

**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 Governmental Oversight and Accountability Committee

**BILL:** CS/SB 1574

**INTRODUCER:** Military Affairs, Space, and Domestic Security Committee and Senator Latvala

**SUBJECT:** Business Enterprise Opportunities for Wartime Veterans

**DATE:** April 7, 2011                      **REVISED:** \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	<b>Fav/CS</b>
2.	McKay	Roberts	GO	<b>Favorable</b>
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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

A. COMMITTEE SUBSTITUTE.....  Statement of Substantial Changes

B. AMENDMENTS.....  Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

**I. Summary:**

This bill amends s. 295.187, F.S., to expand the vendor preference in state contracting, which currently applies to qualified service-disabled veterans, to include certain businesses owned and operated by wartime veterans. This bill provides a definition of a “wartime veteran” to identify eligible veteran applicants, and requires applicants to provide documentation of wartime service from the United States Department of Veterans Affairs or the United States Department of Defense.

This bill substantially amends section 295.187 of the Florida Statutes.

**II. Present Situation:**

**Minority and Service-Disabled Veteran Business Enterprise Certification Programs**

The Office of Supplier Diversity (OSD) within the Department of Management Services (DMS) is dedicated to improving business and economic opportunities for Florida's minority, women,

and service-disabled veteran business enterprises.<sup>1</sup> Current law requires DMS, through OSD, to implement a minority business enterprise (MBE) certification program and a small service-disabled veteran business enterprise (SDVBE) certification program.<sup>2</sup> Minority-, women-, and service-disabled veteran-owned businesses that are certified through OSD are eligible for benefits such as: first tier referrals to state agencies for contract opportunities; business development guidance from established corporations; participation at regional workshops, seminars, and corporate roundtables; and inclusion in an exclusive listing of state-certified minority business enterprises in an online directory.<sup>3</sup> During fiscal year 2009-10, the OSD certified 4,617 minority-, woman-, and service-disabled veteran-owned business enterprises statewide.<sup>4</sup>

### **The Service-Disabled Veteran Business Enterprises Opportunity Act**

The intent of the Florida Service-Disabled Veteran Business Enterprise Opportunity Act<sup>5</sup> is to “rectify the economic disadvantage of service-disabled veterans, who are statistically the least likely to be self-employed when compared to the veteran population as a whole and who have made extraordinary sacrifices on behalf of the nation, the state, and the public, by providing opportunities for service-disabled veteran business enterprises as set forth in this section.”

Section 295.187, F.S., creates the certification process within DMS for SDVBEs. This section also creates a “tiebreaker” preference for SDVBEs by requiring a state agency, when considering two or more bids, proposals, or replies for the procurement of commodities or contractual services, at least one of which is from a certified SDVBE, that are equal with respect to all relevant considerations including price, quality, and service, to award such procurement or contract to the certified SDVBE. However, if a certified SDVBE and one or more SDVBE or businesses eligible for another statutory vendor preference, such as an MBE, submit bids or proposals that are equal with respect to all relevant considerations including price, quality, and service, the state agency must award the contract or proposal to the business having the smallest net worth. In order to become certified as a SDVBE, the owners and the business must satisfy statutory eligibility requirements. In order to be considered a “service-disabled veteran” eligible for certification, the veteran must be a permanent resident of Florida who has a service-connected disability of 10% or greater as determined by the U.S. Department of Veterans Affairs or who was terminated from military service by reason of disability by the U.S. Department of Defense.

In order to be certified as a SDVBE, a business enterprise must be an independently owned and operated business that:

- Employs 200 or fewer permanent full-time employees;

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<sup>1</sup>DMS Office of Supplier Diversity website. Available at: [http://www.dms.myflorida.com/other\\_programs/office\\_of\\_supplier\\_diversity\\_osd](http://www.dms.myflorida.com/other_programs/office_of_supplier_diversity_osd)

<sup>2</sup> Sections 287.0943 and 295.187, F.S., require the DMS to implement the MBE and the SDVBE certification programs, respectively.

<sup>3</sup> OSD Annual Report for Fiscal Year 2009-10. Available at: [http://www.dms.myflorida.com/other\\_programs/office\\_of\\_supplier\\_diversity\\_osd/publications/annual\\_reports](http://www.dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/publications/annual_reports).

<sup>4</sup> Id.

<sup>5</sup> Section 295.187, F.S.

- Together with its affiliates has a net worth of \$5 million or less or, if a sole proprietorship, has a net worth of \$5 million or less including both personal and business investments;
- Is organized to engage in commercial transactions;
- Is domiciled in this state;
- Is at least 51 percent owned by one or more service-disabled veterans; and,
- Is managed and controlled by one or more service-disabled veterans or, for a service-disabled veteran with a permanent and total disability, by the spouse or permanent caregiver of the veteran.

Section 295.187, F.S., establishes a certification process administered by DMS, in coordination with the Florida Department of Veterans' Affairs (DVA). The certification process requires applicants to submit documentation demonstrating that the business meets the above-listed requirements. Certification is renewed biennially and may be revoked for one year if the SDVBE fails to inform DMS within 30 days of a change in circumstances that renders the business ineligible for certification.

Section 295.187, F.S., provides rule-making authority to DVA, and requires DVA to:

- Assist DMS in establishing a certification procedure, which must be reviewed biennially and updated as necessary;
- Identify eligible service-disabled veteran business enterprises by any electronic means, including electronic mail, Internet website or by any other reasonable means;
- Encourage and assist eligible service-disabled veteran business enterprises to apply for certification under this section; and,
- Provide information regarding services that are available from the Office of Veterans' Business Outreach of the Florida Small Business Development Center to service-disabled veteran business enterprises.

This section also provides rule-making authority to DMS, and requires DMS to:

- Establish a certification procedure, which must be reviewed biennially and updated as necessary;
- Grant, deny, or revoke the certification of a SDVBE; and,
- Maintain an electronic directory of certified service-disabled veteran business enterprises for use by the state, political subdivisions of the state, and the public.

In addition, this section encourages political subdivisions of the state to offer a similar consideration to certified SDVBEs.

According to DMS, there are currently 1,297 service-disabled veterans registered in the state procurement system, MyFloridaMarketPlace (MFMP), of which 170 are certified by OSD.<sup>6</sup>

### **III. Effect of Proposed Changes:**

This bill amends s. 295.187, F.S., to expand the "Florida Service-Disabled Veteran Business Enterprise Opportunity Act" (Act), to include certain businesses owned and operated by wartime veterans.

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<sup>6</sup> Correspondence with DMS staff by Military Affairs, Space, and Domestic Security professional staff. April 1, 2011.

To support the expanded eligibility of the Act, this bill:

- Renames the Act as “Florida Veteran Business Enterprise Opportunity Act;”
- Expands the intent of the Act to include recognizing wartime veterans and veterans of a period of war for their sacrifices;
- Requires wartime veteran applicants to provide documentation of wartime service from the United States Department of Veterans Affairs or the United States Department of Defense; and,
- Requires DVA to assist DMS in the expansion of the certification program.

In addition, this bill defines the term “wartime veteran.” A veteran is considered a “wartime veteran” if he or she meets the definition of a “wartime veteran” as used in s. 1.01(14), F.S.,<sup>7</sup> or the definition of a “veteran of a period of war” as used in 38 U.S.C. s. 1521.<sup>8</sup>

This bill provides an effective date of July 1, 2011.

#### **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:**

This bill may assist wartime veterans in competing for state contracts and procurements by expanding the SDVBE certification program to include wartime veterans.

<sup>7</sup> Section 1.01(14), F.S., defines the term “wartime veteran” as a veteran who has served in a campaign or expedition for which a campaign badge has been authorized or a veteran who has served during one of the following periods of wartime service: Spanish-American War; Mexican Border period; World War I; World War II; Korean Conflict; Vietnam Era; Persian Gulf War; Operation Enduring Freedom; Operation Iraqi Freedom.

<sup>8</sup> 38 U.S.C. s. 1521 defines “a veteran of a period of war” as a veteran who served in the active military, naval, or air service: for 90 days or more during a period of war; during a period of war and was discharged or released from such service for a service-connected disability; for a period of 90 consecutive days or more and such period began or ended during a period of war; or for an aggregate of 90 days or more in two or more separate periods of service during more than one period of war.

**C. Government Sector Impact:**

According to DMS, this bill would increase the workload for OSD in processing applications and educating constituents. In addition, DMS would need to update the MFMP to create an identifier in the system for wartime veterans. However, DMS claims that no extra appropriation would be necessary to accommodate the change to MFMP. In the past, similar changes to the system have cost around \$10,000.<sup>9</sup>

**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.)

**CS by Military Affairs, Space, and Domestic Security on April 5, 2011:**  
The CS redefines the term “wartime veteran.”

- B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>9</sup> Correspondence with DMS staff by Military Affairs, Space, and Domestic Security professional staff. April 1, 2011.