

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

S

3

SENATE BILL 519

Pensions and Retirement/Insurance/State Personnel Committee Substitute Adopted 5/10/95

Third Edition Engrossed 5/11/95

Short Title: Purchases From Blind/Disabled.

(Public)

Sponsors:

Referred to:

March 29, 1995

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE THE PURCHASE OF COMMODITIES AND SERVICES OFFERED BY BLIND AND BY SEVERELY DISABLED PERSONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-49 is amended by adding the following new subdivision:

"(7) To evaluate the nonprofit qualifications and capabilities of qualified work centers to manufacture commodities or perform services."

Sec. 2. G.S. 143-48 reads as rewritten:

"§ 143-48. **State policy; cooperation in promoting the use of small, minority, physically handicapped and women contractors; purpose; required annual reports.**

(a) Policy. – It is the policy of this State to encourage and promote the use of small, minority, physically handicapped and women contractors in State purchasing of goods and services. All State agencies, institutions and political subdivisions shall cooperate with the Department of Administration and all other State agencies, institutions and political subdivisions in efforts to encourage the use of small, minority, physically handicapped and women contractors in achieving the purpose of this Article, which is to

1 provide for the effective and economical acquisition, management and disposition of
2 goods and services by and through the Department of Administration.

3 (b) Reporting. – Every governmental entity required by statute to use the services
4 of the Department of Administration in the purchase of goods and services and every
5 private, nonprofit corporation other than an institution of higher education or a hospital
6 that receives an appropriation of five hundred thousand dollars (\$500,000) or more
7 during a fiscal year from the General Assembly shall report to the department of
8 Administration annually on what percentage of its contract purchases of goods and
9 services, through term contracts and open-market contracts, were from minority-owned
10 businesses, what percentage from female-owned businesses, what percentage from
11 disabled-owned ~~businesses and businesses,~~ what percentage from disabled business
12 enterprises and what percentage from nonprofit work centers for the blind and the
13 severely disabled. The same governmental entities shall include in their reports what
14 percentages of the contract bids for such purchases were from such businesses. The
15 Department of Administration shall provide instructions to the reporting entities
16 concerning the manner of reporting and the definitions of the businesses referred to in
17 this act, provided that, for the purposes of this act:

18 (1) Except as provided in subdivision (1a) of this section, a business in one
19 of the categories above means one:

20 a. In which at least fifty-one percent (51%) of the business, or of
21 the stock in the case of a corporation, is owned by one or more
22 persons in the category; and

23 b. Of which the management and daily business operations are
24 controlled by one or more persons in the category who own it.

25 (1a) A 'disabled business enterprise' means a nonprofit entity whose main
26 purpose is to provide ongoing habilitation, rehabilitation, independent
27 living, and competitive employment for persons who are handicapped
28 through supported employment sites or business operated to provide
29 training and employment and competitive wages.

30 (1b) A 'nonprofit work center for the blind and the severely disabled' means
31 an agency:

32 a. Organized under the laws of the United States or this State,
33 operated in the interest of the blind and the severely disabled, the
34 net income of which agency does not inure in whole or in part to
35 the benefit of any shareholder or other individual;

36 b. In compliance with any applicable health and safety standard
37 prescribed by the United States Secretary of Labor; and

38 c. In the production of all commodities or provision of services,
39 employs during the current fiscal year severely handicapped
40 individuals for (i) a minimum of seventy-five percent (75%) of
41 the hours of direct labor required for the production of
42 commodities or provision of services, or (ii) in accordance with
43 the percentage of direct labor required under the terms and

1 conditions of Public Law 92-28 (41 U.S.C. § 46, et seq.) for the
2 production of commodities or provision of services, whichever is
3 less.

4 (2) A female or a disabled person is not a minority, unless the female or
5 disabled person is also a member of one of the minority groups
6 described in G.S. 143-128(2)a through d.

7 (3) A disabled person means a ~~'handicapped person'~~ as defined in G.S. 168A-3.
8 person with a handicapping condition as defined in G.S. 168-1 or G.S.
9 168A-3.

10 The Department of Administration shall collect and compile the data described in this
11 section and report it annually to the General Assembly.

12 In seeking contracts with the State, a disabled business enterprise must provide
13 assurances to the Secretary of Administration that the payments that would be received
14 from the State under these contracts are directed to the training and employment of and
15 payment of competitive wages to handicapped employees."

16 Sec. 3. Article 3 of Chapter 143 of the General Statutes is amended by adding
17 a new section to read:

18 **"§ 143-48.2. Procurement program for nonprofit work centers for the blind and the**
19 **severely disabled.**

20 (a) An agency subject to the provisions of this Article for the procurement of
21 goods may purchase goods directly from a nonprofit work center for the blind and
22 severely disabled, subject to the following provisions:

23 (1) The purchase may not exceed the applicable expenditure benchmark
24 under G.S. 143-53.1.

25 (2) The goods must not be available under a State requirements contract.

26 (3) The goods must be of suitable price and quality, as determined by the
27 agency.

28 (b) An agency subject to the provisions of this Article for the procurement of
29 services may purchase services directly from a nonprofit work center for the blind and
30 severely disabled, subject to the following provisions:

31 (1) The services must not be available under a State requirements contract.

32 (2) The services must be of suitable price and quality, as determined by the
33 agency.

34 (c) The provisions of G.S. 143-52 shall not apply to purchases made pursuant to
35 this section. However, nothing in this section shall prohibit a nonprofit work center for
36 the blind and severely disabled from submitting bids or making offers for contracts under
37 G.S. 143-52.

38 (d) For the purpose of this subsection, a 'nonprofit work center for the blind and
39 severely disabled' has the same meaning as under G.S. 143-48."

40 Sec. 4. Article 8 of Chapter 143 of the General Statutes is amended by adding
41 a new section to read:

42 **"§ 143-129.5. Purchases from nonprofit work centers for the blind and severely**
43 **disabled.**

1 Notwithstanding G.S. 143-129, a city, county, or other governmental entity subject to
2 this Article may purchase goods and services directly from a nonprofit work center for
3 the blind and severely disabled, as defined in G.S. 143-48. This act shall expire on
4 January 1, 2000, but the expiration does not impair the validity of contracts entered into
5 before that date. The Department shall report annually to the General Assembly's
6 Governmental Operations Committee."

7 Sec. 5. This act becomes effective January 1, 1996, and applies to contracts for
8 which bids or offers are solicited on or after that date.