

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Military Affairs and Domestic Security Committee

**BILL:** CS/SB 108

**INTRODUCER:** Military Affairs and Domestic Security Committee and Senator Fasano

**SUBJECT:** State Contracts/Disabled Veterans Business Enterprises

**DATE:** January 8, 2008      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pardue	McElroy	MS	Fav/CS
2.	_____	_____	GO	_____
3.	_____	_____	GA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**Please see Section VIII. for Additional Information:**

- |                              |                                     |   |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes        |
| B. AMENDMENTS.....           | <input type="checkbox"/>            | Technical amendments were recommended   |
|                              | <input type="checkbox"/>            | Amendments were recommended             |
|                              | <input type="checkbox"/>            | Significant amendments were recommended |

**I. Summary:**

This committee substitute bill provides for the establishment of a state contract award preference program for certified service-disabled veteran business enterprises. This bill defines a service-disabled veteran and a service-disabled veteran business enterprise and assigns duties to the Departments of Management Services and Veterans' Affairs in order to administer the program.

The fiscal impact of this bill on the government sector likely will be small as reported by the Departments of Management Services and Veterans' Affairs. The bill impacts the private sector in that it grants a contract award preference in the event that a certified service-disabled veteran business enterprise submits a bid or proposal that is equal in all relevant considerations to its competitors.

This bill creates an undesignated section of Florida Statutes and amends the following sections of the Florida Statutes (F.S.): 288.705 and 288.7015.

## II. Present Situation:

The federal government has established policies to encourage small business development. These include a requirement that a portion of federal government contracts be awarded to small businesses. Awarding such contracts is considered to be in the best interest of maintaining and mobilizing the nation's full productive capacity.<sup>1</sup> Federal statute further establishes a federal government-wide goal for participation of small business concerns owned and controlled by service-disabled veterans. This goal is established at not less than three percent of the total value of all prime contract and subcontract awards for each fiscal year.<sup>2</sup>

Florida also has undertaken a number of actions to encourage the development of small businesses. These include the establishment of:

- The Florida Small Business Development Center Network to assist in the growth of micro, small, and medium size business enterprises in Florida.<sup>3</sup>
- Programs to assist small and minority businesses in obtaining financing through private equity capital including the Florida Minority Business Loan Mobilization Program and the Florida Black Business Investment Board.<sup>4</sup>

## III. Effect of Proposed Changes:

This committee substitute bill provides legislative intent relating to rectifying the economic disadvantage of service-disabled veterans.

The bill defines "service-disabled veteran" as a veteran who has a service-connected disability of 10 percent or greater as determined by the U. S. Department of Veterans Affairs or who has been terminated from military service by reason of disability by the U. S. Department of Defense.

The bill defines a "service-disabled veteran business enterprise" as a business that:

- Is certified by the Department of Management Services according to stated criteria;
- Employs 200 or fewer permanent full-time employees;
- Has a total net worth of \$5 million or less;
- Is organized to engage in commercial transactions;
- Is domiciled in Florida;
- Is at least 51 percent owned by one or more service-disabled veterans; and
- Is controlled and managed on a daily basis by one or more service-disabled veterans or in the case of a service-disabled veteran with a permanent and total disability, by the spouse or permanent caregiver of the veteran.

The bill requires state agencies to award a competitive contract for the procurement of commodities or contractual services to a certified service-disabled veteran business enterprise if

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<sup>1</sup> 15 United States Code (USC) Section 644 (a).

<sup>2</sup> 15 USC Section 644 (g) (1).

<sup>3</sup> Source: Florida Small Business Development Center Network website, <http://www.floridasbdc.com>.

<sup>4</sup> Chapter 288, Part IV, Florida Statutes (F.S.),

the bid, proposal, or reply of the business is equal to other competitors with respect to all relevant considerations including price, quality, and service.

The bill further requires that in the case of competing service-disabled veteran business enterprises or businesses that are entitled to another vendor preference, if the bids or proposals are equal with respect to all relevant considerations including price, quality, or service then the business having the smallest net worth or average annual income shall receive the award.

The bill encourages political subdivisions of the state to offer similar considerations but does not require them to do so.

The bill provides for a certification procedure for service-disabled veteran business enterprises, an appeal process for those businesses that are denied certification, and a requirement for a biennial recertification. The bill further provides for a one year revocation of certification if a business fails to report any event as required by the act that significantly affects certification eligibility including but not limited to change in ownership or management. During the revocation period, a business may still continue to bid on state contracts but is ineligible for any preferences under this act until it is recertified.

The bill assigns duties to the Department of Veterans' Affairs including:

- Assisting the Department of Management Services in establishing a certification application procedure which shall be reviewed and updated biennially;
- Identifying eligible service-disabled veteran business enterprises and encouraging them to apply for certification; and
- Providing information to service-disabled veteran business enterprises regarding services that are available from the Office of Veterans' Business Outreach of the Florida Small Business Development Center.

The Department of Veterans' Affairs, subject to appropriation, is granted authority to contract with a private entity to carry out any of the duties specified in the act.

The bill assigns duties to the Department of Management Services including:

- Establishing a certification application procedure which shall be reviewed and updated biennially;
- Granting or rejecting certification of service-disabled veteran business enterprise applicants; and
- Maintaining an electronic directory of certified service-disabled veteran business enterprises for use by the state, political subdivisions, and the public.

The bill requires the Florida Small Business Development Center to include in its report under section 288.705, F.S., the percentage of certified service-disabled veteran business enterprises using the statewide contracts register.

The bill grants rule making authority to the Departments of Management Services and Veterans' Affairs to administer the act.

The bill amends section 288.705, F.S., to correct a reference to the Agency for Workforce Innovation and to include the reporting requirement given to the Small Business Development Center.

Section 288.7015, F.S., establishes a rules ombudsman in the Executive Office of the Governor to review the impact of state agency rules on businesses, particularly those relating to small and minority businesses. This bill amends the section to include service-disabled veteran business enterprises among the list of businesses that receive rules impact oversight.

The bill provides for an effective date of November 11, 2008.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The provisions of this committee substitute bill will only impact the award of state contracts in the event that the service-disabled veteran business enterprise's bid or proposal is equal to a competitor's bid or proposal with respect to all relevant considerations including price, quality, and service. In that event, the distribution of the contract award is affected.

C. Government Sector Impact:

The Departments of Management Services and Veterans' Affairs report that they expect minimal additional cost to administer this program. The number of disabled veterans who will seek certification under this program is unknown. However, according to data provided by the Department of Veterans' Affairs, there are approximately 320 service-disabled veterans' businesses in Florida currently registered under a federal disabled-veterans' business enterprise program.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

This committee substitute bill deletes provisions in the prior version of the bill including:

- A three percent preference goal in awarding contracts to service-disabled veteran business enterprises;
- A requirement for political subdivisions of the state to participate in the program;
- Authority that allows a service-disabled veteran business enterprise to retain certification in the event the majority owner veteran is deceased, and
- A requirement that state agencies and political subdivisions submit a quarterly report.

This committee substitute bill expands the authority of a spouse or a permanent caregiver to seek certification on behalf of a permanently and totally disable veteran. The committee substitute also provides for additional criteria in defining a service-disabled veteran business enterprise and adds provisions for:

- A certification application appeals process;
- A revocation of certification for a period of one year for failure to report significant events;
- Duties to be performed by the Departments of Management Services and Veterans' Affairs; and
- Rule making authority.

**B. Amendments:**

None.