

52:32-31.1 to 52:32-31.14
LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2015 **CHAPTER:** 116

NJSA: 52:32-31.1 to 52:32-31.14 (Creates State contract set-aside program for businesses owned and operated by disabled veterans)

BILL NO: A976 (Substituted for S1353 (1R))

SPONSOR(S) Andrzejczak, Bob, and others

DATE INTRODUCED: January 16, 2014

COMMITTEE: **ASSEMBLY:** Military and Veterans' Affairs

SENATE: Military and Veterans' Affairs

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 6/25/2015

SENATE: 6/25/2015

DATE OF APPROVAL: October 26, 2015

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (Second Reprint enacted) Yes

A976

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

S1353 (1R)

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, **may possibly** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT:	No
LEGISLATIVE FISCAL ESTIMATE:	No
VETO MESSAGE:	No
GOVERNOR'S PRESS RELEASE ON SIGNING:	Yes
FOLLOWING WERE PRINTED:	
To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or mailto:refdesk@njstatelib.org	
REPORTS:	No
HEARINGS:	No
NEWSPAPER ARTICLES:	No

Also of possible interest:

Veteran-owned Business Assistance Act report: report to the New Jersey State Legislature and the Governor

Library call number: 974.90 S684, 2014

Available online at: <https://dspace.njstatelib.org/handle/10929/32684>

end

P.L.2015, CHAPTER 116, *approved October 26, 2015*
Assembly, No. 976 (*Second Reprint*)

1 AN ACT concerning the designation of certain State purchase and
2 construction contracts as set-asides for businesses owned and
3 operated by disabled veterans and supplementing Title 52 of the
4 Revised Statutes.

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. This act shall be known and may be cited as the "Set-Aside
10 Act for Disabled Veterans' Businesses."

11
12 2. As used in this act:
13 ¹["Commission" means the New Jersey Commerce and
14 Economic Growth Commission.]¹

15 "Contracting agency" means the State or any board, commission,
16 committee, authority or agency of the State.

17 ¹"Department" means the Department of the Treasury.¹

18 "Disabled veteran" means a resident of this State who is certified
19 by the federal Department of Veterans' Affairs as having any degree
20 of service-connected disability.

21 "Disabled veterans' business" means a business which has its
22 principal place of business in the State, is independently owned and
23 operated and at least 51% of which is owned and controlled by
24 persons who are disabled veterans ²or a business which has its
25 principal place of business in this State and has been officially
26 verified by the United States Department of Veterans Affairs as a
27 service disabled veteran-owned business for the purposes of
28 department contracts pursuant to federal law².

29 "Disabled veterans' business set-aside contract" means a contract
30 for goods, equipment, construction or services which is designated
31 as a contract with respect to which bids are invited and accepted
32 only from disabled veterans' businesses, or a portion of a contract
33 when that portion has been so designated.

34 ¹["Office" means the Office of Small Business Assistance in the
35 New Jersey Commerce and Economic Growth Commission.]¹

36
37 3. The ¹["Office of Small Business Assistance in the New

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AMV committee amendments adopted October 9, 2014.

²Senate SMV committee amendments adopted May 7, 2015.

1 Jersey Commerce and Economic Growth Commission] Department
2 of the Treasury¹ shall administer a disabled veterans' business set-
3 aside program which shall be in addition to any other set-aside
4 program established by law. ¹The department shall require proof of
5 disabled veteran status for all appropriate individuals.¹

6
7 4. a. Notwithstanding the provisions of any State bidding or
8 public contracts laws to the contrary, but subject to any supervening
9 federal statutes or rules, contracting agencies, in consultation with
10 the ¹[commission] department¹, may designate a contract, or a
11 portion thereof, for goods, equipment, construction or services to be
12 awarded by a contracting agency as a disabled veterans' business
13 set-aside contract pursuant to the goals and procedures established
14 in this act, whenever there is a reasonable expectation that bids may
15 be obtained from at least three qualified disabled veterans'
16 businesses capable of furnishing the desired goods, equipment,
17 construction or services at a fair and reasonable price. The
18 designation shall be made prior to the advertisement for bids.

19 b. When application of the goals and procedures established
20 under this act would jeopardize the State's participation in a
21 program from which the State receives federal funds or other
22 benefits, the contracting agency may, in consultation with the
23 ¹[commission] department¹, withdraw the affected contracts from
24 consideration or calculation.

25
26 5. a. There are established the goals that contracting agencies
27 award at least 3% of their contracts to disabled veterans' businesses.
28 These goals may, when appropriate, be attained by the direct
29 designation of prime contracts for these business or, in the case of a
30 prime contract not directly so designated, by requiring that a portion
31 of such a prime contract be subcontracted to a disabled veterans'
32 business. Each contracting agency shall make a good faith effort to
33 attain the goals established in this subsection.

34 b. For purposes of attaining this goal, contracting agencies
35 shall, when necessary, specifically set aside contracts or portions of
36 contracts for which only these businesses may bid.

37
38 6. If the ¹[commission] department¹ and the contracting
39 agency disagree as to whether a set-aside is appropriate for a
40 contract or a portion of a contract, the dispute shall, within seven
41 days, be submitted to the State Treasurer, or his designee, for final
42 determination.

43
44 7. The advertisement for bids on a disabled veterans' business
45 set-aside contract shall indicate the invitation to bid as a set-aside.
46 The advertisement shall be in such newspaper or newspapers as will
47 best give notice thereof to appropriate bidders and shall be

1 sufficiently in advance of the purchase or contract to promote
2 competitive bidding among the businesses for which the contract is
3 being set aside. The newspaper or newspapers in which the
4 advertisement shall appear shall be selected by the contracting
5 agency in consultation with the ¹**[office]** department¹. The
6 advertisement shall designate the time and place at which sealed
7 proposals shall be received and publicly opened and read, the
8 amount of the cash or certified check, if any, which shall
9 accompany each bid and such other items as the contracting agency
10 may deem proper. The advertisement shall be made by that
11 contracting agency pursuant to the procedure set forth in the law
12 governing State contracts, when this act is inconsistent with that
13 law.

14

15 8. a. The ¹**[commission]** department¹ shall establish
16 reasonable regulations appropriate for controlling the designation of
17 prospective disabled veterans' business bidders and shall maintain
18 lists of designated businesses.

19 b. The ¹**[commission]** department¹ shall establish a procedure
20 whereby businesses may request inclusion on appropriate lists for
21 disabled veterans' businesses.

22 c. The ¹**[commission]** department¹ shall establish a procedure
23 for annually reviewing the lists and determining whether the
24 businesses on the lists shall continue to be designated as disabled
25 veterans' businesses.

26 d. The ¹**[commission]** department¹ shall establish a procedure
27 whereby the designation of a business as a disabled veterans'
28 business may be challenged by a third party.

29 e. Any procedures established pursuant to subsections b., c.,
30 and d. of this section shall include notice to the business whose
31 designation is at issue and an opportunity for a hearing at the
32 ¹**[commission]** department¹. The hearing shall not be considered a
33 contested case under the "Administrative Procedure Act," P.L.1968,
34 c.410 (C.52:14B-1 et seq.).

35

36 9. When a contract or portion thereof has been designated as a
37 disabled veterans' business set-aside, invitations for bids shall be
38 confined to businesses designated by the ¹**[commission]**
39 department¹ as appropriate for the set-aside and bids from other
40 bidders shall be rejected. The purchase, contract or expenditure of
41 funds shall be awarded among the businesses, considering
42 conformity with specifications and terms, in accordance with the
43 statutes and rules governing purchases by the contracting agency.
44 The award shall be made with reasonable promptness by the
45 contracting agency with written notice to the ¹**[commission]**
46 department¹.

1 10. If the contracting agency determines that the acceptance of
2 the lowest responsible bid on a disabled veteran business set-aside
3 contract will result either in the payment of an unreasonable price
4 or in a contract otherwise unacceptable pursuant to the statutes and
5 rules governing purchases by that agency, the contracting agency
6 shall reject all bids and withdraw the designation of the set-aside
7 contract. Bidders shall be notified of the set-aside cancellation, the
8 reasons for the rejection and the State's intent to resolicit bids on an
9 unrestricted basis. The canceled solicitation shall not be counted as
10 a set-aside for the purpose of attaining established set-aside goals.
11 Except in cases of emergency, prior to the final award of the
12 contract, the contracting agency shall provide an opportunity for a
13 hearing on the reasons for the rejection of the set-aside designation.
14 This hearing shall not be considered a contested case under the
15 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
16 seq.).

17
18 11. Each contracting agency shall submit an annual report to the
19 **'[commission] department'** according to a schedule announced by
20 the **'[commission] department'**. This report shall include the
21 following information:

22 a. the total dollar value and number of contracts awarded to
23 disabled veterans' businesses, including a separate accounting of
24 any set-aside contracts, and the percentage of the total State
25 procurements by the contracting agency that the figure of total
26 dollar value and the number of set-asides reflect;

27 b. the types and sizes of businesses receiving set-aside awards
28 and the nature of the purchases and contracts; and

29 c. the efforts made to publicize and promote the program.

30 The **'[commission] department'** shall receive and analyze the
31 reports submitted by the contracting agencies and, utilizing these
32 data, submit an annual report to the Governor, and the Legislature
33 pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), showing
34 the progress being made toward the objectives and goals of this act
35 during the preceding fiscal year.

36
37 12. Each contracting agency shall annually develop, in
38 consultation with the **'[commission] department'**, a plan for
39 achieving its disabled veterans' business goals.

40
41 13. The **'[commission and office] department'** shall consult
42 regularly with representatives of the contracting industry for the
43 purpose of implementing the provisions of this act. These
44 consultations shall take place no less than once every six months.

45
46 14. When the **'[commission] department'** determines that a
47 business has been classified as a disabled veterans' business on the

- 1 basis of false information knowingly supplied by the business and
2 has been awarded a contract to which it would not otherwise have
3 been entitled under this act, the ¹ **commission** department¹ shall:
- 4 a. assess the business any difference between the contract
5 amount and what the State's cost would have been if the contract
6 had not been awarded in accordance with the provisions of this act;
 - 7 b. in addition to the amount due under subsection a., assess the
8 business a penalty in an amount of not more than 10% of the
9 amount of the contract involved;
 - 10 c. order the business ineligible to transact any business with
11 the State for a period of not less than three months and not more
12 than 24 months; and
 - 13 d. prior to any final determination, assessment or order under
14 this section, afford the business an opportunity for a contested case
15 hearing pursuant to P.L.1968, c.410 (C.52:14B-1 et seq.).

16 All payments to the State pursuant to subsection a. of this section
17 shall be deposited in the fund out of which the contract involved
18 was awarded. All payments to the State pursuant to subsection b. of
19 this section shall be deposited in the General Fund.

20

21 15. This act shall take effect immediately.

22

23

24

25

26 _____
27 Creates State contract set-aside program for businesses owned
and operated by disabled veterans.

ASSEMBLY, No. 976

STATE OF NEW JERSEY 216th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2014 SESSION

Sponsored by:

Assemblyman BOB ANDRZEJCZAK

District 1 (Atlantic, Cape May and Cumberland)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman GILBERT "WHIP" L. WILSON

District 5 (Camden and Gloucester)

Co-Sponsored by:

Assemblymen DeAngelo, Benson and C.A.Brown

SYNOPSIS

Creates State contract set-aside program for businesses owned and operated by disabled veterans.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel



(Sponsorship Updated As Of: 10/10/2014)

1 AN ACT concerning the designation of certain State purchase and
2 construction contracts as set-asides for businesses owned and
3 operated by disabled veterans and supplementing Title 52 of the
4 Revised Statutes.

5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8

9 1. This act shall be known and may be cited as the "Set-Aside
10 Act for Disabled Veterans' Businesses."

11

12 2. As used in this act:

13 "Commission" means the New Jersey Commerce and Economic
14 Growth Commission.

15 "Contracting agency" means the State or any board, commission,
16 committee, authority or agency of the State.

17 "Disabled veteran" means a resident of this State who is certified
18 by the federal Department of Veterans' Affairs as having any degree
19 of service-connected disability.

20 "Disabled veterans' business" means a business which has its
21 principal place of business in the State, is independently owned and
22 operated and at least 51% of which is owned and controlled by
23 persons who are disabled veterans.

24 "Disabled veterans' business set-aside contract" means a contract
25 for goods, equipment, construction or services which is designated
26 as a contract with respect to which bids are invited and accepted
27 only from disabled veterans' businesses, or a portion of a contract
28 when that portion has been so designated.

29 "Office" means the Office of Small Business Assistance in the
30 New Jersey Commerce and Economic Growth Commission.

31

32 3. The Office of Small Business Assistance in the New Jersey
33 Commerce and Economic Growth Commission shall administer a
34 disabled veterans' business set-aside program which shall be in
35 addition to any other set-aside program established by law.

36

37 4. a. Notwithstanding the provisions of any State bidding or
38 public contracts laws to the contrary, but subject to any supervening
39 federal statutes or rules, contracting agencies, in consultation with
40 the commission, may designate a contract, or a portion thereof, for
41 goods, equipment, construction or services to be awarded by a
42 contracting agency as a disabled veterans' business set-aside
43 contract pursuant to the goals and procedures established in this act,
44 whenever there is a reasonable expectation that bids may be
45 obtained from at least three qualified disabled veterans' businesses
46 capable of furnishing the desired goods, equipment, construction or
47 services at a fair and reasonable price. The designation shall be
48 made prior to the advertisement for bids.

1 b. When application of the goals and procedures established
2 under this act would jeopardize the State's participation in a
3 program from which the State receives federal funds or other
4 benefits, the contracting agency may, in consultation with the
5 commission, withdraw the affected contracts from consideration or
6 calculation.

7
8 5. a. There are established the goals that contracting agencies
9 award at least 3% of their contracts to disabled veterans' businesses.
10 These goals may, when appropriate, be attained by the direct
11 designation of prime contracts for these business or, in the case of a
12 prime contract not directly so designated, by requiring that a portion
13 of such a prime contract be subcontracted to a disabled veterans'
14 business. Each contracting agency shall make a good faith effort to
15 attain the goals established in this subsection.

16 b. For purposes of attaining this goal, contracting agencies
17 shall, when necessary, specifically set aside contracts or portions of
18 contracts for which only these businesses may bid.

19
20 6. If the commission and the contracting agency disagree as to
21 whether a set-aside is appropriate for a contract or a portion of a
22 contract, the dispute shall, within seven days, be submitted to the
23 State Treasurer, or his designee, for final determination.

24
25 7. The advertisement for bids on a disabled veterans' business
26 set-aside contract shall indicate the invitation to bid as a set-aside.
27 The advertisement shall be in such newspaper or newspapers as will
28 best give notice thereof to appropriate bidders and shall be
29 sufficiently in advance of the purchase or contract to promote
30 competitive bidding among the businesses for which the contract is
31 being set aside. The newspaper or newspapers in which the
32 advertisement shall appear shall be selected by the contracting
33 agency in consultation with the office. The advertisement shall
34 designate the time and place at which sealed proposals shall be
35 received and publicly opened and read, the amount of the cash or
36 certified check, if any, which shall accompany each bid and such
37 other items as the contracting agency may deem proper. The
38 advertisement shall be made by that contracting agency pursuant to
39 the procedure set forth in the law governing State contracts, when
40 this act is inconsistent with that law.

41
42 8. a. The commission shall establish reasonable regulations
43 appropriate for controlling the designation of prospective disabled
44 veterans' business bidders and shall maintain lists of designated
45 businesses.

46 b. The commission shall establish a procedure whereby
47 businesses may request inclusion on appropriate lists for disabled
48 veterans' businesses.

1 c. The commission shall establish a procedure for annually
2 reviewing the lists and determining whether the businesses on the
3 lists shall continue to be designated as disabled veterans'
4 businesses.

5 d. The commission shall establish a procedure whereby the
6 designation of a business as a disabled veterans' business may be
7 challenged by a third party.

8 e. Any procedures established pursuant to subsections b., c.,
9 and d. of this section shall include notice to the business whose
10 designation is at issue and an opportunity for a hearing at the
11 commission. The hearing shall not be considered a contested case
12 under the "Administrative Procedure Act," P.L.1968, c.410
13 (C.52:14B-1 et seq.).
14

15 9. When a contract or portion thereof has been designated as a
16 disabled veterans' business set-aside, invitations for bids shall be
17 confined to businesses designated by the commission as appropriate
18 for the set-aside and bids from other bidders shall be rejected. The
19 purchase, contract or expenditure of funds shall be awarded among
20 the businesses, considering conformity with specifications and
21 terms, in accordance with the statutes and rules governing
22 purchases by the contracting agency. The award shall be made with
23 reasonable promptness by the contracting agency with written
24 notice to the commission.
25

26 10. If the contracting agency determines that the acceptance of
27 the lowest responsible bid on a disabled veteran business set-aside
28 contract will result either in the payment of an unreasonable price
29 or in a contract otherwise unacceptable pursuant to the statutes and
30 rules governing purchases by that agency, the contracting agency
31 shall reject all bids and withdraw the designation of the set-aside
32 contract. Bidders shall be notified of the set-aside cancellation, the
33 reasons for the rejection and the State's intent to resolicit bids on an
34 unrestricted basis. The canceled solicitation shall not be counted as
35 a set-aside for the purpose of attaining established set-aside goals.
36 Except in cases of emergency, prior to the final award of the
37 contract, the contracting agency shall provide an opportunity for a
38 hearing on the reasons for the rejection of the set-aside designation.
39 This hearing shall not be considered a contested case under the
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.).
42

43 11. Each contracting agency shall submit an annual report to the
44 commission according to a schedule announced by the commission.
45 This report shall include the following information:

46 a. the total dollar value and number of contracts awarded to
47 disabled veterans' businesses, including a separate accounting of
48 any set-aside contracts, and the percentage of the total State

1 procurements by the contracting agency that the figure of total
2 dollar value and the number of set-asides reflect;

3 b. the types and sizes of businesses receiving set-aside awards
4 and the nature of the purchases and contracts; and

5 c. the efforts made to publicize and promote the program.

6 The commission shall receive and analyze the reports submitted
7 by the contracting agencies and, utilizing these data, submit an
8 annual report to the Governor, and the Legislature pursuant to
9 section 2 of P.L.1991, c.164 (C.52:14-19.1), showing the progress
10 being made toward the objectives and goals of this act during the
11 preceding fiscal year.

12

13 12. Each contracting agency shall annually develop, in
14 consultation with the commission, a plan for achieving its disabled
15 veterans' business goals.

16

17 13. The commission and office shall consult regularly with
18 representatives of the contracting industry for the purpose of
19 implementing the provisions of this act. These consultations shall
20 take place no less than once every six months.

21

22 14. When the commission determines that a business has been
23 classified as a disabled veterans' business on the basis of false
24 information knowingly supplied by the business and has been
25 awarded a contract to which it would not otherwise have been
26 entitled under this act, the commission shall:

27 a. assess the business any difference between the contract
28 amount and what the State's cost would have been if the contract
29 had not been awarded in accordance with the provisions of this act;

30 b. in addition to the amount due under subsection a., assess the
31 business a penalty in an amount of not more than 10% of the
32 amount of the contract involved;

33 c. order the business ineligible to transact any business with
34 the State for a period of not less than three months and not more
35 than 24 months; and

36 d. prior to any final determination, assessment or order under
37 this section, afford the business an opportunity for a contested case
38 hearing pursuant to P.L.1968, c.410 (C.52:14B-1 et seq.).

39 All payments to the State pursuant to subsection a. of this section
40 shall be deposited in the fund out of which the contract involved
41 was awarded. All payments to the State pursuant to subsection b. of
42 this section shall be deposited in the General Fund.

43

44 15. This act shall take effect immediately.

STATEMENT

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This bill creates a State contract set-aside program for disabled veterans to be administered by the Office of Small Business Assistance in the New Jersey Commerce and Economic Growth Commission. It establishes a goal that contracting agencies set aside at least 3% of their contracts for disabled veterans' businesses. A disabled veterans' business is defined as a business which has its principal place of business in New Jersey, is independently owned and operated and at least 51% of which is owned and controlled by persons who are disabled veterans. The set-aside program would create economic opportunity for disabled veterans and recognize their service and sacrifice.

ASSEMBLY MILITARY AND VETERANS' AFFAIRS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 976

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 9, 2014

The Assembly Military and Veterans' Affairs Committee reports favorably and with committee amendments Assembly Bill No. 976.

As amended, this bill creates a State contract set-aside program for disabled veterans to be administered by the Department of the Treasury. It establishes a goal that contracting agencies set aside at least 3% of their contracts for disabled veterans' businesses. A disabled veterans' business is defined as a business which has its principal place of business in New Jersey, is independently owned and operated and at least 51% of which is owned and controlled by persons who are disabled veterans. The set-aside program would create economic opportunity for disabled veterans and recognize their service and sacrifice.

This bill was pre-filed for introduction in the 2014-2015 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS

The committee amended the bill to place responsibility for the program with the Department of the Treasury and to specify that proof of veteran status will be required of appropriate individuals.

SENATE MILITARY AND VETERANS' AFFAIRS
COMMITTEE

STATEMENT TO

[First Reprint]
ASSEMBLY, No. 976

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 7, 2015

The Senate Military and Veterans Affairs Committee reports favorably and with committee amendments Assembly Bill No. 976 (1R).

As amended, this bill creates a State contract set-aside program for disabled veterans to be administered by the Department of the Treasury. It establishes a goal that contracting agencies set aside at least 3% of their contracts for disabled veterans' businesses. A disabled veterans' business is defined as a business which has its principal place of business in New Jersey, is independently owned and operated and at least 51% of which is owned and controlled by persons who are disabled veterans, or a business which has its principal place of business in this State and has been officially verified by the United States Department of Veterans Affairs as a service disabled veteran-owned business for the purposes of that department's contracts pursuant to federal law.

As amended, Assembly Bill No. 976 (2R) is identical to Senate Bill No. 1353 (1R) of the 2014-2015 session.

COMMITTEE AMENDMENTS

The committee amended the bill to permit a service disabled veteran-owned business officially verified by the United States Department of Veterans Affairs as a service disabled veteran-owned business to be eligible for participation in the program.

SENATE, No. 1353

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED FEBRUARY 27, 2014

Sponsored by:

Senator JEFF VAN DREW

District 1 (Atlantic, Cape May and Cumberland)

Senator ANTHONY R. BUCCO

District 25 (Morris and Somerset)

SYNOPSIS

Creates State contract set-aside program for businesses owned and operated by disabled veterans.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/6/2014)

1 AN ACT concerning the designation of certain State purchase and
2 construction contracts as set-asides for businesses owned and
3 operated by disabled veterans and supplementing Title 52 of the
4 Revised Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. This act shall be known and may be cited as the "Set-Aside
10 Act for Disabled Veterans' Businesses."

11

12 2. As used in this act:

13 "Commission" means the New Jersey Commerce and Economic
14 Growth Commission.

15 "Contracting agency" means the State or any board, commission,
16 committee, authority or agency of the State.

17 "Disabled veteran" means a resident of this State who is certified
18 by the federal Department of Veterans' Affairs as having any degree
19 of service-connected disability.

20 "Disabled veterans' business" means a business which has its
21 principal place of business in the State, is independently owned and
22 operated and at least 51% of which is owned and controlled by
23 persons who are disabled veterans.

24 "Disabled veterans' business set-aside contract" means a contract
25 for goods, equipment, construction or services which is designated
26 as a contract with respect to which bids are invited and accepted
27 only from disabled veterans' businesses, or a portion of a contract
28 when that portion has been so designated.

29 "Office" means the Office of Small Business Assistance in the
30 New Jersey Commerce and Economic Growth Commission.

31

32 3. The Office of Small Business Assistance in the New Jersey
33 Commerce and Economic Growth Commission shall administer a
34 disabled veterans' business set-aside program which shall be in
35 addition to any other set-aside program established by law.

36

37 4. a. Notwithstanding the provisions of any State bidding or
38 public contracts laws to the contrary, but subject to any supervening
39 federal statutes or rules, contracting agencies, in consultation with
40 the commission, may designate a contract, or a portion thereof, for
41 goods, equipment, construction or services to be awarded by a
42 contracting agency as a disabled veterans' business set-aside
43 contract pursuant to the goals and procedures established in this act,
44 whenever there is a reasonable expectation that bids may be
45 obtained from at least three qualified disabled veterans' businesses
46 capable of furnishing the desired goods, equipment, construction or
47 services at a fair and reasonable price. The designation shall be
48 made prior to the advertisement for bids.

1 b. When application of the goals and procedures established
2 under this act would jeopardize the State's participation in a
3 program from which the State receives federal funds or other
4 benefits, the contracting agency may, in consultation with the
5 commission, withdraw the affected contracts from consideration or
6 calculation.

7
8 5. a. There are established the goals that contracting agencies
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10 These goals may, when appropriate, be attained by the direct
11 designation of prime contracts for these business or, in the case of a
12 prime contract not directly so designated, by requiring that a portion
13 of such a prime contract be subcontracted to a disabled veterans'
14 business. Each contracting agency shall make a good faith effort to
15 attain the goals established in this subsection.

16 b. For purposes of attaining this goal, contracting agencies
17 shall, when necessary, specifically set aside contracts or portions of
18 contracts for which only these businesses may bid.

19
20 6. If the commission and the contracting agency disagree as to
21 whether a set-aside is appropriate for a contract or a portion of a
22 contract, the dispute shall, within seven days, be submitted to the
23 State Treasurer, or his designee, for final determination.

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25 7. The advertisement for bids on a disabled veterans' business
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27 The advertisement shall be in such newspaper or newspapers as will
28 best give notice thereof to appropriate bidders and shall be
29 sufficiently in advance of the purchase or contract to promote
30 competitive bidding among the businesses for which the contract is
31 being set aside. The newspaper or newspapers in which the
32 advertisement shall appear shall be selected by the contracting
33 agency in consultation with the office. The advertisement shall
34 designate the time and place at which sealed proposals shall be
35 received and publicly opened and read, the amount of the cash or
36 certified check, if any, which shall accompany each bid and such
37 other items as the contracting agency may deem proper. The
38 advertisement shall be made by that contracting agency pursuant to
39 the procedure set forth in the law governing State contracts, when
40 this act is inconsistent with that law.

41
42 8. a. The commission shall establish reasonable regulations
43 appropriate for controlling the designation of prospective disabled
44 veterans' business bidders and shall maintain lists of designated
45 businesses.

46 b. The commission shall establish a procedure whereby
47 businesses may request inclusion on appropriate lists for disabled
48 veterans' businesses.

1 c. The commission shall establish a procedure for annually
2 reviewing the lists and determining whether the businesses on the
3 lists shall continue to be designated as disabled veterans'
4 businesses.

5 d. The commission shall establish a procedure whereby the
6 designation of a business as a disabled veterans' business may be
7 challenged by a third party.

8 e. Any procedures established pursuant to subsections b., c.,
9 and d. of this section shall include notice to the business whose
10 designation is at issue and an opportunity for a hearing at the
11 commission. The hearing shall not be considered a contested case
12 under the "Administrative Procedure Act," P.L.1968, c.410
13 (C.52:14B-1 et seq.).
14

15 9. When a contract or portion thereof has been designated as a
16 disabled veterans' business set-aside, invitations for bids shall be
17 confined to businesses designated by the commission as appropriate
18 for the set-aside and bids from other bidders shall be rejected. The
19 purchase, contract or expenditure of funds shall be awarded among
20 the businesses, considering conformity with specifications and
21 terms, in accordance with the statutes and rules governing
22 purchases by the contracting agency. The award shall be made with
23 reasonable promptness by the contracting agency with written
24 notice to the commission.
25

26 10. If the contracting agency determines that the acceptance of
27 the lowest responsible bid on a disabled veteran business set-aside
28 contract will result either in the payment of an unreasonable price
29 or in a contract otherwise unacceptable pursuant to the statutes and
30 rules governing purchases by that agency, the contracting agency
31 shall reject all bids and withdraw the designation of the set-aside
32 contract. Bidders shall be notified of the set-aside cancellation, the
33 reasons for the rejection and the State's intent to resolicit bids on an
34 unrestricted basis. The canceled solicitation shall not be counted as
35 a set-aside for the purpose of attaining established set-aside goals.
36 Except in cases of emergency, prior to the final award of the
37 contract, the contracting agency shall provide an opportunity for a
38 hearing on the reasons for the rejection of the set-aside designation.
39 This hearing shall not be considered a contested case under the
40 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
41 seq.).
42

43 11. Each contracting agency shall submit an annual report to the
44 commission according to a schedule announced by the commission.
45 This report shall include the following information:

46 a. the total dollar value and number of contracts awarded to
47 disabled veterans' businesses, including a separate accounting of
48 any set-aside contracts, and the percentage of the total State

1 procurements by the contracting agency that the figure of total
2 dollar value and the number of set-asides reflect;

3 b. the types and sizes of businesses receiving set-aside awards
4 and the nature of the purchases and contracts; and

5 c. the efforts made to publicize and promote the program.

6 The commission shall receive and analyze the reports submitted
7 by the contracting agencies and, utilizing these data, submit an
8 annual report to the Governor, and the Legislature pursuant to
9 section 2 of P.L.1991, c.164 (C.52:14-19.1), showing the progress
10 being made toward the objectives and goals of this act during the
11 preceding fiscal year.

12

13 12. Each contracting agency shall annually develop, in
14 consultation with the commission, a plan for achieving its disabled
15 veterans' business goals.

16

17 13. The commission and office shall consult regularly with
18 representatives of the contracting industry for the purpose of
19 implementing the provisions of this act. These consultations shall
20 take place no less than once every six months.

21

22 14. When the commission determines that a business has been
23 classified as a disabled veterans' business on the basis of false
24 information knowingly supplied by the business and has been
25 awarded a contract to which it would not otherwise have been
26 entitled under this act, the commission shall:

27 a. assess the business any difference between the contract
28 amount and what the State's cost would have been if the contract
29 had not been awarded in accordance with the provisions of this act;

30 b. in addition to the amount due under subsection a., assess the
31 business a penalty in an amount of not more than 10% of the
32 amount of the contract involved;

33 c. order the business ineligible to transact any business with
34 the State for a period of not less than three months and not more
35 than 24 months; and

36 d. prior to any final determination, assessment or order under
37 this section, afford the business an opportunity for a contested case
38 hearing pursuant to P.L.1968, c.410 (C.52:14B-1 et seq.).

39 All payments to the State pursuant to subsection a. of this section
40 shall be deposited in the fund out of which the contract involved
41 was awarded. All payments to the State pursuant to subsection b. of
42 this section shall be deposited in the General Fund.

43

44 15. This act shall take effect immediately.

STATEMENT

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This bill creates a State contract set-aside program for disabled veterans to be administered by the Office of Small Business Assistance in the New Jersey Commerce and Economic Growth Commission. It establishes a goal that contracting agencies set aside at least 3% of their contracts for disabled veterans' businesses. A disabled veterans' business is defined as a business which has its principal place of business in New Jersey, is independently owned and operated and at least 51% of which is owned and controlled by persons who are disabled veterans. The set-aside program would create economic opportunity for disabled veterans and recognize their service and sacrifice.

SENATE MILITARY AND VETERANS' AFFAIRS
COMMITTEE

STATEMENT TO
SENATE, No. 1353

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 7, 2015

The Senate Military and Veterans Affairs Committee reports favorably and with committee amendments Senate Bill No. 1353.

As amended, this bill creates a State contract set-aside program for disabled veterans to be administered by the Office of Small Business Assistance in the New Jersey Commerce and Economic Growth Commission. It establishes a goal that contracting agencies set aside at least 3% of their contracts for disabled veterans' businesses. A disabled veterans' business is defined as a business which has its principal place of business in New Jersey, is independently owned and operated and at least 51% of which is owned and controlled by persons who are disabled veterans, or a business which has its principal place of business in this State and has been officially verified by the United States Department of Veterans Affairs as a service disabled veteran-owned business for the purposes of that department's contracts pursuant to federal law.

As amended, Senate Bill No. 1353 (1R) is identical to Assembly Bill No. 976 (2R) of the 2014-2015 session.

COMMITTEE AMENDMENTS

The committee amended the bill to place responsibility for the program with the Department of the Treasury and to specify that proof of veteran status will be required of appropriate individuals.

The amendments also permit a service disabled veteran-owned business officially verified by the United States Department of Veterans Affairs as a service disabled veteran-owned business to be eligible for participation in the program.

Governor Christie Reaffirms Commitment to New Jersey Military Members Past and Present

Monday, October 26, 2015 Tags: [Bill Action](#)



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Trenton, NJ – Taking action to further strengthen support for New Jersey’s military members, veterans and their families, Governor Chris Christie today signed several measures designed to encourage entrepreneurship, provide educational opportunity assistance and protect the honor of the service of New Jersey’s military men and women.

“The service and sacrifice of our current military members and veterans to New Jersey and the nation is unequalled,” said Governor Christie. “This administration’s commitment to these brave men and women has never been stronger. By signing these three measures, we are not only reaffirming a pledge to those who serve, we are providing important opportunities for educational access and business development, and upholding the integrity and dignity of their service by punishing those who misrepresent themselves as serving in the military.”

Governor Christie signed the following legislation:

A976/S1353 (Assemblymembers Spencer and Schepisi/Senators Bateman and Smith): Creates State Contract Set-Aside programs for businesses owned and operated by disabled veterans;

A2849/S1812 (Assemblymembers Mazzeo, Eustace, Johnson, Wilson, Brown, Moriarty/Senators Whelan, Beach): Creates the Military Dependents Scholarship Fund Act to provide college scholarships to the spouses and children of those killed, missing in action or disabled in Operation Noble Eagle, Operation Enduring Freedom, Operation Iraqi Freedom, or Operation New Dawn;

A4104/S2704 (Assemblymembers Andzejczak, Garcia, Lagana, Mazzeo, Mukherji, Tucker/Senators Cruz-Perez Van Drew): Creates the Stolen Valor Act, which makes unauthorized use of military uniforms, medals, or insignias to obtain benefit a third degree crime.

Throughout his term in office, Governor Christie has supported New Jersey’s veterans and their families through increased funding and support for various veterans-based housing, employment, and educational services and programs. Additional information for veterans programs and services is available on DMAVA’s website [here](#).

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