

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-407
SENATE BILL 284

AN ACT TO REQUIRE THE DEPARTMENT OF ADMINISTRATION TO REVIEW STATE PROCUREMENT CONTRACT AWARDS BY BUSINESS SIZE CATEGORY AND TO REVIEW MEASURES TO ENCOURAGE PARTICIPATION BY SMALL AND MEDIUM-SIZED BUSINESSES IN STATE PROCUREMENT CONTRACTS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-48 reads as rewritten:

"§ 143-48. (See editor's note) State policy; cooperation in promoting the use of ~~small, minority, physically handicapped~~ small contractors, minority contractors, physically handicapped contractors, and women contractors; purpose; required annual reports.

(a) Policy. – It is the policy of this State to encourage and promote the use of ~~small, minority, physically handicapped~~ small contractors, minority contractors, physically handicapped contractors, and women contractors in State purchasing of goods and services. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage the use of ~~small, minority, physically handicapped~~ small contractors, minority contractors, physically handicapped contractors, and women contractors in achieving the purpose of this Article, which is to provide for the effective and economical acquisition, management and disposition of goods and services by and through the Department of Administration.

(b) Reporting. – Every governmental entity required by statute to use the services of the Department of Administration in the purchase of goods and services and every private, nonprofit corporation other than an institution of higher education or a hospital that receives an appropriation of five hundred thousand dollars (\$500,000) or more during a fiscal year from the General Assembly shall report to the department of Administration annually on what percentage of its contract purchases of goods and services, through term contracts and open-market contracts, were from minority-owned businesses, what percentage from female-owned businesses, what percentage from disabled-owned businesses, what percentage from disabled business enterprises and what percentage from nonprofit work centers for the blind and the severely disabled. The same governmental entities shall include in their reports what percentages of the contract bids for such purchases were from such businesses. The Department of Administration shall provide instructions to the reporting entities concerning the manner

of reporting and the definitions of the businesses referred to in this act, provided that, for the purposes of this act:

- (1) Except as provided in subdivision (1a) of this section, a business in one of the categories above means one:
 - a. In which at least fifty-one percent (51%) of the business, or of the stock in the case of a corporation, is owned by one or more persons in the category; and
 - b. Of which the management and daily business operations are controlled by one or more persons in the category who own it.
- (1a) A "disabled business enterprise" means a nonprofit entity whose main purpose is to provide ongoing habilitation, rehabilitation, independent living, and competitive employment for persons who are handicapped through supported employment sites or business operated to provide training and employment and competitive wages.
- (1b) A "nonprofit work center for the blind and the severely disabled" means an agency:
 - a. Organized under the laws of the United States or this State, operated in the interest of the blind and the severely disabled, the net income of which agency does not inure in whole or in part to the benefit of any shareholder or other individual;
 - b. In compliance with any applicable health and safety standard prescribed by the United States Secretary of Labor; and
 - c. In the production of all commodities or provision of services, employs during the current fiscal year severely handicapped individuals for (i) a minimum of seventy-five percent (75%) of the hours of direct labor required for the production of commodities or provision of services, or (ii) in accordance with the percentage of direct labor required under the terms and conditions of Public Law 92-28 (41 U.S.C. § 46, et seq.) for the production of commodities or provision of services, whichever is less.
- (2) A female or a disabled person is not a minority, unless the female or disabled person is also a member of one of the minority groups described in G.S. 143-128(2)a through d.
- (3) A disabled person means a person with a handicapping condition as defined in G.S. 168-1 or G.S. 168A-3.

(c) The Department of Administration shall compile information on small and medium-sized business participation in State contracts subject to this Article and report the information as provided in subsection (d) of this section. The report shall analyze (i) contract awards by business size category, (ii) historical trends in small and medium-sized business participation in these contracts, and (iii) to the extent feasible, participation by small and medium-sized businesses in the State procurement process as dealers, service companies, and other indirect forms of participation. The Department

may require reports on contracting by business size in the same manner as reports are required under subsection (b) of this section.

(d) The Department of Administration shall collect and compile the data described in this section and report it annually to the General Assembly.

(e) In seeking contracts with the State, a disabled business enterprise must provide assurances to the Secretary of Administration that the payments that would be received from the State under these contracts are directed to the training and employment of and payment of competitive wages to handicapped employees."

Section 2. The Department of Administration shall study measures to encourage and foster participation by small and medium-sized businesses in State procurement contract awards. The study shall review and consider, among other issues:

- (1) Methods to increase small and medium-sized businesses' knowledge of State procurement opportunities.
- (2) Methods to assist small and medium-sized businesses in bidding on State procurement contracts.
- (3) Submission of bids on State procurement contracts through joint ventures, partnerships, or other lawful means by which small and medium-sized businesses can submit consolidated bids for State procurement contracts.
- (4) Impact of current purchasing policies and procedures on small and medium-sized businesses.

No later than April 15, 2000, the Department shall report its findings and recommendations, including any legislative proposals, to the General Assembly by filing copies of the report with the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Legislative Library.

Section 3. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14th day of July, 1999.

s/ Dennis A. Wicker
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 9:50 p.m. this 5th day of August, 1999