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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 Borough Code**

In the near future, I plan to introduce legislation that would amend the Borough Code.

Briefly, this legislation would add provisions requiring the council of each borough, 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 or maintenance of any building or other structure for the completion of any project or performance of work to 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. The Council of each borough 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 February 1, 1966 (1965 P.L.1656, No.581),
2 entitled "An act concerning boroughs, and revising, amending
3 and consolidating the law relating to boroughs," providing
4 for contracts to promote participation.

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

7 Section 1. The act of February 1, 1966 (1965 P.L.1656,
8 No.581), known as The Borough Code, is amended by adding a
9 section to read:

10 Section 1402.1. Contracts to Promote Participation.--(a)
11 The council of each borough shall develop, adopt and implement
12 binding policies or guidelines to ensure that all persons are
13 accorded equal opportunity in purchasing, contracting and
14 subcontracting associated with the construction, reconstruction,
15 alteration, improvement, repair or maintenance of any building
16 or other structure or for the completion of any project or
17 performance of any other work whatsoever and the purchasing of
18 any materials, equipment or any other supplies for the use of

1 the borough.

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

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

14 (1) The date of the quotation.

15 (2) The name and address of any disadvantaged small business
16 involved in the performance of the contract or acquisition of
17 materials, equipment or other supplies.

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

21 (4) The money value of the contract or the materials or
22 supplies.

23 (d) This section shall apply to:

24 (1) Any borough contract which is subject to competitive
25 bidding in accordance with this article.

26 (2) Any written or telephonic price quotation which requires
27 advertisement and competitive bidding in accordance with the
28 requirements of this article.

29 (3) All borough contractors, subcontractors, assignees,
30 lessees, agents, vendors and suppliers.

1 (4) Disadvantaged businesses.

2 (e) The council may use the lists of certified minority-
3 owned, women-owned and veteran-owned business enterprises which
4 have been certified under the Department of General Services'
5 disadvantaged business program to compete for and participate in
6 the borough's contracting process. The Department of General
7 Services shall cooperate with and assist the council in carrying
8 out the requirements of this subsection.

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

12 "Disadvantaged business" shall mean a small business which
13 is owned or controlled by a majority of persons, not limited to
14 members of minority groups, who:

15 (1) have been deprived of the opportunity to develop and
16 maintain a competitive position in the economy because of social
17 disadvantages; or

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

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

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

26 "Veteran" shall mean an individual who:

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

30 (2) was released or discharged from active military service

1 under conditions other than dishonorable; and

2 (3) possesses a certificate of release or discharge from

3 active duty.

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