

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 519

Short Title: Purchases from Blind/Disabled.

(Public)

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Sponsors: Senators Carpenter, Ballance, Conder, Speed, Albertson, Foxx, Davis, and Clark.

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Referred to: Pensions and Retirement/Insurance/State Personnel

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March 29, 1995

A BILL TO BE ENTITLED

AN ACT TO ENCOURAGE THE PURCHASE OF COMMODITIES AND SERVICES  
OFFERED BY BLIND AND BY SEVERELY DISABLED PERSONS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 168 of the General Statutes is amended by inserting a new  
Article to read:

**"ARTICLE 2A.**

**"Purchase of Goods and Services From Blind and From Severely Disabled Persons.**

**"§ 168-19.1. Purpose; applicability.**

The purpose of this Article is to further the policy of the State to encourage and assist the blind and severely disabled individuals to achieve maximum personal independence through useful, productive, and gainful employment by assuring an expanded and constant market for their commodities and services, thereby enhancing their dignity and capacity for self-support and minimizing their dependence on welfare and need for costly institutionalization.

**"§ 168-19.2. Requirements for purchases made by the State, a governing subdivision of the State, or by public institutions.**

All purchases made by any agency of the State regardless of whether made through the purchasing division of the Department of Administration, by any county,

1 municipality, or other governing subdivision of the State, or by any public institution  
2 shall be made from an agency of the State or from a nonprofit work center for the blind  
3 or the severely disabled in the State. This requirement shall not apply if the products to  
4 be purchased are not available from these sources.

5 **"§ 168-19.3. Definitions.**

6 As used in this Article, unless the context clearly requires otherwise:

- 7 (1) 'Blind' means an individual or class of individuals whose central visual  
8 acuity does not exceed 20/200 in the better eye with correcting lenses or  
9 whose visual acuity, if better than 20/200, is accompanied by a limit to  
10 the field of vision in the better eye to such a degree that its widest  
11 diameter subtends an angle no greater than 20 degrees.
- 12 (2) 'Central nonprofit agency' means the agency designated under G.S. 168-  
13 19.5.
- 14 (3) 'Certified commodities or services' means (i) the commodities produced  
15 with 'value added' through manufacturing, repackaging, or assembly  
16 processes by any work center for the severely handicapped, and (ii) the  
17 services provided with 'value added' by any work center for the severely  
18 handicapped, as certified by the Department of Administration.
- 19 (4) 'Committee' means the Advisory Committee for Purchase from the  
20 Blind and the Severely Disabled created by G.S. 168-19.4.
- 21 (5) 'Department' means the Department of Administration.
- 22 (6) 'Nonprofit work center for the blind and the severely disabled' means an  
23 agency:
- 24 a. Organized under the laws of the United States or this State,  
25 operated in the interest of the blind and the severely disabled, the  
26 net income of which agency does not inure in whole or in part to  
27 the benefit of any shareholder or other individual;
- 28 b. In compliance with any applicable health and safety standard  
29 prescribed by the United States Secretary of Labor;
- 30 c. In the production of commodities or provision of services  
31 regardless of whether procured pursuant to this Article, employs  
32 during the current fiscal year severely handicapped individuals  
33 for (i) a minimum of seventy-five percent (75%) of the hours of  
34 direct labor required for the production of commodities or  
35 provision of services or (ii) in accordance with the percentage of  
36 direct labor required under the terms and conditions of Public  
37 Law 92-28 (41 U.S.C. § 46, et seq.) for the production of  
38 commodities provision of services, whichever is lesser.
- 39 (7) 'Severely disabled' means those individuals with a handicapping  
40 condition as defined in G.S. 168-1 or G.S. 168A-3, whose handicapping  
41 condition, according to criteria established by rules adopted by the  
42 Department of Administration, constitutes a substantial bar to  
43 employment and is of such a nature as to prevent the individuals under

1           this disability from currently engaging in normal competitive  
2           employment.

3 **"§ 168.19.4. Advisory Committee for Purchase from the Blind and the Severely**  
4 **Disabled; establishment; responsibility; purchasing requirements for**  
5 **governmental entities; applicability of Article.**

6       (a) There is established within the Department of Administration the Advisory  
7 Committee for Purchase from the Blind and the Severely Disabled, referred to as the  
8 Committee, which shall be composed of the following: the Secretary of the Department  
9 of Human Resources and the Secretary of Administration, or their designees, and three  
10 members who are private citizens appointed by the Governor. Of the three members  
11 appointed by the Governor, one shall represent nonprofit work centers for the blind, one  
12 other shall represent nonprofit work centers for the severely handicapped, and one other  
13 shall represent the business community. The members of the Committee shall organize  
14 and appoint a chair and determine their operating procedures. Members shall serve  
15 without compensation, but shall be reimbursed for travel and subsistence expenses  
16 incurred in the performance of their duties pursuant to G.S. 138-5 or G.S. 138-6, as  
17 appropriate.

18       (b) The Committee shall advise the Department and the designated central  
19 nonprofit agency in the development and implementation of a State procurement program  
20 of selected commodities and services from qualified work centers serving the severely  
21 handicapped.

22 **"§ 168-19.5. Central nonprofit agency; designation; functions and operations.**

23       (a) The Department, after consultation with the Committee, shall designate a  
24 central nonprofit agency to represent the work centers for the blind and the severely  
25 disabled.

26       (b) The designated central nonprofit agency shall:

- 27       (1) Ensure that the priorities for the production of commodities and services  
28       are maintained under this Article;
- 29       (2) Evaluate the nonprofit qualifications and capabilities of qualified work  
30       centers to manufacture commodities or perform services and present the  
31       evaluation to the Department and the Committee. In evaluating  
32       products, the central nonprofit agency shall assure that participating  
33       work centers are contributing a 'value added' component to commodities  
34       or services that are being recommended under this Article;
- 35       (3) Recommend to the Committee and the Department, with appropriate  
36       justification, prices, suitable commodities or services for procurement  
37       from its workshops, work centers qualified to serve as certified sources,  
38       and revisions to these recommendations;
- 39       (4) Distribute and allocate, by direct allocation, subcontract, or any other  
40       means, orders from governmental entities to the workshops;
- 41       (5) Maintain the necessary records and monitor the workshops to ensure  
42       compliance in the production of a commodity or performance of a  
43       service; and

1           (6) When authorized by the Committee and the Department, enter into  
2           contracts with the State, community colleges, or public schools for the  
3           furnishing of commodities or services provided by its work centers.

4           (c) The central nonprofit agency shall charge a fee to participating workshops for  
5           facilitating participation by their work centers under this Article. This fee shall not  
6           exceed an amount approved by the Department. Each work center may factor the fee as  
7           an administrative expense into the overall cost of its products."

8           Sec. 2. G.S. 143-48 reads as rewritten:

9           "**§ 143-48. State policy; cooperation in promoting the use of small, minority,**  
10           **physically handicapped and women contractors; purpose; required**  
11           **annual reports.**

12           (a) Policy. – It is the policy of this State to encourage and promote the use of  
13           small, minority, physically handicapped and women contractors in State purchasing of  
14           goods and services. All State agencies, institutions and political subdivisions shall  
15           cooperate with the Department of Administration and all other State agencies, institutions  
16           and political subdivisions in efforts to encourage the use of small, minority, physically  
17           handicapped and women contractors in achieving the purpose of this Article, which is to  
18           provide for the effective and economical acquisition, management and disposition of  
19           goods and services by and through the Department of Administration.

20           (b) Reporting. – Every governmental entity required by statute to use the services  
21           of the Department of Administration in the purchase of goods and services and every  
22           private, nonprofit corporation other than an institution of higher education or a hospital  
23           that receives an appropriation of five hundred thousand dollars (\$500,000) or more  
24           during a fiscal year from the General Assembly shall report to the department of  
25           Administration annually on what percentage of its contract purchases of goods and  
26           services, through term contracts and open-market contracts, were from minority-owned  
27           businesses, what percentage from female-owned businesses, what percentage from  
28           disabled-owned businesses and what percentage from ~~disabled business enterprises.~~  
29           nonprofit work centers for the blind and the severely disabled. The same governmental  
30           entities shall include in their reports what percentages of the contract bids for such  
31           purchases were from such businesses. The Department of Administration shall provide  
32           instructions to the reporting entities concerning the manner of reporting and the  
33           definitions of the businesses referred to in this act, provided that, for the purposes of this  
34           act:

35           (1) Except as provided in subdivision (1a) of this section, a business in one  
36           of the categories above means one:

- 37           a. In which at least fifty-one percent (51%) of the business, or of  
38           the stock in the case of a corporation, is owned by one or more  
39           persons in the category; and  
40           b. Of which the management and daily business operations are  
41           controlled by one or more persons in the category who own it.

42           (1a) A ~~'disabled business enterprise'~~ means a nonprofit entity whose main  
43           purpose is to provide ongoing habilitation, rehabilitation, independent

1 ~~living, and competitive employment for persons who are handicapped~~  
2 ~~through supported employment sites or business operated to provide~~  
3 ~~training and employment and competitive wages. 'nonprofit work center~~  
4 ~~for the blind and the severely disabled' means a nonprofit entity as~~  
5 ~~defined in G.S. 168-19.2(5).~~

6 (2) A female or a disabled person is not a minority, unless the female or  
7 disabled person is also a member of one of the minority groups  
8 described in G.S. 143-128(2)a through d.

9 (3) A disabled person means a ~~'handicapped person' as defined in G.S. 168A-3.~~  
10 ~~person with a handicapping condition as defined in G.S. 168-1 or G.S.~~  
11 ~~168A-3.~~

12 The Department of Administration shall collect and compile the data described in this  
13 section and report it annually to the General Assembly.

14 ~~In seeking contracts with the State, a disabled business enterprise must provide~~  
15 ~~assurances to the Secretary of Administration that the payments that would be received~~  
16 ~~from the State under these contracts are directed to the training and employment of and~~  
17 ~~payment of competitive wages to handicapped employees."~~

18 Sec. 3. Article 3 of Chapter 143 of the General Statutes is amended by adding  
19 a new section to read:

20 "**§ 143-48.2. Procurement program for nonprofit work centers for the blind and the**  
21 **severely disabled.**

22 (a) To the extent they are subject to the provisions of this Article, State agencies,  
23 community colleges, and public schools shall purchase goods and services from nonprofit  
24 work centers for the severely handicapped in accordance with the procurement program  
25 created under this section and Article 2A of Chapter 168 of the General Statutes.

26 (b) Notwithstanding G.S. 143-52, the Department of Administration shall establish  
27 a program for the procurement of goods and services from nonprofit agencies for the  
28 blind and the severely disabled in accordance with Article 2A of Chapter 168 of the  
29 General Statutes. The Department shall:

30 (1) Establish commodities and services appropriate for purchase;

31 (2) Establish appropriate prices for the commodities and services;

32 (3) Establish the appropriate volume for purchases; and

33 (4) Certify the sources for these purchases.

34 (c) The Department shall consult with the Advisory Committee and the designated  
35 central nonprofit agency established under Article 2A of Chapter 168 of the General  
36 Statutes prior to adopting rules or policies implementing or revising the program  
37 elements under subsection (b) of this section.

38 (d) Purchases pursuant to G.S. 148-70 shall have preference over purchases under  
39 this section."

40 Sec. 4. This act becomes effective January 1, 1996, and applies to contracts for  
41 which bids or offers are solicited on or after that date.