report shall include a list of
5 all disability owned small businesses that participated as contractors, subcontractors, suppliers,
6 and professional service providers for the state during the previous fiscal year.

7 SECTION 3. Chapter 37-2.4 of the General Laws entitled "Habilitation Procurement
8 Program" is hereby amended by adding thereto the following section:

9 **37-2.4-4. Habilitation facilities participation.**

10 The state's annual goal for the habilitation facilities to participate in state procurements
11 and construction projects under this chapter shall be no less than three percent (3%) of the total
12 value all contracts available to businesses in each fiscal year. The director of the department of
13 administration is further authorized to establish, by rules and regulation, formulas for giving
14 disability business enterprises a preference in contract and subcontract awards.

15 **37-2.4-5. Sanctions.**

16 (a) The director of the department of administration shall have the power to impose
17 sanctions upon contractors not in compliance with this chapter including, but not limited to:

18 (1) Suspension of payments;

19 (2) Termination of the contract;

20 (3) Recovery by the state of ten percent (10%) of the contract award price as liquidated
21 damages; and

22 (4) Denial of right to participate in future projects for up to three (3) years.

23 **37-2.4-5. Reporting.**

24 By August 1, 2019, and each August 1 thereafter, the department of administration shall
25 submit an annual report to the governor, speaker of the house, senate president, secretary of the
26 executive office of health and human services, the director of the department of behavioral
27 healthcare, developmental disabilities, and hospitals and the director of the office of rehabilitation
28 services for the period from July 1 to June 30 on the actual utilization of habilitation facilities as
29 contractors, subcontractors, suppliers, and professional service providers for the state. The annual
30 report shall include a list of all disability owned small businesses that participated as contractors,
31 subcontractors, suppliers, and professional service providers for the state during the previous
32 fiscal year.

33 SECTION 4. 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 expand the existing disability business enterprises program by allowing
2 Veterans' Affairs, the Social Security Administration and others to verify that a business owner
3 has a disability and is eligible for the current program. This act would set a goal of no less than
4 three percent (3%) for state procurement.

5 This act would take effect upon passage.

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