

SENATE BILL 3248

By Tate

AN ACT to amend Tennessee Code Annotated, Title 4 and Title 12, relative to small, minority owned and women owned businesses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 12, Chapter 3, is amended by adding the following language as a new part:

Section 12-3-1301. This part shall be known and may be cited as the "Tennessee Small Business Procurement and Contracting Opportunity Act".

Section 12-3-1302. As used in this part, unless the context otherwise requires:

- (1) "Commissioner" means the commissioner of general services;
- (2) "Department" means the department of general services;
- (3) "Minority" has the same meaning as defined in § 12-3-802;
- (4) "Minority owned business" has the same meaning as defined in § 12-3-802;
- (5) "Procurement and contracting" means the procurement of equipment, supplies, personnel services, professional services, consulting services, construction contracts, and architectural and engineering services;
- (6) "State agency" means any department, office, institution of higher education, board, commission, or any other state agency that receives state funds;
- (7) "Tennessee small business" means a business that is independently owned and operated with at least fifty-one percent (51%) of its controlling ownership interest having residency in Tennessee, has total gross receipts of no

more than ten million dollars (\$10,000,000) for the most recently ended federal tax year, and employs no more than thirty (30) persons on a full-time basis; and

(8) "Woman owned business" has the same meaning as defined in § 12-3-802.

Section 12-3-1303. In addition to the other provisions of this chapter concerning minority owned, women owned and small business procurement and contracting opportunities, the department shall adopt a plan to maximize participation of Tennessee small business in state agency procurement and contracting. In developing such a plan, the department shall strive to achieve a minimum participation goal of twenty percent (20%) of Tennessee small businesses through both prime and second-tier state agency procurement and contracting opportunities.

Section 12-3-1304.

(a) Notwithstanding any law to the contrary, the commissioner of finance and administration in consultation with the commissioner of general services shall promulgate regulations authorizing a preference for Tennessee small businesses in the evaluation of proposals for state contracts.

(b) The preference to be given to a Tennessee small business shall not exceed five percent (5%) of the lowest responsive, responsible bidder meeting specifications and shall be applied on a sliding scale in the following manner:

(1) A preference of up to five percent (5%) shall be allowed for contracts up to five hundred thousand dollars (\$500,000);

(2) A preference of up to three and one-half percent (3.5%) shall be allowed for contracts up to seven hundred fifty thousand dollars (\$750,000);

(3) A preference of two and one-half percent (2.5%) shall be allowed for contracts up to one million dollars (\$1,000,000);

(4) A preference of two percent (2%) shall be allowed for contracts that exceed one million dollars (\$1,000,000); and

(5) For construction contracts over two million dollars (\$2,000,000), a two percent (2%) preference shall be given to the bids of general contractors who, through use of subcontractors, utilize Tennessee small businesses to perform at least fifty percent (50%) of the work subject to the contract. Any general contractor that receives a contract pursuant to this subdivision (b)(5) shall provide periodic assurances that the requirements of this subdivision have been met or exceeded as may be required by the terms of the contract.

Section 12-3-1305. The department is authorized and directed to identify qualified Tennessee small businesses, to undertake training programs and other educational activities to enable Tennessee small businesses to compete for contracts on an equal basis with other businesses, and to provide necessary assistance to state agencies seeking to maximize participation of Tennessee small businesses.

Section 12-3-1306. The commissioner shall include information concerning the effectiveness of this part in the annual report submitted to the governor and to each member of the general assembly pursuant to § 12-3-808.

SECTION 2. This act shall take effect October 1, 2010, the public welfare requiring it, and shall apply to state contracts entered into or renewed on and after such date.