

A bill to amend 1988 PA 112, entitled
"The handicapper business opportunity act,"
by amending the title and sections 1, 2, 3, 4, and 5 (MCL
450.791, 450.792, 450.793, 450.794, and 450.795).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 TITLE

2 An act to provide competitive opportunity in state procure-
3 ments of goods, services, and construction for ~~handicapper~~
4 ~~owned~~ businesses OWNED BY PERSONS WITH DISABILITIES; to provide
5 powers and duties of the governor; to prescribe powers and duties
6 of certain state departments and agencies; and to provide
7 penalties.

8 Sec. 1. This act shall be known and may be cited as "the
9 ~~handicapper~~ business opportunity act FOR PERSONS WITH
10 DISABILITIES".

1 Sec. 2. As used in this act:

2 (A) "BUSINESS OWNED BY PERSONS WITH DISABILITIES" MEANS A
3 BUSINESS IN WHICH ALL OF THE FOLLOWING APPLY:

4 (i) MORE THAN 50% OF THE VOTING SHARES OR INTEREST IN THE
5 BUSINESS IS OWNED, CONTROLLED, AND OPERATED BY 1 OR MORE PERSONS
6 WITH DISABILITIES.

7 (ii) MORE THAN 50% OF THE NET PROFIT OR LOSS ATTRIBUTABLE TO
8 THE BUSINESS ACCRUES TO SHAREHOLDERS WHO ARE PERSONS WITH
9 DISABILITIES.

10 (iii) MORE THAN 50% OF THE EMPLOYEES OF THE BUSINESS ARE
11 RESIDENTS OF THIS STATE.

12 (B) ~~(a)~~ "Controlled" means exercising the power to make
13 policy decisions in a business.

14 (C) ~~(b)~~ "Department" means a principal department of the
15 executive branch of the state government.

16 (D) "DISABILITY" MEANS A DETERMINABLE PHYSICAL OR MENTAL
17 IMPAIRMENT OF AN INDIVIDUAL OR THE HISTORY OF AN IMPAIRMENT THAT
18 MAY RESULT FROM DISEASE, INJURY, CONGENITAL CONDITION OF BIRTH,
19 OR FUNCTIONAL DISORDER.

20 (E) ~~(c)~~ "Expenditures" means payments and contracts for
21 goods, services, and construction which may be acquired competi-
22 tively and are not regulated by separate authority, and, where
23 the department acts as the sole or primary contracting officer
24 and has selective discretion as to the supplier, vendor, or
25 contractor. This definition does not apply to expenditures by
26 the department of transportation for road and bridge construction
27 projects which receive federal funds under SECTION 112(b) OF

1 title 23 OF THE UNITED STATES CODE, 23 U.S.C. ~~112(b)~~ 112, 23
2 C.F.R. 635.104(a), and other applicable federal law until federal
3 law recognizes ~~handicapper~~ small businesses OWNED BY PERSONS
4 WITH DISABILITIES.

5 ~~(d) "Handicap" means a determinable physical or mental dis-~~
6 ~~ability of an individual or the history of a disability which may~~
7 ~~result from disease, injury, congenital condition of birth, or~~
8 ~~functional disorder.~~

9 ~~(e) "Handicapper" means an individual who has a handicap.~~

10 ~~(f) "Handicapper owned business" means a business of which~~
11 ~~more than 50% of the voting shares or interest in the business is~~
12 ~~owned, controlled, and operated by handicappers; with respect to~~
13 ~~which more than 50% of the net profit or loss attributable to the~~
14 ~~business accrues to the handicapper shareholders; and in which~~
15 ~~more than 50% of the employees are residents of this state.~~

16 ~~(F) (g) "Joint venture" means an agreement that combines 2~~
17 ~~or more businesses for specified purposes involving 1 or more~~
18 ~~handicapper owned businesses OWNED BY PERSONS WITH DISABILITIES~~
19 ~~and 1 or more businesses other than a handicapper owned~~
20 ~~business OWNED BY PERSONS WITH DISABILITIES.~~

21 ~~(G) (h) "Operated" means the activity of being involved in~~
22 ~~the day-to-day management of a business.~~

23 ~~(H) (i) "Person" means an individual, sole proprietorship,~~
24 ~~partnership, association, or corporation.~~

25 (I) "PERSON WITH DISABILITIES" MEANS AN INDIVIDUAL WITH 1 OR
26 MORE DISABILITIES.

1 (j) "Subcontract" means an agreement to share a prime
2 contract between a prime contractor and a ~~handicapper owned~~
3 business OWNED BY PERSONS WITH DISABILITIES.

4 Sec. 3. (1) It shall be the goal of each department to
5 award each year not less than 3% of its total expenditures for
6 construction, goods, and services, less expenditures to sole
7 source vendors, to ~~handicapper owned~~ businesses OWNED BY PER-
8 SONS WITH DISABILITIES.

9 (2) At 5-year intervals from the effective date of this act,
10 the department of management and budget shall review the progress
11 of the departments in meeting the 3% goal with input from the
12 business community, including ~~handicapper owned~~ businesses
13 OWNED BY PERSONS WITH DISABILITIES, and shall make recommenda-
14 tions to the legislature regarding continuation, increases or
15 decreases in the percentage goal. The recommendations shall be
16 based upon the number of businesses which are ~~handicapper~~ owned
17 BY PERSONS WITH DISABILITIES and on the continued need to encour-
18 age and promote ~~handicapper owned~~ businesses OWNED BY PERSONS
19 WITH DISABILITIES.

20 (3) It shall be the goal of each department or agency
21 ~~which~~ THAT does not meet the goal provided in subsection (1) to
22 award each year to ~~handicapper owned~~ businesses OWNED BY PER-
23 SONS WITH DISABILITIES not less than 150% of the actual expendi-
24 tures it awarded to ~~handicapper owned~~ businesses OWNED BY PER-
25 SONS WITH DISABILITIES in the preceding year until not less than
26 3% of total expenditures is achieved as provided in subsection
27 (1).

1 (4) To assist in reaching the goals set in subsections (1)
2 and (3), the governor shall recommend to the legislature changes
3 in programs to assist ~~handicapper owned~~ businesses OWNED BY
4 PERSONS WITH DISABILITIES.

5 (5) ~~Each department, to~~ TO assist in meeting the goals set
6 forth in subsections (1) and (3), EACH DEPARTMENT shall include
7 provisions for the consideration of subcontracts and joint
8 ventures. The provisions shall require a bidder to indicate the
9 extent of ~~handicapper owned business~~ participation OF A BUSI-
10 NESS OWNED BY PERSONS WITH DISABILITIES.

11 (6) Only the portion of a prime contract that reflects
12 ~~handicapper owned business~~ participation OF A BUSINESS OWNED BY
13 PERSONS WITH DISABILITIES shall be considered in meeting the
14 requirements of subsections (1) and (3).

15 (7) Except as otherwise provided by statute, if the bidders
16 for any contract for construction, goods, or services do not
17 include a qualified ~~handicapper owned and operated~~ business
18 OWNED BY PERSONS WITH DISABILITIES, the contract shall be awarded
19 to the lowest bidder qualified to perform the contract.

20 Sec. 4. (1) The governor shall designate a department
21 responsible for certifying that a person meets the requirements
22 of this act.

23 (2) Unless subsection (3) applies, in determining whether a
24 person seeking certification is a ~~handicapper~~ PERSON WITH
25 DISABILITIES, the certifying agency may accept documentation from
26 1 or more of the following:

1 (a) The Michigan commission for the blind, Michigan
2 rehabilitation services, or the social security administration
3 SSI or SSDI programs. The documents shall show that the current
4 ~~handicap~~ DISABILITY was the basis for eligibility in the pro-
5 gram within the last 5 years.

6 (b) The veterans administration. The documents shall show
7 that the person has a 30% or greater disability rating.

8 (c) A licensed physician or psychiatrist, who shall certify
9 that the person has a significant ~~handicap~~ DISABILITY.

10 (3) The certifying department may require any person seeking
11 certification to obtain verification pursuant to subsection
12 (2)(c) to insure that the applicant currently meets the defini-
13 tion of ~~handicapper~~ A PERSON WITH DISABILITIES.

14 (4) ~~A person who wishes to be certified as a handicapper~~
15 ~~owned~~ AN APPLICANT SEEKING CERTIFICATION AS A business OWNED BY
16 A PERSON WITH DISABILITIES shall complete an application form
17 developed by the certifying department and submit to the certify-
18 ing department an affidavit and documentation that the ~~person~~
19 APPLICANT is a ~~handicapper-owned~~ business OWNED BY A PERSON
20 WITH DISABILITIES and is prepared to bid on state contracts.
21 Proof of ownership interest, control, operational involvement,
22 and profit and loss shall be specifically identified and provided
23 with the affidavit.

24 Sec. 5. (1) ~~No~~ A person shall NOT fraudulently procure or
25 attempt to procure a contract under this act.

SB0393, As Passed House, February 25, 1998

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1 (2) A person who knowingly violates this act ~~shall be~~ IS
2 guilty of a felony, punishable by imprisonment for not more than
3 2 years, or a fine of not less than \$5,000.00, or both.

4 (3) A person found guilty of violating this act shall be
5 barred from obtaining future contracts with the state.