

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 878 Session of
2001

INTRODUCED BY FAIRCHILD, M. BAKER, BISHOP, CAPPELLI, CLARK,
CLYMER, CORRIGAN, CREIGHTON, DAILEY, DeWEESE, EACHUS,
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STEELMAN, STERN, STRITTMATTER, SURRA, E. Z. TAYLOR,
J. TAYLOR, TRELLO, WILT AND WOJNAROSKI, MARCH 12, 2001

REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 12, 2001

AN ACT

1 Amending Title 62 (Procurement) of the Pennsylvania Consolidated
2 Statutes, further providing for supplies manufactured and
3 services performed by persons with disabilities.

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

6 Section 1. Section 520 of Title 62 of the Pennsylvania
7 Consolidated Statutes is amended to read:

8 § 520. Supplies manufactured and services performed by persons
9 with disabilities.

10 (a) General rule.--Contracts for supplies manufactured by
11 and services performed by persons with disabilities shall be
12 entered into in accordance with this section without the
13 requirement for competitive bidding. Persons with disabilities
14 must make an appreciable contribution in manufacturing an item
15 or performing a service.

1 (b) Fair market price.--Upon request of the department and
2 notice to the purchasing agency, the department shall determine
3 the fair market price of any supply manufactured by or service
4 performed by persons with disabilities and offered for sale to
5 any Commonwealth agency by an agency for persons with
6 disabilities. The department shall revise the prices in
7 accordance with changing market conditions.

8 (c) Distribution.--At the request of the department, the
9 Department of Public Welfare or a nonprofit agency with the
10 approval of the Department of Public Welfare shall facilitate
11 the distribution of orders for supplies manufactured by or
12 services performed by persons with disabilities among agencies
13 for persons with disabilities.

14 (d) Procurement of supplies manufactured and services
15 performed by persons with disabilities.--Except as provided in
16 subsection (e), all supplies manufactured by and services
17 furnished by persons with disabilities shall be procured in
18 accordance with applicable specifications of the department or
19 other Commonwealth agencies from any agency for persons with
20 disabilities whenever the supplies and services are available at
21 a price determined by the department to be the fair market
22 price. The head of a purchasing agency shall annually discuss
23 its needs for supplies or services with any agency for persons
24 with disabilities.

25 (e) Procurement from Commonwealth agency.--If any supply
26 manufactured by or any service performed by persons with
27 disabilities and offered for sale is available for procurement
28 from any Commonwealth agency and this part or any other statute
29 requires the procurement of the supply or service from the
30 Commonwealth agency, then the procurement of the supply or

1 service shall be made in accordance with the other provisions.

2 (f) Exception.--Notwithstanding subsection (h), when the
3 Commonwealth enters into a contract under this section for the
4 operation of the Commonwealth's driver's license photo centers,
5 at least 70% of the amount paid by the Commonwealth shall be
6 used to cover payment of wages and salaries to persons with
7 disabilities and to cover actual manufacturing costs, real
8 estate lease costs, property insurance and other costs which are
9 specifically required by contract.

10 (g) Application.--

11 (1) This section shall not supersede any contract
12 currently in force between a Commonwealth agency and another
13 party.

14 (2) Nothing in this section shall be construed as
15 conferring upon any party any right or interest in any
16 contract entered into with the Commonwealth.

17 (h) Definitions.--As used in this section, the following
18 words and phrases shall have the meanings given to them in this
19 subsection:

20 "Agency for persons with disabilities." Any charitable,
21 nonprofit agency incorporated under the laws of this
22 Commonwealth and approved by the department through which
23 persons with disabilities manufacture supplies or perform
24 services in this Commonwealth.

25 "Appreciable contribution."

26 (1) Except as provided in paragraph (2), the department
27 shall determine whether the contribution by individuals with
28 disabilities is appreciable. Persons with disabilities must
29 make an appreciable contribution in manufacturing an item or
30 performing a service.

1 (2) At least 75% of the personnel either engaged in the
2 direct labor of manufacturing of a product or engaged in the
3 direct labor in performing a service in this Commonwealth
4 must be visually impaired, mentally retarded, mentally ill or
5 physically disabled. In addition, at least 75% of the amount
6 paid by the Commonwealth agency for the product or the
7 service shall be remitted to the agency for persons with
8 disabilities to cover payment of wages and salaries to
9 persons with disabilities and to cover other actual
10 manufacturing costs incurred by the agency for persons with
11 disabilities in manufacturing of a product.

12 "Manufactured." The transformation of raw materials or the
13 assembly of essential component parts or a combination of both
14 in the production of an item, which is different in form,
15 composition or character from the raw materials or the essential
16 component parts.

17 "Mentally ill." A severe personality or behavioral disorder
18 that constitutes a substantial impediment to employment and
19 which prevents the individual from engaging in normal
20 competitive employment. Those disorders caused by substance
21 abuse or chemical dependency are not included.

22 "Mentally retarded." Subaverage general intellectual
23 functioning which originates during the developmental period and
24 is associated with the impairment of maturation, learning or
25 social adjustment.

26 "Performed." Labor provided to do the work to fulfill the
27 requirements of the contract.

28 "Persons with a disability." A person who is visually
29 impaired, mentally retarded, mentally ill or physically
30 disabled.

1 "Physically disabled." A limitation of most activities and
2 functioning by virtue of a severe impairment of the various
3 bodily systems which cannot be eliminated, modified or
4 substantially reduced by the usual rehabilitation services and
5 which precludes competitive employment.

6 "Services." While "services" is defined in section 103
7 (relating to definitions) of this part, for the purposes of this
8 section, the term specifically includes such packaging or
9 repackaging which, as determined by the department, provides a
10 substantial and real benefit to the Commonwealth agency which
11 needs the supplies to be packaged or repackaged. When packaging
12 or repackaging services are to be provided to a Commonwealth
13 agency by an agency for persons with disabilities, the
14 Commonwealth agency shall make the arrangements for the
15 procurement of the supplies to be packaged or repackaged.
16 Packaging or repackaging shall not be considered "services" if
17 the manufacturer usually packages or repackages the supplies, in
18 the quantity required by the agency, as a part of its
19 manufacturing and distribution process.

20 ["Supply manufactured by or service performed by person with
21 disabilities." At least 75% of the personnel either engaged in
22 the direct labor of manufacturing of a product or engaged in the
23 direct labor in performing a service in this Commonwealth must
24 be visually impaired, mentally retarded or physically disabled.
25 In addition, at least 75% of the amount paid by the Commonwealth
26 agency for the product or the service shall be remitted to the
27 agency for persons with disabilities to cover payment of wages
28 and salaries to persons with disabilities and to cover other
29 actual manufacturing costs incurred by the agency for persons
30 with disabilities in manufacturing of a product.]

1 "Visually impaired." A condition in which central visual
2 acuity does not exceed 20/200 in the better eye with correcting
3 lenses or in which the widest diameter of the visual field
4 subtends an angle no greater than 20 degrees.

5 Section 2. This act shall take effect in 30 days.