

Senate Bill 360

By: Senators Rhett of the 33rd, Dugan of the 30th, Harbison of the 15th, Black of the 8th,
Mullis of the 53rd 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 preference for qualified business
3 enterprises owned and controlled by service disabled veterans in making state purchases or
4 awarding state contracts; to define certain terms; to provide for terms and conditions; to
5 provide for qualification and certification of such business enterprises; to provide for certain
6 offenses and punishments; to provide for rules and regulations; to repeal conflicting laws;
7 and for other purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 style="text-align:center">**SECTION 1.**

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

12 style="text-align:center">"Part 6

13 50-5-138.1.

14 As used in this part, the term:

15 (1) 'Department' means the Department of Administrative Services.

16 (2) 'Qualified business enterprise' means an independently owned and operated business
17 that:

18 (A) Is at least 51 percent owned by one or more service disabled veterans;

19 (B) The management and daily business operations of which are controlled by one or
20 more service disabled veterans or, for a service disabled veteran with a permanent and
21 total disability, by the spouse or permanent caregiver of the service disabled veteran;

22 (C) Is organized to engage in commercial transactions;

23 (D) Is domiciled in this state;

24 (E) Employs 200 or fewer permanent full-time employees; and

25 (F) Together with its affiliates has a net worth of \$5 million or less or, if a sole
 26 proprietorship, has a net worth of \$5 million or less including both personal and
 27 business investments.

28 (3) 'Service-connected disability' means a disability incurred or aggravated in the line of
 29 duty in the active military, naval, or air service.

30 (4) 'Service disabled veteran' means a veteran who is a permanent Georgia resident with
 31 a service-connected disability of 10 percent or greater as determined by the United States
 32 Department of Veterans Affairs or who has been terminated from military service by
 33 reason of disability by the United States Department of Defense.

34 (5) 'Veteran' means a person who served in the active military, naval, or air service of the
 35 United States and who was discharged or released from his or her service under
 36 conditions other than dishonorable.

37 50-5-138.2.

38 (a) The department shall make reasonable attempts to ensure at least 10 percent of
 39 purchases or contracts are made from or with qualified business enterprises.

40 (b) To be certified with the department as a qualified business enterprise, the business
 41 shall:

42 (1) Be a qualified business enterprise;

43 (2) Submit an affidavit of an owner or officer of the enterprise stating that the enterprise
 44 is a qualified business enterprise;

45 (3) Submit such other proof as required by the department to adequately support the
 46 claim of qualification as a qualified business enterprise, including but not limited to
 47 official government agency documentation of the disability and discharge status of the
 48 service disabled veteran and proof of requisite ownership and control of the enterprise;

49 (4) Submit any other information required by the department as reasonable and necessary
 50 proof or assurance of the applicant's claim of qualification as a qualified business
 51 enterprise for purposes of this part; and

52 (5) Be qualified to bid pursuant to the provisions of the department and other state
 53 agencies.

54 (c) If during the term of the contract the contractor no longer meets the criteria of a
 55 qualified business enterprise or if the contract is assigned to a business entity that does not
 56 meet the criteria of a qualified business enterprise, the contractor shall immediately notify
 57 the department as much in writing.

58 50-5-138.3.

59 (a) It shall be unlawful for a person to:

60 (1) Knowingly and with intent to defraud, fraudulently obtain, retain, attempt to obtain
 61 or retain, or aid another in fraudulently obtaining or retaining or attempting to obtain or
 62 retain certification as a qualified business enterprise for the purposes of this part;

63 (2) Knowingly and willfully make a false statement with the intent to defraud, whether
 64 by affidavit, report, or other representation, to a state official or employee for the purpose
 65 of influencing the certification or denial of any certification of any entity as a qualified
 66 business enterprise;

67 (3) Knowingly and willfully obstruct, impede, or attempt to obstruct or impede any state
 68 official or employee who is investigating the qualifications of a business entity which has
 69 requested certification as a qualified business enterprise;

70 (4) Knowingly and willfully with intent to defraud, fraudulently obtain, attempt to
 71 obtain, or aid another person in fraudulently obtaining or attempting to obtain public
 72 moneys to which the person is not entitled under this part; or

73 (5) Knowingly and willfully assign any contract awarded pursuant to this part to any
 74 other business enterprise without prior written approval of the department.

75 (b) Any person convicted of violating any provision of this Code section shall be guilty
 76 of a felony, punishable by imprisonment for not more than five years, a fine of not more
 77 than \$10,000.00, or both such imprisonment and fine.

78 (c) If a contractor, subcontractor, supplier, subsidiary, principal, or affiliate thereof has
 79 been found to have violated this Code section and that violation occurred within three years
 80 of another violation of this Code section, the department shall prohibit that contractor,
 81 subcontractor, supplier, subsidiary, principal, or affiliate thereof from entering into a state
 82 project or state contract; from further bidding to a state entity; from being a subcontractor
 83 to a contractor for a state entity; and from being a supplier to a state entity.

84 50-5-138.4.

85 The department shall adopt such rules and regulations as are reasonable and necessary to
 86 implement this part."

87 **SECTION 2.**

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