

Amendment No. 420

Assembly Amendment to Assembly Bill No. 291 (BDR 27-592)

**Proposed by:** Assembly Committee on Government Affairs

**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____	Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____	Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

DLJ/WLK



Date: 4/18/2013

A.B. No. 291—Revises provisions relating to preferences in state purchasing for businesses owned by a veteran with a service-connected disability. (BDR 27-592)



ASSEMBLY BILL NO. 291—ASSEMBLYMEN STEWART, HARDY, ELLIOT ANDERSON,  
BOBZIEN; BUSTAMANTE ADAMS, GRADY, HAMBRICK, HEALEY, HOGAN  
AND LIVERMORE

MARCH 15, 2013

JOINT SPONSORS: SENATORS MANENDO, SPEARMAN, HUTCHISON, HAMMOND,  
HARDY; BROWER, GOICOECHEA AND WOODHOUSE

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to preferences in state purchasing for  
businesses owned by a veteran with a service-connected  
disability. (BDR 27-592)

FISCAL NOTE: Effect on Local Government: No.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to veterans; revising provisions relating to preferences in state  
purchasing for businesses owned by a veteran with a service-connected  
disability; revising provisions relating to preferences in public works  
for businesses owned by a veteran with a service-connected disability;  
and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Existing law deems a bid or proposal submitted by a local business owned by a veteran  
with a service-connected disability for a state purchasing contract or contract for a public  
work to be 5 percent lower than the bid actually submitted. (NRS 333.3366, 338.13844)  
**Sections 3 and 16** of this bill provide that a business qualifies for the 5 percent preference on  
a contract for which the estimated cost is less than a \$100,000 if it is certified as a local  
business owned and operated by a veteran with a service-connected disability pursuant to  
**section 11** of this bill. A business qualifies for the 5 percent preference on a contract for  
which the estimated cost exceeds \$100,000 but is less than \$250,000 if it is certified as a  
local business owned and operated by a veteran with a service-connected disability that  
has been determined to be 50 percent or more by the United States Department of  
Veterans Affairs. Sections 3 and 16 also provide for the breaking of a tie for low bid in favor  
first of a business certified pursuant to **section 11** and second of the business with the lowest  
net worth.

**Section 11** requires the Office of Economic Development to certify a business as a local  
business owned and operated by a veteran with a service-connected disability if the business  
submits certain information and the Office determines that the business meets the definitions  
of a "business owned and operated by a veteran with a service-connected disability" and a  
"local business." Such a certification is valid for 2 years and may be renewed. **Section 11**  
requires such a certified business to report any event that may affect the certification of the  
business within 30 business days after the event. Section 11 further requires the Office to

indicate on such a certification if the service-connected disability of the veteran who owns and operates the business has been determined by the United States Department of Veterans Affairs to be at least a 50 percent disability.

**Section 12** of this bill requires: (1) each state agency to submit all solicitations for the award of a contract and any information supporting the solicitation to the Office; and (2) the Office to maintain a database of such information that is made available to the certified businesses. **Section 13** of this bill requires the Office to maintain an electronic directory of certified businesses for use by the State, its agencies and political subdivisions and the public. **Section 13** requires the Office of Economic Development to cooperate with the Office of Veterans Services and certain nonprofit organizations to support businesses that may be eligible for certification. **Section 13** allows the Executive Director of the Office of Economic Development, in cooperation with the Purchasing Division of the Department of Administration and the State Public Works Division of the Department of Administration, to adopt such regulations as are necessary to carry out the preference for certified businesses.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 333 of NRS is hereby amended by adding thereto a new section to read as follows:

*“Certified local business owned and operated by a veteran with a service-connected disability” means a business that is certified pursuant to section 11 of this act.*

**Sec. 2.** NRS 333.3361 is hereby amended to read as follows:

333.3361 As used in NRS 333.3361 to 333.3369, inclusive, *and section 1 of this act*, unless the context otherwise requires, the words and terms defined in NRS ~~333.3362 to 333.3365, inclusive,~~ *333.3364 and section 1 of this act* have the meanings ascribed to them in those sections.

**Sec. 3.** NRS 333.3366 is hereby amended to read as follows:

333.3366 For the purpose of awarding a formal contract solicited pursuant to subsection 2 of NRS 333.300, if ~~it~~ :

1. *A certified local business owned and operated by a veteran with a service-connected disability submits a bid or proposal for a contract for which the estimated cost is \$100,000 or less and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.*

2. *A certified local business owned and operated by a veteran with a service-connected disability which is determined to be 50 percent or more by the United States Department of Veterans Affairs submits a bid or proposal for a contract for which the estimated cost exceeds \$100,000 but is less than \$250,000 and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.*

3. *After the application of subsection 1 ~~or~~ 2, as applicable, two or more lowest bids or proposals are identical and only one bid or proposal was submitted by a certified local business owned and operated by a veteran with a service-connected disability, the certified local business owned and operated by a veteran with a service-connected disability that submitted the bid or proposal shall be deemed to be the lowest responsive and responsible bidder.*

~~3.~~ 4. *After the application of subsection 1 ~~or~~ 2, as applicable, two or more lowest bids or proposals are identical and more than one bid or proposal was submitted by a certified local business owned and operated by a veteran with a service-connected disability, the certified local business owned and operated by*

*a veteran with a service-connected disability which has the smallest net worth shall be deemed to be the lowest responsive and responsible bidder.*

**Sec. 4.** NRS 333.3368 is hereby amended to read as follows:

333.3368 The Purchasing Division shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:

1. The number of state purchasing contracts that were subject to the provisions of NRS 333.3361 to 333.3369, inclusive ~~†~~, *and section 1 of this act.*

2. The total dollar amount of state purchasing contracts that were subject to the provisions of NRS 333.3361 to 333.3369, inclusive ~~†~~, *and section 1 of this act.*

3. The number of *certified* local businesses owned *and operated* by veterans with service-connected disabilities that submitted a bid or proposal on a state purchasing contract.

4. The number of state purchasing contracts that were awarded to *certified* local businesses owned *and operated* by veterans with service-connected disabilities.

5. The total number of dollars' worth of state purchasing contracts that were awarded to *certified* local businesses owned *and operated* by veterans with service-connected disabilities.

6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

**Sec. 5.** NRS 333.3369 is hereby amended to read as follows:

333.3369 The Purchasing Division may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 333.3361 to 333.3369, inclusive ~~†. The regulations may include, without limitation, provisions setting forth:~~

~~1. The method by which a business may apply to receive a preference described in NRS 333.3366;~~

~~2. The documentation or other proof that a business must submit to demonstrate that it qualifies for a preference described in NRS 333.3366; and~~

~~3. Such other matters as the Purchasing Division deems relevant.~~

~~†~~, *and section 1 of this act.* In carrying out the provisions of this section, the Purchasing Division shall, to the extent practicable, cooperate and coordinate with the State Public Works Division of the Department of Administration *and the Office of Economic Development* so that any regulations adopted pursuant to this section and NRS 338.13847 *and section 13 of this act* are reasonably consistent.

**Sec. 6.** Chapter 231 of NRS is hereby amended by adding thereto the provisions set forth as sections 7 to 13, inclusive, of this act.

**Sec. 7.** *As used in sections 7 to 13, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 8, 9 and 10 of this act have the meanings ascribed to them in those sections.*

**Sec. 8.** *"Business owned and operated by a veteran with a service-connected disability" means a business:*

1. *Of which at least 51 percent of the ownership interest is held by one or more veterans with service-connected disabilities;*

2. *That is organized to engage in commercial transactions;*

3. *That is managed and operated on a day-to-day basis by one or more veterans with service-connected disabilities or, if a veteran with a service-connected disability is permanently and totally disabled, the spouse or caregiver of such a veteran;*

4. *That employs not more than 200 permanent, full-time employees; and*

5. That has, together with any affiliates, a net worth of not more than \$5,000,000 or, if the business is a sole proprietorship, whose sole proprietor has a net worth of not more than \$5,000,000, including both business and personal investments.

↳ The term includes a business which meets the above requirements that is transferred to the spouse of a veteran with a service-connected disability upon the death of the veteran, as determined by the United States Department of Veterans Affairs.

Sec. 9. "Local business" means a business that is domiciled in this State.

Sec. 10. "Veteran with a service-connected disability" means a veteran of the Armed Forces of the United States who:

1. Is a resident of this State; and

2. Has a service-connected disability of at least 5 percent as determined by the United States Department of Veterans Affairs.

Sec. 11. 1. To receive certification as a local business owned and operated by a veteran with a service-connected disability, a local business must submit an application to the Office of Economic Development, on a form prescribed by the Office, which includes:

(a) The name of the business;

(b) The name and service-connected disability rating of the veteran with a service-connected disability submitting the application on behalf of the business;

(c) The name, percentage of ownership interest and service-connected disability rating, if any, of each person with an ownership interest in the business;

(d) The name and service-connected disability rating, if any, of each person that manages or operates the business on a day-to-day basis, including the name and service-connected disability rating of each veteran whose spouse or permanent caregiver manages or operates the business on a day-to-day basis;

(e) Documentation issued by the United States Department of Veterans Affairs or United States Department of Defense which supports the service-connected disability rating reported for each person pursuant to paragraphs (b), (c) and (d);

(f) The number of permanent, full-time employees of the business;

(g) The location of the headquarters of the business; and

(h) The net worth of the business, including any affiliates, or, if the business is a sole proprietorship, the net worth of the sole proprietor, including both personal and business investments.

2. If the Office of Economic Development determines that an applicant for certification pursuant to subsection 1 meets the definition of "business owned and operated by a veteran with a service-connected disability" pursuant to section 8 of this act and the definition of "local business" pursuant to section 9 of this act, the Office shall certify the applicant as a local business owned and operated by a veteran with a service-connected disability. If the service-connected disability of the applicant has been determined to be 50 percent or more by the United States Department of Veterans Affairs, the Office shall note that in the certification issued.

3. A certification issued pursuant to subsection 2 expires on the date 2 years after its issuance and may be renewed by submitting an application pursuant to subsection 1.

4. A business certified pursuant to this section shall notify the Office of Economic Development within 30 business days after the occurrence of any event that may affect the certification of the business, including, without limitation, a

1 *change in the ownership or management of daily operations of the business. The*  
2 *Office of Economic Development shall:*

3 *(a) Revoke the certification of a business that violates this subsection;*  
4 *(b) Prohibit each person with an ownership interest in the business that*  
5 *violated this subsection from holding an ownership interest in any business that*  
6 *applies for or holds certification pursuant to this section for 1 year; and*

7 *(c) Allow the business that violated this subsection to reapply for certification*  
8 *1 year after the date of the revocation.*

9  
10 *5. A business whose certification is revoked pursuant to subsection 4 may*  
11 *submit a bid or proposal for a state contract but may not receive a preference for*  
12 *that bid or proposal pursuant to NRS 333.3366 or 338.13844.*

13 **Sec. 12.** *1. Each state agency shall, in a timely manner, provide the*  
14 *Office of Economic Development with each solicitation for the award of a*  
15 *contract by the state agency and any information relating to that solicitation*  
16 *which may be necessary to enable a business to offer a bid or proposal for the*  
17 *contract.*

18 *2. The Office of Economic Development shall maintain a database of the*  
19 *information submitted to the Office pursuant to subsection 1 and make the*  
20 *database available to businesses certified pursuant to section 11 of this act.*

21 *3. The Office of Economic Development shall report every 6 months to the*  
22 *Legislature, if it is in session, or to the Interim Finance Committee, if the*  
23 *Legislature is not in session. The report must contain, for the period since the last*  
24 *report:*

25 *(a) The number of businesses certified pursuant to section 11 of this act;*

26 *(b) The number of certified businesses that used the database maintained*  
27 *pursuant to subsection 2 to offer a bid or proposal for a contract with a state*  
28 *agency; and*

29 *(c) The number of certified businesses who were awarded a contract with a*  
30 *state agency, including the number of certified businesses who were awarded a*  
31 *contract after using the database maintained pursuant to subsection 2 to offer a*  
32 *bid or proposal for the contract.*

33 **Sec. 13.** *1. The Office of Economic Development shall:*

34 *(a) Maintain an electronic directory of businesses certified pursuant to*  
35 *section 11 of this act for use by the State, its agencies and political subdivisions*  
36 *and the public; and*

37 *(b) Cooperate with the Office of Veterans Services to:*

38 *(1) Identify local businesses that may be eligible for certification*  
39 *pursuant to section 11 of this act;*

40 *(2) Encourage and assist such businesses in applying for certification;*  
41 *and*

42 *(3) Provide information regarding services that are available to such*  
43 *businesses from the Office of Economic Development or from a nonprofit*  
44 *organization to support local businesses owned and operated by a veteran with a*  
45 *service-connected disability, including, without limitation, the Elite Service*  
46 *Disabled Veteran Owned Business Network of Nevada; and*

47 *(c) Accept and consider recommendations and information relating to the*  
48 *certification of a business submitted to the Office of Economic Development by a*  
49 *nonprofit organization to support businesses owned and operated by a veteran*  
50 *with a service-connected disability, including, without limitation, the Elite Service*  
51 *Disabled Veteran Owned Business Network of Nevada.*

52 *2. The Executive Director may adopt such regulations as may be necessary*  
53 *to carry out the provisions of sections 7 to 13, inclusive, of this act. In carrying*  
*out the provisions of this subsection, the Executive Director shall, to the extent*

*practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration and the State Public Works Division of the Department of Administration so that any regulations adopted pursuant to this section, NRS 333.3369 and 338.13847 are reasonably consistent.*

**Sec. 14.** NRS 231.053 is hereby amended to read as follows:

231.053 After considering any pertinent advice and recommendations of the Board, the Executive Director:

1. Shall direct and supervise the administrative and technical activities of the Office.

2. Shall develop and may periodically revise a State Plan for Economic Development, which must include a statement of:

(a) New industries which have the potential to be developed in this State;

(b) The strengths and weaknesses of this State for business incubation;

(c) The competitive advantages and weaknesses of this State;

(d) The manner in which this State can leverage its competitive advantages and address its competitive weaknesses;

(e) A strategy to encourage the creation and expansion of businesses in this State and the relocation of businesses to this State; and

(f) Potential partners for the implementation of the strategy, including, without limitation, the Federal Government, local governments, local and regional organizations for economic development, chambers of commerce, and private businesses, investors and nonprofit entities.

3. Shall develop criteria for the designation of regional development authorities pursuant to subsection 4.

4. Shall designate as many regional development authorities for each region of this State as the Executive Director determines to be appropriate to implement the State Plan for Economic Development. In designating regional development authorities, the Executive Director must consult with local governmental entities affected by the designation. The Executive Director may, if he or she determines that such action would aid in the implementation of the State Plan for Economic Development, remove the designation of any regional development authority previously designated pursuant to this section.

5. Shall establish procedures for entering into contracts with regional development authorities to provide services to aid, promote and encourage the economic development of this State.

6. May apply for and accept any gift, donation, bequest, grant or other source of money to carry out the provisions of NRS 231.020 to 231.139, inclusive, and 231.1573 to 231.1597, inclusive ~~H~~, *and sections 7 to 13, inclusive, of this act.*

7. May adopt such regulations as may be necessary to carry out the provisions of NRS 231.020 to 231.139, inclusive, and 231.1573 to 231.1597, inclusive ~~H~~, *and sections 7 to 13, inclusive, of this act.*

8. In a manner consistent with the laws of this State, may reorganize the programs of economic development in this State to further the State Plan for Economic Development. If, in the opinion of the Executive Director, changes to the laws of this State are necessary to implement the economic development strategy for this State, the Executive Director must recommend the changes to the Governor and the Legislature.

**Sec. 15.** NRS 338.1384 is hereby amended to read as follows:

338.1384 As used in NRS 338.1384 to 338.13847, inclusive, unless the context otherwise requires, ~~the words and terms defined in NRS 338.13841, 338.13842 and 338.13843 have the meanings ascribed to them in those sections.~~ *"certified local business owned and operated by a veteran with a service-*



*connected disability” means a business that is certified pursuant to section 11 of this act.*

**Sec. 16.** NRS 338.13844 is hereby amended to read as follows:

338.13844 1. For the purpose of awarding a contract for a public work of this State for which the estimated cost is \$100,000 or less, as governed by NRS 338.13862, if ~~it~~:

(a) *A certified local business owned and operated by a veteran with a service-connected disability submits a bid, the bid shall be deemed to be 5 percent lower than the bid actually submitted.*

(b) *After the application of paragraph (a), two or more lowest bids are identical and only one bid was submitted by a certified local business owned and operated by a veteran with a service-connected disability, the certified local business owned and operated by a veteran with a service-connected disability that submitted the bid shall be deemed to be the lowest responsive and responsible bidder and to have submitted the best bid.*

(c) *After the application of paragraph (a), two or more lowest bids are identical and more than one bid was submitted by a certified local business owned and operated by a veteran with a service-connected disability, the certified local business owned and operated by a veteran with a service-connected disability which has the smallest net worth shall be deemed to be the lowest responsive and responsible bidder and to have submitted the best bid.*

2. For the purpose of awarding a contract for a public work in this State for which the estimated cost is more than \$100,000 but less than \$250,000, if:

(a) A certified local business owned and operated by a veteran with a service-connected disability that has been determined to be 50 percent or more by the United States Department of Veterans Affairs submits a bid or proposal and is a responsive and responsible bidder, the bid or proposal shall be deemed to be 5 percent lower than the bid or proposal actually submitted.

(b) After the application of paragraph (a), two or more lowest bids or proposals are identical and only one bid or proposal was submitted by a certified local business owned and operated by a veteran with a service-connected disability which has been determined to be 50 percent or more by the United States Department of Veterans Affairs, the certified local business owned and operated by a veteran with such a service-connected disability that submitted the bid or proposal shall be deemed to be the lowest responsive and responsible bidder and to have submitted the best bid or proposal.

(c) After the application of paragraph (a), two or more lowest bids or proposals are identical and more than one bid or proposal was submitted by a certified local business owned and operated by a veteran with a service-connected disability which has been determined to be 50 percent or more by the United States Department of Veterans Affairs, the certified local business owned and operated by a veteran with such a service-connected disability which has the smallest net worth shall be deemed to be the lowest responsive and responsible bidder and to have submitted the best bid or proposal.

3. ~~The preference preferences~~ described in ~~subsection~~ subsections 1 and 2 may not be combined with any other preference.

**Sec. 17.** NRS 338.13846 is hereby amended to read as follows:

338.13846 The Division shall report every 6 months to the Legislature, if it is in session, or to the Interim Finance Committee, if the Legislature is not in session. The report must contain, for the period since the last report:

1. The number of contracts for public works of this State that were subject to the provisions of NRS 338.1384 to 338.13847, inclusive.



2. The total dollar amount of contracts for public works of this State that were subject to the provisions of NRS 338.1384 to 338.13847, inclusive.

3. The number of *certified* local businesses owned *and operated* by veterans with service-connected disabilities that submitted a bid or proposal on a contract for a public work of this State.

4. The number of contracts for public works of this State that were awarded to *certified* local businesses owned *and operated* by veterans with service-connected disabilities.

5. The total number of dollars' worth of contracts for public works of this State that were awarded to *certified* local businesses owned *and operated* by veterans with service-connected disabilities.

6. Any other information deemed relevant by the Director of the Legislative Counsel Bureau.

**Sec. 18.** NRS 338.13847 is hereby amended to read as follows:

338.13847 The State Public Works Board may adopt such regulations as it determines to be necessary or advisable to carry out the provisions of NRS 338.1384 to 338.13847, inclusive. ~~{The regulations may include, without limitation, provisions setting forth:~~

~~1. The method by which a business may apply to receive the preference described in NRS 338.13844;~~

~~2. The documentation or other proof that a business must submit to demonstrate that it qualifies for the preference described in NRS 338.13844; and~~

~~3. Such other matters as the Division deems relevant.~~

→ In carrying out the provisions of this section, the State Public Works Board and the Division shall, to the extent practicable, cooperate and coordinate with the Purchasing Division of the Department of Administration *and the Office of Economic Development* so that any regulations adopted pursuant to this section and NRS 333.3369 *and section 13 of this act* are reasonably consistent.

**Sec. 19.** NRS 417.105 is hereby amended to read as follows:

417.105 1. Each year on or before October 1, the Office of Veterans Services shall review the reports submitted pursuant to NRS 333.3368 and 338.13846.

2. In carrying out the provisions of subsection 1, the Office of Veterans Services shall seek input from:

(a) The Purchasing Division of the Department of Administration.

(b) The State Public Works Board of the State Public Works Division of the Department of Administration.

(c) The Office of Economic Development.

(d) Groups representing the interests of veterans of the Armed Forces of the United States.

(e) The business community.

(f) ~~{Local}~~ *Certified local* businesses owned *and operated* by veterans with service-connected disabilities.

3. After performing the duties described in subsections 1 and 2, the Office of Veterans Services shall make recommendations to the Legislative Commission regarding the continuation, modification, promotion or expansion of the preferences for *certified* local businesses owned *and operated* by veterans with service-connected disabilities which are described in NRS 333.3366 and 338.13844.

4. As used in this section ~~+~~:

~~(a) "Business", "Certified local business" owned and operated by a veteran with a service-connected disability" has the meaning ascribed to it in NRS 338.13844.~~

~~(b) "Local business" has the meaning ascribed to it in NRS 333.3363.~~

~~(c) "Veteran with a service-connected disability" has the meaning ascribed to it in NRS 338.13843.† 338.1384.~~

**Sec. 20.** NRS 333.3362, 333.3363, 333.3365, 338.13841, 338.13842 and 338.13843 are hereby repealed.

**Sec. 21.** This act becomes effective on July 1, 2013.

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#### LEADLINES OF REPEALED SECTIONS

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**333.3362** Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: "Business owned by a veteran with a service-connected disability" defined.

**333.3363** Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: "Local business" defined.

**333.3365** Preference for bid or proposal submitted by local business owned by veteran with service-connected disability: "Veteran with a service-connected disability" defined.

**338.13841** "Business owned by a veteran with a service-connected disability" defined.

**338.13842** "Local business" defined.

**338.13843** "Veteran with a service-connected disability" defined.