LEGISLATIVE FISCAL ESTIMATE

SENATE COMMITTEE SUBSTITUTE FOR

SENATE, No. 1866

STATE OF NEW JERSEY
219th LEGISLATURE

DATED: OCTOBER 26, 2020

SUMMARY

Synopsis: Establishes price preference program on State contracts for service-disabled veteran-owned businesses.

Type of Impact: Annual expenditure increase to the State.

Agencies Affected: Division of Purchase and Property in the Department of the Treasury.

Office of Legislative Services Estimate

Fiscal Impact	Year 1	Year 2	Year 3
State Cost Increase		Indeterminate	

- The Office of Legislative Services (OLS) finds the bill will increase annual State costs by an indeterminate amount by giving a preference of up to 10 percent of the amount of a State contract to disabled veterans. A determination as to the magnitude of the increase cannot be made because no information is available regarding the aggregate number of contracts that will be advertised to be bid upon, the number of disabled veterans that would bid on any given contract, the value of contracts that would be awarded to disabled veterans as a percentage of expenditures for construction, goods, and services, and the value of contracts that would be awarded.

- Under this bill, if a preference of up to 10 percent is granted to a disabled veteran, the reduction in the disabled veteran's bid could result in lowering that bid below that of the lowest bidder. If this occurs, the bill requires the State to award the contract to the disabled veteran as long as the bid meets the requirements of the contract solicitation. The effect being that the State will pay a higher amount than it otherwise would have if the State awarded the contract to the lowest bidder.

- In New Jersey, current law requires the State procurement and purchasing agencies to give due consideration to disabled veterans in awarding contracts and provides them with a registration process to be listed in the New Jersey Selective Assistance Vendor Information database (NJSAVI), but not preference in awarding contracts.

BILL DESCRIPTION

This bill would establish a price preference of up to 10 percent of the amount of the contract to a qualified disabled veterans' business. If the disabled veterans' business meets the requirements of the contract solicitation and is the lowest bidder due to the preference program, a State agency will enter into a procurement contract with the disabled veterans' business. If two or more qualified disabled veterans' businesses bid on a contract utilizing the preference program, the disabled veterans' business with the lowest bid will be awarded the contract.

This bill defines "disabled veteran" to mean a resident of this State who has been certified by the United States Department of Veterans Affairs as having any degree of service-connected disability. The bill defines "qualified disabled veterans' business" to mean a business (1) which has its principal place of business in the State, (2) is independently owned and operated, (3) at least 51 percent is owned and controlled by persons who are disabled veterans, and (4) the management and daily business operations are controlled by one or more disabled veterans or in the case of a disabled veteran with a permanent and severe disability, controlled by the spouse of such veteran. If a disabled-veteran owner dies during the term of a contract or in the bidding process for a contract and the surviving spouse acquires the disabled-veteran's ownership interest in the business, the business shall remain eligible for the preference and that contract during the term of the contract or the bidding process for that contract.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS finds the bill will increase annual State costs by an indeterminate amount by giving a preference of up to 10 percent of the amount of a State contract to disabled veterans. A determination as to the magnitude of the increase cannot be made because no information is available regarding the aggregate number of contracts that will be advertised to be bid upon, the number of disabled veterans that would bid on any given contract, the value of contracts that would be awarded to disabled veterans as a percentage of expenditures for construction, goods, and services, and the value of contracts that would be awarded.

Currently, disabled veterans who are in competition for the same contracts as non-disabled veterans are not provided a preference in the awarding of State contracts. However, New Jersey law does require the State procurement and purchasing agencies to give due consideration to disabled veterans in awarding contracts and provides them with a registration process to register to be listed in the NJSAVI. The NJSAVI identifies businesses certified as a small business enterprise, veteran-owned business, disabled veteran-owned business, and minority/women business enterprise.

Under this bill, if a preference of up to 10 percent is granted to a disabled veteran, the reduction in the disabled veteran's bid could result in lowering that bid below that of the lowest bidder. If this occurs, the bill requires the State to award the contract to the disabled veteran as long as the bid meets the requirements of the contract solicitation. The effect being that the State will pay a higher amount than it otherwise would have if the State awarded the contract to the lowest bidder.

Comparable Legislation in Other States

In 1984, Michigan law established a goal for the state to award not less than 5 percent of its total expenditures for construction, goods, and services to SDVOBs and a price preference of up to 10 percent of the amount of the contract. According to Legislative Report: State Contracting with Businesses Owned by Qualified Disabled Veteran, FY 2017, the aggregate number of contracts awarded to disabled veterans in Michigan from 2007 through 2017 increased from 22 to 257 and the aggregate dollar value of contracts awarded increased from $2.5 million to $78.7 million. The report also notes that disabled veterans win a large percentage of project awards for which they bid.

The National Veteran-Owned Business Association identified seven states, including Michigan, California, Illinois, Indiana, Arkansas, New York, and Maryland that have established mandates that set aside a 3 percent or greater spending goal for disabled veterans. There are fourteen states, including New Jersey, that offer some type of benefit to disabled veterans in procuring state contracts. The association also reports that there are seven states that have no set-asides or preference for disabled veterans, but have some rules giving them a minor business advantage; one state, Arizona, with pending legislation; and 21 remaining states with no activity at this time.

Section:	*State Government*
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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).