



Senate

General Assembly

File No. 506

February Session, 2008

Substitute Senate Bill No. 259

Senate, April 7, 2008

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING A STATE SET-ASIDE PROGRAM FOR DISABLED VETERANS AND A MICRO-LOAN PROGRAM FOR VETERANS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4a-60g of the 2008 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2008*):

4 (a) As used in this section and sections 4a-60h to 4a-60j, inclusive, as
5 amended by this act, the following terms have the following meanings:

6 (1) "Small contractor" means any contractor, subcontractor,
7 manufacturer or service company (A) that has been doing business
8 under the same ownership or management and has maintained its
9 principal place of business in the state, for a period of at least one year
10 immediately prior to the date of application for certification under this
11 section, (B) that had gross revenues not exceeding fifteen million

12 dollars in the most recently completed fiscal year prior to such
13 application, and (C) at least fifty-one per cent of the ownership of
14 which is held by a person or persons who exercise operational
15 authority over the daily affairs of the business and have the power to
16 direct the management and policies and receive the beneficial interests
17 of the business, except that a nonprofit corporation shall be construed
18 to be a small contractor if such nonprofit corporation meets the
19 requirements of subparagraphs (A) and (B) of this subdivision. "Small
20 contractor" does not include a certified or precertified disabled veteran
21 contractor.

22 (2) "State agency" means each state board, commission, department,
23 office, institution, council or other agency with the power to contract
24 for goods or services itself or through its head.

25 (3) "Minority business enterprise" means any small contractor (A)
26 fifty-one per cent or more of the capital stock, if any, or assets of which
27 are owned by a person or persons (i) who exercise operational
28 authority over the daily affairs of the enterprise, (ii) who have the
29 power to direct the management and policies and receive the beneficial
30 interest of the enterprise, and (iii) who are members of a minority, as
31 [such term] is defined in subsection (a) of section 32-9n, (B) who is an
32 individual with a disability, or (C) which is a nonprofit corporation in
33 which fifty-one per cent or more of the persons who (i) exercise
34 operational authority over the enterprise, and (ii) have the power to
35 direct the management and policies of the enterprise are members of a
36 minority, as defined in [this] subsection (a) of section 32-9n, or are
37 individuals with a disability. "Minority business enterprise" does not
38 include a certified or precertified disabled veteran contractor.

39 (4) "Affiliated" means the relationship in which a person directly, or
40 indirectly through one or more intermediaries, controls, is controlled
41 by or is under common control with another person.

42 (5) "Control" means the power to direct or cause the direction of the
43 management and policies of any person, whether through the
44 ownership of voting securities, by contract or through any other direct

45 or indirect means. Control shall be presumed to exist if any person,
46 directly or indirectly, owns, controls, holds with the power to vote, or
47 holds proxies representing, twenty per cent or more of any voting
48 securities of another person.

49 (6) "Person" means any individual, corporation, limited liability
50 company, partnership, association, joint stock company, business trust,
51 unincorporated organization or other entity.

52 (7) "Individual with a disability" means an individual (A) having a
53 physical or mental impairment that substantially limits one or more of
54 the major life activities of the individual, or (B) having a record of such
55 an impairment.

56 (8) "Nonprofit corporation" means a nonprofit corporation
57 incorporated pursuant to chapter 602 or any predecessor statutes
58 thereto.

59 (9) "Veteran with a disability" means any person who (A) served in
60 the armed forces, as defined in section 27-103, and has a service-
61 connected disability rated as ten per cent or more by the Veterans'
62 Administration, which disability was incurred or aggravated in the
63 line of duty while on active duty with one of the armed forces, and (B)
64 was discharged or released from such service under conditions other
65 than dishonorable.

66 (10) "Disabled veteran contractor" means any contractor,
67 subcontractor, manufacturer or service company (A) which has been
68 doing business under the same ownership and management and has
69 maintained its principal place of business in the state for a period of at
70 least one year immediately prior to the date of application for
71 certification under this section, and (B) at least fifty-one per cent of the
72 ownership of which is held by a veteran with a disability or veterans
73 with a disability who exercise operational authority over the daily
74 affairs of the business and have the power to direct the management
75 and policies and receive the beneficial interests of the business.

76 (b) (1) It is found and determined that there is a serious need to help
77 small contractors, minority business enterprises, nonprofit
78 organizations and individuals with disabilities and disabled veteran
79 contractors to be considered for and awarded state contracts for the
80 construction, reconstruction or rehabilitation of public buildings, the
81 construction and maintenance of highways and the purchase of goods
82 and services. Accordingly, the necessity, in the public interest and for
83 the public benefit and good, of the provisions of this section, sections
84 4a-60h to 4a-60j, inclusive, as amended by this act, and sections 32-9i to
85 32-9p, inclusive, is declared as a matter of legislative determination.

86 (2) Notwithstanding any provisions of the general statutes [to the
87 contrary,] and except as set forth [herein] in this section, the head of
88 each state agency and each political subdivision of the state other than
89 a municipality shall set aside in each fiscal year, for award to small
90 contractors, on the basis of competitive bidding procedures, contracts
91 or portions of contracts for the construction, reconstruction or
92 rehabilitation of public buildings, the construction and maintenance of
93 highways and the purchase of goods and services. Eligibility of
94 nonprofit corporations under the provisions of this section shall be
95 limited to predevelopment contracts awarded by the Commissioner of
96 Economic and Community Development for housing projects. The
97 total value of such contracts or portions thereof to be set aside by each
98 such agency shall be at least twenty-five per cent of the total value of
99 all contracts let by the head of such agency in each fiscal year,
100 provided [that] neither: [(1)] (A) A contract that may not be set aside
101 due to a conflict with a federal law or regulation; or [(2)] (B) a contract
102 for any goods or services which have been determined by the
103 Commissioner of Administrative Services to be not customarily
104 available from or supplied by small contractors shall be included.
105 Contracts or portions thereof having a value of not less than
106 twenty-five per cent of the total value of all contracts or portions
107 thereof to be set aside shall be reserved for awards to minority
108 business enterprises.

109 (3) Notwithstanding any provisions of the general statutes and

110 except as set forth in this section, the head of each state agency and
111 each political subdivision of the state other than a municipality shall
112 set aside in each fiscal year, for award to disabled veteran contractors,
113 on the basis of competitive bidding procedures, contracts or portions
114 of contracts for the construction, reconstruction or rehabilitation of
115 public buildings, the construction and maintenance of highways, and
116 the purchase of goods and services. The total value of such contracts or
117 portions thereof to be set aside by each such agency shall be at least
118 three per cent of the total value of all contracts let by the head of such
119 agency in each fiscal year, provided a contract that may not be set
120 aside due to a conflict with a federal law or regulation shall not be
121 included in such calculation, except that the head of any such agency
122 may set aside an amount based on the amount of all contracts not
123 excluded from the calculation which are anticipated to be let in any
124 fiscal year if the method of calculation for such year would result in a
125 maximum value of contracts to be set aside of less than three per cent
126 of the contracts anticipated to be let in such year or in a minimum
127 value of contracts to be set aside of greater than three per cent of the
128 contracts anticipated to be let in such year.

129 (c) The head of any state agency or political subdivision of the state
130 other than a municipality may, in lieu of setting aside any contract or
131 portions thereof, require any general or trade contractor or any other
132 entity authorized by such agency to award contracts [,] to set aside a
133 portion of any contract for subcontractors who are eligible for set-aside
134 contracts under this section. Nothing in this subsection shall be
135 construed to diminish the total value of contracts which are required to
136 be set aside by any state agency or political subdivision of the state
137 other than a municipality pursuant to this section.

138 (d) The [~~heads of all state agencies~~] head of each state agency and of
139 each political subdivision of the state other than a municipality shall
140 notify the Commissioner of Administrative Services of all contracts to
141 be set aside pursuant to subsection (b) or (c) of this section at the time
142 that bid documents for such contracts are made available to potential
143 contractors.

144 (e) The awarding authority shall require that a contractor or
145 subcontractor awarded a contract or a portion of a contract under this
146 section perform not less than fifteen per cent of the work with the
147 workforces of such contractor or subcontractor and shall require that
148 not less than twenty-five per cent of the work be performed by
149 contractors or subcontractors eligible for awards under this section. A
150 contractor awarded a contract or a portion of a contract under this
151 section shall not subcontract with any person with whom the
152 contractor is affiliated. No person who is affiliated with another person
153 shall be eligible for awards under this section if both affiliated persons
154 considered together would not qualify as a small contractor, [or a]
155 minority business enterprise or disabled veteran contractor under
156 subsection (a) of this section. The awarding authority shall require that
157 a contractor awarded a contract pursuant to this section submit, in
158 writing, an explanation of any subcontract to such contract that is
159 entered into with any person that is not eligible for the award of a
160 contract pursuant to this section, prior to the performance of any work
161 pursuant to such subcontract.

162 (f) The awarding authority may require that a contractor or
163 subcontractor awarded a contract or a portion of a contract under this
164 section furnish the following documentation: (1) A copy of the
165 certificate of incorporation, certificate of limited partnership,
166 partnership agreement or other organizational documents of the
167 contractor or subcontractor; (2) a copy of federal income tax returns
168 filed by the contractor or subcontractor for the previous year; and (3)
169 evidence of payment of fair market value for the purchase or lease by
170 the contractor or subcontractor of property or equipment from another
171 contractor who is not eligible for set-aside contracts under this section.

172 (g) The awarding authority or the Commissioner of Administrative
173 Services or the Commission on Human Rights and Opportunities may
174 conduct an audit of the financial, corporate and business records and
175 conduct an investigation of any small contractor, [or] minority
176 business enterprise or disabled veteran contractor which applies for or
177 is awarded a set-aside contract for the purpose of determining

178 eligibility for awards or compliance with the requirements established
179 under this section.

180 (h) The provisions of this section shall not apply to any state agency
181 or political subdivision of the state other than a municipality for which
182 the total value of all contracts or portions of contracts of the types
183 enumerated in subsection (b) of this section is anticipated to be equal
184 to ten thousand dollars or less.

185 (i) In lieu of a performance, bid, labor and materials or other
186 required bond, a contractor or subcontractor awarded a contract under
187 this section may provide to the awarding authority, and the awarding
188 authority shall accept a letter of credit. Any such letter of credit shall
189 be in an amount equal to ten per cent of the contract for any contract
190 that is less than one hundred thousand dollars and in an amount equal
191 to twenty-five per cent of the contract for any contract that exceeds one
192 hundred thousand dollars.

193 (j) (1) Whenever the awarding authority has reason to believe that
194 any contractor or subcontractor awarded a set-aside contract has
195 wilfully violated any provision of this section, the awarding authority
196 shall send a notice to such contractor or subcontractor by certified
197 mail, return receipt requested. Such notice shall include: (A) A
198 reference to the provision alleged to be violated; (B) a short and plain
199 statement of the matter asserted; (C) the maximum civil penalty that
200 may be imposed for such violation; and (D) the time and place for [the]
201 a hearing on the violation asserted. Such hearing shall be fixed for a
202 date not earlier than fourteen days after the notice is mailed. The
203 awarding authority shall send a copy of such notice to the Commission
204 on Human Rights and Opportunities.

205 (2) The awarding authority shall hold a hearing on the violation
206 asserted unless such contractor or subcontractor fails to appear. The
207 hearing shall be held in accordance with the provisions of chapter 54.
208 If, after the hearing, the awarding authority finds that the contractor or
209 subcontractor has wilfully violated any provision of this section, the
210 awarding authority shall suspend all set-aside contract payments to

211 the contractor or subcontractor and may, in its discretion, order that a
212 civil penalty not exceeding ten thousand dollars per violation be
213 imposed on the contractor or subcontractor. If such contractor or
214 subcontractor fails to appear for the hearing, the awarding authority
215 may, as the facts require, order that a civil penalty not exceeding ten
216 thousand dollars per violation be imposed on the contractor or
217 subcontractor. The awarding authority shall send a copy of any order
218 issued pursuant to this subsection by certified mail, return receipt
219 requested, to the contractor or subcontractor named in such order. The
220 awarding authority may cause proceedings to be instituted by the
221 Attorney General for the enforcement of any order imposing a civil
222 penalty issued under this subsection.

223 (k) On or before January 1, 2000, the Commissioner of
224 Administrative Services shall establish a process for certification of
225 small contractors and minority business enterprises as eligible for
226 set-aside contracts, and, on or before January 1, 2009, the commissioner
227 shall establish a process for certification of disabled veteran contractors
228 as eligible for set-aside contracts. Each certification shall be valid for a
229 period not to exceed two years. Any paper application for certification
230 shall be no longer than six pages. The Department of Administrative
231 Services shall maintain on its web site an updated directory of (1) small
232 contractors and minority business enterprises certified under this
233 section, and (2) disabled veteran contractors certified under this
234 section.

235 (l) On or before August 30, 2007, and annually thereafter, each state
236 agency and each political subdivision of the state other than a
237 municipality setting aside contracts or portions of contracts shall
238 prepare a report establishing small and minority business set-aside
239 program goals for the twelve-month period beginning July first in the
240 same year, and, on or before August 1, 2009, each such agency and
241 political subdivision shall prepare a report establishing disabled
242 veteran contractor set-aside program goals for the twelve-month
243 period beginning July first in the same year. Each such report shall be
244 submitted to the Commissioner of Administrative Services, the

245 Commission on Human Rights and Opportunities and the
246 cochairpersons and ranking members of the joint standing committees
247 of the General Assembly having cognizance of matters relating to
248 planning and development and government administration and
249 elections.

250 (m) On or before November 1, 1995, and quarterly thereafter, each
251 state agency and each political subdivision of the state other than a
252 municipality setting aside contracts or portions of contracts shall
253 prepare a status report on the implementation and results of its small
254 business and minority business enterprise set-aside program goals
255 during the three-month period ending one month before the due date
256 for the report. On or before November 1, 2009, and quarterly
257 thereafter, each state agency and each political subdivision of the state,
258 other than a municipality, setting aside contracts or portions of
259 contracts shall prepare a status report on the implementation and
260 results of its disabled veterans contractor set-aside program goals
261 during the three-month period ending one month before the due date
262 for the report. Each report shall be submitted to the Commissioner of
263 Administrative Services and the Commission on Human Rights and
264 Opportunities. Any state agency or political subdivision of the state,
265 other than a municipality, that achieves less than fifty per cent of its
266 small contractor and minority business enterprise set-aside program
267 goals by the end of the second reporting period in any twelve-month
268 period beginning on July first shall provide a written explanation to
269 the Commissioner of Administrative Services and the Commission on
270 Human Rights and Opportunities detailing how the agency or political
271 subdivision will achieve its goals in the final reporting period. The
272 Commission on Human Rights and Opportunities shall: (1) Monitor
273 the achievement of the annual goals established by each state agency
274 and political subdivision of the state other than a municipality; and (2)
275 prepare a quarterly report concerning such goal achievement. The
276 report shall be submitted to each state agency that submitted a report,
277 the Commissioner of Economic and Community Development, the
278 Commissioner of Administrative Services and the cochairpersons and
279 ranking members of the joint standing committees of the General

280 Assembly having cognizance of matters relating to planning and
281 development and government administration and elections. Failure by
282 any state agency or political subdivision of the state other than a
283 municipality to submit any reports required by this section shall be a
284 violation of section 46a-77.

285 (n) (1) On or before January 1, 2000, and annually thereafter, the
286 Department of Administrative Services shall establish a precertification
287 list of small contractors and minority business enterprises who have
288 established a principal place of business in the state but have not
289 maintained such place of business for one year and are not in the
290 directory prepared pursuant to subsection (k) of this section. An
291 awarding agency may select a small contractor or minority business
292 enterprise from such precertification list only after such awarding
293 agency makes a good faith effort to find an eligible small contractor or
294 minority business enterprise in the directory and determines that no
295 small contractor or minority business enterprise is qualified to perform
296 the work required under the contract.

297 (2) On or before January 1, 2009, and annually thereafter, the
298 Department of Administrative Services shall establish a precertification
299 list of disabled veteran contractors who have established a principal
300 place of business in the state, but have not maintained such place of
301 business for one year and are not in the directory prepared pursuant to
302 subsection (k) of this section. An awarding agency may select a
303 disabled veteran contractor from such precertification list only after
304 such awarding agency makes a good faith effort to find an eligible
305 disabled veteran contractor in the directory and determines that no
306 disabled veteran is qualified to perform the work required under the
307 contract.

308 (o) Nothing in this section shall be construed to apply to the four
309 janitorial contracts awarded pursuant to subsections (b) to (e),
310 inclusive, of section 4a-82 of the 2008 supplement to the general
311 statutes.

312 Sec. 2. Subsection (a) of section 4a-57 of the general statutes is

313 repealed and the following is substituted in lieu thereof (*Effective July*
314 *1, 2008*):

315 (a) All purchases of, and contracts for, supplies, materials,
316 equipment and contractual services, except purchases and contracts
317 made pursuant to the provisions of subsection (b) of this section and
318 public utility services as provided in subsection (e) of this section shall
319 be based, when possible, on competitive bids or competitive
320 negotiation. The commissioner shall solicit competitive bids or
321 proposals by providing notice of the planned purchase in a form and
322 manner that the commissioner determines will maximize public
323 participation in the competitive bidding or competitive negotiation
324 process, including participation by small contractors and disabled
325 veteran contractors, as defined in section 4a-60g of the 2008
326 supplement to the general statutes, as amended by this act, and
327 promote competition. In the case of an expenditure which is estimated
328 to exceed fifty thousand dollars, such notice shall be inserted, at least
329 five calendar days before the final date of submitting bids or
330 proposals, in two or more publications, at least one of which shall be a
331 major daily newspaper published in the state and shall be posted on
332 the Internet. Each notice of a planned purchase under this subsection
333 shall indicate the type of goods and services to be purchased and the
334 estimated value of the contract award. The notice shall also contain a
335 notice of state contract requirements concerning nondiscrimination
336 and affirmative action pursuant to section 4a-60 and, when applicable,
337 requirements concerning the awarding of contracts to small
338 contractors, minority business enterprises, individuals with a
339 disability, disabled veteran contractors and nonprofit corporations
340 pursuant to section 4a-60g of the 2008 supplement to the general
341 statutes, as amended by this act. Each bid and proposal shall be kept
342 sealed or secured until opened publicly at the time stated in the notice
343 soliciting such bid or proposal.

344 Sec. 3. Subsections (b) and (c) of section 4-60h of the general statutes
345 are repealed and the following is substituted in lieu thereof (*Effective*
346 *July 1, 2008*):

347 (b) The commissioner shall adopt regulations, in accordance with
348 [the provisions of] chapter 54, to carry out the purposes of sections 4a-
349 60g to 4a-60j, inclusive, of the 2008 supplement to the general statutes,
350 as amended by this act. Such regulations shall include (1) provisions
351 concerning the application of the program to individuals with a
352 disability and veterans with a disability; (2) guidelines for a legally
353 acceptable format for, and content of, letters of credit authorized under
354 subsection (j) of section 4a-60g of the 2008 supplement to the general
355 statutes, as amended by this act; (3) procedures for random site visits
356 to the place of business of an applicant for certification at the time of
357 application and at subsequent times, as necessary, to ensure the
358 integrity of the application process; and (4) time limits for approval or
359 disapproval of applications.

360 (c) On or before January 1, 1994, the Commissioner of
361 Administrative Services shall, by regulations adopted in accordance
362 with chapter 54, establish a process to ensure that small contractors,
363 small businesses and minority business enterprises have fair access to
364 all competitive contracts outside of the set-aside program. On or before
365 January 1, 2009, the commissioner shall, by regulations adopted in
366 accordance with chapter 54, establish a process to ensure that disabled
367 veteran contractors have fair access to all competitive contracts outside
368 of the set-aside program.

369 Sec. 4. Section 4a-60j of the general statutes is repealed and the
370 following is substituted in lieu thereof (*Effective July 1, 2008*):

371 A small contractor or disabled veteran contractor shall receive
372 payment on a contract awarded to him or her under the provisions of
373 sections 4a-60g to 4a-60i, inclusive, as amended by this act, no later
374 than thirty days from the due date of any such payment on such
375 contract.

376 Sec. 5. Section 4a-61 of the general statutes is repealed and the
377 following is substituted in lieu thereof (*Effective July 1, 2008*):

378 (a) The Commissioner of Administrative Services, with the advice of

379 the Commissioner of Economic and Community Development, shall
380 adopt regulations, in accordance with chapter 54, establishing
381 procedures for the award of contracts concerning minority business
382 enterprises by the state or any political subdivision of the state other
383 than a municipality.

384 (b) The Commissioner of Administrative Services, with the advice of
385 the Commissioner of Economic and Community Development, shall
386 adopt regulations, in accordance with chapter 54, establishing
387 procedures for the award of contracts concerning disabled veteran
388 contractors by the state or any political subdivision of the state other
389 than a municipality.

390 Sec. 6. Section 4a-62 of the general statutes is repealed and the
391 following is substituted in lieu thereof (*Effective July 1, 2008*):

392 (a) (1) There is established a Minority Business Enterprise Review
393 Committee. The committee shall consist of two members of the House
394 of Representatives appointed by the speaker of the House, two
395 members of the House appointed by the minority leader of the House,
396 two members of the Senate appointed by the president pro tempore of
397 the Senate, and two members of the Senate appointed by the minority
398 leader of the Senate. The committee shall conduct an ongoing study of
399 contract awards, loans and bonds made or guaranteed by the state or
400 any political subdivision of the state other than a municipality for the
401 purpose of determining the extent of compliance with the provisions
402 of the general statutes concerning contract awards, loans and bonds for
403 minority business enterprises, including the set-aside program for such
404 business enterprises.

405 [(b)] (2) The committee may request any agency of the state
406 authorized to award public works contracts or to enter into purchase
407 of goods or services contracts to submit such information on
408 compliance with sections 4a-60 of the 2008 supplement to the general
409 statutes and 4a-60g of the 2008 supplement to the general statutes, as
410 amended by this act, and at such times as the committee may require.
411 The committee shall consult with the Departments of Public Works,

412 Transportation and Economic Development and the Commission on
413 Human Rights and Opportunities concerning compliance with the
414 state programs for minority business enterprises. The committee shall
415 report annually on or before February first to the Joint [Standing]
416 Committee on Legislative Management on the results of its ongoing
417 study and include its recommendations, if any, for legislation.

418 (b) (1) There is established a Disabled Veteran Contractor Review
419 Committee. The committee shall consist of two members of the House
420 of Representatives, appointed by the speaker of the House of
421 Representatives; two members of the House of Representatives,
422 appointed by the minority leader of the House of Representatives; two
423 members of the Senate, appointed by the president pro tempore of the
424 Senate; and two members of the Senate, appointed by the minority
425 leader of the Senate. The committee shall conduct an ongoing study of
426 contract awards by the state or any political subdivision of the state,
427 other than a municipality, for the purpose of determining the extent of
428 compliance with the state set-aside program established under section
429 4a-60g of the 2008 supplement to the general statutes, as amended by
430 this act, concerning contract awards for disabled veteran contractors.

431 (2) The committee may request any agency of the state authorized to
432 award public works contracts or to enter into purchase of goods or
433 services contracts to submit such information in compliance with
434 section 4a-60g of the 2008 supplement to the general statutes, as
435 amended by this act, and at such times as the committee may require.
436 The committee shall consult with the Department of Administrative
437 Services concerning compliance with the state set-aside program with
438 respect to disabled veteran contractors. The committee shall report
439 annually on or before February first to the Joint Committee on
440 Legislative Management on the results of its ongoing study and
441 include its recommendations, if any, for legislation.

442 Sec. 7. (NEW) (*Effective July 1, 2008*) As used in sections 7 to 9,
443 inclusive, of this act:

444 (1) "Commissioner" means the Commissioner of Economic and

445 Community Development;

446 (2) "Veteran-owned business" means any business (A) of which
447 fifty-one per cent or more of the capital stock, if any, or assets are
448 owned by a veteran of the armed forces in service in time of war, as
449 defined in section 27-103 of the general statutes, who is active in the
450 daily affairs of the business and has the power to direct the
451 management and policies of the business, and (B) that is a small
452 business having fifty or fewer employees; and

453 (3) "Financial institution" means any trust company, bank, savings
454 bank, credit union, savings and loan association, insurance company,
455 investment company, mortgage banker, trustee, executor, pension
456 fund, retirement fund or other fiduciary or private financial institution.

457 Sec. 8. (NEW) (*Effective July 1, 2008*) (a) (1) There is established a
458 micro-loan program for veteran-owned businesses. The commissioner
459 may enter into a contract with a quasi-public agency, financial
460 institution or nonprofit corporation to provide for the administration
461 and state-wide promotion of the program. On or before July 1, 2009,
462 the program shall be a self-sustaining revolving loan fund. No loan or
463 loan guarantee that is not in accordance with the provisions of such
464 contract shall be made from the fund established under subdivision (2)
465 of this subsection.

466 (2) There is established a fund to be known as the "Micro-Loan
467 Revolving Fund for Veteran-Owned Businesses". The fund shall
468 contain (A) any moneys allocated pursuant to subdivision (3) of this
469 subsection, and (B) any moneys required by law to be deposited into
470 the fund, including, but not limited to, any moneys appropriated by
471 the state and interest payments and principal payments on loans. Any
472 balance remaining in the fund at the end of any fiscal year shall be
473 carried forward in the fund for the next succeeding fiscal year. The
474 fund shall be used to make loans and loan guarantees pursuant to
475 subsection (b) of this section and to pay reasonable and necessary
476 expenses incurred in administering such loans and loan guarantees
477 and the program established under this subsection.

478 (3) The commissioner may allocate moneys from the Economic
479 Assistance Revolving Fund, established under section 32-231 of the
480 general statutes, to the fund established under subdivision (2) of this
481 subsection.

482 (b) The state, acting by and in the discretion of the commissioner,
483 may, pursuant to a contract entered into under subdivision (1) of
484 subsection (a) of this section, provide funds to a quasi-public agency,
485 financial institution or nonprofit corporation to be used by such quasi-
486 public agency, financial institution or nonprofit corporation to make
487 loans, interest-free loans, deferred loans or loan guarantees to veteran-
488 owned businesses. Any such loan or loan guarantee shall be used by a
489 veteran-owned business for business start-up costs or the day-to-day
490 operation of the business. The proceeds from any loan made pursuant
491 to this subsection shall not be used for the refinancing of existing loans.

492 (c) The amount of any loan made pursuant to subsection (b) of this
493 section shall not exceed fifty thousand dollars. The amount of any loan
494 guarantee made pursuant to subsection (b) of this section shall not
495 exceed thirty per cent of the principal amount.

496 (d) Each veteran-owned business applying for a loan or loan
497 guarantee under subsection (b) of this section shall submit an
498 application in such information as the commissioner shall require.
499 Security for such loan may include a security interest, an assignment of
500 a lease or the subordination of a mortgage. In addition to any other
501 conditions of default under such loan or loan guarantee, the veteran-
502 owned business shall be in default if such loan or loan guarantee is not
503 used for the purposes set forth in subsection (b) of this section or if the
504 veteran-owned business fails to participate in the business
505 management training program required under section 9 of this act.

506 (e) Payments of principal and any interest on loans, interest-free
507 loans and deferred loans made pursuant to subsection (b) of this
508 section shall be deposited into the Micro-Loan Revolving Fund for
509 Veteran-Owned Businesses established under subdivision (2) of
510 subsection (a) of this section.

511 (f) The commissioner may adopt regulations, in accordance with
 512 chapter 54 of the general statutes, to carry out the provisions of this
 513 section. Such regulations may provide for loan procedures, repayment
 514 terms, interest and security requirements, default and remedy
 515 provisions, and such other terms and conditions as the commissioner
 516 deems appropriate.

517 Sec. 9. (NEW) (*Effective July 1, 2008*) Each veteran-owned business
 518 that receives a loan or loan guarantee pursuant to section 8 of this act
 519 shall participate in a business management training program as
 520 designated by the commissioner. The commissioner may establish a
 521 business management training program to be administered by either
 522 the Office of Small Business Affairs or a nonprofit corporation, as
 523 determined by the commissioner, and may arrange for the
 524 participation of such other programs as the commissioner deems
 525 appropriate in implementing the business management training
 526 program. The commissioner may enter into a contract with a nonprofit
 527 corporation to provide for the administration of the business
 528 management training program pursuant to this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2008</i>	4a-60g
Sec. 2	<i>July 1, 2008</i>	4a-57(a)
Sec. 3	<i>July 1, 2008</i>	4-60h(b) and (c)
Sec. 4	<i>July 1, 2008</i>	4a-60j
Sec. 5	<i>July 1, 2008</i>	4a-61
Sec. 6	<i>July 1, 2008</i>	4a-62
Sec. 7	<i>July 1, 2008</i>	New section
Sec. 8	<i>July 1, 2008</i>	New section
Sec. 9	<i>July 1, 2008</i>	New section

Statement of Legislative Commissioners:

The bill title was changed to accurately reflect the content of the bill. The last sentence of section 1 (b)(3) was deleted to avoid repetition. In section 4, the reference to the 2008 supplement to the general statutes following the string citation was deleted for clarity.

VA	<i>Joint Favorable Subst. C/R</i>	CE
CE	<i>Joint Favorable Subst.-LCO C/R</i>	GAE
GAE	<i>Joint Favorable Subst.-LCO</i>	

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 09 \$	FY 10 \$
Department of Administrative Services	GF - Cost	60,000	60,000
Comptroller Misc. Accounts (Fringe Benefits) ¹	GF - Cost	15,000	35,000
Legislative Management	GF - Cost	Minimal	Minimal
Treasurer, Debt Serv.	GF - Cost	See Below	See Below
Department of Economic & Community Development	Economic Assistance Revolving Fund - Cost	Potential	Potential

Note: GF=General Fund

Municipal Impact: None

Explanation

This bill establishes a separate set-aside program for certain disabled veteran contractors. The bill requires state agencies and quasi-public agencies that contract for more than \$10,000 in goods and services annually to set aside at least 3% of their contracts for bidding exclusively by qualified disabled veteran contractors.

The Department of Administrative Services (DAS) will need to hire one Accounts Examiner position, with a salary of approximately \$60,000, to handle the workload increase associated with establishing and managing a separate set-aside program for disabled veteran contractors.

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The first year fringe benefit costs for new positions do not include pension costs. The estimated first year fringe benefit rate as a percentage of payroll is 25.36%. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS fringe benefit rate is 33.27%, which when combined with the rate for non-pension fringe benefits totals 58.63%.

Creating a separate set-aside program for disabled veterans may increase the cost of certain contracts if contracts that would otherwise be awarded to the lowest qualified bidder are awarded to disabled veterans contractors instead.

The bill also establishes a Department of Economic Development (DECD) micro-loan program to make loans up to \$50,000 and loan guarantees to veteran-owned businesses. By July 1, 2009, the program, which the Department of Economic Development (DECD) administers, must be a self-sustaining revolving loan fund.

The bill could result in a cost to the Economic Assistance Revolving Fund, the balance of which was \$26.8 million as of March 31, 2008. The bill allows DECD to allocate funding from such fund to the Micro-Loan Revolving Fund for Veteran-Owned Businesses, established by the bill. In addition, the bill allows the Micro-Loan Revolving Fund for Veteran-Owned Businesses to pay reasonable and necessary expenses incurred in administering the loans and guarantees under the program. Administration expenses could include costs associated with contracting and the business management training program. To the extent that significant resources are deposited into the fund, DECD could also require an additional staff person for contracting and compliance purposes.

To the degree that funding is allocated from the Economic Assistance Revolving Fund, authorized under the Manufacturing Assistance Act (MAA), funds would be expended more rapidly than they otherwise would have been. This change could increase debt service costs in future years.

Lastly, the bill establishes a Disabled Veteran Contractor Review Committee to study compliance with the disabled veteran contractor set-aside program. The Office of Legislative Management would incur minimal costs associated with mileage reimbursement of 50.5 cents per mile for legislators participating on the committee.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 259*****AN ACT CONCERNING A STATE SET-ASIDE PROGRAM FOR DISABLED VETERANS AND A MICRO-LOAN PROGRAM FOR VETERANS.*****SUMMARY:**

This bill establishes (1) a separate set-aside program for contractors who are disabled veterans that mirrors an existing small contractor-minority set-aside program in most ways and (2) a micro-loan program to make loans up to \$50,000 and loan guarantees (up to 30% of principal) to veteran-owned businesses. By July 1, 2009, the program, which the Department of Economic Development (DECD) administers, must be a self-sustaining revolving loan fund.

With regard to the set-aside program, the bill requires state agencies and quasi-public agencies that contract annually for more than \$10,000 in goods and services to set aside at least 3% of their contracts for bidding exclusively by qualified disabled veteran contractors. It precludes such contractors from participating in the existing small contractor-minority set-aside program, which requires at least a 25% set-aside for small contractors, including at least 6.25% for minority-owned businesses, which include a business owned or run by an individual with a disability. Unlike the small contractor-minority program, which limits eligibility to businesses with no more than \$15 million in gross revenue in the year before applying, the disabled veteran contractor program is open to qualified businesses regardless of size.

The bill requires the Department of Administrative Services (DAS) commissioner to adopt implementing regulations by January 1, 2009, including those establishing a process to ensure that disabled veteran contractors have fair access to all competitive contracts outside the set-

aside program.

The bill establishes a Disabled Veteran Contractor Review Committee to study contract awards to determine compliance. But it sets no deadline for appointing committee members.

The bill's "Micro-Loan Revolving Fund for Veteran-Owned Businesses" must be used to make loans and loan guarantees and pay DECD's reasonable and necessary administration expenses.

EFFECTIVE DATE: July 1, 2008

SET-ASIDE PROGRAMS

Existing Small Contractor-Minority Set Aside

State law requires state agencies and state political subdivisions other than municipalities (quasi-public agencies) to set aside for certified small businesses, each fiscal year, at least 25% of the construction, public building rehabilitation, and supply and service contracts put to bid, with at least 25% of this amount (6.25% of the total) going to certified minority-owned businesses (see BACKGROUND). The law applies to agencies that put to bid contracts having a total value of more than \$10,000 in any year. To participate in the program, a contractor's gross revenue cannot exceed \$15 million in the 12-month period before applying.

Disabled Veteran Contractor Set-Aside Program

The bill creates a parallel set-aside program for disabled veteran contractors. It requires state agencies and quasi-public agencies that put to bid more than \$10,000 of contracts in any year to set aside in each fiscal year at least 3% of their total annual contracts for disabled veteran contractors on the basis of competitive bidding. As under the existing small contractor-minority set-aside law, agencies may exclude contracts that cannot be set aside because of a conflict with federal law. They may also set aside an amount based on the amount of all contracts not excluded from the calculation if the method of calculation would result in more or less than a 3% set-aside.

Awarding agencies, instead of setting aside any contract, may require a contractor or other entity authorized by the agency to award contracts to set aside a portion of the contract for disabled veteran subcontractors. But this cannot be construed to reduce the total set-aside from 3%.

The bill defines a “veteran with a disability” as any veteran (1) who has at least a 10% Veterans’ Administration-rated service disability incurred or aggravated in the line of duty while serving on active duty and (2) who was discharged under other than dishonorable conditions. It defines a “disabled veteran contractor” as a contractor, subcontractor, manufacturer, or service company that has been doing business under the same ownership and management and has maintained its principal business place in Connecticut for at least one year before applying for certification. Also, at least 51% of the business must be held by a veteran or veterans with a disability exercising operational authority over its daily affairs and having the power to direct its management and policies and receive the beneficial interest of the business.

The bill excludes certified and precertified disabled veteran contractors from the definition of small contractor and minority business, thereby precluding them from participating in the small contractor-minority set-aside program. It also precludes them from participating in some economic development programs available to small contractors and minority-owned businesses (e.g., Comprehensive Business Assistance Fund (CGS § 32-23x) and Business Outreach Center Challenge grants (CGS § 32-9qq)).

BID SOLICITATION

With some exceptions, state agency purchases and contracts are subject to competitive bidding. The law requires that the bid process maximize participation by small contractors. The bill requires that the process maximize participation by disabled veteran contractors as well.

Also under current law, bid notices must contain information about nondiscrimination and affirmative action and, when applicable, requirements about contract awards to small contractors, minority businesses, people with disabilities, and nonprofit corporations. The bill adds disabled veteran contractors to this list.

CERTIFICATION PROCESS

Every year, starting by January 1, 2009, the bill requires the DAS commissioner to establish a process for certifying disabled veteran contractors for set-aside contracts. Any paper certification application must be less than six pages. Certification is valid for up to two years.

DAS must maintain on its web site an updated directory of disabled certified veteran contractors. Every year, the commissioner must print a directory of disabled veteran contractors and provide state agencies with updated directory information quarterly.

By January 1, 2009, and annually thereafter, DAS must establish a precertification list of disabled veteran contractors who have established a principal business place in Connecticut for less than the one year required for certification and are therefore not in the directory. Awarding agencies may select contractors from the list only after making a good faith effort to find an eligible disabled veteran contractor in the directory and determining that there is none qualified to perform the work the contract requires.

PERFORMANCE STANDARDS

Awarding agencies must require that (1) contractors or subcontractors awarded contracts or portions of a contract perform at least 15% of the work with their workforce and (2) contractors or subcontractors eligible for awards perform at least 25% of the work. A contractor awarded a contract cannot subcontract with anyone with whom he is affiliated, and anyone affiliated with another person is not eligible for awards if both affiliated persons considered together would not qualify as a disabled veteran contractor.

Awarding agencies may require that a contractor or subcontractor

awarded a contract furnish the following: (1) a copy of the certificate of incorporation, certificate of limited partnership, partnership agreement, or other organizational document; (2) a copy of federal income tax returns the contractor or subcontractor filed for the previous year; and (3) evidence that the contractor or subcontractor paid fair market value for the purchase or lease of property or equipment from another contractor who is not eligible for the set-aside program.

The bill requires awarding agencies to accept letters of credit from contractors and subcontractors instead of bid, performance, or other bonds. Contracts under \$100,000 require a letter of credit equal to 10% of the contract amount; contracts above \$100,000 require 25%.

The bill requires that, like small contractors, disabled veteran contractors awarded set-aside contracts be paid within 30 days of the due date of any payment on the contract.

AUDITS AND INVESTIGATIONS

To determine program eligibility or compliance, the awarding agency, the DAS commissioner, or the Commission on Human Rights and Opportunities (CHRO) may investigate and audit the financial, corporate, and business records of any disabled veteran contractor that applies for, or gets, a set-aside contract.

GOALS AND REPORTS

By August 1, 2009, the bill requires each state agency and quasi-public agency participating in the set-aside program to prepare a report establishing disabled veteran contractor set-aside goals for the 12-months beginning July 1. (Unlike the small contractor-minority set-aside program, this goal-setting does not appear to be an annual requirement.) The agencies must submit their goals to CHRO, the DAS commissioner, and the chairpersons and ranking members of the Planning and Development (P&D) and Government Administration and Elections (GAE) committees.

Beginning November 1, 2009, the agencies must submit quarterly

status reports on their success in meeting their goals to CHRO and the DAS commissioner. (Unlike the small contractor-minority set-aside program, the agencies that achieve less than 50% of program goals in the second reporting period in any 12-month period do not appear to have to explain it to DAS and CHRO and indicate how they plan to achieve the goals in the final reporting period.)

CHRO must monitor the achievement of the goals and prepare quarterly reports on them. It must submit the reports to each state agency that submitted a report, the DECD and DAS commissioners, and the chairpersons and ranking members of the P&D and GAE committees. Failure to submit the required report is a violation.

REGULATIONS

The DAS commissioner must adopt implementing regulations. The regulations must address (1) the program's applicability to veterans with disabilities; (2) guidelines for a legally acceptable format for, and content of, letters of credit; (3) procedures for random site visits to ensure the integrity of the application process; and (4) deadlines for approving and disapproving applications.

The DAS commissioner, with the advice of the DECD commissioner, must adopt regulations for establishing procedures for awarding contracts.

By January 1, 2009, the DAS commissioner must adopt regulations establishing a process to ensure that disabled veteran contractors have fair access to all competitive contracts outside of the set-aside program.

VIOLATIONS

If an awarding agency has reason to believe that a contractor or subcontractor awarded a set-aside contract has willfully violated the bill, it may notify him or her by certified mail, return receipt requested. The notice must include (1) a reference to the alleged violation; (2) a short and plain statement of the matter asserted; (3) the maximum civil penalty for the violation; and (4) the time and place for the hearing, which cannot be earlier than 14 days after the notice is mailed.

The agency must hold a hearing unless the contractor fails to appear. If it finds a violation, it must suspend all set-aside contract payments and may impose a civil penalty up to \$10,000 per violation. If the contractor or subcontractor does not appear, the agency may impose a civil penalty of up to \$10,000 per violation. It must send a copy of any order by certified mail, return receipt requested, to the contractor or subcontractor. It may ask the attorney general to enforce any order imposing a civil penalty.

DISABLED VETERAN CONTRACTOR REVIEW COMMITTEE

The bill establishes the Disabled Veteran Contractor Review Committee. The eight-member committee consists of four House members, two appointed by the House speaker and two by the House minority leader; and four senators, two appointed by the Senate president pro tempore and two by the Senate minority leader.

The committee must study compliance with the disabled veteran contractor set-aside program on an ongoing basis. It must consult with DAS about program compliance. It may ask any agency authorized to award public works contracts or enter into purchase or service contracts to submit compliance information as it may require. It must report its study results and recommendations, if any, annually, by February 1, to the Legislative Management Committee.

MICRO-LOAN PROGRAM

The bill establishes a micro-loan program for veteran-owned businesses. By July 1, 2009, the program must be a self-sustaining revolving loan fund. The DECD commissioner may contract with a quasi-public agency, financial institution, or nonprofit corporation to administer the program and promote it statewide.

The bill establishes the Micro-Loan Revolving Fund for Veteran-Owned Businesses to make loans and loan guarantees and pay reasonable and necessary administrative program expenses. The DECD commissioner may capitalize the fund with money from the existing Economic Assistance Revolving (EAR) Fund (which is

capitalized with Manufacturing Assistance Act bond funds). The micro-loan fund must contain any deposits required under law, including state appropriations and principal and interest payments on loans from the fund. Any fiscal year-end fund balance must be carried forward to the next fiscal year. The fund cannot be used for loans or loan guarantees except in accordance with DECD's contract with the program administrator.

The commissioner may contract with quasi-public agencies, financial institutions, or nonprofit corporations to provide veteran-owned businesses with (1) loans, interest-free loans, and deferred loans, up to \$50,000, or (2) loan guarantees, up to 30% of principal amounts. Businesses may use the loans or loan guarantees only for business start-up costs or day-to-day operation of a business; they cannot use them to refinance existing loans.

Loan Application

Loan applicants must complete a form prepared by the commissioner and provide any information he requires. They may secure loans by providing a security interest, assigning a lease, or subordinating a mortgage. In addition to any other conditions of default, a business will default on its loan if (1) it uses the money for any purpose besides start-up or working capital or (2) does not participate in a business management training program the commissioner designates.

Business Management Training Program

The commissioner may establish a business management training program. She may have the Office of Small Business Affairs administer it or contract with a nonprofit corporation to do so. Each veteran-owned business that receives a loan or loan guarantee under the bill must participate in the DECD program or another program the commissioner considers appropriate.

Implementing Regulations

The commissioner may adopt implementing regulations, which may

address loan procedures, repayment terms, interest and security requirements, default and remedy provisions, and such other terms and conditions as she deems appropriate.

BACKGROUND

Small Contractors

To qualify as a “small contractor” under existing law, a business must be a contractor, subcontractor, manufacturer, or service company that (1) has done business and maintained its principal business place in Connecticut for at least a year before it applies for certification; (2) grossed no more than \$15 million in its most recent fiscal year; and (3) is at least 51% owned by one or more people who actively manage its daily affairs and have the power to direct its policies and management. The law includes nonprofit corporations that meet the first two criteria with respect to predevelopment contracts for housing projects.

Minority Business Enterprises

Minority business enterprises are small contractors of which members of ethnic minorities, people with disabilities, nonprofit corporations, and women (1) own at least 51% of the assets, (2) are active in its daily affairs, and (3) have the power to direct its management and policies. Minority means: Black Americans; Hispanic Americans; people from the Iberian Peninsula, including Portugal; women; Asian Pacific Americans and Pacific islanders; and American Indians.

COMMITTEE ACTION

Select Committee on Veterans' Affairs

Joint Favorable Substitute Change of Reference
Yea 10 Nay 0 (03/04/2008)

Commerce Committee

Joint Favorable Change of Reference
Yea 21 Nay 0 (03/11/2008)

Government Administration and Elections Committee

Joint Favorable

Yea 11 Nay 0 (03/19/2008)