

By Senator Braynon

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1 A bill to be entitled
2 An act relating to supplier diversity; providing that
3 the purpose of the act is to encourage greater
4 economic opportunity for businesses controlled and
5 operated by women, minorities, and disabled veterans;
6 providing definitions; authorizing the Public Service
7 Commission to require certain regulated corporations
8 to submit a plan for increasing procurement from
9 businesses controlled and operated by women,
10 minorities, and disabled veterans; providing criteria
11 for procurement programs; authorizing the commission
12 to establish guidelines for procurement programs;
13 requiring certain regulated corporations to report
14 annually to the commission on the implementation of
15 procurement programs; requiring the commission to
16 annually report certain information to the
17 Legislature; encouraging certain corporations to
18 voluntarily adopt such plans; authorizing the
19 commission to adopt rules to determine and verify the
20 eligibility for participation in the procurement
21 program; requiring that affected regulated
22 corporations implement an outreach program; providing
23 penalties for a person or corporation that falsely
24 represents a business being controlled or operated by
25 women, minorities, or disabled veterans; providing
26 that a corporation may take certain measures to
27 facilitate the participation of businesses controlled
28 and operated by women, minorities, or disabled
29 veterans; providing an effective date.

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31 WHEREAS, the opportunity for full participation in our free
32 enterprise system by businesses controlled and operated by
33 women, minorities, and disabled veterans is essential if this
34 state is to attain economic equality for those businesses and
35 improve the functioning of the entire state economy, and

36 WHEREAS, public agencies and some regulated utilities that
37 have established short- and long-range goals for contracting
38 with businesses controlled and operated by women, minorities,
39 and disabled veterans are awarding 30 percent or more of their
40 contracts to these business enterprises, and

41 WHEREAS, businesses controlled and operated by women,
42 minorities, and disabled veterans have traditionally received
43 less than a proportionate share of regulated public utility
44 procurement contracts, especially in renewable energy, wireless
45 telecommunications, broadband, and smart grid projects, and

46 WHEREAS, it is in the state's interest to expeditiously
47 improve the economic climate for businesses controlled and
48 operated by women, minorities, and disabled veterans, and

49 WHEREAS, the position of these businesses can be
50 substantially improved by providing long-range, substantial
51 goals for procurement by regulated public utilities of
52 technology, equipment, supplies, services, materials, and
53 construction work, especially in renewable energy, wireless
54 telecommunications, broadband, and smart grid projects from
55 businesses controlled and operated by women, minorities, and
56 disabled veterans, and

57 WHEREAS, this initiative also benefits the regulated public
58 utilities and consumers of this state by encouraging the

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59 expansion of the number of suppliers, thereby encouraging
60 competition and promoting economic efficiency in the process,
61 and

62 WHEREAS, the long-term economic viability of this state
63 depends substantially upon the ability of renewable energy,
64 wireless telecommunications, broadband, and smart grid projects
65 to involve businesses controlled and operated by women,
66 minorities, and disabled veterans in the procurement process,
67 NOW, THEREFORE,

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69 Be It Enacted by the Legislature of the State of Florida:

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71 Section 1. It is the purpose of this act to:

72 (1) Encourage greater economic opportunity for businesses
73 controlled and operated by women, minorities, and disabled
74 veterans.

75 (2) Promote competition among the suppliers of a regulated
76 public utility in order to enhance economic efficiency in the
77 procurement of contracts with regulated companies and with the
78 subsidiaries of regulated companies which are regulated by the
79 Public Service Commission.

80 (3) Provide direction to and expand programs for the
81 procurement by regulated public utilities of technology,
82 equipment, supplies, services, materials, and construction work
83 from businesses controlled and operated by women, minorities,
84 and disabled veterans.

85 Section 2. Supplier Diversity.-

86 (1) For the purposes of this section, the term:

87 (a) "Commission" means the Florida Public Service

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88 Commission.

89 (b) "Control" means exercising the power to make policy
90 decisions.

91 (c) "Disabled-veteran business enterprise" means an
92 independently owned and operated business that:

93 1. Employs 200 or fewer permanent full-time employees;

94 2. Together with its affiliates has a net worth of \$5
95 million or less, or, if a sole proprietorship, has a net worth
96 of \$5 million or less including both personal and business
97 investments;

98 3. Is organized to engage in commercial transactions;

99 4. Is domiciled in this state;

100 5. Is at least 51 percent owned by one or more permanent
101 Florida residents who have a service-connected disability as
102 determined by the United States Department of Veteran Affairs or
103 who have been terminated from military service by reason of
104 disability by the United States Department of Defense; and

105 6. Is controlled and operated by one or more service-
106 disabled veterans or, for a service-disabled veteran having a
107 permanent or total disability, by the spouse or permanent
108 caregiver of the veteran.

109 (d) "Minority business enterprise" means a business
110 enterprise that is at least 51 percent owned by a minority group
111 or groups. In the case of a publicly owned business, at least 51
112 percent of the stock must be owned by one or more minority
113 groups. The management and daily business operations of the
114 minority business enterprise must be controlled by one or more
115 minority individuals. The term "minority" includes black
116 Americans, Hispanic-Americans, Native Americans, and Asian-

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117 Pacific-Americans.

118 (e) "Operate" means active involvement in day-to-day
119 management.

120 (f) "Regulated company" means a public utility as defined
121 in s. 366.02 or any person holding a valid and current
122 certificate from the commission under chapter 351, chapter 364,
123 chapter 365, or chapter 367 and that has gross annual revenues
124 exceeding \$25 million.

125 (g) "Woman business enterprise" means a business enterprise
126 that is at least 51 percent owned by a woman or women. In the
127 case of a publicly owned business, at least 51 percent of the
128 stock must be owned by one or more women. The management and
129 daily business operations of the woman business enterprise must
130 be controlled by one or more women.

131 (2) (a) The commission shall require each regulated company
132 to submit annually, a detailed and verifiable plan for
133 increasing procurement from woman, minority, and disabled-
134 veteran business enterprises in all categories, including, but
135 not limited to, renewable energy and smart grid projects.

136 (b) These annual plans must include short- and long-term
137 goals and timetables and methods for encouraging both prime
138 contractors and grantees to engage woman, minority, and
139 disabled-veteran business enterprises in subcontracts in all
140 categories that provide subcontracting opportunities, including,
141 but not limited to, renewable energy and smart grid projects. An
142 annual plan may not include quotas.

143 (c) The commission shall establish guidelines for each
144 regulated company and its commission-regulated subsidiaries and
145 affiliates to use in establishing programs pursuant to this

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146 section.

147 (d) Each regulated company shall furnish an annual report
148 to the commission regarding the implementation of programs
149 established pursuant to this section in a form and at a time
150 annually determined by the commission.

151 (e)1. The commission shall provide a report to the
152 President of the Senate and the Speaker of the House of
153 Representatives on September 1 of each year, on the progress of
154 activities undertaken pursuant to this section by each regulated
155 company and its commission-regulated subsidiaries and
156 affiliates. The report shall include information on procurement
157 contracts made by woman, minority, and disabled-veteran business
158 enterprises as compared to at least a majority of the workforces
159 in the state, to the extent that such information is readily
160 accessible. The commission shall recommend a plan to implement
161 this section, together with legislative recommendations it deems
162 necessary or desirable to further this policy. The commission
163 shall also make the report available on its Internet website.

164 2. With regard to disabled-veteran business enterprises,
165 the commission shall ensure that the programs and legislation
166 recommended pursuant to subparagraph 1. are consistent with
167 those of a veteran business enterprise certified under s.
168 295.187, Florida Statutes.

169 (f)1. The Legislature declares that each electrical, gas,
170 water and wastewater, wireless, and telephone corporation that
171 is not required to submit a plan pursuant to paragraph (a) is
172 encouraged to voluntarily adopt a plan for increasing woman,
173 minority, and disabled-veteran business enterprise procurement
174 in all categories.

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175 2. The Legislature declares that each cable television
176 corporation and direct broadcast satellite provider is
177 encouraged to voluntarily adopt a plan for increasing woman,
178 minority, and disabled-veteran business enterprise procurement
179 and to voluntarily report activity in this area to the
180 Legislature on an annual basis.

181 (3) (a) The commission may adopt rules for verifying and
182 determining the eligibility of woman, minority, and disabled-
183 veteran business enterprises for procurement contracts.

184 (b) The commission shall develop and require each regulated
185 company and its commission-regulated subsidiaries and affiliates
186 to implement an outreach program to inform and recruit woman,
187 minority, and disabled-veteran business enterprises to apply for
188 procurement contracts under this section.

189 (4) A person, including a corporation through its
190 directors, officers, or agents, that falsely represents a
191 business as a woman, minority, or disabled-veteran business
192 enterprise in the procurement of, or the attempt to procure,
193 contracts from a regulated company or a commission-regulated
194 subsidiary or affiliate, commits a misdemeanor of the first
195 degree, punishable as provided in s. 775.082, Florida Statutes,
196 or s. 775.083, Florida Statutes. In the case of a corporation,
197 the fine or imprisonment, or both, shall be imposed on each
198 director, officer, or agent responsible for the false statement.

199 (5) (a) In order to promote the inclusion and participation
200 of businesses controlled and operated by women, minorities, and
201 disabled veterans in contract procurement, a corporation may
202 consider implementing the following measures in each phase of
203 its contracting:

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204 1. Timely or progressive payments to woman, minority, or
205 disabled-veteran business enterprises.

206 2. An amendment of the performance bond requirements to
207 ensure that they do not prohibitively burden these businesses
208 from participating.

209 3. The provision of assistance to these businesses by
210 securing contract payments with letters of credit, negotiable
211 securities, or other financing arrangements or measures.

212 (b) This section does not restrict a corporation's ability
213 to require a bond.

214 Section 3. This act shall take effect July 1, 2013.