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SENATE BILL 5289

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State of Washington                      60th Legislature                      2007 Regular Session

By Senators Kilmer, Swecker, Kastama, Kauffman, Shin, Clements, Rockefeller, Hobbs, Franklin, Honeyford and Rasmussen

Read first time 01/16/2007.      Referred to Committee on Government Operations & Elections.

1            AN ACT Relating to state contracts with veteran-owned businesses;  
2 amending RCW 43.60A.010, 43.19.536, 39.80.040, and 47.28.030; adding  
3 new sections to chapter 43.60A RCW; adding a new section to chapter  
4 43.19 RCW; adding a new section to chapter 28B.10 RCW; adding a new  
5 section to chapter 39.04 RCW; adding a new section to chapter 39.29  
6 RCW; and creating new sections.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8            NEW SECTION.    **Sec. 1.** The legislature recognizes the unique  
9 sacrifices made by veterans and the substantial challenges that  
10 returning veterans face after a period of military duty away from home.  
11 The legislature further recognizes that veterans who own private  
12 businesses may face particular hardships as a direct result of their  
13 military service. The purpose of this act is to mitigate economic  
14 damage to veteran-owned businesses as a result of military service, and  
15 to provide opportunities to them in recognition of the outstanding  
16 service they have given to their country.

17            **Sec. 2.** RCW 43.60A.010 and 2006 c 343 s 2 are each amended to read  
18 as follows:

1 As used in this chapter the following words and phrases shall have  
2 the following meanings unless the context clearly requires otherwise:

3 (1) "Department" means the department of veterans affairs.

4 (2) "Director" means the director of the department of veterans  
5 affairs.

6 (3) "Committee" means the veterans affairs advisory committee.

7 (4) "Board" means the veterans innovations program board.

8 (5) "Goals" means overall agency goals, expressed as a percentage  
9 of dollar volume, for participation by veteran-owned businesses.

10 (6) "Goods and services" includes professional services and all  
11 other goods and services.

12 (7) "Procurement" means the purchase, lease, or rental of any goods  
13 or services.

14 (8) "Public works" means all work, construction, highway and ferry  
15 construction, alteration, repair, or improvement other than ordinary  
16 maintenance, which a state agency or educational institution is  
17 authorized or required by law to undertake.

18 (9) "State agency" includes the state of Washington and all  
19 agencies, departments, offices, divisions, boards, commissions, and  
20 correctional and other types of institutions.

21 (10) "Veteran-owned business" means a business that is certified by  
22 the department to be at least fifty-one percent owned and controlled  
23 by:

24 (a) A veteran as defined in RCW 41.04.007; or

25 (b) An active or reserve member in any branch of the armed forces  
26 of the United States, including the national guard, coast guard, and  
27 armed forces reserves.

28 NEW SECTION. Sec. 3. A new section is added to chapter 43.60A RCW  
29 to read as follows:

30 (1) The department shall report to the legislature by December 1,  
31 2009, and December 1st of each odd-numbered year thereafter outlining  
32 the progress made in implementing this act.

33 (2) The department shall develop a procedure for certifying  
34 veteran-owned businesses and maintain a list of veteran-owned  
35 businesses on the department's public web site.

36 (3) The department shall adopt rules necessary to implement this

1 act. The rules shall include instructions to agencies regarding what  
2 specific information they must report to the department.

3 (4) The department shall collaborate with and may assist agencies  
4 in implementing outreach to veteran-owned businesses.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.60A RCW  
6 to read as follows:

7 (1) State agencies are encouraged to award three percent of all  
8 procurement contracts that are exempt from competitive bidding  
9 requirements under RCW 43.19.1906(2) to veteran-owned businesses  
10 certified by the department under section 3 of this act.

11 (2) State agencies shall:

12 (a) Perform outreach to veteran-owned businesses in collaboration  
13 with the department to increase opportunities for veteran-owned  
14 businesses to sell goods and services to the state;

15 (b) Keep a record of all contracts awarded to veteran-owned  
16 businesses as required by the department; and

17 (c) Report by December 1, 2009, and December 1st of each odd-  
18 numbered year thereafter to the department on the progress made in  
19 implementing this section as directed by the department.

20 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.19 RCW  
21 to read as follows:

22 The department of general administration shall identify in the  
23 department's vendor registry all vendors that are veteran-owned  
24 businesses as certified by the department of veterans affairs under  
25 section 3 of this act.

26 **Sec. 6.** RCW 43.19.536 and 1983 c 120 s 13 are each amended to read  
27 as follows:

28 (1) All contracts entered into and purchases made, including  
29 leasing or renting, under this chapter on or after September 1, 1983,  
30 are subject to the requirements established under chapter 39.19 RCW.

31 (2) All contracts entered into and purchases made, including  
32 leasing or renting, under this chapter on or after the effective date  
33 of this act, are subject to the requirements established under sections  
34 3 and 4 of this act.

1        NEW SECTION.    **Sec. 7.**    A new section is added to chapter 28B.10 RCW  
2 to read as follows:

3        All contracts entered into and purchases made, including leasing or  
4 renting, under this chapter on or after the effective date of this act,  
5 are subject to the requirements established under sections 3 and 4 of  
6 this act.

7        NEW SECTION.    **Sec. 8.**    A new section is added to chapter 39.04 RCW  
8 to read as follows:

9        All contracts entered into and purchases made, including leasing or  
10 renting, under this chapter on or after the effective date of this act,  
11 are subject to the requirements established under sections 3 and 4 of  
12 this act.

13        NEW SECTION.    **Sec. 9.**    A new section is added to chapter 39.29 RCW  
14 to read as follows:

15        All contracts entered into and purchases made, including leasing or  
16 renting, under this chapter on or after the effective date of this act,  
17 are subject to the requirements established under sections 3 and 4 of  
18 this act.

19        **Sec. 10.**    RCW 39.80.040 and 1981 c 61 s 4 are each amended to read  
20 as follows:

21        In the procurement of architectural and engineering services, the  
22 agency shall encourage firms engaged in the lawful practice of their  
23 profession to submit annually a statement of qualifications and  
24 performance data.    The agency shall evaluate current statements of  
25 qualifications and performance data on file with the agency, together  
26 with those that may be submitted by other firms regarding the proposed  
27 project, and shall conduct discussions with one or more firms regarding  
28 anticipated concepts and the relative utility of alternative methods of  
29 approach for furnishing the required services and then shall select  
30 therefrom, based upon criteria established by the agency, the firm  
31 deemed to be the most highly qualified to provide the services required  
32 for the proposed project.    Such agency procedures and guidelines shall  
33 include a plan to insure that minority and women-owned firms and  
34 veteran-owned firms are afforded the maximum practicable opportunity to  
35 compete for and obtain public contracts for services.    The level of

1 participation by minority and women-owned firms and veteran-owned firms  
2 shall be consistent with their general availability within the  
3 professional communities involved.

4 **Sec. 11.** RCW 47.28.030 and 1999 c 15 s 1 are each amended to read  
5 as follows:

6 A state highway shall be constructed, altered, repaired, or  
7 improved, and improvements located on property acquired for right of  
8 way purposes may be repaired or renovated pending the use of such right  
9 of way for highway purposes, by contract or state forces. The work or  
10 portions thereof may be done by state forces when the estimated costs  
11 thereof (~~is~~~~are~~) are less than fifty thousand dollars and effective  
12 July 1, 2005, sixty thousand dollars: PROVIDED, That when delay of  
13 performance of such work would jeopardize a state highway or constitute  
14 a danger to the traveling public, the work may be done by state forces  
15 when the estimated cost thereof is less than eighty thousand dollars  
16 and effective July 1, 2005, one hundred thousand dollars. When the  
17 department of transportation determines to do the work by state forces,  
18 it shall enter a statement upon its records to that effect, stating the  
19 reasons therefor. To enable a larger number of small businesses(~~(7)~~)  
20 and veteran, minority, and women contractors to effectively compete for  
21 department of transportation contracts, the department may adopt rules  
22 providing for bids and award of contracts for the performance of work,  
23 or furnishing equipment, materials, supplies, or operating services  
24 whenever any work is to be performed and the engineer's estimate  
25 indicates the cost of the work would not exceed eighty thousand dollars  
26 and effective July 1, 2005, one hundred thousand dollars. The rules  
27 adopted under this section:

28 (1) Shall provide for competitive bids to the extent that  
29 competitive sources are available except when delay of performance  
30 would jeopardize life or property or inconvenience the traveling  
31 public; and

32 (2) Need not require the furnishing of a bid deposit nor a  
33 performance bond, but if a performance bond is not required then  
34 progress payments to the contractor may be required to be made based on  
35 submittal of paid invoices to substantiate proof that disbursements  
36 have been made to laborers, materialmen, mechanics, and subcontractors  
37 from the previous partial payment; and

1 (3) May establish prequalification standards and procedures as an  
2 alternative to those set forth in RCW 47.28.070, but the  
3 prequalification standards and procedures under RCW 47.28.070 shall  
4 always be sufficient.

5 The department of transportation shall comply with such goals and  
6 rules as may be adopted by the office of minority and women's business  
7 enterprises to implement chapter 39.19 RCW with respect to contracts  
8 entered into under this chapter. The department may adopt such rules  
9 as may be necessary to comply with the rules adopted by the office of  
10 minority and women's business enterprises under chapter 39.19 RCW.

11 NEW SECTION. **Sec. 12.** This act is not intended to create a cause  
12 of action or entitlement in an individual or class of individuals.

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