

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1600 Session of 2015

INTRODUCED BY MACKENZIE, ACOSTA, BARRAR, BIZZARRO, CORBIN, D. COSTA, DRISCOLL, FEE, GROVE, A. HARRIS, JOZWIAK, KINSEY, KNOWLES, MALONEY, McNEILL, MILLARD, MURT, NEILSON, READSHAW, ROZZI, SCHLOSSBERG, SCHWEYER, THOMAS, WARD, WARNER, WHITE, COHEN, GILLEN, ROTHMAN, BRADFORD AND KORTZ, SEPTEMBER 29, 2015

AS REPORTED FROM COMMITTEE ON COMMERCE, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 16, 2016

AN ACT

1 Amending ~~Titles~~ TITLE 51 (Military Affairs) ~~and 74~~ <--
2 ~~(Transportation)~~ of the Pennsylvania Consolidated Statutes,
3 in veteran-owned small businesses, further providing for
4 definitions, AND for regulations, ~~for participation goal, for~~ <--
5 ~~duties of Department of General Services, for bonding and~~
6 ~~progress payments and for reports, AND providing for business~~ <--
7 ~~fee exemption, making editorial changes, in administrative~~ <--
8 ~~practice and procedure, further providing for diverse~~
9 ~~business participation, and providing for the status of a~~
10 ~~veteran owned small business and a service disabled veteran~~
11 ~~owned small business.~~

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Chapter 96 of Title 51 of the Pennsylvania
15 Consolidated Statutes is amended by adding a subchapter heading
16 to read:

SUBCHAPTER A

PRELIMINARY PROVISIONS

19 Section 2. Section 9601 of Title 51 is amended to read:
20 § 9601. Definitions.

1 Subject to section 9602 (relating to regulations), the
2 following words and phrases when used in this chapter shall have
3 the meanings given to them in this section unless the context
4 clearly indicates otherwise:

5 "Commonwealth agency." As defined in 62 Pa.C.S. § 103
6 (relating to definitions).

7 "Executive agency." As defined in 62 Pa.C.S. § 103 (relating
8 to definitions).

9 "Purchasing agency." As defined in 62 Pa.C.S. § 103
10 (relating to definitions).

11 †"Service-disabled." Being in possession of: <--

12 (1) a disability rating letter issued by the United
13 States Department of Veterans Affairs; or

14 (2) a disability determination from the United States
15 Department of Defense.

16 "Service-disabled veteran-owned small business." A small
17 business owned and controlled by:

18 (1) a service-disabled veteran or veterans; or

19 (2) if approved by the Department of General Services, a
20 surviving spouse or permanent caregiver of a service-disabled
21 veteran.† <--

22 "Small business." As defined in 62 Pa.C.S. § 2102 (relating
23 to definitions).

24 "State-affiliated entity." As defined in 62 Pa.C.S. § 103
25 (relating to definitions).

26 "Veteran." [An individual who served on active duty in the
27 United States Armed Forces, including any of the following:

28 (1) A reservist or member of the National Guard who was
29 discharged or released from the service under honorable
30 conditions.

1 (2) A reservist or member of the National Guard who
2 completed an initial term of enlistment or qualifying period
3 of service.

4 (3) A reservist or member of the National Guard who was
5 disabled in the line of duty during training.] An individual
6 who served in the United States Armed Forces, including a
7 reserve component or the National Guard, and who was
8 discharged or released from service under conditions other
9 than dishonorable.

10 "Veteran-owned small business." A small business owned and
11 controlled by a veteran or veterans.

12 Section 3. Chapter 96 of Title 51 is amended by adding a
13 subchapter heading to read:

14 SUBCHAPTER B

15 PARTICIPATION

16 Section 4. ~~Sections 9602, 9603, 9604, 9605 and 9607 of Title <--~~
17 ~~51 are amended to read:~~ SECTION 9602 OF TITLE 51 IS AMENDED TO <--
18 READ:

19 § 9602. Regulations.

20 (a) Promulgation.--The Department of General Services shall
21 establish policy in accordance with this [chapter] subchapter
22 for executive agencies and independent agencies and may, in
23 consultation with the department, promulgate regulations
24 establishing detailed definitions of the words and phrases
25 defined in section 9601 (relating to definitions) using, in
26 addition to the criteria set forth in section 9601, other
27 criteria as it deems appropriate, including the number of
28 employees and the dollar volume of business.

29 (b) Implementation.--State-affiliated entities shall
30 implement the policy for their procurement programs.

1 (c) Antifraud provisions.--The Department of General
2 Services shall establish policy and promulgate regulations
3 establishing antifraud provisions to deter and penalize
4 businesses that are not owned by †those who are service-disabled <--
5 or by† veterans but who falsely claim that they are in order to <--
6 receive any action authorized by this [chapter] subchapter.

7 (d) Notice.--Notice of the antifraud provisions and an
8 e-mail address and telephone number to report violations of the
9 antifraud provisions to the Department of General Services shall
10 be included, if feasible, in any application to be certified or
11 to be included in any source list authorized by this [chapter]
12 subchapter. The Department of General Services shall include in
13 its annual reports to the General Assembly information about the
14 number of businesses penalized for violating antifraud
15 provisions.

16 ~~§ 9603. Participation goal.~~ <--

17 ~~A Statewide annual goal of not less than 3% participation by~~
18 ~~veteran owned small businesses[, including service disabled~~
19 ~~veteran owned small businesses,] is established. The~~
20 ~~participation goal shall apply to the total value of all~~
21 ~~contracts available to small businesses in each fiscal year.~~

22 ~~§ 9604. Duties of Department of General Services.~~

23 ~~The Department of General Services, with the assistance of~~
24 ~~the department, shall have the following duties:~~

25 ~~(1) If feasible, provide appropriate staff, who shall be~~
26 ~~responsible to the Department of General Services and who~~
27 ~~shall serve within designated Commonwealth agencies to assist~~
28 ~~veteran owned small businesses [and service disabled veteran~~
29 ~~owned small businesses] in this Commonwealth in learning how~~
30 ~~to do business with Commonwealth agencies.~~

1 ~~(2) Give special publicity to procurement procedures and~~
2 ~~issue special publications designed to assist veteran owned~~
3 ~~small businesses [and service disabled veteran owned small~~
4 ~~businesses] in learning how to do business with Commonwealth~~
5 ~~agencies.~~

6 ~~(3) Compile, maintain and make available source lists of~~
7 ~~veteran owned small businesses [and service disabled veteran~~
8 ~~owned small businesses] for the purpose of encouraging~~
9 ~~procurement from veteran owned small businesses.~~

10 ~~(4) Include veteran owned small businesses [and service~~
11 ~~disabled veteran owned small businesses] on solicitation~~
12 ~~mailing lists.~~

13 ~~(5) Assure that veteran owned small businesses [and~~
14 ~~service disabled veteran owned small businesses] are~~
15 ~~solicited on procurements for which the businesses may be~~
16 ~~suited.~~

17 ~~(6) Develop special training programs to assist veteran~~
18 ~~owned small businesses [and service disabled veteran owned~~
19 ~~small businesses] in learning how to do business with~~
20 ~~Commonwealth agencies.~~

21 ~~(7) Assure that participation by veteran owned small~~
22 ~~businesses [and service disabled veteran owned small~~
23 ~~businesses] is, if appropriate, factored into the evaluation~~
24 ~~of proposals for supplies, services or construction when a~~
25 ~~purchasing agency uses the competitive sealed proposals~~
26 ~~method under 62 Pa.C.S. § 513 (relating to competitive sealed~~
27 ~~proposals).~~

28 ~~(8) Verify the current certification of businesses~~
29 ~~claiming to be certified as veteran owned small businesses~~
30 ~~[and service disabled veteran owned small businesses].~~

1 ~~§ 9605. Bonding and progress payments.~~

2 ~~(a) Bonding. Notwithstanding 62 Pa.C.S. Pt. I (relating to~~
3 ~~Commonwealth Procurement Code):~~

4 ~~(1) Except as provided in paragraph (2), a purchasing~~
5 ~~agency may reduce the level or change the types of bonding~~
6 ~~normally required or accept alternative forms of security to~~
7 ~~the extent reasonably necessary to encourage procurement from~~
8 ~~veteran owned small businesses [and service disabled veteran~~
9 ~~owned small businesses].~~

10 ~~(2) For contracts under \$25,000, veteran owned small~~
11 ~~businesses [and service disabled veteran owned small~~
12 ~~businesses] shall be exempt from any bonding requirements.~~

13 ~~(b) Progress payments. A purchasing agency may make special~~
14 ~~provisions for progress payments as it deems reasonably~~
15 ~~necessary to encourage procurement from veteran owned small~~
16 ~~businesses [and service disabled veteran owned small~~
17 ~~businesses].~~

18 ~~§ 9607. Reports.~~

19 ~~(a) Report to Department of General Services. By August 15,~~
20 ~~2013, and each August 15 thereafter, each executive agency and~~
21 ~~independent agency shall submit an annual report for the period~~
22 ~~of July 1 to June 30 to the Department of General Services on~~
23 ~~actual utilization of veteran owned small businesses [and~~
24 ~~service disabled veteran owned small businesses] as contractors,~~
25 ~~subcontractors, suppliers and professional service providers.~~

26 ~~(b) Report to standing committees.~~

27 ~~(1) The Department of General Services and each State~~
28 ~~affiliated entity shall annually, before October 1, report in~~
29 ~~writing to the Veterans Affairs and Emergency Preparedness~~
30 ~~Committee of the Senate and the Veterans Affairs and~~

1 ~~Emergency Preparedness Committee of the House of~~
2 ~~Representatives the actual utilization, Statewide and by each~~
3 ~~purchasing agency, of veteran owned small businesses [and~~
4 ~~service disabled veteran owned small businesses] during the~~
5 ~~preceding fiscal year.~~

6 ~~(2) The report shall include a list of all veteran owned~~
7 ~~small businesses [and service disabled veteran owned small~~
8 ~~businesses] that participated as contractors, subcontractors,~~
9 ~~suppliers and professional service providers during the~~
10 ~~preceding fiscal year.~~

11 ~~(3) Initial reports under this subsection shall be~~
12 ~~submitted to the standing committees by October 1, 2013.~~

13 Section 5. Chapter 96 of Title 51 is amended by adding a
14 subchapter to read:

15 SUBCHAPTER C

16 BUSINESS FEE EXEMPTION

17 Sec.

18 9610. Definitions.

19 9611. Exemption.

20 § 9610. Definitions.

21 As used in this subchapter, the following words and phrases
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Business fee." A fee required to be paid to the
25 Commonwealth or an instrumentality of the Commonwealth for
26 starting or opening a business within this Commonwealth. THE <--
27 TERM DOES NOT INCLUDE A FEE FOR MAINTAINING LICENSURE OR OTHER
28 REQUIREMENT FOR CONTINUING TO OPERATE A BUSINESS.

29 § 9611. Exemption.

30 (a) Payment.--A veteran-owned small business shall be exempt

1 from the payment of a business fee.

2 (b) Proof.--A veteran must provide the department with proof
3 of the veteran's status using any of the following:

4 (1) A copy of a Federal DD-214 form.

5 (2) A copy of a Federal NGB-22 form.

6 (3) A valid Federal Veterans' Administration card.

7 ~~(4) An identification card issued under 75 Pa.C.S. §~~ <--
8 ~~1510(a.1) (relating to issuance and content of driver's~~
9 ~~license).~~

10 (c) Status.--The Department of State, in consultation with
11 ~~the department, shall~~ OTHER COMMONWEALTH AGENCIES, MAY determine <--
12 an applicant's status as a veteran in accordance with this
13 section.

14 (d) Offenses.--

15 (1) A person who fraudulently obtains a business fee
16 exemption commits a misdemeanor of the third degree.

17 (2) A person assigning, transferring or attempting to
18 assign or transfer a business fee exemption or using or
19 attempting to use a business fee exemption contrary to this
20 section commits a misdemeanor of the third degree.

21 (e) Reporting.--The Department of State shall annually
22 determine the total number of business fee exemptions issued
23 under this section.

24 ~~Section 6. The definitions of "diverse business" and~~ <--
25 ~~"service disabled veteran owned small business" in section~~
26 ~~303(b) of Title 74 are amended to read:~~

27 ~~§ 303. Diverse business participation.~~

28 ~~***~~

29 ~~(b) Definitions. As used in this section, the following~~
30 ~~words and phrases shall have the meanings given to them in this~~

1 subsection:

2 * * *

3 ~~"Diverse business." A disadvantaged business, minority owned~~
4 ~~or women owned business [or service disabled veteran owned] or~~
5 ~~veteran owned small business that has been certified by a third~~
6 ~~party certifying organization.~~

7 * * *

8 ~~["Service disabled veteran owned small business." As defined~~
9 ~~in 51 Pa.C.S. § 9601 (relating to definitions).]~~

10 * * *

11 Section ~~7~~ 6. The amendment of 51 Pa.C.S. §§ 9601,~~9602,~~ <--
12 ~~9603, 9604, 9605 and 9607 and the definitions of "diverse~~
13 ~~business" and "service disabled veteran owned small business" in~~
14 ~~74 Pa.C.S. § 303(b) AND 9602 shall not affect nor impair the~~ <--
15 status of any of the following under 51 Pa.C.S. Ch. 96 or 74
16 Pa.C.S.:

- 17 (1) A veteran-owned small business.
- 18 (2) A service-disabled veteran-owned small business.

19 Section ~~8~~ 7. This act shall take effect in 60 days. <--