

House Bill 196

By: Representatives Anderson of the 117th, Harbin of the 118th, Yates of the 73rd, Stephens of the 164th, Keen of the 179th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated,
2 relating to state purchasing, so as to provide for a short title; to provide for legislative intent;
3 to provide for definitions; to provide for a selection preference in state contracting for
4 certified service-disabled veteran business enterprises; to provide for a certification
5 procedure to be established by the Department of Administrative Services and the
6 Department of Veterans Service and reviewed biennially and updated as necessary; to
7 provide for requirements for application for, renewal of, and revocation of certification; to
8 provide for duties of the departments; to require the Department of Veterans Service to report
9 the percentage of service-disabled veteran business enterprises using the statewide contracts
10 register; to amend Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia
11 Annotated, relating to the Department of Transportation exercising its power to contract, so
12 as to provide for a selection preference in department contracting for certified
13 service-disabled veteran business enterprises; to provide for related matters; to repeal
14 conflicting laws; to provide for an effective date.

15 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

16 **SECTION 1.**

17 This Act shall be known and may be cited as the "Georgia Service-Disabled Veteran
18 Business Enterprise Opportunity Act."

19 **SECTION 2.**

20 Article 3 of Chapter 5 of Title 50 of the Official Code of Georgia Annotated, relating to state
21 purchasing, is amended by adding a new part to read as follows:

22 "Part 623 50-5-139.

24 It is the intent of the General Assembly to rectify the economic disadvantage of
25 service-disabled veterans, who are statistically the least likely to be self-employed when
26 compared to the veteran population as a whole and who have made extraordinary sacrifices
27 on behalf of the nation, the state, and the public, by providing opportunities for
28 service-disabled veteran business enterprises.

29 50-5-139.1.30 For the purpose of this part, the term:31 (1) 'Certified service-disabled veteran business enterprise' means a business that has been
32 certified by the Department of Administrative Services to be a service-disabled veteran
33 business enterprise as defined in paragraph (4) of this Code section.34 (2) 'Department' means the Department of Administrative Services.35 (3) 'Service-disabled veteran' means a veteran who is a permanent Georgia resident with
36 a service-connected disability of 10 percent or greater as determined by the United States
37 Department of Veterans Affairs or who has been terminated from military service by
38 reason of disability by the United States Department of Defense.39 (4) 'Service-disabled veteran business enterprise' means an independently owned and
40 operated business that:41 (A) Employs 200 or fewer permanent full-time employees;42 (B) Together with its affiliates has a net worth of \$5 million or less or, if a sole
43 proprietorship, has a net worth of \$5 million or less including both personal and
44 business investments;45 (C) Is organized to engage in commercial transactions;46 (D) Is domiciled in this state;47 (E) Is at least 51 percent owned by one or more service-disabled veterans; and48 (F) The management and daily business operations of which are controlled by one or
49 more service-disabled veterans or, for a service-disabled veteran with a permanent and
50 total disability, by the spouse or permanent caregiver of the veteran.51 50-5-139.2.52 (a) The department, when considering two or more bids, proposals, or replies for the
53 procurement of commodities or contractual services, at least one of which is from a
54 certified service-disabled veteran business enterprise, that are equal with respect to all

55 relevant considerations, including price, quality, and service, shall award such procurement
56 or contract to the certified service-disabled veteran business enterprise.

57 (b) If a service-disabled veteran business enterprise entitled to the vendor preference
58 pursuant to this Code section and one or more businesses entitled to this preference or
59 another vendor preference provided by law submit bids, proposals, or replies for
60 procurement of commodities or contractual services that are equal with respect to all
61 relevant considerations, including price, quality, and service, then the state agency shall
62 award the procurement or contract to the business having the smallest net worth.

63 (c) Political subdivisions of the state are encouraged to offer a similar consideration to
64 businesses certified under this Code section.

65 50-5-139.3.

66 (a) The application for certification as a service-disabled veteran business enterprise must,
67 at a minimum, include:

68 (1) The name of the business enterprise applying for certification and the name of the
69 service-disabled veteran submitting the application on behalf of the business enterprise.

70 (2) The names of all owners of the business enterprise, including owners who are
71 service-disabled veterans and owners who are not service-disabled veterans, and the
72 percentage of ownership interest held by each owner.

73 (3) The name of all persons involved in both the management and daily operations of the
74 business, including the spouse or permanent caregiver of a veteran with a permanent and
75 total disability.

76 (4) The service-connected disability rating of all persons listed under paragraphs 1, 2,
77 and 3 of this subsection, as applicable, with supporting documentation from the United
78 States Department of Veterans Affairs or the United States Department of Defense.

79 (5) The number of permanent full-time employees.

80 (6) The location of the business headquarters.

81 (7) The total net worth of the business enterprise and its affiliates. In the case of a sole
82 proprietorship, the net worth includes personal and business investments.

83 (b) To maintain certification, a service-disabled veteran business enterprise shall renew
84 its certification biennially.

85 (c) A certified service-disabled veteran business enterprise must notify the department
86 within 30 business days after any event that may significantly affect the certification of the
87 business, including, but not limited to, a change in ownership or change in management
88 and daily business operations.

89 (d) The certification of a service-disabled veteran business enterprise shall be revoked for
90 12 months if the department determines that the business enterprise violated subsection (d)

91 of this Code section. An owner of a certified service-disabled veteran business enterprise
 92 whose certification is revoked is not permitted to reapply for certification under this
 93 subsection as an owner of any business enterprise during the 12-month revocation period.
 94 During the 12-month revocation period, a service-disabled veteran business enterprise
 95 whose certification has been revoked may bid on state contracts but is not eligible for any
 96 preference available under this section. A service-disabled veteran business enterprise
 97 whose certification has been revoked may apply for certification at the conclusion of the
 98 12-month revocation period by complying with requirements applicable to initial
 99 certifications.

100 50-5-139.4.

101 The department shall:

102 (1) Establish a certification procedure, which shall be reviewed biennially and updated
 103 as necessary.

104 (2) Identify eligible service-disabled veteran business enterprises by any electronic
 105 means, including e-mail or Internet website, or by any other reasonable means.

106 (3) Encourage and assist eligible service-disabled veteran business enterprises to apply
 107 for certification under this section.

108 (4) With assistance from the Department of Veterans Services, establish a certification
 109 procedure, which shall be reviewed biennially and updated as necessary.

110 (5) Grant, deny, or revoke the certification of a service-disabled veteran business
 111 enterprise under this section.

112 (6) Maintain an electronic directory of certified service-disabled veteran business
 113 enterprises for use by the state, political subdivisions of the state, and the public.

114 50-5-139.5.

115 The department shall submit a report biennially to the Department of Veterans Services
 116 reporting the percentage of certified service-disabled veteran business enterprises using the
 117 statewide contracts register.

118 50-5-139.6.

119 The Department of Veterans Service and the department, as appropriate, shall promulgate
 120 such rules as necessary to administer this section."

121 **SECTION 3.**

122 Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to the
 123 Department of Transportation exercising its power to contract, is amended by adding a new

124 subsection to Code Section 32-2-69, relating to the award of a contract to lowest reliable
125 bidder, to read as follows:

126 "(e) The department, when considering two or more bids and at least one of such bids has
127 been submitted by a service-disabled veteran business enterprise as defined in Code
128 Section 50-5-139.1, shall award the contract to the certified service-disabled veteran
129 business enterprise, provided that such service-disabled veteran business enterprise has
130 submitted a bid that is equal with respect to all relevant conditions, including price, quality,
131 and service to the bids to which the department otherwise would have awarded the contract.
132 Prior to a service-disabled veteran business enterprise being awarded a contract pursuant
133 to this Code section, it shall first meet all conditions and requirements set out in this article
134 to qualify it for submitting a bid to the department."

135 **SECTION 4.**

136 All laws and parts of laws in conflict with this Act are repealed.