

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2141 Session of
2012

INTRODUCED BY BUXTON, WHEATLEY, READSHAW, BRADFORD, CALTAGIRONE,
DALEY, JOSEPHS, MYERS AND YOUNGBLOOD, JANUARY 23, 2012

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JANUARY 23, 2012

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, in small and disadvantaged businesses, further
3 providing for definitions; and providing for authority to
4 waive employee limit.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. The introductory paragraph and the definitions of
8 "disadvantaged business" in section 2102 of Title 62 of the
9 Pennsylvania Consolidated Statutes are amended and the section
10 is amended by adding definitions to read:

11 § 2102. Definitions.

12 [Subject] Notwithstanding section 103 (relating to
13 definitions) and subject to section 2103 (relating to
14 regulations), the following words and phrases when used in this
15 chapter shall have the meanings given to them in this section
16 unless the context clearly indicates otherwise:

17 "Disadvantaged business." A small business which is owned or
18 controlled by a majority of persons, not limited to members of
19 minority groups, who:

1 (1) have been deprived of the opportunity to develop and
2 maintain a competitive position in the economy because of
3 social disadvantages[.]; or

4 (2) are veterans, including service-disabled veterans.

5 "Service-disabled veteran." A veteran who possesses either
6 an adjudication letter from the United States Veterans'
7 Administration establishing a service-connected disability
8 rating or a disability determination from the United States
9 Department of Defense.

10 "Veteran." An individual who:

11 (1) Served in the active United States military in any
12 of the four current branches and all previous branches,
13 including a reserve component or the National Guard.

14 (2) Was released or discharged from active military
15 service under conditions other than dishonorable.

16 (3) Possesses a certificate of release or discharge from
17 active duty.

18 Section 2. Title 62 is amended by adding a section to read:
19 § 2104.1. Authority to waive employee limit.

20 (a) Authority to waive.--The department or a Commonwealth
21 agency may, at its discretion and where it is determined to be
22 in the best interest of this Commonwealth, waive the small
23 business employee limit requirement in order to promote and
24 create economic opportunities for disadvantaged businesses.

25 (b) Inclusion of employee limit in bid document.--The
26 department or a Commonwealth agency shall inform prospective
27 bidders of the decision to waive the small business employee
28 limit for disadvantaged businesses by including notice of the
29 waiver in the invitation for bid, request for proposal or any
30 other bid document that is subject to an employee limit waiver,

1 prior to its release for bidding purposes by the department or a
2 Commonwealth agency.

3 (c) Subsequent determination to waive notice.--If the
4 department or a Commonwealth agency determines that the small
5 business employee limit should be waived subsequent to the
6 release of an invitation for bid, request for proposal or any
7 other such bid document, the department or Commonwealth agency
8 shall take appropriate action to ensure the inclusion of
9 disadvantaged businesses in bidding requirements and provide
10 prompt notice to all prospective bidders of the determination to
11 waive the small business employee limit.

12 (d) Report.--The department shall include in its annual
13 report to the General Assembly information on its use of the
14 small business employee limit waiver authorized under this
15 section. The report shall include, but may not be limited to,
16 the following information for the preceding calendar year:

17 (1) The number of times the employee limit was waived
18 prior to the release of an invitation for bid, request for
19 proposal or other bid document and the reason for imposing
20 the waiver.

21 (2) The number of times the employee limit was waived
22 following the release of an invitation for bid, request for
23 proposal or other bid document and the reason for the
24 subsequent determination to waive the small business employee
25 limit requirement.

26 (3) The identity and geographic location of the
27 disadvantaged businesses subject to an employee limit waiver.

28 (4) The number of employees of each disadvantaged
29 business subject to an employee limit waiver.

30 (5) The dollar amount of each contract awarded which

1 included a small business employee limit waiver.

2 (e) Applicability.--The provisions of this section shall

3 apply to any eligible "disadvantaged business" as defined under

4 section 2102 (relating to definitions).

5 Section 3. This act shall take effect immediately.