



www.lsc.ohio.gov

OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
and Drafting

Legislative Budget
Office

S.B. 12
135th General Assembly

Bill Analysis

[Click here for S.B. 12's Fiscal Note](#)

Version: As Introduced

Primary Sponsor: Sen. Hoagland

Samuel Duling, Research Analyst

SUMMARY

- Establishes a veteran-owned business enterprise certification program under the Department of Development.
- Expands the eligibility criteria for set-aside state purchasing contracts currently available to certified minority business enterprises to include certified veteran-owned business enterprises.
- Increases the value of set-aside state purchasing contracts from 15% to 20% of the estimated total value of purchases per fiscal year.
- Reserves 5% of state purchasing contracts for certified veteran-owned business enterprises and preserves the 15% of state purchasing contracts that are reserved for certified minority business enterprises under current law.

DETAILED ANALYSIS

Veteran-owned businesses

The bill requires the Director of Development to adopt rules to establish a veteran-owned business enterprise certification program, similar to the existing minority business enterprise certification program¹ and women-owned business enterprise certification program.² Like these existing certification programs under the Department of Development, the bill requires the Director to establish rules regarding the following:

- The certification application and disqualification processes;

¹ R.C. 122.921, not in the bill.

² R.C. 122.924, not in the bill.

- A mediation process for complaints and appeals regarding certification;
- A system to assist state agencies in identifying and contracting with certified veteran-owned business enterprises;
- A system through which veteran-owned business enterprises may self-report qualifications and submit to an onsite inspection for certification.

The bill specifies that business and personal information, as well as trade secrets, that are submitted to the Director under the veteran-owned business enterprise certification program are not to be considered public records unless the Director presents the information at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program.

The bill defines "veteran-owned business enterprise" as a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture of any kind that is *owned and controlled* by a veteran who is a U.S. citizen and resident of Ohio. "Owned and controlled" is also defined in the bill, and means that at least 51% of the business enterprise, including corporate stock if it is a corporation, is owned by a veteran and that such an owner has control over the day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to the veteran's percentage of ownership.

A veteran-owned business enterprise must have been owned by a veteran for at least one year before certification as a veteran-owned business enterprise.³

"Veteran" shares the meaning used for the existing veteran-friendly business procurement program. There, "veteran" means any person who has completed service in the U.S. armed forces, or a reserve component thereof, and who has been discharged honorably, under honorable conditions, or has been transferred to the reserve with evidence of satisfactory service.⁴

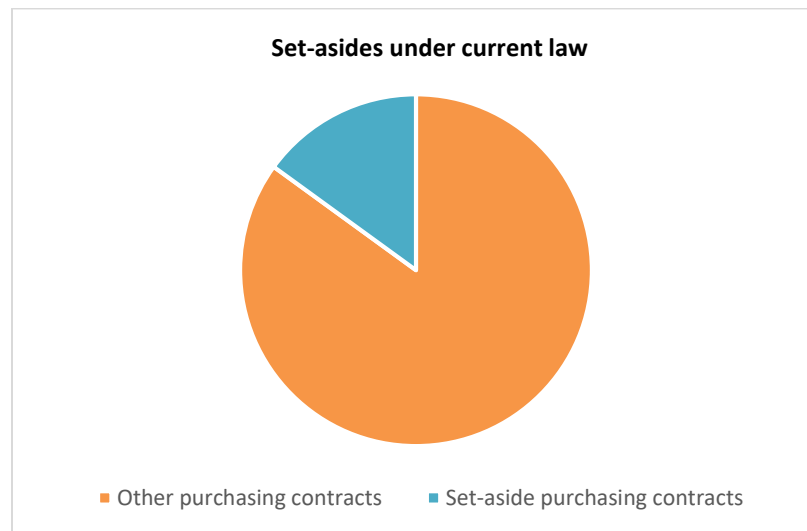
Set-aside contracts

The bill makes duly certified veteran-owned business enterprises eligible for contract purchases set aside by the Department of Administrative Services (DAS) and other state agencies. Under current law, only certified minority business enterprises are eligible for these contracts.

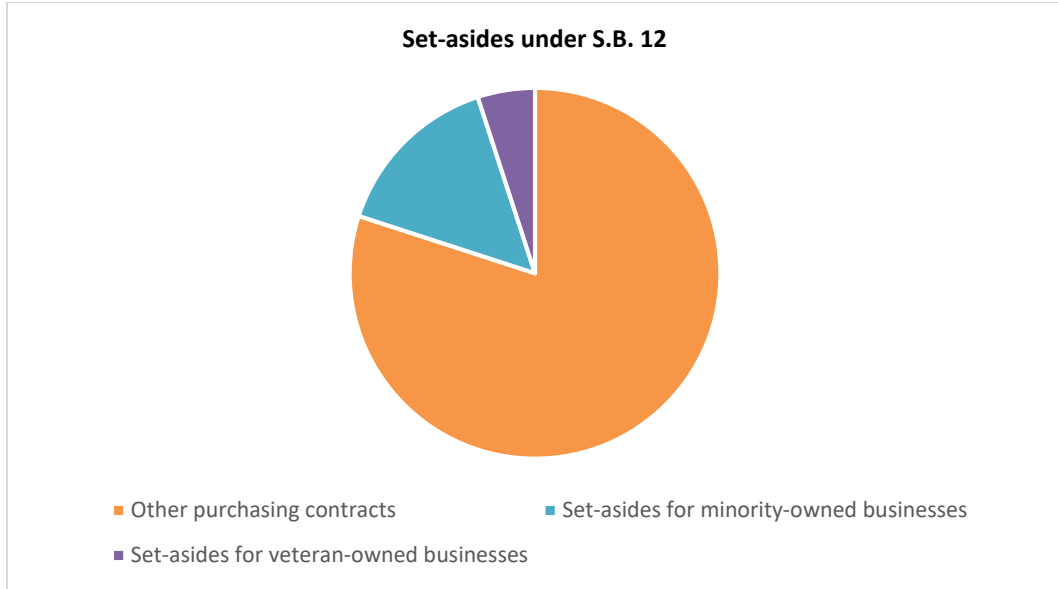
³ R.C. 122.926.

⁴ R.C. 122.925. Current law requires the Directors of Development and Transportation to establish criteria, based on the percentage of a business enterprise's employees who are veterans, to determine which business enterprises qualify as veteran-friendly.

Under current law, DAS and various other state agencies are required to set aside approximately 15% of the estimated total value of purchases per fiscal year for competition only by minority business enterprises.⁵ The bill increases the value of these set-aside state purchasing contracts from 15% to 20%. The additional 5% is reserved for competition only by veteran-owned business enterprises; the remaining 15% of the total value of state purchasing contracts continues to be reserved for competition only by minority business enterprises.



⁵ R.C. 125.081. The legislative and judicial branches, boards of elections, and the Adjutant General are excepted from this requirement. Also, there is no set-aside requirement for state-awarded construction contracts. Prior law, which included such set-asides, was struck down by a federal district court as a violation of the Equal Protection Clause of the 14th Amendment of the U.S. Constitution, *Associated Gen. Contrs. of Ohio, Inc. v. Drabik*, 214 F.3d 730 (6th Cir. 2000). The Supreme Court has held that the Equal Protection Clause prohibits set-asides based on race unless the state or local government demonstrates the set-aside is necessary to remedy the effects of past discrimination in that specific jurisdiction, *Richmond v. J. A. Croson Co.*, 488 U.S. 469 (1989).



HISTORY

Action	Date
Introduced	01-11-23
