Substitute Senate Bill No. 882

Public Act No. 11-229

AN ACT CONCERNING THE STATE SET-ASIDE PROGRAM, FILING REQUIREMENTS OF STATE CONTRACTORS, EVALUATION OF CONTRACTORS AND SUBCONTRACTORS AND A PROGRAM TO INCREASE CONTRACTS AWARDED TO RESIDENT BIDDERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 1-101qq of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(a) A state agency or institution or quasi-public agency that is seeking a contractor for a large state construction or procurement contract shall provide the summary of state ethics laws developed by the Office of State Ethics pursuant to section 1-81b to any person seeking a large state construction or procurement contract. Such person shall **[**promptly**]** affirm to the agency or institution, in writing or electronically, (1) receipt of such summary, and (2) that key employees of such person have read and understand the summary and agree to comply with the provisions of state ethics law. After the initial submission of such affirmation, such person shall not be required to resubmit such affirmation unless there is a change in the information contained in the affirmation. If there is any change in the information contained in the most recently filed affirmation, such person shall submit an updated affirmation either (A) not later than thirty days after the effective date of any such change, or (B) upon the submittal of any new bid or proposal, whichever is earlier. No state agency or institution or quasi-public agency shall accept a bid or proposal for a large state construction or procurement contract without such affirmation.

(b) **[**Each**]** Prior to entering into a contract with any subcontractors or consultants, each large state construction or procurement contractor shall (1) provide the summary of state ethics laws described in subsection (a) of this section to all subcontractors and consultants, and (2) obtain an affirmation from each subcontractor and consultant that such subcontractor and consultant has received such summary and key employees of such subcontractor and consultant have read and understand the summary and agree to comply with its provisions. The contractor shall provide such affirmations to the state agency, institution or quasi-public agency not later than fifteen days after the request of such agency, institution or quasi-public agency for such affirmation. Failure to submit such affirmations in a timely manner shall be cause for termination of the large state construction or procurement contract.

(c) Each contract with a contractor, subcontractor or consultant described in subsection (a) or (b) of this section shall incorporate such summary by reference as a part of the contract terms.

Sec. 2. Section 4-252 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(a) On and after July 1, 2006, no state agency or quasi-public agency shall execute a large state contract unless the state agency or quasi-public agency obtains the written **[**certifications**]** or electronic certification described in this section. Each such certification shall be sworn as true to the best knowledge and belief of the person signing the certification, subject to the penalties of false statement. If there is any change in the information contained in the most recently filed certification, such person shall submit an updated certification either (1) not later than thirty days after the effective date of any such change, or (2) upon the submittal of any new bid or proposal for a large state contract, whichever is earlier. Such person shall also submit to the state agency or quasi-public agency an accurate, updated certification not later than fourteen days after the twelve-month anniversary of the most recently filed certification or updated certification.

(b) The official or employee of such state agency or quasi-public agency who is authorized to execute **[**said contract**]** state contracts shall certify that the selection of the most qualified or highest ranked person, firm or corporation was not the result of collusion, the giving of a gift or the promise of a gift, compensation, fraud or inappropriate influence from any person.

(c) **[**The official**]** Any principal or key personnel of the person, firm or corporation **[**awarded the contract, who is authorized to execute the contract,**]** submitting a bid or proposal for a large state contract shall certify:

(1) That no gifts were made **[**between the date that the state agency or quasi-public agency began planning the project, services, procurement, lease or licensing arrangement covered by the contract and the date of execution of the contract,**]** by (A) such person, firm, corporation, (B) any principals and key personnel of the person, firm or corporation, who **[**participated**]** participate substantially in preparing **[**the bid or proposal or the negotiation of the contract**]** bids, proposals or negotiating state contracts, or (C) any agent of such person, firm, corporation or principals and key personnel, who **[**participated**]** participates substantially in preparing **[**the bid or proposal or the negotiation of the contract**]** bids, proposals or negotiating state contracts, to (i) any public official or state employee of the state agency or quasi-public agency soliciting bids or proposals for **[**the contract**]** state contracts, who **[**participated**]** participates substantially in the preparation of **[**the**]** bid **[**solicitation or request**]** solicitations or requests for proposals for **[**the contract**]** state contracts or the negotiation or award of **[**the contract**]** state contracts, or (ii) any public official or state employee of any other state agency, who has supervisory or appointing authority over such state agency or quasi-public agency;

(2) That no such principals and key personnel of the person, firm or corporation, or agent of such person, firm or corporation or principals and key personnel, knows of any action by the person, firm or corporation to circumvent such prohibition on gifts by providing for any other principals and key personnel, official, employee or agent of the person, firm or corporation to

provide a gift to any such public official or state employee; and

(3) That the person, firm or corporation [made the bid or proposal] is submitting bids or proposals without fraud or collusion with any person.

(d) Any bidder or proposer that does not make the [certifications] certification required under [subsection (c) of] this section shall be disqualified and the state agency or quasi-public agency shall award the contract to the next highest ranked proposer or the next lowest responsible qualified bidder or seek new bids or proposals.

(e) Each state agency and quasi-public agency shall include in the bid specifications or request for proposals for a large state contract [(1) the date that the state agency or quasi-public agency began planning the project, services, procurement, lease or licensing arrangement to be covered by the contract, and (2)] a notice of the certification requirements of [subsections (c) and (d) of] this section.

Sec. 3. Subsection (c) of section 4a-60 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(c) (1) [Prior to entering into a contract] Any contractor who has one or more contracts with the state or a political subdivision of the state that is valued at less than fifty thousand dollars for each year of the contract [, the contractor] shall provide the state or such political subdivision of the state with a written or electronic representation that complies with the nondiscrimination agreement and warranty under subdivision (1) of subsection (a) of this section, provided if there is any change in such representation, the contractor shall provide the updated representation to the state or such political subdivision not later than thirty days after such change.

(2) [Prior to entering into a contract] Any contractor who has one or more contracts with the state or a political subdivision of the state that is valued at fifty thousand dollars or more for any year of the contract [, such contractor] shall provide the state or such political subdivision of the state with any one of the following:

(A) Documentation in the form of a company or corporate policy adopted by resolution of the board of directors, shareholders, managers, members or other governing body of such contractor that complies with the nondiscrimination agreement and warranty under subdivision (1) of subsection (a) of this section;

(B) Documentation in the form of a company or corporate policy adopted by a prior resolution of the board of directors, shareholders, managers, members or other governing body of such contractor if (i) the prior resolution is certified by a duly authorized corporate officer of such contractor to be in effect on the date the documentation is submitted, and (ii) the head of the agency of the state or such political subdivision, or a designee, certifies that the prior resolution complies with the nondiscrimination agreement and warranty under subdivision (1) of subsection (a) of this section; or

(C) Documentation in the form of an affidavit signed under penalty of false statement by a chief executive officer, president, chairperson or other corporate officer duly authorized to adopt company or corporate policy that certifies that the company or corporate policy of the contractor complies with the nondiscrimination agreement and warranty under subdivision (1) of subsection (a) of this section and is in effect on the date the affidavit is signed.

(3) Neither the state nor any political subdivision shall award a contract to a contractor who has not provided the representation or documentation required under subdivisions (1) and (2) of this subsection, as applicable. After the initial submission of such representation or documentation, the contractor shall not be required to resubmit such representation or documentation unless there is a change in the information contained in such representation or documentation. If there is any change in the information contained in the most recently filed representation or updated documentation, the contractor shall submit an updated representation or documentation, as applicable, either (A) not later than thirty days after the effective date of such change, or (B) upon the execution of a new contract with the state or a political subdivision of the state, whichever is earlier. Such contractor shall also certify, in accordance with subparagraph (B) or (C) of subdivision (2) of this subsection, to the state or political subdivision, not later than fourteen days after the twelve-month anniversary of the most recently filed representation, documentation or updated representation or documentation, that the representation on file with the state or political subdivision is current and accurate.

Sec. 4. Subsection (b) of section 4a-60a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(b) (1) **[**Prior to entering into a contract**]** Any contractor who has one or more contracts with the state or a political subdivision of the state that is valued at less than fifty thousand dollars for each year of the contract **[**, the contractor**]** shall provide the state or such political subdivision of the state with a written representation that complies with the nondiscrimination agreement and warranty under subdivision (1) of subsection (a) of this section.

(2) **[**Prior to entering into a contract**]** Any contractor who has one or more contracts with the state or a political subdivision of the state that is valued at fifty thousand dollars or more for any year of the contract **[**, such contractor**]** shall provide the state or such political subdivision of the state with any of the following:

(A) Documentation in the form of a company or corporate policy adopted by resolution of the board of directors, shareholders, managers, members or other governing body of such contractor that complies with the nondiscrimination agreement and warranty under subdivision (1) of subsection (a) of this section;

(B) Documentation in the form of a company or corporate policy adopted by a prior resolution of the board of directors, shareholders, managers, members or other governing body of such contractor if (i) the prior resolution is certified by a duly authorized corporate officer of such contractor to be in effect on the date the documentation is submitted, and (ii) the head of the agency of the state or such political subdivision, or a designee, certifies that the prior

resolution complies with the nondiscrimination agreement and warranty under subdivision (1) of subsection (a) of this section; or

(C) Documentation in the form of an affidavit signed under penalty of false statement by a chief executive officer, president, chairperson or other corporate officer duly authorized to adopt company or corporate policy that certifies that the company or corporate policy of the contractor complies with the nondiscrimination agreement and warranty under subdivision (1) of subsection (a) of this section and is in effect on the date the affidavit is signed.

(3) Neither the state nor any political subdivision shall award a contract to a contractor who has not provided the representation or documentation required under subdivisions (1) and (2) of this subsection, as applicable. After the initial submission of such representation or documentation, the contractor shall not be required to resubmit such representation or documentation unless there is a change in the information contained in such representation or documentation. If there is any change in the information contained in the most recently filed representation or updated documentation, the contractor shall submit an updated representation or documentation, as applicable, either (A) not later than thirty days after the effective date of such change, or (B) upon the execution of a new contract with the state or a political subdivision of the state, whichever is earlier. Such contractor shall also certify, in accordance with subparagraph (B) or (C) of subdivision (2) of this subsection, to the state or political subdivision, not later than fourteen days after the twelve-month anniversary of the most recently filed representation, documentation or updated representation or documentation, that the representation on file with the state or political subdivision is current and accurate.

[(3)**]** (4) For the purposes of this section, "contract" includes any extension or modification of the contract, and "contractor" includes any successors or assigns of the contractor. For the purposes of this section, "contract" does not include a contract where each contractor is (A) a political subdivision of the state, including, but not limited to, a municipality, (B) a quasi-public agency, as defined in section 1-120, (C) any other state, as defined in section 1-267, (D) the federal government, (E) a foreign government, or (F) an agency of a subdivision, agency, state or government described in subparagraph (A), (B), (C), (D) or (E) of this subdivision.

Sec. 5. Section 4a-81 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(a) **[**On and after July 13, 2005, no**]** No state agency or quasi-public agency shall execute a contract for the purchase of goods or services, which contract has a total value to the state of fifty thousand dollars or more in any calendar or fiscal year, unless the state agency or quasi-public agency obtains the **[**written**]** affidavit described in subsection (b) of this section.

(b) (1) **[**The chief official of the bidder or vendor awarded**]** Any principal or key personnel of a person, firm or corporation who submit bids or proposals for a contract described in subsection (a) of this section **[**or the individual awarded such contract who is authorized to execute such contract,**]** shall attest in an affidavit as to whether any consulting agreement has been entered into in connection with any such contract. Such affidavit shall be required if any

duties of the consultant included communications concerning business of [such] a state or quasi-public agency, whether or not direct contact with a state agency, state or public official or state employee was expected or made. As used in this section "consulting agreement" means any written or oral agreement to retain the services, for a fee, of a consultant for the purposes of (A) providing counsel to a contractor, vendor, consultant or other entity seeking to conduct, or conducting, business with the state, (B) contacting, whether in writing or orally, any executive, judicial, or administrative office of the state, including any department, institution, bureau, board, commission, authority, official or employee for the purpose of solicitation, dispute resolution, introduction, requests for information, or (C) any other similar activity related to such [contract. Consulting agreement] contracts. "Consulting agreement" does not include any agreements entered into with a consultant who is registered under the provisions of chapter 10 as of the date such affidavit is submitted in accordance with the provisions of this section.

(2) Such affidavit shall be sworn as true to the best knowledge and belief of the person signing the certification on the affidavit and shall be subject to the penalties of false statement.

(3) Such affidavit shall include the following information for each consulting agreement listed: The name of the consultant, the consultant's firm, the basic terms of the consulting agreement, a brief description of the services provided, and an indication as to whether the consultant is a former state employee or public official. If the consultant is a former state employee or public official, such affidavit shall indicate his or her former agency and the date such employment terminated.

[(4) Such affidavit shall be amended whenever the bidder or vendor awarded the contract enters into any new consulting agreement during the term of such contract.]

(4) After the initial submission of such affidavit, the principal or key personnel of the person, firm or corporation shall not be required to resubmit such affidavit unless there is a change in the information contained in such affidavit. If there is any change in the information contained in the most recently filed affidavit required under this section, the principal or key personnel of a person, firm or corporation who submit bids or proposals for a contract described in subsection (a) of this section shall submit an updated affidavit either (A) not later than thirty days after the effective date of any such change, or (B) upon the submittal of any new bid or proposal, whichever is earlier.

(c) Each state agency and quasi-public agency shall include a notice of the affidavit requirements of this section in the bid specifications or request for proposals for any contract that is described in subsection (a) of this section.

(d) In the event that a bidder or vendor refuses to submit the affidavit required under subsection (b) of this section, such bidder or vendor shall be disqualified and the state agency or quasi-public agency shall award the contract to the next highest ranked vendor or the next lowest responsible qualified bidder or seek new bids or proposals.

Sec. 6. Subsection (d) of section 4a-100 of the general statutes is repealed and the following is

substituted in lieu thereof (*Effective October 1, 2011*):

(d) [The applicant] Each applicant shall include a statement of financial condition prepared by a certified public accountant [which] that includes information concerning the applicant's assets and liabilities, [plant and equipment, bank and credit references,] except if the applicant has been accepted into the bonding program of a certified community development financial institution, the applicant need only provide the financial documents required by such institution for the applicant to qualify for such program. Each applicant shall provide a bonding company [and maximum] letter stating the aggregate work capacity and single project limit bonding capacity of the applicant, and other information as the commissioner deems relevant to an evaluation of the applicant's financial capacity and responsibility. For purposes of this subsection, "certified community development financial institution" means a community development bank, credit union or loan or venture capital fund that provides financial products and services in economically distressed markets and that is certified by the Certified Development Financial Institution Fund of the United States Department of the Treasury.

Sec. 7. Section 4a-60g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(a) As used in this section and sections 4a-60h to 4a-60j, inclusive, the following terms have the following meanings:

(1) "Small contractor" means any contractor, subcontractor, manufacturer, [or] service company or nonprofit corporation (A) that [has been doing business under the same ownership or management and has maintained] maintains its principal place of business in the state, [for a period of at least one year immediately prior to the date of application for certification under this section,] and (B) that had gross revenues not exceeding fifteen million dollars in the most recently completed fiscal year prior to such application. [, and (C) at least fifty-one per cent of the ownership of which is held by a person or persons who exercise operational authority over the daily affairs of the business and have the power to direct the management and policies and receive the beneficial interests of the business, except that a nonprofit corporation shall be construed to be a small contractor if such nonprofit corporation meets the requirements of subparagraphs (A) and (B) of this subdivision] "Small contractor" does not include any person who is affiliated with another person if both persons considered together have a gross revenue exceeding fifteen million dollars.

(2) "State agency" means each state board, commission, department, office, institution, council or other agency with the power to contract for goods or services itself or through its head.

(3) "Minority business enterprise" means any small contractor (A) fifty-one per cent or more of the capital stock, if any, or assets of which are owned by a person or persons (i) who exercise operational authority over the daily affairs of the enterprise, (ii) who have the power to direct the management and policies and receive the beneficial interest of the enterprise, and (iii) who are members of a minority, as such term is defined in subsection (a) of section 32-9n, (B) who is an individual with a disability, or (C) which is a nonprofit corporation in which fifty-one per

cent or more of the persons who (i) exercise operational authority over the enterprise, and (ii) have the power to direct the management and policies of the enterprise are members of a minority, as defined in this subsection, or are individuals with a disability.

(4) "Affiliated" means the relationship in which a person directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(5) "Control" means the power to direct or cause the direction of the management and policies of any person, whether through the ownership of voting securities, by contract or through any other direct or indirect means. Control shall be presumed to exist if any person, directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, twenty per cent or more of any voting securities of another person.

(6) "Person" means any individual, corporation, limited liability company, partnership, association, joint stock company, business trust, unincorporated organization or other entity.

(7) "Individual with a disability" means an individual (A) having a physical or mental impairment that substantially limits one or more of the major life activities of the individual, which mental impairment may include, but is not limited to, having one or more mental disorders, as defined in the most recent edition of the American Psychiatric Association's "Diagnostic and Statistical Manual of Mental Disorders", or (B) having a record of such an impairment.

(8) "Nonprofit corporation" means a nonprofit corporation incorporated pursuant to chapter 602 or any predecessor statutes thereto.

(b) It is found and determined that there is a serious need to help small contractors, minority business enterprises, nonprofit organizations and individuals with disabilities to be considered for and awarded state contracts for the construction, reconstruction or rehabilitation of public buildings, the construction and maintenance of highways and the purchase of goods and services. Accordingly, the necessity, in the public interest and for the public benefit and good, of the provisions of this section, sections 4a-60h to 4a-60j, inclusive, and sections 32-9i to 32-9p, inclusive, is declared as a matter of legislative determination. Notwithstanding any provisions of the general statutes to the contrary, and except as set forth herein, the head of each state agency and each political subdivision of the state other than a municipality shall set aside in each fiscal year, for award to small contractors, on the basis of competitive bidding procedures, contracts or portions of contracts for the construction, reconstruction or rehabilitation of public buildings, the construction and maintenance of highways and the purchase of goods and services. Eligibility of nonprofit corporations under the provisions of this section shall be limited to predevelopment contracts awarded by the Commissioner of Economic and Community Development for housing projects. The total value of such contracts or portions thereof to be set aside by each such agency shall be at least twenty-five per cent of the total value of all contracts let by the head of such agency in each fiscal year, provided that neither: (1) A contract that may not be set aside due to a conflict with a federal law or regulation; or (2) a contract for any goods or services which have been determined by the

Commissioner of Administrative Services to be not customarily available from or supplied by small contractors shall be included. Contracts or portions thereof having a value of not less than twenty-five per cent of the total value of all contracts or portions thereof to be set aside shall be reserved for awards to minority business enterprises.

(c) The head of any state agency or political subdivision of the state other than a municipality may, in lieu of setting aside any contract or portions thereof, require any general or trade contractor or any other entity authorized by such agency to award contracts, to set aside a portion of any contract for subcontractors who are eligible for set-aside contracts under this section. Nothing in this subsection shall be construed to diminish the total value of contracts which are required to be set aside by any state agency or political subdivision of the state other than a municipality pursuant to this section.

(d) The heads of all state agencies and of each political subdivision of the state other than a municipality shall notify the Commissioner of Administrative Services of all contracts to be set aside pursuant to subsection (b) or (c) of this section at the time that bid documents for such contracts are made available to potential contractors.

(e) The awarding authority shall require that a contractor or subcontractor awarded a contract or a portion of a contract under this section perform not less than fifteen per cent of the work with the workforces of such contractor or subcontractor and shall require that not less than twenty-five per cent of the work be performed by contractors or subcontractors eligible for awards under this section. A contractor awarded a contract or a portion of a contract under this section shall not subcontract with any person with whom the contractor is affiliated. No person who is affiliated with another person shall be eligible for awards under this section if both affiliated persons considered together would not qualify as a small contractor or a minority business enterprise under subsection (a) of this section. The awarding authority shall require that a contractor awarded a contract pursuant to this section submit, in writing, an explanation of any subcontract to such contract that is entered into with any person that is not eligible for the award of a contract pursuant to this section, prior to the performance of any work pursuant to such subcontract.

(f) The awarding authority may require that a contractor or subcontractor awarded a contract or a portion of a contract under this section furnish the following documentation: (1) A copy of the certificate of incorporation, certificate of limited partnership, partnership agreement or other organizational documents of the contractor or subcontractor; (2) a copy of federal income tax returns filed by the contractor or subcontractor for the previous year; and (3) evidence of payment of fair market value for the purchase or lease by the contractor or subcontractor of property or equipment from another contractor who is not eligible for set-aside contracts under this section.

(g) The awarding authority or the Commissioner of Administrative Services or the Commission on Human Rights and Opportunities may conduct an audit of the financial, corporate and business records and conduct an investigation of any small contractor or minority business enterprise which applies for or is awarded a set-aside contract for the purpose of determining eligibility for awards or compliance with the requirements established

under this section.

(h) The provisions of this section shall not apply to any state agency or political subdivision of the state other than a municipality for which the total value of all contracts or portions of contracts of the types enumerated in subsection (b) of this section is anticipated to be equal to ten thousand dollars or less.

(i) In lieu of a performance, bid, labor and materials or other required bond, a contractor or subcontractor awarded a contract under this section may provide to the awarding authority, and the awarding authority shall accept a letter of credit. Any such letter of credit shall be in an amount equal to ten per cent of the contract for any contract that is less than one hundred thousand dollars and in an amount equal to twenty-five per cent of the contract for any contract that exceeds one hundred thousand dollars.

(j) (1) Whenever the awarding authority has reason to believe that any contractor or subcontractor awarded a set-aside contract has wilfully violated any provision of this section, the awarding authority shall send a notice to such contractor or subcontractor by certified mail, return receipt requested. Such notice shall include: (A) A reference to the provision alleged to be violated; (B) a short and plain statement of the matter asserted; (C) the maximum civil penalty that may be imposed for such violation; and (D) the time and place for the hearing. Such hearing shall be fixed for a date not earlier than fourteen days after the notice is mailed. The awarding authority shall send a copy of such notice to the Commission on Human Rights and Opportunities.

(2) The awarding authority shall hold a hearing on the violation asserted unless such contractor or subcontractor fails to appear. The hearing shall be held in accordance with the provisions of chapter 54. If, after the hearing, the awarding authority finds that the contractor or subcontractor has wilfully violated any provision of this section, the awarding authority shall suspend all set-aside contract payments to the contractor or subcontractor and may, in its discretion, order that a civil penalty not exceeding ten thousand dollars per violation be imposed on the contractor or subcontractor. If such contractor or subcontractor fails to appear for the hearing, the awarding authority may, as the facts require, order that a civil penalty not exceeding ten thousand dollars per violation be imposed on the contractor or subcontractor. The awarding authority shall send a copy of any order issued pursuant to this subsection by certified mail, return receipt requested, to the contractor or subcontractor named in such order. The awarding authority may cause proceedings to be instituted by the Attorney General for the enforcement of any order imposing a civil penalty issued under this subsection.

(k) On or before January 1, 2000, the Commissioner of Administrative Services shall establish a process for certification of small contractors and minority business enterprises as eligible for set-aside contracts. Each certification shall be valid for a period not to exceed two years. Any paper application for certification shall be no longer than six pages. The Department of Administrative Services shall maintain on its web site an updated directory of small contractors and minority business enterprises certified under this section.

(l) On or before August 30, 2007, and annually thereafter, each state agency and each political

subdivision of the state other than a municipality setting aside contracts or portions of contracts shall prepare a report establishing small and minority business set-aside program goals for the twelve-month period beginning July first in the same year. Each such report shall be submitted to the Commissioner of Administrative Services, the Commission on Human Rights and Opportunities and the cochairpersons and ranking members of the joint standing committees of the General Assembly having cognizance of matters relating to planning and development and government administration and elections.

(m) On or before November 1, 1995, and quarterly thereafter, each state agency and each political subdivision of the state other than a municipality setting aside contracts or portions of contracts shall prepare a status report on the implementation and results of its small business and minority business enterprise set-aside program goals during the three-month period ending one month before the due date for the report. Each report shall be submitted to the Commissioner of Administrative Services and the Commission on Human Rights and Opportunities. Any state agency or political subdivision of the state, other than a municipality, that achieves less than fifty per cent of its small contractor and minority business enterprise set-aside program goals by the end of the second reporting period in any twelve-month period beginning on July first shall provide a written explanation to the Commissioner of Administrative Services and the Commission on Human Rights and Opportunities detailing how the agency or political subdivision will achieve its goals in the final reporting period. The Commission on Human Rights and Opportunities shall: (1) Monitor the achievement of the annual goals established by each state agency and political subdivision of the state other than a municipality; and (2) prepare a quarterly report concerning such goal achievement. The report shall be submitted to each state agency that submitted a report, the Commissioner of Economic and Community Development, the Commissioner of Administrative Services and the cochairpersons and ranking members of the joint standing committees of the General Assembly having cognizance of matters relating to planning and development and government administration and elections. Failure by any state agency or political subdivision of the state other than a municipality to submit any reports required by this section shall be a violation of section 46a-77.

[(n) On or before January 1, 2000, and annually thereafter, the Department of Administrative Services shall establish a precertification list of small contractors and minority business enterprises who have established a principal place of business in the state but have not maintained such place of business for one year and are not in the directory prepared pursuant to subsection (k) of this section. An awarding agency may select a small contractor or minority business enterprise from such precertification list only after such awarding agency makes a good faith effort to find an eligible small contractor or minority business enterprise in the directory and determines that no small contractor or minority business enterprise is qualified to perform the work required under the contract. **]**

[(o)**]** (n) Nothing in this section shall be construed to apply to the four janitorial contracts awarded pursuant to subsections (b) to (e), inclusive, of section 4a-82.

Sec. 8. Subsection (e) of section 4a-101 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(e) No person, public agency, employee of a public agency or certifying official of a public agency shall be held liable to any contractor or subcontractor for any loss or injury sustained by such contractor or subcontractor as the result of the completion of an evaluation form, as required by this section or section 4a-100, as amended by this act, unless such person, agency, employee or official is found by a court of competent jurisdiction to have acted in a wilful, wanton or reckless manner.

Sec. 9. (NEW) (*Effective from passage*) (a) On or before January 1, 2012, the Commissioner of Administrative Services, in consultation with the Labor Commissioner, the president of The University of Connecticut and the Commissioners of Public Works and Transportation, or their designees, shall submit a report, in accordance with the provisions of section 11-4a of the general statutes, to the Governor and the joint standing committee of the General Assembly having cognizance of matters relating to labor. Such report shall include (1) an analysis of any law or economic factor that results in a resident bidder being at a disadvantage to a nonresident bidder in submitting the lowest responsible qualified bid, (2) the reason any enacted law designed to give preference to state citizens for employment on public works projects is not being enforced, and (3) recommendations for administrative or legislative action, within the confines of clause 3 of section 8 of article 1 of the United States Constitution, to increase the number of state contracts awarded to resident bidders through an in-state contract preference or otherwise.

(b) On or before July 1, 2012, the Commissioner of Administrative Services shall develop and implement a program to increase the number of state contracts awarded to resident bidders through an in-state contract preference or other method selected by the commissioner, provided such program shall not violate clause 3 of section 8 of article 1 of the United States Constitution. In developing such program, the commissioner shall consider the findings contained in the report made in accordance with subsection (a) of this section.

Sec. 10. Section 4-251 of the general statutes is repealed. (*Effective from passage*)

Approved July 13, 2011