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SENATE BILL NO. 1145

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on General Laws and Technology
on January 31, 2007)

(Patron Prior to Substitute—Senator Wagner)

A *BILL to amend and reenact §§ 2.2-2001 and 2.2-4310 of the Code of Virginia, relating to the Department of Veterans Services; certification of businesses owned by special disabled veterans.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2001 and 2.2-4310 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2001. Administrative responsibilities of the Department.

A. The Department shall be responsible for the establishment, operation, administration, and maintenance of offices and programs related to services for veterans of the armed forces of the United States and their Virginia-domiciled surviving spouses, orphans, and dependents. Such services shall include, but not be limited to, benefits claims processing and all medical care centers and cemeteries for veterans owned and operated by the Commonwealth.

B. *The Department shall adopt reasonable regulations to implement a program to certify, upon request of the owner, that the owner of small businesses in the Commonwealth hold "special disabled veteran" status, as defined below. -*

"Special disabled veteran" means a veteran who served on active duty in the United States military ground, naval, or air service and who was discharged or released from active duty because of a service-connected disability.

"Special disabled veteran business" means a business concern that is at least 51% owned by one or more special disabled veterans or, in the case of a corporation, partnership, or limited liability company or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability company or other entity is owned by one or more individuals who are special disabled veterans and both the management and daily business operations are controlled by one or more individuals who are special disabled veterans.

§ 2.2-4310. Discrimination prohibited; participation of small, women-, minority- and special disabled veteran-owned business.

A. In the solicitation or awarding of contracts, no public body shall discriminate against a bidder or offeror because of race, religion, color, sex, national origin, age, disability, *status as a special disabled veteran*, or any other basis prohibited by state law relating to discrimination in employment. Whenever solicitations are made, each public body shall include businesses selected from a list made available by the Department of Minority Business Enterprise.

B. All public bodies shall establish programs consistent with this chapter to facilitate the participation of small businesses and businesses owned by women ~~and~~ minorities, *and special disabled veterans* in procurement transactions. The programs established shall be in writing and shall comply with the provisions of any enhancement or remedial measures authorized by the Governor pursuant to subsection C or, where applicable, by the chief executive of a local governing body pursuant to § 15.2-965.1, and shall include specific plans to achieve any goals established therein. State agencies shall submit annual progress reports on small, women- and minority-owned business procurement *and on special disabled veteran-owned business procurement* to the Department of Minority Business Enterprise in a form specified by the Department of Minority Business Enterprise. *The Department of Minority Business Enterprise shall make information on special disabled veteran-owned procurement available to the Department of Veterans Services upon request.*

C. Whenever there exists (i) a rational basis for small business enhancement or (ii) a persuasive analysis that documents a statistically significant disparity between the availability and utilization of women- and minority-owned businesses, the Governor is authorized and encouraged to require state agencies to implement appropriate enhancement or remedial measures consistent with prevailing law.

D. In the solicitation or awarding of contracts, no state agency, department or institution shall discriminate against a bidder or offeror because the bidder or offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest.

E. As used in this section:

"Minority individual" means an individual who is a citizen of the United States or a non-citizen who is in full compliance with United States immigration law and who satisfies one or more of the following definitions:

1. "African American" means a person having origins in any of the original peoples of Africa and who is regarded as such by the community of which this person claims to be a part.

60 2. "Asian American" means a person having origins in any of the original peoples of the Far East,
61 Southeast Asia, the Indian subcontinent, or the Pacific Islands, including but not limited to Japan, China,
62 Vietnam, Samoa, Laos, Cambodia, Taiwan, Northern Mariana, the Philippines, a U.S. territory of the
63 Pacific, India, Pakistan, Bangladesh, or Sri Lanka and who is regarded as such by the community of
64 which this person claims to be a part.

65 3. "Hispanic American" means a person having origins in any of the Spanish-speaking peoples of
66 Mexico, South or Central America, or the Caribbean Islands or other Spanish or Portuguese cultures and
67 who is regarded as such by the community of which this person claims to be a part.

68 4. "Native American" means a person having origins in any of the original peoples of North America
69 and who is regarded as such by the community of which this person claims to be a part or who is
70 recognized by a tribal organization.

71 "Minority-owned business" means a business concern that is at least 51% owned by one or more
72 minority individuals or in the case of a corporation, partnership, or limited liability company or other
73 entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited liability
74 company or other entity is owned by one or more minority individuals and both the management and
75 daily business operations are controlled by one or more minority individuals.

76 "Small business" means an independently owned and operated business which, together with
77 affiliates, has 250 or fewer employees, or average annual gross receipts of \$10 million or less averaged
78 over the previous three years.

79 "*Special disabled veteran*" means a veteran who served on active duty in the United States military
80 ground, naval, or air service and who was discharged or released from active duty because of a
81 service-connected disability.

82 "*Special disabled veteran business*" means a business concern that is at least 51% owned by one or
83 more special disabled veterans or, in the case of a corporation, partnership, or limited liability company
84 or other entity, at least 51% of the equity ownership interest in the corporation, partnership, or limited
85 liability company or other entity is owned by one or more individuals who are special disabled veterans
86 and both the management and daily business operations are controlled by one or more individuals who
87 are special disabled veterans.

88 "State agency" means any authority, board, department, instrumentality, institution, agency, or other
89 unit of state government. "State agency" shall not include any county, city, or town.

90 "Women-owned business" means a business concern that is at least 51% owned by one or more
91 women who are citizens of the United States or non-citizens who are in full compliance with United
92 States immigration law, or in the case of a corporation, partnership, or limited liability company or other
93 entity, at least 51% of the equity ownership interest is owned by one or more women who are citizens
94 of the United States or non-citizens who are in full compliance with United States immigration law, and
95 both the management and daily business operations are controlled by one or more women who are
96 citizens of the United States or non-citizens who are in full compliance with United States immigration
97 law.