



Senate

General Assembly

File No. 199

February Session, 2016

Substitute Senate Bill No. 2

Senate, March 24, 2016

The Committee on Veterans' Affairs reported through SEN. FLEXER of the 29th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT SUPPORTING VETERAN-OWNED SMALL BUSINESSES.

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

1 Section 1. Subsection (c) of section 4a-59 of the 2016 supplement to
2 the general statutes is repealed and the following is substituted in lieu
3 thereof (*Effective October 1, 2016*):

4 (c) All open market orders or contracts shall be awarded to (1) the
5 lowest responsible qualified bidder, the qualities of the articles to be
6 supplied, their conformity with the specifications, their suitability to
7 the requirements of the state government and the delivery terms being
8 taken into consideration and, at the discretion of the Commissioner of
9 Administrative Services, life-cycle costs and trade-in or resale value of
10 the articles may be considered where it appears to be in the best
11 interest of the state, (2) the highest scoring bidder in a multiple criteria
12 bid, in accordance with the criteria set forth in the bid solicitation for
13 the contract, or (3) the proposer whose proposal is deemed by the
14 awarding authority to be the most advantageous to the state, in
15 accordance with the criteria set forth in the request for proposals,

16 including price and evaluation factors. Notwithstanding any provision
17 of the general statutes to the contrary, each state agency awarding a
18 contract through competitive negotiation shall include price as an
19 explicit factor in the criteria in the request for proposals and for the
20 contract award. In considering past performance of a bidder for the
21 purpose of determining the "lowest responsible qualified bidder" or
22 the "highest scoring bidder in a multiple criteria bid", the
23 commissioner shall evaluate the skill, ability and integrity of the
24 bidder in terms of the bidder's fulfillment of past contract obligations
25 and the bidder's experience or lack of experience in delivering
26 supplies, materials, equipment or contractual services of the size or
27 amount for which bids have been solicited. In determining the lowest
28 responsible qualified bidder for the purposes of this section, the
29 commissioner may give a price preference of up to ten per cent for (A)
30 the purchase of goods made with recycled materials or the purchase of
31 recyclable or remanufactured products if the commissioner determines
32 that such preference would promote recycling or remanufacturing. As
33 used in this subsection, "recyclable" means able to be collected,
34 separated or otherwise recovered from the solid waste stream for
35 reuse, or for use in the manufacture or assembly of another package or
36 product, by means of a recycling program which is reasonably
37 available to at least seventy-five per cent of the state's population,
38 "remanufactured" means restored to its original function and thereby
39 diverted from the solid waste stream by retaining the bulk of
40 components that have been used at least once and by replacing
41 consumable components and "remanufacturing" means any process by
42 which a product is remanufactured; (B) the purchase of motor vehicles
43 powered by a clean alternative fuel; (C) the purchase of motor vehicles
44 powered by fuel other than a clean alternative fuel and conversion
45 equipment to convert such motor vehicles allowing the vehicles to be
46 powered by either the exclusive use of clean alternative fuel or dual
47 use of a clean alternative fuel and a fuel other than a clean alternative
48 fuel. As used in this subsection, "clean alternative fuel" means natural
49 gas, electricity, hydrogen or propane when used as a motor vehicle
50 fuel; or (D) the purchase of goods or services from [micro businesses] a

51 micro business, except that, in the case of a veteran-owned micro
52 business, the commissioner may give a price preference up to fifteen
53 per cent. As used in this subsection, "micro business" means a business
54 with gross revenues not exceeding three million dollars in the most
55 recently completed fiscal year and "veteran-owned micro business"
56 means a micro business of which at least fifty-one per cent of the
57 ownership is held by one or more veterans, as defined in subsection (a)
58 of section 27-103. All other factors being equal, preference shall be
59 given to supplies, materials and equipment produced, assembled or
60 manufactured in the state and services originating and provided in the
61 state. Except with regard to contracts that may be paid for with United
62 States Department of Transportation funds, if any such bidder refuses
63 to accept, within ten days, a contract awarded to such bidder, such
64 contract may be awarded to the next lowest responsible qualified
65 bidder or the next highest scoring bidder in a multiple criteria bid,
66 whichever is applicable, and so on until such contract is awarded and
67 accepted. Except with regard to contracts that may be paid for with
68 United States Department of Transportation funds, if any such
69 proposer refuses to accept, within ten days, a contract awarded to such
70 proposer, such contract shall be awarded to the next most
71 advantageous proposer, and so on until the contract is awarded and
72 accepted. There shall be a written evaluation made of each bid. This
73 evaluation shall identify the vendors and their respective costs and
74 prices, document the reason why any vendor is deemed to be
75 nonresponsive and recommend a vendor for award. A contract valued
76 at one million dollars or more shall be awarded to a bidder other than
77 the lowest responsible qualified bidder or the highest scoring bidder in
78 a multiple criteria bid, whichever is applicable, only with written
79 approval signed by the Commissioner of Administrative Services and
80 by the Comptroller. The commissioner shall post on the department's
81 Internet web site all awards made pursuant to the provisions of this
82 section.

83 Sec. 2. Subsections (a) and (b) of section 12-284b of the general
84 statutes are repealed and the following is substituted in lieu thereof
85 (*Effective October 1, 2016*):

86 (a) As used in this section:

87 (1) "S corporation" means any corporation which is an S corporation
88 for federal income tax purposes and which is either (A) a domestic S
89 corporation, or (B) a foreign S corporation that is required to obtain a
90 certificate of authority from the Secretary of the State before
91 transacting business in this state, whether or not it has obtained such a
92 certificate;

93 (2) "Limited liability company" means any limited liability company
94 which is, for federal income tax purposes, either treated as a
95 partnership, if it has two or more members, or disregarded as an entity
96 separate from its owner, if it has a single member, and which is either
97 (A) a domestic limited liability company, or (B) a foreign limited
98 liability company that is required to register with the Secretary of the
99 State before transacting business in this state, whether or not it has so
100 registered;

101 (3) "Limited liability partnership" means any limited liability
102 partnership which is either (A) a domestic limited liability partnership,
103 or (B) a foreign limited liability partnership that is required to file a
104 certificate of authority with the Secretary of the State before transacting
105 business in this state, whether or not it has filed such certificate;

106 (4) "Limited partnership" means any limited partnership which is
107 either (A) a domestic limited partnership, or (B) a foreign limited
108 partnership that is required under chapter 610 to register with the
109 Secretary of the State before transacting business in this state, whether
110 or not it has so registered;

111 (5) "Taxable year" means taxable year, for federal income tax
112 purposes;

113 (6) "Affected business entity" means any S corporation, limited
114 liability company, limited liability partnership or limited partnership;

115 (7) "Domestic S corporation", "domestic limited liability company",
116 "domestic limited liability partnership" or "domestic limited

117 partnership" means any such corporation, company or partnership that
118 is formed under the laws of this state; [and]

119 (8) "Foreign S corporation", "foreign limited liability company",
120 "foreign limited liability partnership" or "foreign limited partnership"
121 means any such corporation, company or partnership that is not a
122 domestic corporation, company or partnership; and

123 (9) "Veteran-owned business" means any business of which at least
124 fifty-one per cent of the ownership is held by one or more veterans, as
125 defined in subsection (a) of section 27-103.

126 (b) Each limited liability company, limited liability partnership,
127 limited partnership and S corporation shall be liable for the tax
128 imposed by this section for each taxable year or portion thereof that
129 such company, partnership or corporation is an affected business
130 entity, except that any veteran-owned business established on or after
131 July 1, 2016, shall not be liable for such tax for the first taxable year
132 after such establishment. For taxable years commencing prior to
133 January 1, 2013, each affected business entity shall annually, on or
134 before the fifteenth day of the fourth month following the close of its
135 taxable year, pay to the Commissioner of Revenue Services a tax in the
136 amount of two hundred fifty dollars. For taxable years commencing on
137 or after January 1, 2013, each affected business entity shall, on or before
138 the fifteenth day of the fourth month following the close of every other
139 taxable year, pay to the Commissioner of Revenue Services a tax in the
140 amount of two hundred fifty dollars.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2016	4a-59(c)
Sec. 2	October 1, 2016	12-284b(a) and (b)

Statement of Legislative Commissioners:

In Section 1(c), the definitions of "micro business" and "veteran-owned micro business" were consolidated into one sentence for clarity.

VA *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 17 \$	FY 18 \$
Various State Agencies	All Funds - Potential Cost	See Below	See Below
Department of Revenue Services	GF - Cost	108,213	64,284
State Comptroller - Fringe Benefits ¹	GF - Cost	19,256	25,675
Department of Revenue Services	GF - Revenue Loss	See Below	See Below

Note: GF=General Fund; All Funds=All Funds

Municipal Impact: None

Explanation

Section 1 provides a 15% price preference for veteran-owned micro-businesses. Currently, the Department of Administrative Services may provide a price preference of up to 10% in determining the lowest qualified bidder. This may increase the cost of certain contracts if contracts that would otherwise be awarded to the lowest qualified bidder are awarded to veteran-owned micro-businesses.

Section 2 exempts new veteran-owned businesses established on or after July 1, 2016 from the Business Entity Tax for the first tax year after they are established. Based on data from the United States Census Bureau and Small Business Administration indicating that veteran-owned businesses represent 31,510 of the 331,386 small businesses in Connecticut, this results in an estimated annualized revenue loss of up to \$70,000. It is unclear under the bill whether the

¹The fringe benefit costs for most state employees are budgeted centrally in accounts administered by the Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes is 39.94% of payroll in FY 17 and FY 18.

exemption applies to the entire \$250 biennial tax or just half of it. If the exemption applies to the entire \$250, the revenue loss would be up to \$70,000 every other year; if the exemption applies at a \$125 level, the revenue loss would be up to \$35,000 annually.

Section 2 would also require additional resources within the Department of Revenue Services (DRS) as there is currently no way to identify the nature of businesses filing under the Business Entity Tax. Specifically, the DRS would need one Revenue Examiner I at an annual cost of \$89,959 (\$64,284 in salary and \$25,675 for fringe costs) to identify and verify business eligibility under the bill. Additionally, it is estimated that there would be a one-time cost of \$60,000 in FY 17 associated with incorporating the necessary data into the online Taxpayer Service Center and the agency's internal Integrated Tax Administration System.

The Out Years

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

*Sources: Department of Revenue Services Fiscal Year 2014-2015 Annual Report
United States Census Bureau 2015 Veterans Statistics
United States Small Business Administration Small Business Profile for the States and Territories, 2014*

OLR Bill Analysis**sSB 2*****AN ACT SUPPORTING VETERAN-OWNED SMALL BUSINESSES.*****SUMMARY:**

This bill provides certain veteran-owned businesses with (1) up to a 15% price preference for certain Department of Administrative Services (DAS) open market orders or contracts and (2) business tax relief for the first year after they are established.

By law, DAS may give a price preference to micro businesses of up to 10% in determining the lowest responsible qualified bidder. The bill increases this amount to 15% for veteran-owned micro businesses. A “micro business” is a business with gross revenue of up to \$3 million in the most recently completed fiscal year, and a “veteran-owned micro business” is any business of which at least 51% of the ownership is held by one or more veterans.

The bill also exempts new veteran-owned businesses established on or after July 1, 2016 from the business entity tax for the first tax year after they are established. By law, businesses organized as limited liability partnerships, limited partnerships, or S corporations must pay a \$250 business entity tax every other year. It is unclear whether the exemption applies to the entire \$250 biennial tax or just half of it. A “veteran-owned business” is any business of which at least 51% of the ownership is held by one or more veterans.

As under existing law, a “veteran” is anyone honorably discharged or released from active service in the U.S. Armed Forces or their reserve components, including the Connecticut National Guard performing duty under Title 32 of federal law (e.g., certain Homeland Security missions).

EFFECTIVE DATE: October 1, 2016

COMMITTEE ACTION

Veterans' Affairs Committee

Joint Favorable

Yea 15 Nay 0 (03/08/2016)