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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/03/11

SPONSOR Ulibarri LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Veteran-Owned Business Preference SB 149

ANALYST Esquibel

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		See Fiscal Implications	See Fiscal Implications		N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB19, SB63 (see narrative below).

### SOURCES OF INFORMATION

LFC Files  
Responses Received From  
 Department of Veterans' Services  
 General Services Department  
 Public Education Department

### SUMMARY

#### Synopsis of Bill

Senate Bill 149 proposed to provide an additional 3% preference for state purchasing and procurement contracts. This bill provides a schedule that describes the priorities for state and local governments to accept bids from nonresident, resident, and veteran-owned businesses. It describes a veteran-owned business or manufacturer as one with at least 51% ownership by an honorably discharges member of the U.S. Armed Forces.

### FISCAL IMPLICATIONS

Senate Bill 149 does not include an appropriation.

The General Services Department indicates additional personnel and systems will be required to fill the needs and intent of this bill. Veteran information is not captured today and a process will be required to determine vendor applicability to the preference requirements, development of the application and review/acceptance requirements, issuance of certification, and tracking capability. In addition, making veteran-owned preferences information available to a very broad audience, including Executive, Legislative, and Judicial branches as well as local public bodies

will be essential for the functionality of the project. Database development to capture the information as well as web-site listings of approved veteran vendors (in near real time) will be critical to other branches of government and local public bodies.

## **SIGNIFICANT ISSUES**

Current law gives a five percent preference to resident businesses, this bill maintains the five percent preference with respect to recycled goods, but gives a 10 percent preference for virgin content goods. For both types of goods the bill provides a further three percent preference to resident veteran-owned businesses (which includes New York).

The General Services Department indicates the following issues:

- 1) Bill is incomplete and contains inconsistencies. Veteran-owned business is defined as resident business or manufacturer with minimum 51% veteran-owned. No definition applies for non-resident veteran-owned business.
- 2) Examples of calculations appear to include non-resident veteran businesses in the calculation of lowest price.
- 3) Some calculations appear to penalize certain categories of preference (greater than 1.00 multiplier). Clarification is required.
- 4) State Purchasing does not currently capture veteran-owned businesses for preferences. Database will be required to track and website support will be needed to implement the preference with applicability to procurements by legislative, judicial, and executive branches of government as well as local public bodies.
- 5) No funding is provided to develop systems, support the dissemination of preference data, or maintain the currency of the information.
- 6) Due to complexity of determining low price for multiple preferences in order to award contracts, opportunity for mistakes is substantial and protests will increase.

## **ADMINISTRATIVE IMPLICATIONS**

The General Services Department indicates that under the provisions of the bill, the State Purchasing Agent will be required to establish qualifications and create an application for the veteran preference as well as review and issue certifications for qualifying businesses and manufacturers.

Substantial labor will be required to document the veteran preferences and ensure dissemination to appropriate parties. Complexity of the varying preference amounts and cumulative aspects may make evaluation of lowest price more difficult and error prone. Incidents of protest may increase.

Tracking capability will be necessary via a database (so multiple personnel can update/utilize) and current approved veteran businesses will require web posting so data can be accessed from multiple locations where procurements occur throughout the state. Database design and website construction are not central to State Purchasing Division's expertise and utilization of contractors and/or DoIT will be necessary to successfully meet the intent of this bill.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Senate Bill 149 relates to SB19 (Modifying Preference Advantage), which tightens the definition of resident preference, removes New York resident businesses/manufacturers from qualifying, adds preference applicability to Request for Proposals (5%) of relative weight of all weighting factors, provides ratios for the preference for jointly submitted proposals between resident and non-resident businesses, provides the State Auditor will issue certificates within 30 days and states the certificates will be valid for three (3) years.

Senate Bill 149 also relates to SB63 which would establish minimum percentages of food purchases acquired from New Mexico Food producers and processors. Under SB63, GSD would be required to award contracts/expend food acquisitions to New Mexico businesses in accordance with the following schedule: 2% by July 1, 2012; 5% by July 1, 2014; and 10% by July 1, 2016.

## **TECHNICAL ISSUES**

The General Services Department indicates the bill need clarification around the following points: 1) presumably out of state veterans will not qualify for the preference per the definitions provided in the bill; 2) the bill's proposed preference does not appear to apply to Request for Proposals; 3) Section 13-1-21 B., C., D., F., G., H., I., J., and K., are very confusing and clarification will be necessary.

## **OTHER SUBSTANTIVE ISSUES**

According to a recent SBA business survey, New Mexico has 15,212 veteran owned businesses. Many of these companies have only 1 or 2 employees. The additional protection would allow these businesses to expand and create more jobs at the local level.

RAE/bym