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**ENGROSSED SENATE BILL 5041**

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**State of Washington**

**61st Legislature**

**2010 Regular Session**

**By** Senators Kilmer, Swecker, Hobbs, Shin, Kauffman, Franklin, Marr, Rockefeller, Haugen, Eide, Kastama, and McAuliffe; by request of Joint Committee on Veterans' and Military Affairs

Read first time 01/12/09. Referred to Committee on Government Operations & Elections.

1           AN ACT Relating to state contracts with veteran-owned businesses;  
2 amending RCW 43.60A.010, 43.19.536, 39.80.040, and 47.28.030; adding  
3 new sections to chapter 43.60A RCW; adding a new section to chapter  
4 43.19 RCW; adding a new section to chapter 28B.10 RCW; adding a new  
5 section to chapter 39.04 RCW; adding a new section to chapter 39.29  
6 RCW; and creating new sections.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8           NEW SECTION. **Sec. 1.** The legislature recognizes the unique  
9 sacrifices made by veterans and the substantial challenges that  
10 returning veterans face after a period of military duty away from home.  
11 The legislature further recognizes that veterans who own private  
12 businesses may face particular hardships as a direct result of their  
13 military service. The purpose of this act is to mitigate economic  
14 damage to veteran-owned businesses as a result of military service, and  
15 to provide opportunities to them in recognition of the outstanding  
16 service they have given to their country.

17           **Sec. 2.** RCW 43.60A.010 and 2006 c 343 s 2 are each amended to read  
18 as follows:

1 As used in this chapter the following words and phrases shall have  
2 the following meanings unless the context clearly requires otherwise:

3 (1) "Department" means the department of veterans affairs.

4 (2) "Director" means the director of the department of veterans  
5 affairs.

6 (3) "Committee" means the veterans affairs advisory committee.

7 (4) "Board" means the veterans innovations program board.

8 (5) "Goods and services" includes professional services and all  
9 other goods and services.

10 (6) "Procurement" means the purchase, lease, or rental of any goods  
11 or services.

12 (7) "State agency" includes the state of Washington and all  
13 agencies, departments, offices, divisions, boards, commissions, and  
14 correctional and other types of institutions.

15 (8) "Veteran-owned business" means a business that is certified by  
16 the department to be at least fifty-one percent owned and controlled  
17 by:

18 (a) A veteran as defined in RCW 41.04.007; or

19 (b) An active or reserve member in any branch of the armed forces  
20 of the United States, including the national guard, coast guard, and  
21 armed forces reserves.

22 NEW SECTION. Sec. 3. A new section is added to chapter 43.60A RCW  
23 to read as follows:

24 (1) The department shall develop a procedure for certifying  
25 veteran-owned businesses and maintain a list of veteran-owned  
26 businesses on the department's public web site.

27 (2) The department shall adopt rules necessary to implement this  
28 act. The department shall consult agencies to determine what specific  
29 information they must report to the department.

30 (3) The department shall collaborate with and may assist agencies  
31 in implementing outreach to veteran-owned businesses.

32 NEW SECTION. Sec. 4. A new section is added to chapter 43.60A RCW  
33 to read as follows:

34 (1) State agencies are encouraged to award three percent of all  
35 procurement contracts that are exempt from competitive bidding

1 requirements under RCW 43.19.1906(2) to veteran-owned businesses  
2 certified by the department under section 3 of this act.

3 (2) State agencies shall:

4 (a) Perform outreach to veteran-owned businesses in collaboration  
5 with the department to increase opportunities for veteran-owned  
6 businesses to sell goods and services to the state; and

7 (b) Work to match agency procurement records with the department's  
8 database of certified veteran-owned businesses to establish how many  
9 procurement contracts are being awarded to those businesses.

10 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.19 RCW  
11 to read as follows:

12 The department of general administration shall identify in the  
13 department's vendor registry all vendors that are veteran-owned  
14 businesses as certified by the department of veterans affairs under  
15 section 3 of this act.

16 **Sec. 6.** RCW 43.19.536 and 1983 c 120 s 13 are each amended to read  
17 as follows:

18 (1) All contracts entered into and purchases made, including  
19 leasing or renting, under this chapter on or after September 1, 1983,  
20 are subject to the requirements established under chapter 39.19 RCW.

21 (2) All procurement contracts entered into under this chapter on or  
22 after the effective date of this act are subject to the requirements  
23 established under section 4 of this act.

24 NEW SECTION. **Sec. 7.** A new section is added to chapter 28B.10 RCW  
25 to read as follows:

26 All procurement contracts entered into under this chapter on or  
27 after the effective date of this act are subject to the requirements  
28 established under section 4 of this act.

29 NEW SECTION. **Sec. 8.** A new section is added to chapter 39.04 RCW  
30 to read as follows:

31 All procurement contracts entered into under this chapter on or  
32 after the effective date of this act are subject to the requirements  
33 established under section 4 of this act.

1        NEW SECTION.    **Sec. 9.**    A new section is added to chapter 39.29 RCW  
2 to read as follows:

3        All procurement contracts entered into under this chapter on or  
4 after the effective date of this act are subject to the requirements  
5 established under section 4 of this act.

6        **Sec. 10.**    RCW 39.80.040 and 1981 c 61 s 4 are each amended to read  
7 as follows:

8        In the procurement of architectural and engineering services, the  
9 agency shall encourage firms engaged in the lawful practice of their  
10 profession to submit annually a statement of qualifications and  
11 performance data. The agency shall evaluate current statements of  
12 qualifications and performance data on file with the agency, together  
13 with those that may be submitted by other firms regarding the proposed  
14 project, and shall conduct discussions with one or more firms regarding  
15 anticipated concepts and the relative utility of alternative methods of  
16 approach for furnishing the required services and then shall select  
17 therefrom, based upon criteria established by the agency, the firm  
18 deemed to be the most highly qualified to provide the services required  
19 for the proposed project. Such agency procedures and guidelines shall  
20 include a plan to insure that minority and women-owned firms and  
21 veteran-owned firms are afforded the maximum practicable opportunity to  
22 compete for and obtain public contracts for services. The level of  
23 participation by minority and women-owned firms and veteran-owned firms  
24 shall be consistent with their general availability within the  
25 professional communities involved.

26        **Sec. 11.**    RCW 47.28.030 and 2007 c 218 s 90 are each amended to  
27 read as follows:

28        A state highway shall be constructed, altered, repaired, or  
29 improved, and improvements located on property acquired for  
30 right-of-way purposes may be repaired or renovated pending the use of  
31 such right-of-way for highway purposes, by contract or state forces.  
32 The work or portions thereof may be done by state forces when the  
33 estimated costs thereof are less than fifty thousand dollars and  
34 effective July 1, 2005, sixty thousand dollars: PROVIDED, That when  
35 delay of performance of such work would jeopardize a state highway or  
36 constitute a danger to the traveling public, the work may be done by

1 state forces when the estimated cost thereof is less than eighty  
2 thousand dollars and effective July 1, 2005, one hundred thousand  
3 dollars. When the department of transportation determines to do the  
4 work by state forces, it shall enter a statement upon its records to  
5 that effect, stating the reasons therefor. To enable a larger number  
6 of small businesses((7)) and veteran, minority, and women contractors  
7 to effectively compete for department of transportation contracts, the  
8 department may adopt rules providing for bids and award of contracts  
9 for the performance of work, or furnishing equipment, materials,  
10 supplies, or operating services whenever any work is to be performed  
11 and the engineer's estimate indicates the cost of the work would not  
12 exceed eighty thousand dollars and effective July 1, 2005, one hundred  
13 thousand dollars. The rules adopted under this section:

14 (1) Shall provide for competitive bids to the extent that  
15 competitive sources are available except when delay of performance  
16 would jeopardize life or property or inconvenience the traveling  
17 public; and

18 (2) Need not require the furnishing of a bid deposit nor a  
19 performance bond, but if a performance bond is not required then  
20 progress payments to the contractor may be required to be made based on  
21 submittal of paid invoices to substantiate proof that disbursements  
22 have been made to laborers, material suppliers, mechanics, and  
23 subcontractors from the previous partial payment; and

24 (3) May establish prequalification standards and procedures as an  
25 alternative to those set forth in RCW 47.28.070, but the  
26 prequalification standards and procedures under RCW 47.28.070 shall  
27 always be sufficient.

28 The department of transportation shall comply with such goals and  
29 rules as may be adopted by the office of minority and women's business  
30 enterprises to implement chapter 39.19 RCW with respect to contracts  
31 entered into under this chapter. The department may adopt such rules  
32 as may be necessary to comply with the rules adopted by the office of  
33 minority and women's business enterprises under chapter 39.19 RCW.

34 NEW SECTION. **Sec. 12.** This act is not intended to create a cause  
35 of action or entitlement in an individual or class of individuals.

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