



General Assembly

February Session, 2010

Raised Bill No. 5498

LCO No. 2284

02284_____CE_

Referred to Committee on Commerce

Introduced by:
(CE)

AN ACT CONCERNING MICRO BUSINESSES.

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

1 Section 1. Section 4b-57 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2010*):

3 (a) Whenever consultant services are required by the commissioner
4 in fulfilling the responsibilities under section 4b-1, and in the case of
5 each project, the commissioner shall invite responses from such firms
6 by advertisements inserted at least once in one or more newspapers
7 having a circulation in each county in the state except that the
8 commissioner may receive consultant services under a contract entered
9 into pursuant to subsection (d) of section 4b-51. The commissioner
10 shall prescribe, by regulations adopted in accordance with chapter 54,
11 the advance notice required for, the manner of submission, and
12 conditions and requirements of, such responses.

13 (b) In the case of a project, the responses received shall be
14 considered by the selection panel. The panel shall select from among
15 those responding no fewer than three firms, which such panel
16 determines in accordance with criteria established by the

17 commissioner are most qualified to perform the required consultant
18 services. In the case of any project that requires consultant services by
19 an architect or professional engineer, additional criteria to be
20 considered by such panel in selecting a list of the most qualified firms
21 shall include: (1) Such firm's knowledge of this state's building and fire
22 codes, and (2) the geographic location of such firm in relation to the
23 geographic location of the proposed project. The selection panel shall
24 submit a list of the most qualified firms to the commissioner for the
25 commissioner's consideration unless fewer than three responses for a
26 particular project have been received, in which case the panel shall
27 submit the names of all firms who have submitted responses.

28 (c) In the case of consultants selected under subsection (d) of section
29 4b-51, the responses received shall be considered by the selection
30 panel. The panel shall select, from among those persons responding, a
31 list of those persons most qualified to perform the consultant services.
32 Knowledge of the state building and fire code and whether the
33 consultant is a micro business, as defined in subsection (c) of section
34 4a-59, shall be considered in determining a consultant's qualifications.

35 Sec. 2. Section 4a-60g of the 2010 supplement to the general statutes
36 is repealed and the following is substituted in lieu thereof (*Effective July*
37 *1, 2010*):

38 (a) As used in this section and sections 4a-60h to 4a-60j, inclusive,
39 the following terms have the following meanings:

40 (1) "Small contractor" means any contractor, subcontractor,
41 manufacturer or service company (A) that has been doing business
42 under the same ownership or management and has maintained its
43 principal place of business in the state, for a period of at least one year
44 immediately prior to the date of application for certification under this
45 section, (B) that had gross revenues not exceeding fifteen million
46 dollars in the most recently completed fiscal year prior to such
47 application, and (C) at least fifty-one per cent of the ownership of
48 which is held by a person or persons who exercise operational

49 authority over the daily affairs of the business and have the power to
50 direct the management and policies and receive the beneficial interests
51 of the business, except that a nonprofit corporation shall be construed
52 to be a small contractor if such nonprofit corporation meets the
53 requirements of subparagraphs (A) and (B) of this subdivision.

54 (2) "Micro business enterprise" means (A) any manufacturer (i) that
55 has been doing business under the same ownership or management
56 and has maintained its principal place of business in the state for a
57 period of at least one year immediately prior to the date of application
58 for certification under this section, and (ii) that had gross revenues
59 together with all affiliates not exceeding three million dollars in the
60 most recently completed fiscal year prior to such application, or (B)
61 any contractor, subcontractor or service company that had gross
62 revenues, together with all affiliates, not exceeding three million
63 dollars.

64 [(2)] (3) "State agency" means each state board, commission,
65 department, office, institution, council or other agency with the power
66 to contract for goods or services itself or through its head.

67 [(3)] (4) "Minority business enterprise" means any small contractor
68 (A) fifty-one per cent or more of the capital stock, if any, or assets of
69 which are owned by a person or persons (i) who exercise operational
70 authority over the daily affairs of the enterprise, (ii) who have the
71 power to direct the management and policies and receive the beneficial
72 interest of the enterprise, and (iii) who are members of a minority, as
73 such term is defined in subsection (a) of section 32-9n, (B) who is an
74 individual with a disability, or (C) which is a nonprofit corporation in
75 which fifty-one per cent or more of the persons who (i) exercise
76 operational authority over the enterprise, and (ii) have the power to
77 direct the management and policies of the enterprise are members of a
78 minority, as defined in this subsection, or are individuals with a
79 disability.

80 [(4)] (5) "Affiliated" means the relationship in which a person

81 directly, or indirectly through one or more intermediaries, controls, is
82 controlled by or is under common control with another person.

83 [(5)] (6) "Control" means the power to direct or cause the direction of
84 the management and policies of any person, whether through the
85 ownership of voting securities, by contract or through any other direct
86 or indirect means. Control shall be presumed to exist if any person,
87 directly or indirectly, owns, controls, holds with the power to vote, or
88 holds proxies representing, twenty per cent or more of any voting
89 securities of another person.

90 [(6)] (7) "Person" means any individual, corporation, limited liability
91 company, partnership, association, joint stock company, business trust,
92 unincorporated organization or other entity.

93 [(7)] (8) "Individual with a disability" means an individual (A)
94 having a physical or mental impairment that substantially limits one or
95 more of the major life activities of the individual, which mental
96 impairment may include, but is not limited to, having one or more
97 mental disorders, as defined in the most recent edition of the American
98 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
99 Disorders", or (B) having a record of such an impairment.

100 [(8)] (9) "Nonprofit corporation" means a nonprofit corporation
101 incorporated pursuant to chapter 602 or any predecessor statutes
102 thereto.

103 (b) It is found and determined that there is a serious need to help
104 small contractors, minority business enterprises, nonprofit
105 organizations, [and] individuals with disabilities and micro business
106 enterprises to be considered for and awarded state contracts for the
107 construction, reconstruction or rehabilitation of public buildings, the
108 construction and maintenance of highways and the purchase of goods
109 and services. Accordingly, the necessity, in the public interest and for
110 the public benefit and good, of the provisions of this section, sections
111 4a-60h to 4a-60j, inclusive, and sections 32-9i to 32-9p, inclusive, is

112 declared as a matter of legislative determination. Notwithstanding any
113 provisions of the general statutes to the contrary, and except as set
114 forth herein, the head of each state agency and each political
115 subdivision of the state other than a municipality shall set aside in each
116 fiscal year, for award to small contractors, on the basis of competitive
117 bidding procedures, contracts or portions of contracts for the
118 construction, reconstruction or rehabilitation of public buildings, the
119 construction and maintenance of highways and the purchase of goods
120 and services. Eligibility of nonprofit corporations under the provisions
121 of this section shall be limited to predevelopment contracts awarded
122 by the Commissioner of Economic and Community Development for
123 housing projects. The total value of such contracts or portions thereof
124 to be set aside by each such agency shall be at least twenty-five per
125 cent of the total value of all contracts let by the head of such agency in
126 each fiscal year, provided that neither: (1) A contract that may not be
127 set aside due to a conflict with a federal law or regulation; or (2) a
128 contract for any goods or services which have been determined by the
129 Commissioner of Administrative Services to be not customarily
130 available from or supplied by small contractors shall be included.
131 Contracts or portions thereof having a value of not less than
132 twenty-five per cent of the total value of all contracts or portions
133 thereof to be set aside shall be reserved for awards to minority
134 business enterprises. Contracts or portions thereof having a value of
135 not less than five per cent of the total value of all contracts or portions
136 thereof to be set aside shall be reserved for awards to micro business
137 enterprises.

138 (c) The head of any state agency or political subdivision of the state
139 other than a municipality may, in lieu of setting aside any contract or
140 portions thereof, require any general or trade contractor or any other
141 entity authorized by such agency to award contracts, to set aside a
142 portion of any contract for subcontractors who are eligible for set-aside
143 contracts under this section. Nothing in this subsection shall be
144 construed to diminish the total value of contracts which are required to
145 be set aside by any state agency or political subdivision of the state

146 other than a municipality pursuant to this section.

147 (d) The heads of all state agencies and of each political subdivision
148 of the state other than a municipality shall notify the Commissioner of
149 Administrative Services of all contracts to be set aside pursuant to
150 subsection (b) or (c) of this section at the time that bid documents for
151 such contracts are made available to potential contractors.

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

169 (f) The awarding authority may require that a contractor or
170 subcontractor awarded a contract or a portion of a contract under this
171 section furnish the following documentation: (1) A copy of the
172 certificate of incorporation, certificate of limited partnership,
173 partnership agreement or other organizational documents of the
174 contractor or subcontractor; (2) a copy of federal income tax returns
175 filed by the contractor or subcontractor for the previous year; and (3)
176 evidence of payment of fair market value for the purchase or lease by
177 the contractor or subcontractor of property or equipment from another

178 contractor who is not eligible for set-aside contracts under this section.

179 (g) The awarding authority or the Commissioner of Administrative
180 Services or the Commission on Human Rights and Opportunities may
181 conduct an audit of the financial, corporate and business records and
182 conduct an investigation of any small contractor or minority business
183 enterprise which applies for or is awarded a set-aside contract for the
184 purpose of determining eligibility for awards or compliance with the
185 requirements established under this section.

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

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

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

210 Opportunities.

211 (2) The awarding authority shall hold a hearing on the violation
212 asserted unless such contractor or subcontractor fails to appear. The
213 hearing shall be held in accordance with the provisions of chapter 54.
214 If, after the hearing, the awarding authority finds that the contractor or
215 subcontractor has wilfully violated any provision of this section, the
216 awarding authority shall suspend all set-aside contract payments to
217 the contractor or subcontractor and may, in its discretion, order that a
218 civil penalty not exceeding ten thousand dollars per violation be
219 imposed on the contractor or subcontractor. If such contractor or
220 subcontractor fails to appear for the hearing, the awarding authority
221 may, as the facts require, order that a civil penalty not exceeding ten
222 thousand dollars per violation be imposed on the contractor or
223 subcontractor. The awarding authority shall send a copy of any order
224 issued pursuant to this subsection by certified mail, return receipt
225 requested, to the contractor or subcontractor named in such order. The
226 awarding authority may cause proceedings to be instituted by the
227 Attorney General for the enforcement of any order imposing a civil
228 penalty issued under this subsection.

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

237 (l) On or before August 30, 2007, and annually thereafter, each state
238 agency and each political subdivision of the state other than a
239 municipality setting aside contracts or portions of contracts shall
240 prepare a report establishing small and minority business set-aside
241 program goals for the twelve-month period beginning July first in the

242 same year. Each such report shall be submitted to the Commissioner of
243 Administrative Services, the Commission on Human Rights and
244 Opportunities and the cochairpersons and ranking members of the
245 joint standing committees of the General Assembly having cognizance
246 of matters relating to planning and development and government
247 administration and elections.

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

276 violation of section 46a-77.

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

289 (o) Nothing in this section shall be construed to apply to the four
290 janitorial contracts awarded pursuant to subsections (b) to (e),
291 inclusive, of section 4a-82.

292 Sec. 3. (*Effective from passage*) The Department of Public Utility
293 Control shall initiate a proceeding to examine the collection of deposits
294 by public service companies from any customer or prospective
295 customer, other than a residential customer or prospective residential
296 customer. Such examination shall include, but not be limited to,
297 consideration of (1) a maximum deposit amount that public service
298 companies may collect from any customer or prospective customer
299 other than a residential customer or prospective residential customer,
300 (2) criteria to determine creditworthiness of such customers, (3) criteria
301 for when the public service company shall return the deposit plus
302 interest, and (4) provisions for collecting deposits from customers
303 moving from one location to another within the service area of the
304 same company. On or before January 1, 2011, the department shall
305 report, in accordance with section 11-4a of the general statutes, the
306 results of such proceeding to the joint standing committee of the
307 General Assembly having cognizance of matters relating to energy.

308 Sec. 4. (NEW) (*Effective July 1, 2010*) (a) The Commissioner of
309 Economic and Community Development shall establish and
310 administer a small business recovery program to provide loans
311 through economic development entities and nonprofit organizations to
312 businesses that are unserviceable by traditional lenders. Loans
313 provided as part of this program shall be for amounts not less than
314 fifteen thousand dollars and not more than fifty thousand dollars.

315 (b) The commissioner shall adopt regulations, in accordance with
316 the provisions of chapter 54 of the general statutes, to establish small
317 business eligibility criteria and guidelines for the loan program
318 established pursuant to subsection (a) of this section. Such eligibility
319 criteria shall include, but not be limited to, small businesses having (1)
320 not fewer than five employees and not more than twenty employees,
321 (2) not more than three million dollars in annual gross receipts, and (3)
322 not less than seventy per cent collateral to secure the loan.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2010</i>	4b-57
Sec. 2	<i>July 1, 2010</i>	4a-60g
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>July 1, 2010</i>	New section

Statement of Purpose:

To facilitate micro businesses participation in state contracts, examine excessive business utility deposits and provide loan funds to the state's small businesses.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]