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House of Representatives
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

MEMORANDUM

TO: MEMBERS OF THE HOUSE OF REPRESENTATIVES

FROM: Rep Jake Wheatley, Jr.

DATE: December 13, 2011

SUBJECT: **Co-Sponsorship: Contracts to Promote Participation Amending the Act of May 27, 1953 (P.L.244, No.34)**

Briefly, my legislation would amend the Act of May 27, 1953 (P.L.244, No.34). My legislation would add provisions requiring the council of every corporate town to develop policies or guidelines to ensure that all persons are accorded equal opportunity in contracting, subcontracting, and purchasing. This legislation would further require that contracts for construction, reconstruction, alteration, repair, improvement or maintenance contain provisions by which contractors agree to promote, increase, and sustain contracting and subcontracting opportunities for disadvantaged businesses.

The term "disadvantaged business" is defined in the legislation to include minority, women, veteran, and service-disabled veteran business enterprises. Each corporate town could use the list of minority-owned, women-owned, and veteran-owned business enterprises as certified under the Department of General Services' disadvantaged business program to compete for and participate in the contracting process.

If you wish to join me as a sponsor of this legislation, please contact my Legislative Assistant, April Ashe, at aashe@pahouse.net or 783.3783.

AN ACT

1 Amending the act of May 27, 1953 (P.L.244, No.34), entitled "An
2 act relating to and regulating the contracts of incorporated
3 towns and providing penalties," providing for contracts to
4 promote participation.

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

7 Section 1. The act of May 27, 1953 (P.L.244, No.34),
8 entitled "An act relating to and regulating the contracts of
9 incorporated towns and providing penalties," is amended by
10 adding a section to read:

11 Section 3.2. Contracts to Promote Participation.--(a) The
12 council of each incorporated town shall develop, adopt and
13 implement binding policies or guidelines to ensure that all
14 persons are accorded equal opportunity in purchasing,
15 contracting and subcontracting associated with the construction,
16 reconstruction, alteration, repair, improvement or maintenance
17 of public works and purchase of materials, equipment or any
18 other supplies for the use of the incorporated town.

1 (b) Every contract for or on behalf of an incorporated town
2 for the construction, alteration, repair, improvement or
3 maintenance of any public building or other public works shall
4 contain provisions by which the contractor agrees to promote,
5 increase and sustain contracting and subcontracting
6 opportunities for disadvantaged businesses.

7 (c) The council shall ensure that a written record is made
8 of each written or telephonic price quotation that requires
9 advertisement and competitive bidding. Written price quotations,
10 written records of telephonic price quotations and memoranda
11 shall be retained for a period of three years. The written
12 record shall include, but not be limited to:

13 (1) The date of the quotation.

14 (2) The name and address of any disadvantaged small business
15 involved in the performance of the contract or purchase.

16 (3) Information concerning the subject contract or the
17 purchase of materials and supplies which were the subject of the
18 price quotation.

19 (4) The money value of the contract or the materials or
20 supplies.

21 (d) This section shall apply to:

22 (1) Any contract which is subject to competitive bidding.

23 (2) Any written price quotation or telephonic price
24 quotation which requires advertisement and competitive bidding
25 in accordance with the requirements of this act.

26 (3) All contractors, subcontractors, assignees, lessees,
27 agents, vendors and suppliers.

28 (4) Disadvantaged businesses.

29 (e) The council may use the lists of certified minority-
30 owned, women-owned and veteran-owned business enterprises which

1 have been certified under the Department of General Services'
2 disadvantaged business program to compete for and participate in
3 the incorporated town's contracting process. The Department of
4 General Services shall cooperate with and assist the council in
5 carrying out the requirements of this subsection.

6 (f) For the purpose of this section, the following words and
7 phrases shall have the meaning given to them in this subsection
8 unless the context clearly indicates otherwise:

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

12 (1) have been deprived of the opportunity to develop and
13 maintain a competitive position in the economy because of social
14 disadvantages; or

15 (2) are veterans, including service-disabled veterans.
16 The term shall include a small business which is owned or
17 controlled by a majority of persons who are veterans or service-
18 disabled veterans.

19 "Service-disabled veteran." A veteran who possesses either
20 an adjudication letter from the Department of Veterans Affairs
21 establishing a service-connected disability rating or a
22 disability determination from the Department of Defense.

23 "Small business." The term shall have the meaning given to
24 it in 62 Pa.C.S. § 2102 (relating to definitions).

25 "Veteran." An individual who:

26 (1) served in the active United States military in any of
27 the four current branches and all previous branches, including a
28 reserve component or the National Guard;

29 (2) was released or discharged from active military service
30 under conditions other than dishonorable; and

1 (3) possesses a certificate of release or discharge from
2 active duty.

3 Section 2. This act shall take effect in 60 days.