



General Assembly

January Session, 2015

Committee Bill No. 6086

LCO No. 5801



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***AN ACT EXPANDING THE SET-ASIDE PROGRAM TO INCLUDE
MUNICIPALITIES.***

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

1 Section 1. Subsections (a) to (d), inclusive, of section 4a-60g of the
2 general statutes are repealed and the following is substituted in lieu
3 thereof (*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, or are individuals with a
31 disability, or (B) which is a nonprofit corporation in which fifty-one
32 per cent or more of the persons who (i) exercise operational authority
33 over the enterprise, (ii) possess managerial and technical competence
34 and experience directly related to the principal business activities of
35 the enterprise, (iii) have the power to direct the management and
36 policies of the enterprise, and (iv) are members of a minority, as
37 defined in this subsection, or are individuals with a disability.

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

41 (6) "Control" means the power to direct or cause the direction of the
42 management and policies of any person, whether through the
43 ownership of voting securities, by contract or through any other direct
44 or indirect means. Control shall be presumed to exist if any person,
45 directly or indirectly, owns, controls, holds with the power to vote, or

46 holds proxies representing, twenty per cent or more of any voting
47 securities of another person.

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

51 (8) "Individual with a disability" means an individual (A) having a
52 physical or mental impairment that substantially limits one or more of
53 the major life activities of the individual, which mental impairment
54 may include, but is not limited to, having one or more mental
55 disorders, as defined in the most recent edition of the American
56 Psychiatric Association's "Diagnostic and Statistical Manual of Mental
57 Disorders", or (B) having a record of such an impairment.

58 (9) "Nonprofit corporation" means a nonprofit corporation
59 incorporated pursuant to chapter 602 or any predecessor statutes
60 thereto.

61 (10) "Municipality" means any town, consolidated town and city or
62 consolidated town and borough.

63 (11) "Quasi-public agency" has the same meaning as provided in
64 section 1-79.

65 (12) "Awarding authority" means the head of a state agency or
66 quasi-public agency or the chief executive officer of a municipality
67 with the power to contract for goods or services.

68 (13) "Public works contract" means any agreement between any
69 individual, firm or corporation and the state or any political
70 subdivision of the state (A) for construction, rehabilitation, conversion,
71 extension, demolition or repair of a public building or highway or
72 other changes or improvements in real property, and (B) which is
73 financed in whole or in part by the state, including, but not limited to,
74 matching expenditures, grants, loans, insurance or guarantees.

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

109 contracts or portions thereof to be set aside shall be reserved for
110 awards to minority business enterprises.

111 (c) The [head of any state agency or political subdivision of the state
112 other than a municipality] awarding authority may, in lieu of setting
113 aside any contract or portions thereof, require any general or trade
114 contractor or any other entity authorized by such state or quasi-public
115 agency or municipality to award contracts, to set aside a portion of any
116 contract for subcontractors who are eligible for set-aside contracts
117 under this section. Nothing in this subsection shall be construed to
118 diminish the total value of contracts which are required to be set aside
119 by any state or quasi-public agency or [political subdivision of the state
120 other than a] municipality pursuant to this section.

121 (d) [The heads of all state agencies and of each political subdivision
122 of the state other than a municipality] Each awarding authority shall
123 notify the Commissioner of Administrative Services of all contracts to
124 be set aside pursuant to subsection (b) or (c) of this section at the time
125 that bid documents for such contracts are made available to potential
126 contractors.

127 Sec. 2. Subsection (h) of section 4a-60g of the general statutes is
128 repealed and the following is substituted in lieu thereof (*Effective*
129 *October 1, 2015*):

130 (h) The provisions of this section shall not apply to any state or
131 quasi-public agency or [political subdivision of the state other than a]
132 municipality for which the total value of all contracts or portions of
133 contracts of the types enumerated in subsection (b) of this section is
134 anticipated to be equal to ten thousand dollars or less.

135 Sec. 3. Subsections (l) and (m) of section 4a-60g of the general
136 statutes are repealed and the following is substituted in lieu thereof
137 (*Effective October 1, 2015*):

138 (l) On or before August 30, 2007, and annually thereafter, each state

139 and quasi-public agency setting aside contracts or portions of contracts
140 and on or before August 30, 2016, and annually thereafter, each
141 [political subdivision of the state other than a] municipality setting
142 aside contracts or portions of contracts shall prepare a report
143 establishing small and minority business set-aside program goals for
144 the twelve-month period beginning July first in the same year. Each
145 such report shall be submitted to the Commissioner of Administrative
146 Services, the Commission on Human Rights and Opportunities and the
147 cochairpersons and ranking members of the joint standing committees
148 of the General Assembly having cognizance of matters relating to
149 planning and development and government administration. [and
150 elections.]

151 (m) On or before November 1, 1995, and quarterly thereafter, each
152 state and quasi-public agency [and each political subdivision of the
153 state other than a municipality] setting aside contracts or portions of
154 contracts and on or before November 1, 2016, and quarterly thereafter,
155 each municipality setting aside contracts or portions of contracts shall
156 prepare a status report on the implementation and results of its small
157 business and minority business enterprise set-aside program goals
158 during the three-month period ending one month before the due date
159 for the report. Each report shall be submitted to the Commissioner of
160 Administrative Services and the Commission on Human Rights and
161 Opportunities. Any state or quasi-public agency or [political
162 subdivision of the state, other than a] municipality, that achieves less
163 than fifty per cent of its small contractor and minority business
164 enterprise set-aside program goals by the end of the second reporting
165 period in any twelve-month period beginning on July first shall
166 provide a written explanation to the Commissioner of Administrative
167 Services and the Commission on Human Rights and Opportunities
168 detailing how the state or quasi-public agency or [political
169 subdivision] municipality will achieve its goals in the final reporting
170 period. The Commission on Human Rights and Opportunities shall: (1)
171 Monitor the achievement of the annual goals established by each state
172 and quasi-public agency and [political subdivision of the state other

173 than a] municipality; and (2) prepare a quarterly report concerning
 174 such goal achievement. The report shall be submitted to each state or
 175 quasi-public agency or municipality that submitted a report, the
 176 Commissioner of Economic and Community Development, the
 177 Commissioner of Administrative Services and the cochairpersons and
 178 ranking members of the joint standing committees of the General
 179 Assembly having cognizance of matters relating to planning and
 180 development and government administration. [and elections.] Failure
 181 by any state or quasi-public agency or [political subdivision of the state
 182 other than a] municipality to submit any reports required by this
 183 section shall be a violation of section 46a-77.

184 Sec. 4. Section 46a-68b of the general statutes is repealed and the
 185 following is substituted in lieu thereof (*Effective October 1, 2015*):

186 As used in this section and sections 4a-60, 4a-60a, [4a-60g,] 4a-62,
 187 46a-56 and 46a-68c to 46a-68k, inclusive: "Public works contract" means
 188 any agreement between any individual, firm or corporation and the
 189 state or any political subdivision of the state other than a municipality
 190 for construction, rehabilitation, conversion, extension, demolition or
 191 repair of a public building, highway or other changes or improvements
 192 in real property, or which is financed in whole or in part by the state,
 193 including, but not limited to, matching expenditures, grants, loans,
 194 insurance or guarantees.

195 Sec. 5. Section 7-148u of the general statutes is repealed. (*Effective*
 196 *October 1, 2015*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2015</i>	4a-60g(a) to (d)
Sec. 2	<i>October 1, 2015</i>	4a-60g(h)
Sec. 3	<i>October 1, 2015</i>	4a-60g(l) and (m)
Sec. 4	<i>October 1, 2015</i>	46a-68b
Sec. 5	<i>October 1, 2015</i>	Repealer section

Statement of Purpose:

To expand the set-aside program to include certain municipal projects and purchases.

[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.]

Co-Sponsors: REP. MORRIS, 140th Dist.; REP. SANTIAGO, 84th Dist.
SEN. MOORE, 22nd Dist.; REP. STALLWORTH, 126th Dist.
REP. PORTER, 94th Dist.; REP. VARGAS, 6th Dist.
REP. MILLER P., 145th Dist.; REP. CUEVAS, 75th Dist.
SEN. COLEMAN, 2nd Dist.; REP. ADAMS, 146th Dist.

H.B. 6086