

SENATE BILL 1642

By Massey

AN ACT to amend Tennessee Code Annotated, Title 4, Chapter 21; Title 12; Title 50 and Title 71, Chapter 4, Part 7, relative to employing individuals with disabilities.

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

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 4, Part 7, is amended by deleting the part and substituting the following:

**71-4-701. Purpose — Applicability.**

(a) The purpose of this part is to further the policy of the state to encourage and assist individuals with severe disabilities to achieve maximum personal independence through useful, productive, and gainful employment by assuring expanded competitive integrated employment opportunities, thereby enhancing their dignity and capacity for self-support and realizing independence and self-sufficiency.

(b) This part applies to all governmental entities that are supported in whole or in part by the general assembly.

**71-4-702. Part definitions.**

As used in this part:

(1) "Central nonprofit agency" means the agency designated by the committee to facilitate, by subcontract or other means, the fulfillment of orders from governmental entities for commodities and services and to assist the committee in administering the program described under this part;

(2) "Certified commodities or services" means:

(A) Commodities and services that have been recommended by the central nonprofit agency as suitable for procurement by any state

governmental entity or as suitable for statewide contracts and that are certified pursuant to procedures approved by the state procurement commission as to quality, availability, and fair market price; and

(B) Commodities and services that have been recommended by the central nonprofit agency as suitable for procurement by political subdivisions and that are certified by the chief financial officer of the political subdivisions as to quality, availability, and fair market price;

(3) "Committee" means the advisory committee for providing competitive integrated employment for individuals with severe disabilities, created by § 71-4-703;

(4) "Competitive integrated employment" means employment available to individuals with severe disabilities or a customized employment available to individuals with severe disabilities, at a setting typically found in the community, at minimum wage or greater with the same benefits as nondisabled employees receive, in which eligible individuals interact with nondisabled individuals, other than nondisabled individuals who are providing services to those eligible individuals, to the same extent that nondisabled individuals in comparable positions interact with other persons;

(5) "Governmental entity" means a state governmental entity or a political subdivision;

(6) "Individuals with severe disabilities" means individuals who have a physical or mental impairment that substantially limits major life activities;

(7) "Political subdivision" means any local governmental entity, including, but not limited to, any city, town, municipality, metropolitan government, county, utility district, school district, public building authority, housing authority, emergency communications district, and development district created and existing pursuant to the laws of this state, or any instrumentality of government created by any one (1) or more local governmental entities;

(8) "Production of commodities" means packaging, assembly, distribution, or other manufacturing processes; and

(9) "State governmental entity" means any agency, authority, board, commission, department, or office within the executive, legislative, or judicial branches of state government, or any autonomous state agency, authority, board, commission, council, department, office, or institution of higher education.

**71-4-703. Advisory committee — Responsibilities — Purchasing requirements for governmental entities — Applicability of part.**

(a)

(1) There is created the committee for providing competitive integrated employment for individuals with severe disabilities, and composed of the following:

(A) The commissioner of general services or the commissioner's designee;

(B) The commissioner of finance and administration or the commissioner's designee;

(C) The commissioner of human services or the commissioner's designee;

(D) The commissioner of mental health and substance abuse services or the commissioner's designee;

(E) The commissioner of intellectual and developmental disabilities or the commissioner's designee;

(F) The commissioner of transportation or the commissioner's designee;

(G) One (1) member who is a private citizen and parent of a child with disabilities, or an individual with disabilities;

(H) One (1) member who is a private citizen and represents agencies serving people who are blind;

(I) One (1) member who is a private citizen and represents entities serving people with disabilities; and

(J) One (1) member who is a private citizen and represents the business community.

(2) The governor shall appoint the private citizen members described in subdivisions (a)(1)(G)-(J) to three-year terms.

(3) The members of the committee shall organize and appoint a chair and determine their operating procedures. A majority of the members of the committee constitutes a quorum, and all official action of the committee requires a quorum.

(4) Members serve without compensation and do not receive travel expenses.

(b) The committee shall provide oversight to the central nonprofit agency in developing and implementing a state and political subdivision procurement program of commodities and services and in employing individuals with severe disabilities.

(c) The committee shall:

(1) Meet quarterly;

(2) Designate a central nonprofit agency for fulfillment of government orders for commodities or services;

(3) Require the central nonprofit agency to develop measures for evaluating its effectiveness; and

(4) Evaluate the activities of the central nonprofit agency to assure effective and efficient administration of this part.

(d) Every governmental entity that is supported in whole or in part by the general assembly shall purchase all services or commodities required by the governmental entity from the central nonprofit agency as long as commodities or services purchased by state governmental entities are certified pursuant to procedures approved by the procurement commission and are available, and commodities or services purchased by political subdivisions are certified by the chief financial officer of the political subdivision.

(e) This part has precedence over any law requiring governmental entity procurement of commodities or services, except laws that require purchases from nonprofit organizations operating under §§ 71-4-204 and 71-4-205; laws establishing preference for blind vendors operating under chapter 4, part 5 of this title; and laws requiring purchases under §§ 41-22-118 – 41-22-124.

(f) This part does not apply in any case:

(1) In which commodities or services are available from any state governmental entity;

(2) Where the procurement commission determines that the commodities or services do not meet the reasonable requirements of a state governmental entity; or

(3) Where the chief financial officer determines that the commodities or services do not meet the reasonable requirements of the political subdivision.

**71-4-704. Central nonprofit agency — Designation — Functions and operations —**

**Fee.**

(a) The functions and operations of the designated central nonprofit agency include, but are not limited to, the following:

(1) Ensure that the priorities for orders from governmental entities are maintained under this part and that opportunities are provided to individuals with severe disabilities to pursue competitive integrated employment;

(2) Evaluate the qualifications and capabilities of entities for production of commodities or performing services. The central nonprofit agency must assure that individuals with severe disabilities are receiving competitive integrated employment in the production of commodities or performance of services. At a minimum, fifty percent (50%) of the hours worked on the production of commodities or performing services in the program are required to be provided by individuals with severe disabilities. Hours worked by supervisors with severe disabilities are to be included in the determination;

(3) Recommend with appropriate justification, including recommended prices, suitable commodities or services for procurement and, as market conditions change, recommend price changes or revisions;

(4) Fulfill or distribute and allocate, by subcontract or any other means, orders from governmental entities; and

(5) Maintain the necessary records and monitor data on the entities to ensure compliance in the production of commodities and performance of services.

(b) The central nonprofit agency shall charge a fee for fulfilling the orders. This fee must not exceed rates approved by the committee. The fee must be factored as an administrative expense into the overall cost.

**71-4-705. Cooperation between committee and governmental entities — Annual report of committee.**

(a) In furtherance of the purposes of this part and in order to contribute to the economy of state government, it is the intent of the general assembly that there be close cooperation between the committee and any state governmental entity from which procurement of commodities or services is required under the law currently in effect. The central nonprofit agency may enter into cooperative agreements, contracts, or other arrangements as may be determined to be necessary for the effective coordination and efficient realization of the objectives of this part.

(b) The committee shall annually report, on or before December 31, to the governor and to each member of the general assembly concerning the number of governmental entities participating in the program, the total dollar amount of purchases, and any other information the committee deems appropriate.

SECTION 2. The headings to sections in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.