

By Senator Braynon

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1 A bill to be entitled
2 An act relating to public utility suppliers; creating
3 s. 350.118, F.S.; providing a statement of purpose;
4 providing definitions; requiring certain public
5 utilities, defined as regulated companies, to submit a
6 plan for increasing procurement from businesses
7 controlled and operated by women, minorities, and
8 service-disabled veterans; specifying requirements for
9 such plans; requiring the Florida Public Service
10 Commission to establish guidelines to assist regulated
11 companies in establishing such plans; encouraging
12 unregulated corporations to voluntarily adopt such
13 plans; requiring the commission to develop an outreach
14 program and regulated companies to implement such
15 program; providing that a regulated company may take
16 certain measures to facilitate the participation of
17 businesses controlled and operated by women,
18 minorities, or service-disabled veterans; requiring
19 each regulated company to submit an annual report to
20 the commission regarding the implementation of its
21 plan; requiring the commission to annually submit a
22 summary report to the Legislature; requiring the
23 commission to make recommendations; providing
24 penalties for any person or corporation that falsely
25 represents a business as being controlled or operated
26 by women, minorities, or service-disabled veterans;
27 authorizing the commission to adopt rules; providing
28 an effective date.
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30 WHEREAS, the opportunity for full participation in this
31 state's free-enterprise system by businesses controlled and
32 operated by women, minorities, and service-disabled veterans is
33 essential if this state is to attain economic equality for such
34 businesses, and

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

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

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

51 WHEREAS, the position of such businesses can be
52 substantially improved by establishing long-range goals for the
53 procurement of contracts for technology, equipment, supplies,
54 services, materials, and construction work, especially in the
55 categories of renewable energy, wireless telecommunications,
56 broadband, and smart grid projects between regulated companies
57 and businesses controlled and operated by women, minorities, and
58 service-disabled veterans, and

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59 WHEREAS, this initiative benefits regulated companies and
60 the consumers of this state by expanding the number of
61 suppliers, thereby encouraging competition and promoting
62 economic efficiency in the process, and

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

70
71 Be It Enacted by the Legislature of the State of Florida:

72
73 Section 1. Section 350.118, Florida Statutes, is created to
74 read:

75 350.118 Expanding diversity among public utility
76 suppliers.—

77 (1) INTENT.—The purpose of this section is to:

78 (a) Encourage greater economic opportunity for businesses
79 controlled and operated by women, minorities, and service-
80 disabled veterans.

81 (b) Promote competition among suppliers of public utilities
82 in order to enhance efficiency in the procurement of contracts
83 from regulated companies.

84 (c) Expand programs for the procurement of contracts for
85 technology, equipment, supplies, services, materials, and
86 construction work between regulated companies and businesses
87 controlled and operated by women, minorities, and service-

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88 disabled veterans.

89 (2) DEFINITIONS.—As used in this section, the term:

90 (a) "Commission" means the Florida Public Service
91 Commission.

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

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

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

99 3. Is organized to engage in commercial transactions;

100 4. Is domiciled in this state;

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

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

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

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117 Americans, Hispanic Americans, Native Americans, and Asian-
118 Pacific Americans.

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

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

130 (3) PLAN.—A regulated company must annually submit a
131 detailed and verifiable plan for increasing the procurement of
132 contracts from woman, minority, and disabled-veteran business
133 enterprises.

134 (a) Each plan must include short-term and long-term goals,
135 timetables, and methods for encouraging both prime contractors
136 and grantees to engage woman, minority, and disabled-veteran
137 business enterprises in subcontracts, including, but not limited
138 to, renewable energy and smart grid projects. A plan may not
139 include quotas.

140 (b) The commission shall establish guidelines that a
141 regulated company shall use in establishing a plan pursuant to
142 this subsection.

143 (c) An electrical, gas, water and wastewater, wireless, or
144 telephone corporation that is not required to submit a plan
145 pursuant to this subsection and cable television corporations

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146 and direct broadcast satellite providers are encouraged to
147 voluntarily adopt a plan for increasing procurement from woman,
148 minority, and disabled-veteran business enterprises.

149 (4) OUTREACH PROGRAM.—The commission shall develop and
150 require each regulated company to implement an outreach program
151 to inform and encourage woman, minority, and disabled-veteran
152 business enterprises to apply for procurement contracts under
153 this section.

154 (5) REGULATED COMPANIES.—

155 (a) In order to promote the inclusion and participation of
156 businesses controlled and operated by women, minorities, and
157 service-disabled veterans in the procurement of contracts, a
158 regulated company may consider implementing the following
159 measures in each phase of contracting:

160 1. Progressive payments to woman, minority, or disabled-
161 veteran business enterprises.

162 2. An amendment of performance bond requirements to ensure
163 that such requirements do not prohibit such businesses from
164 participating.

165 3. Providing assistance to such businesses by securing
166 contract payments with letters of credit, negotiable securities,
167 or other financing arrangements or measures.

168 (b) This subsection does not restrict a regulated company's
169 ability to require a bond.

170 (6) REPORTS.—

171 (a) Each regulated company shall submit an annual report to
172 the commission regarding the implementation of its plan created
173 pursuant to subsection (3) in a form and on a date determined by
174 the commission.

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175 (b) On September 1 of each year, the commission shall
176 provide the President of the Senate and the Speaker of the House
177 of Representatives with a summary report detailing the progress
178 of activities undertaken pursuant to this section by each
179 regulated company.

180 1. The summary report must include comparative information
181 on procurement contracts made between regulated companies and
182 woman, minority, and disabled-veteran business enterprises and
183 those made with at least a majority of other enterprises in the
184 state, to the extent that such information is readily available.

185 2. The commission shall make recommendations regarding the
186 implementation of this subsection and any proposed legislative
187 recommendations it deems necessary or desirable to further this
188 policy. With regard to disabled-veteran business enterprises,
189 the commission shall ensure that the programs and legislation
190 recommended are consistent with those of a veteran business
191 enterprise certified under s. 295.187.

192 3. The commission shall make the summary report available
193 on its website.

194 (7) PENALTIES.—Any person, including a corporation through
195 its directors, officers, or agents, which falsely represents a
196 business as a woman, minority, or disabled-veteran business
197 enterprise in the procurement of, or in the attempt to procure,
198 contracts from a regulated company commits a misdemeanor of the
199 first degree, punishable as provided in s. 775.082 or s.
200 775.083. In the case of a corporation, the fine or imprisonment,
201 or both, shall be imposed on each director, officer, or agent
202 responsible for the false representation.

203 (8) RULES.—The commission may adopt rules for determining

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204 and verifying the eligibility of woman, minority, and disabled-
205 veteran business enterprises for procurement contracts.

206 Section 2. This act shall take effect July 1, 2014.