Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

BILL ANALYSIS

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

Senate Bill 302 (Substitute S-1 as reported by the Committee of the Whole)
Sponsor: Senator Virg Bernero
Committee: Local, Urban and State Affairs

Date Completed: 5-11-05

RATIONALE

The Business Opportunity Act For Persons With Disabilities provides that it is the goal of each State department to award at least 3% of its total expenditures to businesses owned by individuals with disabilities annually. The Act also requires the Department of Management and Budget (DMB) to report on departmental progress to the Legislature at five-year intervals. Reportedly, no State departments have reached the 3%-per-year goal and, apparently, the DMB has not given a five-year report to the Legislature since the Act took effect in 1989. Some people believe that departments would be more likely to comply with the goal of awarding at least 3% of their contracts to businesses owned by people with disabilities if they were required to update the Legislature on their progress each year.

CONTENT

The bill would amend the Business Opportunity Act For Persons With Disabilities to require each department, once a year, to report to the Legislature on the number of businesses owned by persons with disabilities that submitted bids for State procurement contracts and received contracts; and whether the department achieved its goal of awarding at least 3% of total expenditures to such businesses. The bill also would require the Department of Management and Budget to review the departments' progress in meeting the 3% goal once a year, instead of every five years.

The Act makes it the goal of each principal State department to award each year at least 3% of its total expenditures for construction, goods, and services, less expenditures to sole source vendors, to businesses owned by persons with disabilities. At five-year intervals, the DMB must review the progress of the departments in meeting the 3% goal, and make recommendations to the Legislature regarding continuation, and increases or decreases in the percentage goal. The recommendations must be based upon the number of businesses that are owned by persons with disabilities and on the continued need to encourage and promote businesses owned by persons with disabilities.

The bill would require the DMB to review the departments' progress and make recommendations to the Legislature once a year, rather than at five-year intervals.

Additionally, once a year, each department would have to report to each house of the Legislature on all of the following for the immediately preceding 12-month period:

-- The number of businesses owned by persons with disabilities that submitted a bid for a State procurement contract.
-- The number of businesses owned by persons with disabilities that entered into procurement contracts with the State and the total value of those contracts.
-- Whether the department achieved its 3% goal.

The DMB could combine its recommendations with the departmental reports.

The bill is tie-barred to Senate Bill 303 (S-1), which would require the DMB to give a preference to a qualified disabled veteran of up to 10% of the value of a competitively bid contract.

MCL 450.793

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

When the Act was enacted in 1988, it was reported that the population of persons with disabilities included a disproportionately high number of individuals who were unemployed and/or living in poverty, compared with the nondisabled population. Various reasons, including stereotyping by employers, were cited for the high unemployment rate among persons with disabilities. For these reasons, many disabled individuals apparently decided that starting their own businesses could offer the greatest chance for successful employment. Although State law at the time gave preferential treatment to minority- and women-owned businesses in awarding contracts, no similar consideration was given to businesses owned by persons with disabilities. Therefore, in order to encourage and assist the development of these businesses, Public Act 112 of 1988 made it a goal of State departments to award at least 3% of total yearly expenditures for construction, goods, and services to businesses owned by persons with disabilities. Reportedly, however, no departments have reached the 3% goal since the Act took effect, and the DMB has never made a report to the Legislature on departmental progress toward reaching the goal or made recommendations regarding suggested changes to the goal.

Requiring each department to report on its progress every 12 months would keep the Legislature informed as to whether departments were attempting to meet their goal and how close they were coming to achieving it. Additionally, by having the DMB review each department's progress and make recommendations to the Legislature as to whether the goal should be raised or lowered annually, the bill would ensure that the Legislature was kept up to date as to whether the 3% goal for each department is unrealistic and should be adjusted.

Opposing Argument

State departments have had the 3% goal for 16 years, but none has reached it or is even close to doing so. Thus, it would not be realistic to expect the departments to reach the 3% annual goal within a year. It would take time to institute the practices and procedures necessary to increase the number of departmental contracts with businesses owned by persons with disabilities. Additionally, the process of putting contracts out for bids can take months.

There is a concern that, if departments were required to make annual progress reports, their efforts to reach the goal would not be recognized because the results would not be immediately apparent. It is also unlikely that any department could reach the 3% goal by the time the first report would be due and there is a likelihood that an increase in the number of contracts granted to businesses owned by disabled persons would be overshadowed by the department's failure to achieve its goal.

Lowering the goal to a more easily achieved percentage for the first few years that the departments were required to make yearly reports would allow gradual improvements to be shown as a success over previous reporting periods rather than as a continued failure to meet the 3% goal. The goal could be gradually returned to the 3% over time, allowing departments to report on their success in making incremental improvements toward the 3% goal.

Response: The 3% goal has been in place since the Act took effect in 1989, State departments should have taken steps to begin working towards the goal at that time.

Legislative Analyst: J.P. Finet

FISCAL IMPACT

The bill would have minimal fiscal implications related to the reporting requirements.

Fiscal Analyst: Bill Bowerman

A0506\s302a