Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bills 564 and 565 (as reported without amendment)
Sponsor: Senator Virg Bernero
Committee: Local, Urban and State Affairs

Date Completed: 1-16-04

RATIONALE

Some people believe that State departments should be required to award a certain percentage of their expenditures to businesses owned by individuals with disabilities. Currently, the Business Opportunity Act For Persons With Disabilities provides that it is the goal of each department to award at least 3% of its total expenditures to such businesses annually. The provision was part of the Act when it was adopted in 1988. Reportedly, no State departments have reached the 3% per year goal. It has been suggested that business opportunities for people with disabilities could be increased if the 3% goal were made a requirement.

CONTENT

Senate Bill 564

The bill would amend the Business Opportunity Act For Persons With Disabilities to require each State department, each year, to award at least 3% of its total expenditures for construction, goods, and services (minus expenditures to sole source venders) to businesses owned by persons with disabilities.

Senate Bill 565

The bill would amend the Management and Budget Act to provide that "expenditures" under the Act would be subject to the requirements of the Business Opportunity Act For Persons With Disabilities, and define that term as it is defined in that Act. The bill is tie-barred to Senate Bill 564.

Under the Business Opportunity Act For Persons With Disabilities, "expenditures" means payments and contracts for goods, services, and construction that may be acquired competitively and are not regulated by separate authority, and, where a department acts as the sole or primary contracting officer and has selective discretion as to the supplier, vendor, or contractor. This does not apply to expenditures by the Department of Transportation for road and bridge construction projects that receive certain Federal funds.

"Business owned by persons with disabilities" means a business in which more than 50% of the voting shares or interest in the business is owned, controlled, and operated by one or more persons with disabilities; more than 50% of the net profit or loss attributable to the business accrues to shareholders who are persons with disabilities; and more than 50% of the employees of the business are State residents. "Disability" means a determinable physical or mental impairment of an individual or the history of an impairment that may result from disease, injury, congenital condition of birth, or functional disorder.

MCL 450.793 (S.B. 564)
Proposed MCL 18.1297a (S.B. 565)

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate

Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

The Federal Americans With Disabilities Act (ADA) of 1990 includes a Congressional finding that approximately 43 million Americans have one or more physical or mental disabilities and that the number is increasing as the population ages. Congress also found, "…historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements such forms of discrimination…continue to be a serious and pervasive social problem…". Congress recognized that a key to correcting this situation was through economic empowerment, finding, "…the Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals…".

Before the ADA was enacted, this State reached similar conclusions when it enacted the Business Opportunity Act For Persons With Disabilities, and established a goal for every State department to award each year 3% of expenditures for construction, goods, and services to businesses owned by individuals with disabilities. (The Federal government also has a 3% goal regarding the procurement of Federal contracts by small businesses owned by service-disabled veterans.) The State, however, has failed to reach the goal for 15 years. By *requiring* departments to award 3% of expenditures to businesses owned by people with disabilities, the bills would make it a priority for State officials to seek out such enterprises. This would improve business and employment opportunities for people with disabilities, and thus help a demographic group that traditionally has ranked among the highest in the nation in unemployment and economic hardship.

Legislative Analyst: George Towne

FISCAL IMPACT

The bills would have an indeterminate impact on State government, depending on the extent to which bids awarded under the requirement would possibly exceed the lowest bid or best value bid qualified to perform the contract.

Fiscal Analyst: Bill Bowerman

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