



Senate Fiscal Agency
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BILL ANALYSIS



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Senate Bill 303 (as enrolled)
Sponsor: Senator Laura M. Toy
Senate Committee: Local, Urban and State Affairs
House Committee: Veterans Affairs and Homeland Security

PUBLIC ACT 91 of 2005

Date Completed: 7-7-06

RATIONALE

With large numbers of Michigan residents currently serving overseas as members of the armed forces, many people believe that the State should make an effort to show its current and future soldiers that it will support them if they become disabled while serving their country. Many also feel that the State should provide a helping hand to disabled veterans who are currently attempting to support themselves through their own business ventures. It was suggested that one way to assist former military personnel who were injured in the line of duty would be to provide businesses owned by disabled veterans with a preference when the Department of Management and Budget (DMB) awards State contracts.

the Legislature has not otherwise expressly provided. The DMB is required to solicit competitive bids from the private sector whenever practicable to meet the State's needs efficiently and effectively.

Under the bill, when awarding a competitively bid contract for items needed by State agencies, the Department must give a preference of up to 10% of the amount of the contract to a qualified disabled veteran. If the qualified disabled veteran otherwise meets the requirements of the contract solicitation and with the preference is the lowest bidder, the Department must enter into a procurement contract with the veteran. If two or more qualified disabled veterans are the lowest bidders on a contract, all other things being equal, the veteran with the lowest bid must be awarded the contract.

CONTENT

The bill amended the Management and Budget Act to require the Department of Management and Budget to give a preference to qualified disabled veterans of up to 10% of the amount of competitively bid contracts for items needed by State agencies; and make it a DMB goal to award at least 3% of total expenditures to qualified disabled veterans each year.

The bill makes it the goal of the Department to award each year at least 3% of its total expenditures for construction, goods, and services to qualified disabled veterans. The Department may count toward its 3% yearly goal that portion of all procurement contracts in which the business entity that received the procurement contract subcontracts with a qualified disabled veteran. Every year, the DMB must report to each house of the Legislature on all of the following for the immediately preceding 12-month period:

The bill took effect on July 20, 2005.

Under the Act, the Department must provide for the purchase of, the contracting for, and the provision of supplies, materials, services, insurance, utilities, third-party financing, equipment, printing, and all other items as needed by State agencies for which

-- The number of qualified disabled veterans who submitted a bid for a State procurement contract.

- The number of qualified disabled veterans who entered into procurement contracts with the State and the total value of those contracts.
- Whether the DMB achieved the goal of allocating at least 3% of its total expenditures to disabled veterans.
- Recommendations regarding continuing or changing the 3% goal (described below).

The bill requires the DMB annually to review the progress of all State agencies in meeting the 3% goal, with input from statewide veterans service organizations and from the business community, including businesses owned by qualified disabled veterans. The DMB must make recommendations to each house of the Legislature regarding continuation, increases, or decreases in the percentage goal. The recommendations must be based on the number of businesses that are owned by qualified disabled veterans and on the continued need to encourage and promote businesses owned by them.

To help the DMB in reaching the 3% goal, the Governor must recommend to the Legislature changes in programs to assist businesses owned by qualified disabled veterans.

The bill defines "qualified disabled veteran" as a business entity that is 51% or more owned by one or more veterans with a service-connected disability. "Service-connected disability" means a disability incurred or aggravated in the line of duty in the active military, naval, or air service, as described in 38 USC 101(16). (Under that section, "service-connected" means, with respect to disability or death, that the disability was incurred or aggravated, or that the death resulted from a disability incurred or aggravated, in line of duty in the active military, naval, or air service.)

"Veteran", under the bill, means a person who served in the active military, naval, or air service and who was discharged or released from his or her service under conditions other than dishonorable.

MCL 18.1261

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate

Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

America's armed forces rely on volunteers to fill their ranks, and one way to encourage Michigan residents to continue enlisting is to let them know that the State will make efforts to provide for them should they become disabled in the line of duty. The State also has an obligation to assist its current disabled veterans in gratitude for their sacrifices. Providing veterans who were disabled in the line of duty with a 10% preference in the bidding of State contracts will help ensure that they can support themselves when they return home to Michigan. In addition, the Federal government has established the goal that it award not less than 3% of its expenditures each year to disabled veterans, and the DMB should achieve the same goal.

Response: By referring to "10% of the amount of the contract", the bill is unclear as to whether the preference is to be based on the value of an awarded contract or on what the DMB actually spends. According to the DMB, the winning bid on a contract valued at \$1 million can be as low as \$500,000. Under the bill, there may some question as to whether a qualified disabled veteran would receive a \$100,000 preference or a \$50,000 preference in this scenario.

Opposing Argument

The DMB tracks whether a business with which it contracts is owned by a disabled person or by a veteran, but not every disabled business-owning veteran has a service-connected disability, as defined under Federal law. It is often difficult to determine whether a disabled veteran's disability came about as a result of his or her service because the relevant documentation may be inaccessible or no longer exist. Indeed, the Federal government often has trouble verifying whether a business is owned by a veteran with a service-connected disability when it is awarding contracts. The bill puts the DMB in a position of having to determine whether a veteran is qualified based upon incomplete or unavailable information.

Legislative Analyst: J.P. Finet
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FISCAL IMPACT

The bill will have an indeterminate impact on State government depending on the number and value of contracts awarded based on the preference for qualified disabled veterans.

Fiscal Analyst: Bill Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.