



General Assembly

January Session, 2015

Committee Bill No. 5792

LCO No. 5595



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***AN ACT CONCERNING THE SET-ASIDE PROGRAM AND THE
PERCENTAGE OF CONTRACTS RESERVED FOR MINORITY
BUSINESS ENTERPRISES.***

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

1 Section 1. Subsections (a) and (b) of section 4a-60g of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2015*):

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

6 (1) "Small contractor" means any contractor, subcontractor,
7 manufacturer, service company or nonprofit corporation (A) that
8 maintains its principal place of business in the state, (B) that had gross
9 revenues not exceeding fifteen million dollars in the most recently
10 completed fiscal year prior to such application, and (C) that is
11 independent. "Small contractor" does not include any person who is
12 affiliated with another person if both persons considered together have
13 a gross revenue exceeding fifteen million dollars.

14 (2) "Independent" means the viability of the enterprise of the small
15 contractor does not depend upon another person, as determined by an
16 analysis of the small contractor's relationship with any other person in
17 regards to the provision of personnel, facilities, equipment, other
18 resources and financial support, including bonding.

19 (3) "State agency" means each state board, commission, department,
20 office, institution, council or other agency with the power to contract
21 for goods or services itself or through its head.

22 (4) "Minority business enterprise" means any small contractor (A)
23 fifty-one per cent or more of the capital stock, if any, or assets of which
24 are owned by a person or persons who (i) exercise operational
25 authority over the daily affairs of the enterprise, (ii) have the power to
26 direct the management and policies and receive the beneficial interest
27 of the enterprise, (iii) possess managerial and technical competence
28 and experience directly related to the principal business activities of
29 the enterprise, and (iv) are members of a minority, [as such term is
30 defined in subsection (a) of section 32-9n,] are women or are
31 individuals with a disability, or (B) which is a nonprofit corporation in
32 which fifty-one per cent or more of the persons who (i) exercise
33 operational authority over the enterprise, (ii) possess managerial and
34 technical competence and experience directly related to the principal
35 business activities of the enterprise, (iii) have the power to direct the
36 management and policies of the enterprise, and (iv) are members of a
37 minority, [as defined in this subsection,] are women or are individuals
38 with a disability.

39 (5) "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 (6) "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 (7) "Person" means any individual, corporation, limited liability
50 company, partnership, association, joint stock company, business trust,
51 unincorporated organization or other entity.

52 (8) "Minority" means (A) Black Americans, including all persons
53 having origins in any of the Black African racial groups not of
54 Hispanic origin; (B) Hispanic Americans, including all persons of
55 Mexican, Puerto Rican, Cuban, Central or South American, or other
56 Spanish culture or origin, regardless of race; (C) all persons having
57 origins in the Iberian Peninsula, including Portugal, regardless of race;
58 (D) Asian Pacific Americans and Pacific Islanders; or (E) American
59 Indians and persons having origins in any of the original peoples of
60 North America and maintaining identifiable tribal affiliations through
61 membership and participation or community identification.

62 [(8)] (9) "Individual with a disability" means an individual (A)
63 having a physical or mental impairment that substantially limits one or
64 more of the major life activities of the individual, which mental
65 impairment may include, but is not limited to, having one or more
66 mental disorders, as defined in the most recent edition of the American
67 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
68 Disorders", or (B) having a record of such an impairment.

69 [(9)] (10) "Nonprofit corporation" means a nonprofit corporation
70 incorporated pursuant to chapter 602 or any predecessor statutes
71 thereto.

72 (b) It is found and determined that there is a serious need to help
73 small contractors, minority business enterprises, nonprofit
74 organizations and individuals with disabilities to be considered for
75 and awarded state contracts for the construction, reconstruction or
76 rehabilitation of public buildings, the construction and maintenance of

77 highways and the purchase of goods and services. Accordingly, the
78 necessity, in the public interest and for the public benefit and good, of
79 the provisions of this section, sections 4a-60h to 4a-60j, inclusive, and
80 sections 32-9i to 32-9p, inclusive, is declared as a matter of legislative
81 determination. Notwithstanding any provisions of the general statutes
82 to the contrary, and except as set forth herein, the head of each state
83 agency and each political subdivision of the state other than a
84 municipality shall set aside in each fiscal year, for award to small
85 contractors, on the basis of competitive bidding procedures, contracts
86 or portions of contracts for the construction, reconstruction or
87 rehabilitation of public buildings, the construction and maintenance of
88 highways and the purchase of goods and services. Eligibility of
89 nonprofit corporations under the provisions of this section shall be
90 limited to predevelopment contracts awarded by the Commissioner of
91 Housing for housing projects. The total value of such contracts or
92 portions thereof to be set aside by each such agency shall be at least
93 twenty-five per cent of the total value of all contracts let by the head of
94 such agency in each fiscal year, provided that neither: (1) A contract
95 that may not be set aside due to a conflict with a federal law or
96 regulation; or (2) a contract for any goods or services which have been
97 determined by the Commissioner of Administrative Services to be not
98 customarily available from or supplied by small contractors shall be
99 included. Contracts or portions thereof having a value of not less than
100 twenty-five per cent of the total value of all contracts or portions
101 thereof to be set aside shall be reserved for awards to minority
102 business enterprises, provided not less than fifty per cent of the
103 contracts or portions of such contracts so reserved shall be reserved for
104 awards to minority business enterprises that are members of a
105 minority.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2015</i>	4a-60g(a) and (b)
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GAE *Joint Favorable*