

Second Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 16-0460.01 Nicole Myers x4326

HOUSE BILL 16-1134

HOUSE SPONSORSHIP

Carver, Landgraf, Lee, Priola, Roupe

SENATE SPONSORSHIP

Todd,

House Committees
Business Affairs and Labor

Senate Committees

A BILL FOR AN ACT

101 CONCERNING MODIFICATIONS TO THE SERVICE-DISABLED
102 VETERAN-OWNED SMALL BUSINESSES PREFERENCE IN STATE
103 PROCUREMENT.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)

In 2014, the general assembly established a goal that, in awarding contracts that are subject to the state "Procurement Code", the state would award at least 3% of all contracts by dollar value to service-disabled veteran-owned small businesses. The bill changes the procurement goal into a requirement as follows:

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

- ! In the 2016-17 fiscal year, at least one percent of state contracts by dollar value shall be awarded to service-disabled veteran-owned small businesses;
- ! In the 2017-18 fiscal year, at least 2% of state contracts by dollar value shall be awarded to service-disabled veteran-owned small businesses; and
- ! In the 2018-19 fiscal year and in each fiscal year thereafter, at least 3% of state contracts by dollar value shall be awarded to service-disabled veteran-owned small businesses.

Current law allows a state agency to grant a preference to a service-disabled veteran-owned small business to satisfy the procurement goal. The bill maintains the ability for a state agency to grant such a preference to satisfy the procurement requirement and also allows a state agency to grant a preference for a business that includes in its bid that it will use at least one service-disabled veteran-owned small business as a subcontractor if the business is awarded the contract. The bill also authorizes a state agency to include work performed by a subcontractor that is a service-disabled veteran-owned small business to satisfy the procurement requirements.

If a business is given a preference on the basis of using one or more service-disabled veteran-owned small businesses as a subcontractor, the bill requires the business to submit certain information to the state agency that awarded the contract regarding the number of such subcontractors used and the approximate dollar value of work that was performed by such subcontractors.

Current law requires a business to be certified as a service-disabled veteran-owned small business by the center for veterans enterprise within the United States department of veterans affairs before being given a preference. Due to the significant amount of time that it takes for a business owner to obtain a service-disabled veteran-owned small business certification, the bill extends service-disabled veteran-owned eligibility to business owners who have applied for certification from the center for veterans enterprise and who have submitted certain documentation to the secretary of state's office regarding the business owner's release or discharge from active duty military, the business owner's military service-related disability, and the business owner's efforts to become an officially registered and verified service-disabled veteran-owned small business by the center for veterans enterprise.

The bill directs the secretary of state to create and maintain on its website a list of businesses that have not yet been officially registered and verified as a service-disabled veteran-owned small business by the center for veterans enterprise but that have submitted the required documentation for service-disabled veteran-owned small business eligibility. The bill specifies that businesses that are on the list maintained

by the secretary of state are eligible for a preference in state contracting and authorizes a state agency to include work performed by businesses on the list to satisfy the procurement requirements.

In addition, the bill modifies the information that a business must submit with a bid to be eligible to receive the preference and modifies existing reporting requirements.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 24-103-211
3 as follows:

4 **24-103-211. Service-disabled veteran-owned small businesses**
5 **- state procurement requirement - preference - definitions.** (1) As
6 used in this section, unless the context otherwise requires:

7 (a) "Service-disabled veteran-owned small business" means a
8 business that is:

9 (I) Incorporated or organized in the state or that is maintaining a
10 place of business or office in the state; ~~and~~

11 (II) OWNED BY A VETERAN WITH A DISABILITY THAT IS
12 SERVICE-CONNECTED, AS DEFINED IN 38 U.S.C. SEC. 101 (16);

13 (III) AT LEAST FIFTY-ONE PERCENT OWNED BY ONE OR MORE
14 SERVICE-DISABLED VETERANS OR, IN THE CASE OF ANY PUBLICLY OWNED
15 BUSINESS, AT LEAST FIFTY-ONE PERCENT OF THE STOCK IS OWNED BY ONE
16 OR MORE SERVICE-DISABLED VETERANS;

17 (IV) MANAGED AND CONTROLLED IN ITS DAILY BUSINESS
18 OPERATIONS BY ONE OR MORE SERVICE-DISABLED VETERANS, OR IN THE
19 CASE OF A VETERAN WITH A PERMANENT AND SEVERE DISABILITY, BY THE
20 SPOUSE OR PERMANENT CARE-GIVER OF SUCH VETERAN; AND

21 (V) (A) Officially registered and verified as a service-disabled
22 veteran-owned small business by the center for veterans enterprise within

1 the United States department of veterans affairs; OR

2 (B) ON THE LIST OF SERVICE-DISABLED VETERAN-OWNED SMALL
3 BUSINESSES MAINTAINED BY THE SECRETARY OF STATE PURSUANT TO
4 SUBSECTION (5) OF THIS SECTION.

5 (b) "State agency" means a principal department of the executive
6 branch of state government as specified in section 24-1-110, including
7 any division, office, agency, or other unit created within a principal
8 department, including institutions of higher education and the Colorado
9 commission on higher education; except that "state agency" does not
10 include those entities that have elected to be exempt from the code
11 pursuant to section 24-101-105 (1) (b).

12 (2) In awarding all contracts that are subject to this code, the ~~state~~
13 ~~shall have the goal of awarding at least three percent of all such contracts,~~
14 ~~by dollar value,~~ DIRECTOR OF THE DEPARTMENT OF PERSONNEL SHALL
15 WORK WITH STATE AGENCIES TO ENSURE THAT CONTRACTS ARE AWARDED
16 to service-disabled veteran-owned small businesses IN THE FOLLOWING
17 PERCENTAGES:

18 (a) IN THE 2016-17 FISCAL YEAR, AT LEAST ONE PERCENT OF ALL
19 STATE CONTRACTS BY DOLLAR VALUE;

20 (b) IN THE 2017-18 FISCAL YEAR, AT LEAST TWO PERCENT OF ALL
21 CONTRACTS BY DOLLAR VALUE; AND

22 (c) IN THE 2018-19 FISCAL YEAR AND IN EACH FISCAL YEAR
23 THEREAFTER, AT LEAST THREE PERCENT OF ALL CONTRACTS BY DOLLAR
24 VALUE.

25 (2.5) To satisfy ~~this goal~~ THE REQUIREMENTS SPECIFIED IN
26 SUBSECTION (2) OF THIS SECTION, a state agency may grant a preference,
27 INCLUDING A BIDDING PREFERENCE, for service-disabled veteran-owned

1 small businesses. A STATE AGENCY MAY ALSO GRANT A PREFERENCE FOR
2 A BUSINESS THAT SPECIFIES IN ITS BID THAT IT WILL USE AT LEAST ONE
3 SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS AS A
4 SUBCONTRACTOR IF THE BUSINESS IS AWARDED THE CONTRACT. A STATE
5 AGENCY MAY INCLUDE WORK PERFORMED BY A SUBCONTRACTOR THAT IS
6 A SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS TO SATISFY THE
7 REQUIREMENTS SPECIFIED IN SUBSECTION (2) OF THIS SECTION IN THE
8 DOLLAR AMOUNTS THAT A CONTRACTOR REPORTS TO THE AGENCY
9 PURSUANT TO SUBSECTION (3.5) OF THIS SECTION.

10 (3) When a state agency intends to award a contract to a business
11 in furtherance of the ~~three percent goal~~ REQUIREMENTS specified in
12 subsection (2) of this section, the state agency shall, prior to awarding the
13 contract, require the business to EITHER submit to the agency
14 documentation from the United States department of veterans affairs that
15 verifies that the business is a service-disabled veteran-owned small
16 business OR NOTIFY THE AGENCY THAT IT IS ON THE LIST OF
17 SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES MAINTAINED BY
18 THE SECRETARY OF STATE PURSUANT TO SUBSECTION (5) OF THIS SECTION.

19 (3.5) A CONTRACTOR THAT WAS GIVEN A PREFERENCE BY A STATE
20 AGENCY DUE TO THE CONTRACTOR'S USE OF ONE OR MORE
21 SUBCONTRACTORS THAT IS A SERVICE-DISABLED VETERAN-OWNED SMALL
22 BUSINESS SHALL PROVIDE THE STATE AGENCY WITH THE NUMBER OF
23 SERVICE-DISABLED VETERAN-OWNED BUSINESSES THAT IT HIRED AS
24 SUBCONTRACTORS TO PERFORM WORK ON THE CONTRACT AND THE
25 APPROXIMATE TOTAL DOLLAR VALUE OF THE WORK PERFORMED BY ALL
26 SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES THAT IT HIRED
27 AS SUBCONTRACTORS TO PERFORM WORK ON THE CONTRACT.

1 (4) On or before ~~September 30, 2015~~ SEPTEMBER 30, 2017, and
2 on or before September 30 each year thereafter, the executive director
3 shall submit a report regarding the state's ~~progress in satisfying the three~~
4 ~~percent goal~~ COMPLIANCE WITH THE REQUIREMENTS established in
5 SUBSECTION (2) OF this section to the department of military and veterans
6 affairs, the members of the Colorado board of veterans affairs, and to the
7 members of the committees of the house of representatives and the senate
8 that have jurisdiction over state affairs and veterans affairs. The report
9 shall include the following:

10 (a) The total number of contracts that all state agencies awarded
11 to service-disabled veteran-owned small businesses in the prior fiscal year
12 and the number of such contracts that each state agency awarded;

13 (b) The total dollar amount of contracts that all state agencies
14 awarded to service-disabled veteran-owned small businesses, THE
15 ESTIMATED TOTAL DOLLAR AMOUNT OF WORK PERFORMED ON CONTRACTS
16 BY SUBCONTRACTORS THAT ARE SERVICE-DISABLED VETERAN-OWNED
17 SMALL BUSINESSES in the prior fiscal year, and the percentage that THE
18 TOTAL OF such dollar ~~amount bears~~ AMOUNTS BEAR to the total dollar
19 amount of contracts awarded by all state agencies in the prior fiscal year;

20 (c) The total dollar amount of contracts that each state agency
21 awarded to service-disabled veteran-owned small businesses, THE
22 ESTIMATED TOTAL DOLLAR AMOUNT OF WORK PERFORMED ON CONTRACTS
23 BY SUBCONTRACTORS THAT ARE SERVICE-DISABLED VETERAN-OWNED
24 SMALL BUSINESSES in the prior fiscal year, and the percentage that THE
25 TOTAL OF such dollar ~~amount bears~~ AMOUNTS BEAR to the total dollar
26 amount of contracts awarded by the state agency in the prior fiscal year;
27 and

1 (d) The total number of service-disabled veteran-owned small
2 businesses that responded to solicitation for bids or proposals issued by
3 all state agencies in the prior fiscal year and the total number of such
4 businesses that responded to solicitations for bids or proposals issued by
5 each state agency.

6 (5) (a) THE SECRETARY OF STATE SHALL CREATE AND MAINTAIN
7 ON ITS WEBSITE A LIST OF SERVICE-DISABLED VETERAN-OWNED SMALL
8 BUSINESSES THAT ARE NOT YET OFFICIALLY REGISTERED AND VERIFIED AS
9 A SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS BY THE CENTER
10 FOR VETERANS ENTERPRISE WITHIN THE UNITED STATES DEPARTMENT OF
11 VETERANS AFFAIRS BUT THAT HAVE SUBMITTED THE DOCUMENTATION
12 REQUIRED IN PARAGRAPH (b) OF THIS SUBSECTION (5) TO THE SECRETARY
13 OF STATE.

14 (b) ANY SMALL BUSINESS THAT IS OWNED BY A SERVICE-DISABLED
15 VETERAN BUT THAT IS NOT YET OFFICIALLY REGISTERED AND VERIFIED AS
16 A SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS BY THE CENTER
17 FOR VETERANS ENTERPRISE WITHIN THE UNITED STATES DEPARTMENT OF
18 VETERANS AFFAIRS MAY SUBMIT THE FOLLOWING DOCUMENTS TO THE
19 SECRETARY OF STATE TO BE INCLUDED ON THE LIST OF SERVICE-DISABLED
20 VETERAN-OWNED SMALL BUSINESSES THAT IS MAINTAINED ON THE
21 SECRETARY OF STATE'S WEBSITE:

22 (I) A "DD FORM 214" OR SUCCESSOR CERTIFICATE OF RELEASE OR
23 DISCHARGE FROM ACTIVE DUTY MILITARY ISSUED BY THE UNITED STATES
24 DEPARTMENT OF DEFENSE FOR THE SMALL BUSINESS OWNER;

25 (II) OFFICIAL DOCUMENTATION ISSUED BY THE UNITED STATES
26 DEPARTMENT OF VETERANS AFFAIRS REGARDING THE SMALL BUSINESS
27 OWNER'S MILITARY SERVICE-RELATED DISABILITIES; AND

1 (III) AN AFFIDAVIT SIGNED BY THE SMALL BUSINESS OWNER
2 STATING THAT HE OR SHE HAS INITIATED THE PROCESS TO BECOME
3 OFFICIALLY REGISTERED AND VERIFIED AS A SERVICE-DISABLED
4 VETERAN-OWNED SMALL BUSINESS BY THE CENTER FOR VETERANS
5 ENTERPRISE WITHIN THE UNITED STATES DEPARTMENT OF VETERANS
6 AFFAIRS.

7 (c) UPON RECEIPT OF THE INFORMATION SPECIFIED IN PARAGRAPH
8 (b) OF THIS SUBSECTION (5) FROM A SMALL BUSINESS OWNER, THE
9 SECRETARY OF STATE SHALL ADD THE SMALL BUSINESS OWNER TO THE
10 LIST OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES.

11 (d) A SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS THAT
12 IS ON THE LIST OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES
13 SHALL NOTIFY THE OFFICE REGARDING THE OUTCOME OF ITS EFFORTS TO
14 BECOME OFFICIALLY REGISTERED AND VERIFIED AS A SERVICE-DISABLED
15 VETERAN-OWNED SMALL BUSINESS BY THE CENTER FOR VETERANS
16 ENTERPRISE WITHIN THE UNITED STATES DEPARTMENT OF VETERANS
17 AFFAIRS; EXCEPT THAT, IF THE SERVICE-DISABLED VETERAN-OWNED
18 SMALL BUSINESS WAS NOT OFFICIALLY REGISTERED AND VERIFIED BY THE
19 CENTER FOR VETERANS ENTERPRISE, THIS REQUIREMENT SHALL NOT TAKE
20 EFFECT UNTIL THE BUSINESS HAS EXHAUSTED ALL OF ITS OPPORTUNITIES
21 TO APPEAL THE DECISION OF THE CENTER FOR VETERANS ENTERPRISE OR
22 SUBMIT ADDITIONAL DOCUMENTATION REQUESTED BY THE CENTER FOR
23 VETERANS ENTERPRISE. IF THE BUSINESS WAS NOT OFFICIALLY REGISTERED
24 AND VERIFIED AS A SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESS,
25 THE SECRETARY OF STATE SHALL REMOVE THE BUSINESS FROM THE LIST
26 OF SERVICE-DISABLED VETERAN-OWNED SMALL BUSINESSES.

27 (e) DOCUMENTS SUBMITTED TO THE SECRETARY OF STATE

1 PURSUANT TO SUBPARAGRAPHS (I) AND (II) OF PARAGRAPH (b) OF THIS
2 SUBSECTION (5) ARE CONFIDENTIAL AND NOT SUBJECT TO THE "COLORADO
3 OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF THIS TITLE.

4 (f) THE SECRETARY OF STATE SHALL PROMULGATE RULES IN
5 ACCORDANCE WITH THE "STATE ADMINISTRATIVE PROCEDURE ACT",
6 ARTICLE 4 OF THIS TITLE, AS MAY BE NECESSARY TO IMPLEMENT AND
7 ADMINISTER THE REQUIREMENTS OF THIS SUBSECTION (5).

8 **SECTION 2. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly (August
11 10, 2016, if adjournment sine die is on May 11, 2016); except that, if a
12 referendum petition is filed pursuant to section 1 (3) of article V of the
13 state constitution against this act or an item, section, or part of this act
14 within such period, then the act, item, section, or part will not take effect
15 unless approved by the people at the general election to be held in
16 November 2016 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor.