

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, Space, and Domestic Security Committee

BILL: SB 152

INTRODUCER: Senator Latvala

SUBJECT: Business Enterprise Opportunities for Wartime Veterans

DATE: September 16, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fleming	Carter	MS	Pre-meeting
2.			BC	
3.				
4.				
5.				
6.				

I. Summary:

This bill expands 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. The bill requires applicants to provide documentation of wartime service from the U.S. Department of Veterans Affairs or the U.S. Department of Defense.

This bill substantially amends section 295.187, Florida Statutes.

II. Present Situation:

The Office of Supplier Diversity (OSD) within the Department of Management Services (DMS) has the mission to improve business and economic opportunities for Florida's minority, women, and service-disabled veteran business enterprises.¹ Current law requires the DMS, through the OSD, to implement a minority business enterprise (MBE) certification program and a small service-disabled veteran business enterprise (SDVBE) certification program.² Minority-, women-, and service-disabled veteran-owned businesses that are certified through the 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-

¹DMS Office of Supplier Diversity website. Available at: http://www.dms.myflorida.com/other_programs/office_of_supplier_diversity_osd

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

certified minority business enterprises in an online directory.³ During fiscal year 2009-10, the OSD certified 4,617 minority-, woman-, and service-disabled veteran-owned business enterprises statewide.⁴

The Florida Service-Disabled Veteran Business Enterprises Opportunity Act

The intent of the Florida Service-Disabled Veteran Business Enterprise Opportunity Act⁵ (act) 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 the 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.
- 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.
- 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.

³ 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.

⁴ Id.

⁵ Section 295.187, F.S.

Section 295.187, F.S., establishes a certification process administered by the 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 the 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 the DVA, and requires the DVA to:

- Assist the 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.
- 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 the DMS, and requires the DMS to:

- Establish a certification procedure, which must be reviewed biennially and updated as necessary.
- Grant, deny, or revoke the certification of a SDVBE.
- 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 service-disabled veterans.

III. Effect of Proposed Changes:

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

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

- Renames the act as the "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 U.S. Department of Veterans Affairs or the U.S. Department of Defense.
- Requires the DVA to assist the DMS in the expansion of the certification program.

In addition, this bill provides that 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.,⁶ or the definition of a “veteran of a period of war,” as used in 38 U.S.C. s. 1521.⁷

This bill provides an effective date of July 1, 2012.

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.

C. Government Sector Impact:

The DMS is in the process of determining the fiscal impact this bill will have on the agency, so this information is indeterminate at this time.

VI. Technical Deficiencies:

None.

⁶ 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.

⁷ 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.

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.)

None.

B. Amendments:

None.

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