AN ACT

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:

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 Chapter 37-2.2 entitled "Disability Business Enterprises" are hereby amended to read as follows:

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

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

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

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

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

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

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

(iii) Pre-vocational evaluation or recreational therapy;

(iv) Physical and occupational therapy;

(v) Speech and hearing services;

(vi) Psychological and social services;

(vii) Evaluation;

(viii) Personal and work adjustment;

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

(x) Evaluation or control of special disabilities; and

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

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

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

(6) "A physical or mental impairment" shall mean any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or any mental psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
(2) "Vocational rehabilitation services" shall mean any goods and services including diagnostic and related services necessary to render a person with a disability fit to engage in a gainful occupation and services to the families of persons with disabilities when those services will contribute substantially to the rehabilitation of those individuals.

37-2-2-3.1. Policy and applicability. -- (a) It is the policy of the state of Rhode Island that small disadvantaged disability businesses shall have the maximum opportunity to participate in the performance of procurements and projects as outlined in this chapter. This chapter shall apply to any and all state purchasing, including, but not limited to, the procurement of goods and services, construction projects, or contracts funded in whole or in part by state funds, or funds which, in accordance with a federal grant or otherwise, the state expends or administers or in which the state is a signatory to the construction contract.

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

37-2-2-4. Disability business enterprise committee -- Membership -- Duties. -- (a) There is hereby established within the governor's commission on disabilities a committee, consisting of nine (9) persons, to be known as the disability business enterprise committee.

(b) The committee, shall consist of the director of the department of human services or his or her designee; the director of the department of behavioral healthcare, developmental disabilities and hospitals or his or her designee; the director of the economic development corporation or his or her designee; the state purchasing agent or his or her designee; and two (2) persons with disabilities and three (3) representatives of rehabilitation facilities in the state of Rhode Island appointed by the chairperson of the governor's commission on disabilities. All members of the committee shall serve without compensation. Of the number appointed originally under this chapter, one-third (1/3) shall be appointed for a term of one year; one-third (1/3) shall be appointed for a term of two (2) years; and one-third (1/3) shall be appointed for a term of three (3) years. Thereafter, vacancies created by expiration of terms shall be filled with appointments for terms of three (3) years. Members whose terms expire may be reappointed to succeed themselves. The chairperson of the governor's commission on disabilities or his or her designee shall serve as chairperson of the committee. The members of the
committee shall elect a vice chairperson and other officers as are necessary from amongst
themselves annually.

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

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

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

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

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

(c) A list describing the styles, designs, sizes, and varieties of articles made by persons
with disabilities and describing all available services and subcontract work which can be provided
by those persons shall be prepared by the governor's commission on disabilities, disability
business enterprise committee in cooperation with the state office of rehabilitation services. The
governor’s commission on disabilities shall cooperate with various facilities for persons with
disabilities by submitting necessary information concerning the products and services to the state
purchasing agent.

SECTION 3. This act shall take effect upon passage.
EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO PUBLIC PROPERTY AND WORKS - SMALL DISABILITY BUSINESS ENTERPRISES

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

This act would take effect upon passage.

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