

FIRST REGULAR SESSION

# SENATE BILL NO. 291

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR RUPP.

Read 1st time February 11, 2013, and ordered printed.

TERRY L. SPIELER, Secretary.

1108S.02I

## AN ACT

To amend chapter 34, RSMo, by adding thereto one new section relating to awarding state contracts to vendors employing individuals with qualifying disabilities.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 34, RSMo, is amended by adding thereto one new section, to be known as section 34.460, to read as follows:

**34.460. 1. This section shall be known and may be cited as the "Missourians with Disabilities Jobs Act of 2013".**

**2. As used in this section, the following terms shall mean:**

**(1) "Direct labor", all work performed to fulfill a contract under the provisions of this section, excluding supervision and administration;**

**(2) "Qualifying disability", a significant mental or physical impairment, including blindness, that impedes a person who is seeking, entering, or maintaining gainful employment. Such significant disability shall be certified by the division of vocational rehabilitation within the department of elementary and secondary education; the Social Security Administration Title 42, Section 423 of the United States Code; the Social Security Administration Title 42, Section 416(i)(1)(B) of the United States Code. A person eligible for services from the division of developmental disabilities of the department of mental health shall also be deemed to have a qualifying disability;**

**(3) "Qualifying vendor":**

**(a) A person with a qualifying disability; or**

**(b) A business or entity, whether for profit or nonprofit, that employs individuals with a qualifying disability; provided such individuals perform at least seventy percent of the direct labor hours**

22 required to fulfill a state contract for goods, services, or supplies; or

23 (c) Any nonprofit agency serving people with significant  
24 disabilities that meets the eligibility criteria to participate in the  
25 federal AbilityOne program, or its successor program, as described in  
26 41 U.S.C. Sections 8501 to 8506.

27 3. Notwithstanding any provision of this chapter to the contrary,  
28 the division of purchasing and materials management within the office  
29 of administration shall set a goal of awarding at least three percent of  
30 contracts for goods, services, and supplies to qualifying vendors. The  
31 division shall review proposals submitted by qualifying vendors and  
32 award and renew contracts for the purchase of goods, services, and  
33 supplies under this section to a qualifying vendor only if, in the opinion  
34 of the office of administration, the qualifying vendor's proposal does  
35 not exceed the fair market price for the same goods, services, and  
36 supplies available.

37 4. Suspected violations of the eligibility criteria for a qualifying  
38 vendor may be reported to and shall be investigated by the state  
39 auditor.

40 5. Individuals with a qualifying disability shall be paid at least  
41 minimum wage for direct labor hours performed in fulfillment of any  
42 contract awarded under the provisions of this section.

43 6. The amount of goods, services, and supplies that may be  
44 purchased in accordance with this section shall not exceed twenty-five  
45 million dollars unless increased by the office of administration.

46 7. The office of administration may make such rules and  
47 regulations necessary to carry out the purposes of this section,  
48 including specifications, time of delivery, and assignment of goods,  
49 services, and supplies to be supplied by qualifying vendors and other  
50 relevant matters of procedure. The office of administration may  
51 authorize the purchase of goods, services, and supplies from other  
52 sources when requisitions cannot reasonably be fulfilled by a qualifying  
53 vendor.

54 8. Before awarding a contract under this section for products,  
55 services, or supplies, the office of administration shall consider the  
56 interest of businesses currently under contract for those products,  
57 services, or supplies by determining whether awarding the contract to  
58 a qualifying vendor instead of the current contracting business would

59 have a severe adverse impact on such business. An impact of fifteen  
60 percent or greater of the total revenue of the current contracting  
61 business shall be deemed severe. However, in deciding whether  
62 awarding the contract to a qualifying vendor would have a severe  
63 adverse impact on the current contracting business, the office of  
64 administration shall consider:

65 (1) Financial and employment information provided by the  
66 current contracting business regarding the impact on the sales of such  
67 business;

68 (2) Whether the contracting business has been a consistent  
69 supplier of the goods, service, or supplies, and therefore, more  
70 dependent on such sales; and

71 (3) Any other factor the office of administration deems relevant.

72 9. Any rule or portion of a rule, as that term is defined in section  
73 536.010, that is created under the authority delegated in this section  
74 shall become effective only if it complies with and is subject to all of  
75 the provisions of chapter 536 and, if applicable, section 536.028. This  
76 section and chapter 536 are nonseverable and if any of the powers  
77 vested with the general assembly pursuant to chapter 536 to review, to  
78 delay the effective date, or to disapprove and annul a rule are  
79 subsequently held unconstitutional, then the grant of rulemaking  
80 authority and any rule proposed or adopted after August 28, 2013, shall  
81 be invalid and void.

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