

1                   A bill to be entitled  
2           An act relating to small business participation in  
3           state contracting; creating s. 287.0577, F.S.;  
4           defining the terms "contract bundling" and "small  
5           business"; directing that agencies avoid contract  
6           bundling under certain circumstances; requiring  
7           agencies to conduct market research and include  
8           written summaries and analyses of such research in  
9           solicitations for bundled contracts; requiring certain  
10          agencies to award a percentage of contracts to small  
11          businesses; requiring contract vendors to use small  
12          businesses in the state as subcontractors or  
13          subvendors; providing requirements with respect to  
14          payment of subcontractors; prohibiting agencies,  
15          general contractors, or prime contractors from  
16          requiring certain bonds or other sureties for certain  
17          contracts; requiring the rules ombudsman in the  
18          Executive Office of the Governor to establish a system  
19          for reporting small business participation in state  
20          contracting; requiring agencies to cooperate with such  
21          reporting; requiring specified annual reports;  
22          providing an effective date.

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

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26          Section 1.   Section 287.0577, Florida Statutes, is created

27 to read:

28 287.0577 Small business participation in state  
29 contracting; contract bundling; set-asides for small businesses;  
30 bonding and reporting requirements.-

31 (1) DEFINITIONS.-As used in this section, the term:

32 (a) "Contract bundling" means the consolidation of  
33 contracts for the procurement of commodities or contractual  
34 services, at least part of which may be provided or performed by  
35 one or more small businesses, into a single contract that is not  
36 appropriate for award to a small business as the prime  
37 contractor.

38 (b) "Small business" means a business entity organized for  
39 profit that is independently owned and operated, that is not  
40 dominant within the business entity's industry, and that:

41 1. Currently is, and for at least the previous 3 years has  
42 been, domiciled in the state.

43 2. Has a workforce of 50 or fewer permanent full-time  
44 positions, whether employees, independent contractors, or other  
45 contract personnel.

46 3. Has had, for at least the previous 3 years, average  
47 annual gross sales that do not exceed the following:

48 a. For a contractor licensed under chapter 489, \$5 million  
49 per year.

50 b. For a sole proprietorship performing contractual  
51 services within the scope of the proprietor's professional  
52 license or certification, \$500,000 per year.

53 c. For any other business entity, \$1 million per year.

54 4. Currently has, and for at least the previous 3 years  
55 has had, together with its affiliates, a net worth that does not  
56 exceed \$5 million. For a sole proprietorship, the net worth  
57 limit of \$5 million includes both personal and business  
58 investments but does not include the proprietor's primary  
59 residence.

60  
61 The term includes any such business entity organized as any form  
62 of corporation, partnership, limited liability company, sole  
63 proprietorship, joint venture, association, trust, cooperative,  
64 or other legal entity.

65 (2) CONTRACT BUNDLING; SOLICITATION.—

66 (a) An agency, to the maximum extent practicable, shall  
67 structure agency contracts to facilitate competition by and  
68 among small businesses, taking all reasonable steps to eliminate  
69 obstacles to participation and avoiding unnecessary contract  
70 bundling that may preclude small businesses' participation as  
71 prime contractors.

72 (b) Before issuing a solicitation for a bundled contract,  
73 an agency must conduct market research to determine whether  
74 contract bundling is necessary. If the agency determines that  
75 contract bundling is necessary, the agency must include in the  
76 solicitation a written summary of the agency's market research  
77 and a written analysis of the research that explains why  
78 contract bundling is necessary.

79 (3) SET-ASIDES FOR SMALL BUSINESSES.—

80 (a) An agency shall annually award to small businesses,  
81 either directly or indirectly as subcontractors, at least 35  
82 percent of the total dollar amount of contracts awarded.

83 (b) Each contract awarded under s. 287.057 must require  
84 the vendor to use small businesses as subcontractors or  
85 subvendors. The percentage of funds, in terms of gross contract  
86 amount and revenues, that must be expended for subcontracting  
87 with small businesses shall be determined by the agency before  
88 the solicitation for the contract is issued; however, the  
89 contract may not allow a vendor to expend less than 35 percent  
90 of the gross contract amount for subcontracting with small  
91 businesses.

92 (c) Each contract must include specific requirements for:

93 1. The timely payment of subcontractors by the prime  
94 contractor and specific terms and conditions applicable if a  
95 prime contractor does not pay a subcontractor within the time  
96 limits specified in the contract.

97 2. Payment from the owner and general contractor to  
98 subcontractors within 14 calendar days after receipt of an  
99 invoice or other proper claim for payment.

100 (4) BONDING REQUIREMENTS.—Notwithstanding any other  
101 provision of law, an agency, a general contractor, or a prime  
102 contractor may not require a vendor to post a bid bond,  
103 performance bond, or other surety for a contract that does not  
104 exceed \$500,000. This subsection does not apply to any

105 requirement for posting a bond pending the protest of a  
106 solicitation; the protest of a rejected bid, proposal, or reply;  
107 or the protest of a contract award.

108 (5) REPORTING REQUIREMENTS.—The rules ombudsman in the  
109 Executive Office of the Governor shall:

110 (a) Establish a system to measure and report the use of  
111 small businesses in state contracting. This system shall  
112 maintain information and statistics on small business  
113 participation, awards, dollar volume of expenditures, and other  
114 appropriate types of information to analyze progress in small  
115 businesses access to state contracts and to monitor agency  
116 compliance with this section. Such reporting must include, but  
117 is not limited to, the identification of all subcontracts in  
118 this state contracting by dollar amount and by number of  
119 subcontracts and identification of the use of small businesses  
120 as prime contractors and subcontractors by dollar amounts of  
121 contracts and subcontracts, number of contracts and  
122 subcontracts, industry, and any conditions or circumstances that  
123 significantly affected the performance of subcontractors. An  
124 agency shall report its compliance with the reporting system at  
125 least annually and at the request of the rules ombudsman in the  
126 Executive Office of the Governor. All agencies shall cooperate  
127 with the rules ombudsman in the Executive Office of the Governor  
128 in establishing this reporting system.

129 (b) Report agency compliance with paragraph (a) for the  
130 preceding fiscal year to the Governor and Cabinet, the President

131 of the Senate, and the Speaker of the House of Representatives  
132 by February 1 of each year. The report must contain, at a  
133 minimum, the following:

134 1. Total expenditures of each agency by industry.

135 2. The dollar amount and percentage of contracts awarded  
136 to small businesses by each agency.

137 3. The dollar amount and percentage of contracts awarded  
138 indirectly to small businesses as subcontractors by each agency.

139 4. The total dollar amount and percentage of contracts  
140 awarded to small businesses, whether directly or indirectly as  
141 subcontractors.

142 Section 2. This act shall take effect July 1, 2015.