

2024 Regular Session

SENATE BILL NO. 189

BY SENATOR COUSSAN

PUBLIC CONTRACTS. Provides relative to state procurement awards for service-connected disabled veteran owned small businesses. (gov sig)

1 AN ACT

2 To amend and reenact the heading of Part VIII of Chapter 17 of Subtitle III of Title 39 of the

3 Louisiana Revised Statutes of 1950 and R.S. 39:1732(3), (4), (5), and (6), 1733(F)

4 and (G), 1734, the introductory paragraph of 1736, 1736(5), and 2174 and to enact

5 R.S. 39:1732(7), 1733(H), and 1736(6), relative to state procurement; to provide

6 relative to set-aside procurement awards for certain small businesses; to provide a

7 preference for service-connected disabled veteran owned small businesses; to

8 provide relative to state goals for veterans in state procurement and public contracts;

9 to provide for definitions; to provide for reporting requirements; and to provide for

10 related matters.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. The heading of Part VIII of Chapter 17 of Subtitle III of Title 39 of the

13 Louisiana Revised Statutes of 1950 and R.S. 39:1732(3), (4), (5), and (6), 1733(F) and (G),

14 1734, the introductory paragraph of 1736, 1736(5), and 2174 are hereby amended and

15 reenacted and R.S. 39:1732(7), 1733(H), and 1736(6) are hereby enacted to read as follows:

16 PART VIII. ASSISTANCE TO SMALL AND DISADVANTAGED

17 BUSINESSES AND WOMEN OWNED BUSINESSES AND SERVICE-

1 Federal Regulations, Part 121, as amended, and which has its principal place of
2 business in Louisiana.

3 ~~(5)~~(6) "Socially or economically disadvantaged person" means a person who
4 has been deprived of the opportunity to develop and maintain a competitive position
5 in the economy because of social or economic disadvantage. This disadvantage may
6 arise from cultural, social or economic circumstances or background or physical
7 location.

8 ~~(6)~~(7) "Women owned business" means a business that is at least fifty-one
9 percent owned by a woman or women who also control and operate it. "Control" in
10 this context means exercising the power to make policy decisions. "Operate" in this
11 context means being actively involved in the day-to-day management. In
12 determining whether a business is fifty-one percent owned by a woman or women,
13 the percent ownership of the woman or women shall not be diminished because she
14 is part of a community property regime.

15 §1733. Procurement from small businesses

16 * * *

17 **F. Preference to service-connected disabled veterans. At least ten percent**
18 **of the value of the procurements designated for set-aside awards shall be**
19 **awarded, if possible, to small businesses owned and operated by**
20 **service-connected disabled veterans. In the event small businesses owned and**
21 **operated by service-connected disabled veterans are unable to perform at least**
22 **ten percent of the set-aside awards, then the commissioner shall award the**
23 **balance of the set-aside contracts to other small businesses.**

24 ~~F.G.~~ Award of contracts after unsuccessful set-aside procedures. In the event
25 that the provisions of this Part do not operate to extend a contract award to a small
26 business, the award shall be placed pursuant to the existing solicitation and award
27 provisions established by law. The commissioner shall thereupon designate and set
28 aside for small businesses additional state procurements corresponding in
29 approximate value to the contract unable to be awarded pursuant to the provisions

1 of this Part.

2 ~~G.H.~~ Conflict with other code provisions. All laws and rules pertaining to
3 solicitations, bid evaluations, contract awards, and other procurement matters shall
4 apply as consistent to procurements set aside for small businesses. In the event of
5 conflict with other rules, the provisions of this Part shall govern.

6 §1734. Assistance to small businesses

7 The commissioner of administration, ~~and~~ the executive director of the
8 Louisiana division of minority and women's business enterprise in the Department
9 of Economic Development, **and the Louisiana Department of Veterans Affairs**
10 shall publicize the provisions of the set-aside program, attempt to locate small
11 businesses able to perform set-aside procurement awards, and encourage
12 participation. When the commissioner of administration determines that a small
13 business is unable to perform under a set-aside contract, he shall so inform the
14 secretary of economic development, who shall assist the small business in attempting
15 to remedy the causes of the inability to perform a set-aside award. In assisting the
16 small business, the executive director of the Louisiana division of minority and
17 women's business enterprise **and the Louisiana Department of Veterans Affairs,**
18 in cooperation with the commissioner of administration, shall use any management
19 or financial assistance programs that may be available by or through the Louisiana
20 division of minority and women's business enterprise, **the Louisiana Department**
21 **of Veterans Affairs,** or other state or governmental agencies.

22 * * *

23 §1736. Reports

24 The commissioner of administration shall submit an annual report to the
25 governor and the legislature, with a copy thereof going to the Louisiana division of
26 minority and women's business enterprise **and the Louisiana Department of**
27 **Veterans Affairs,** indicating the progress being made toward the objectives and
28 goals of this Part during each fiscal year. This report shall include the following
29 information:

* * *

(5) The total dollar value and number of set-aside contracts awarded to small businesses owned and operated by service-connected disabled veterans, with appropriate designation as to the total number and value of set-aside contracts awarded to each small business, and the percentages of the total state procurements the figures of total dollar value and the number of set-asides reflect.

~~(5)~~**(6)** The number of contracts which were designated and set aside but which were not awarded to a small business, the estimated total dollar value of these awards, the lowest offer or bid on each of these awards made by the small business, and the price at which these contracts were awarded pursuant to the normal procurement procedures.

* * *

§2174. State goals for procurements and public contracts

The commissioner of administration shall establish annual goals **in accordance with the provisions of R.S. 39:1733** for veteran and service-connected disabled veteran-owned small entrepreneurship participation in state procurements and public contracts. The commissioner shall determine the appropriate level and number of goals for each year. The formulation of each goal shall be based on historical procurement and public contracting data and any other factors which the commissioner deems useful. As part of development of goals, the commissioner may consider the capacity of veteran and service-connected disabled veteran-owned small entrepreneurships available to participate in meeting goals, which may be determined based on past experience, available veteran and service-connected disabled veteran-owned small entrepreneurship certifications, and recognized industry composition. The commissioner shall provide guidance to agencies with respect to estimation of dollar values for anticipated procurement and contract activity to be used in the development of a goal. Agencies shall report any data required by the commissioner in this regard in accordance with a schedule established by the commissioner.

1 Section 2. This Act shall become effective upon signature by the governor or, if not
2 signed by the governor, upon expiration of the time for bills to become law without signature
3 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
4 vetoed by the governor and subsequently approved by the legislature, this Act shall become
5 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Curry Lann.

DIGEST

SB 189 Original 2024 Regular Session Coussan

Present law (R.S. 39:1731 et seq.) provides for the "Louisiana Small Business Procurement Act" and requires the commissioner of administration to provide for a set-aside not to exceed 10% of total state procurement of goods and services to small and disadvantaged businesses and women owned businesses.

Proposed law retains present law.

Proposed law adds a preference of at least 10% of the value of the procurements designated for set-aside awards, if possible, for service-connected disabled veteran owned small businesses. Requires the commissioner to award the balance of the set-aside contracts to other small businesses if small businesses owned and operated by service-connected disabled veterans are unable to perform at least 10% of the set-aside awards.

Proposed law defines "service-connected disabled veteran owned small business" as any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or any other legal entity that has not less than 51% ownership by a veteran of the U.S. Armed Forces with a service-connected disability who also controls and operates it, and meets the criteria for certification by the secretary of the Dept. of Economic Development. For the purposes of this definition, "control" means exercising the power to make policy decisions and "operate" means being actively involved in the day-to-day management. Service-connected disability shall be confirmed through appropriate documents from the U.S. Dept. of Veterans Affairs or the La. Dept. of Veterans Affairs.

Proposed law requires the La. Dept. of Veterans Affairs to publicize the provisions of the set-aside program and provide assistance through other management or financial assistance programs for service-connected disabled veterans.

Proposed law requires the commissioner of administration to submit an annual report to the La. Dept. of Veterans Affairs, indicating the progress being made toward the goals of proposed law during each fiscal year, including the total dollar value and number of set-aside contracts awarded to small businesses owned and operated by service-connected disabled veterans.

Present law (R.S. 39:2174) requires the commissioner of administration to establish annual goals for veteran and service-connected disabled veteran-owned small entrepreneurship participation in state procurement and public contracts.

Proposed law requires the annual goals to be established in accordance with the provisions of the "Louisiana Small Business Procurement Act" and otherwise retains present law.

Effective upon signature of the governor or lapse of time of time for gubernatorial action.

(Amends the heading of Part VIII of Chapter 17 of Subtitle III of Title 39 of the Louisiana Revised Statutes of 1950 and R.S. 39:1732(3), (4), (5), and (6), 1733(F) and (G), 1734, 1736(intro para), 1736(5), and 2174; Adds R.S. 39:1732(7), 1733(H), and 1736(6))