

By Ms. Flavin of Easthampton, petition of Nancy Flavin, Edward G. Connolly, Dennis M. Murphy and Thomas P. Kennedy for legislation to encourage the employment of people with disabilities. Human Services and Elderly Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Nine.

AN ACT TO ENCOURAGE EMPLOYMENT OF PEOPLE WITH DISABILITIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

- 1 SECTION 1. Chapter 6 of the General Laws is hereby amended
2 by inserting after section 189 the following new sections:—
3 Section 189 A. For the purposes of this section and sec-
4 tion 189B, the following words and phrases shall have the
5 following meanings, unless the context clearly requires otherwise:
6 “Brokering agent,” the non-profit agency designated pursuant
7 to the provisions of paragraph (C) of section 189B.
8 “Chief procurement officer”, the individual referenced by the
9 same term as defined in section two of chapter 30B.
10 “Committee”, the committee on the purchase of workshop
11 commodities and services, as established by section 189B.
12 “Disabled person”, a person with a physical or mental disability
13 which constitutes a substantial vocational handicap.
14 “Participating work center”, a Massachusetts work center
15 which:
16 (a) Operates in accordance with the rules and regulations
17 adopted by the committee and the brokering agent,
18 (b) Makes a reasonable effort to transition employees from
19 sheltered employment to competitive employment, as employees
20 become ready for such transitions.
21 (c) Agrees to pay to the brokering agent a prescribed per-
22 centage of the value of contracts awarded to that workshop, pur-
23 suant to the provisions of paragraph (D) of section 189B, and

24 “Work center”, a non-profit agency organized and operating
25 under the provisions of a 26 USC 501(c)(3) corporate charter
26 which

27 (a) is operated in the interest of disabled persons, for the pur-
28 pose of providing evaluation, training, rehabilitation, and gainful
29 employment for such disabled persons who are unable to obtain or
30 maintain competitive employment;

31 (b) complies with all applicable occupational health and safety
32 standards of the United States and the commonwealth; and

33 (c) employs disabled persons for not less than seventy-five per-
34 cent of the hours of direct labor required for the manufacture of
35 commodities or the provision of services, whether or not such
36 commodities or services are procured by or for any office, depart-
37 ment, board, commission, bureau, agency, institution, or other
38 instrumentality of the commonwealth.

39 Section 189B. (A) There is hereby established a committee on
40 the purchase of work center commodities and services, consisting
41 of ten members, including the commissioner of rehabilitation or
42 his designee, the commissioner for the blind or his designee, the
43 commissioner for the deaf and hard of hearing or his designee, the
44 commissioner of mental health or his designee, the commissioner
45 of mental retardation or his designee, the director of the office on
46 disability or his designee, the commissioner of employment and
47 training or his designee, and three members to be appointed by the
48 governor: one of whom shall be a representative of labor, one of
49 whom shall be experienced in industry, and one of whom shall be
50 a competitively employed disabled person who has prior experi-
51 ence as a participant in a sheltered employment, supported work,
52 or supported employment program. The director of the office on
53 disability shall serve as chairman of the committee. Members of
54 the committee shall not be entitled to compensation for their
55 services as members.

56 The committee shall meet at least quarterly. The commissioner
57 of correction, the state purchasing agent, and the director of
58 the Massachusetts Association of Community Rehabilitation
59 Organizations, so-called, may attend meetings of the committee to
60 provide technical assistance but shall not be allowed to vote on
61 any matter before the committee.

62 (B) The committee shall have the following duties:

63 (1) to make recommendations regarding the nature and quantity
64 of commodities and services to be produced by work centers;

65 (2) to establish and periodically revise the prices of all com-
66 modities and services offered for sale by Massachusetts work cen-
67 ters, provided that such prices shall not exceed the fair market
68 prices of such commodities and services;

69 (3) to annually review, evaluate, and issue a report on the
70 progress of the committee and Massachusetts work centers in
71 implementing the provisions of this section, including a descrip-
72 tion of the available and sales of work center commodities and
73 services, and the compliance of the commonwealth with provi-
74 sions of this section; and

75 (4) to review and make recommendations regarding the rules
76 and regulations relevant to the implementation of this section.

77 (C) The committee shall designate an agency, hereinafter called
78 the brokering agent, which shall be a not-for-profit corporation
79 organized and operating under the provisions of a 26 USC 501
80 (c)(3) corporation charter, to facilitate orders and coordinate
81 transactions between participating workshops and the purchasing
82 authorities of the commonwealth. Said brokering agent shall have
83 the following responsibilities:

84 (1) to represent participating Massachusetts workshops in
85 dealing with the committee and with instrumentalities of the
86 commonwealth;

87 (2) to periodically evaluate the qualifications and capabilities of
88 such work centers, and to provide the committee with pertinent
89 data concerning their status as qualified non-profit agencies, their
90 manufacturing or service capabilities, and other information
91 required by the committee;

92 (3) to make and periodically update recommendations to the
93 committee, with appropriate justification, relative to the nature,
94 quantity, specifications, and prices of commodities or services to
95 be produced or provided by such work centers;

96 (4) to produce, periodically update, and submit to the state pur-
97 chasing agent for distribution pursuant to the provisions of para-
98 graph (E) a catalog and/or series of specific lists of commodities
99 and services available from such work centers, provided that such
100 catalog and lists shall include commodity and service descriptions
101 and specifications, prices, production capacity limits, if any,

102 minimum order size, if any, geographic limits on availability of
103 commodities or service, if any, and other pertinent information,
104 and provided, further, that the cost of such distribution shall be
105 borne by the brokering agent;

106 (5) to enter into contracts with instrumentalities of the
107 commonwealth for the purchase of work center commodities and
108 services, provided, however, that nothing herein shall be con-
109 strued as prohibiting a Massachusetts work center from entering
110 directly into a contract with such an instrumentality of the
111 commonwealth;

112 (6) to allocate such contracts among participating work centers,
113 subject to policies and procedures established by the committee;

114 (7) to maintain necessary records and data relative to such
115 work centers to enable it to allocate such contracts equitably and
116 efficiently;

117 (8) to supervise such work centers to ensure contract compli-
118 ance in the production of commodities and the performance of
119 service, and to ensure compliance with other applicable rules,
120 regulations, and laws; and

121 (9) to serve such other functions as the committee shall assign it.

122 (D) The expenses of the brokering agent shall be paid by partic-
123 ipating work centers, as follows:— upon receipt by such an entity
124 of full or partial payment for commodities or services furnished
125 pursuant to the terms of a contract awarded under this section,
126 said work center shall return to the brokering agent a percentage
127 of such payment, provided, however, that said percentage, not to
128 exceed six percent, shall be set annually by the committee, based
129 upon consideration of the expected annual expenses of the
130 brokering agent and the expected annual value of contracts
131 awarded pursuant to the provisions of this section.

132 (E) Annually the committee shall, through the office of the
133 state purchasing agent, send to the comptroller of the common-
134 wealth, a copy of the catalog of work center commodities and
135 services prepared pursuant to paragraph (C) and/or the appropriate
136 specific listing(s) of commodities and services available from
137 participating workshops; provided, however, that the cost of such
138 distribution shall be borne by the brokering agent, in accordance
139 with the provisions of paragraph (C).

140 (F) Any commodity or service which, according to the most
141 recently distributed catalog is available in the required quantity

142 and quality from one or more participating work centers, shall, if
143 it is procured by or for any office, department, board, commission,
144 bureau, agency, institution, or other such instrumentality of the
145 commonwealth, and if it is not available through the division of
146 industries of the department of correction, pursuant to section 57
147 of chapter 127, or through the commission for the blind, pursuant
148 to section 134 of chapter 6, be procured from a Massachusetts
149 work center at the price established by the committee, pursuant to
150 a contract issued by the state purchasing agent in accordance with
151 the provisions of section 22 of chapter 7 of the General Laws.

152 No bill for any such commodity or service purchased by or for
153 the use of such an instrumentality otherwise than from the divi-
154 sion of industries of the department of correction, the commission
155 for the blind, or a Massachusetts work center, shall be allowed or
156 paid unless accompanied by a waiver issued by the state pur-
157 chasing agent in accordance with the provisions of paragraph (H).

158 (G) The provisions of paragraph (F) may be waived with regard
159 to a particular commodity or service by the state purchasing agent,
160 when the ordering office in an instrumentality of the common-
161 wealth, upon his determination that such waiver is reasonable and
162 consistent with the intent of this section, and that one or more of
163 the following conditions exists:

164 (1) the commodity or service cannot be furnished in a timely
165 manner or in an adequate quantity or quality by one or more par-
166 ticipating work centers, or

167 (2) the commodity or service cannot be furnished economically
168 by a participating work center, due to the small size of the order, or

169 (3) an existing small business which presently furnishes said
170 commodity or service to that instrumentality would lose in excess
171 of 15% of its gross sales revenue if its consequence of compliance
172 with this section; provided, however, that applications for such
173 waivers shall be made through the brokering agent, who shall, in a
174 timely manner, forward such applications, along with recommen-
175 dations for action, to the state purchasing agent.

1 SECTION 2. Section 187 of chapter 6 of the General Laws, as
2 appearing in the 1996 Official Edition, is hereby amended
3 by inserting after paragraph numbered (f) the following new
4 paragraph:—

5 (g) to promulgate rules and regulations necessary to implement
6 the provisions of section 189B of this chapter, and to assist the
7 committee on the purchase of workshop commodities and
8 services, established therein, in the preparation of the annual eval-
9 uation and report required under said section 189B.

1 SECTION 3. Section 22 of chapter 7 of the General Laws is
2 hereby amended by inserting after the word “blind” on line 13
3 thereof the following:— and commodities and services produced
4 by work centers for the disabled, in accordance with the provi-
5 sions of section 189B; .

1 SECTION 4. Section 1 of chapter 30B, as inserted by chap-
2 ter 687 of the Acts of 1989, is hereby amended by inserting after
3 item (9) of clause (b) thereof the following new item:—

4 (9½) a contract to purchase commodities or services from a
5 Massachusetts work center pursuant to the provisions of section
6 one hundred eighty-nine B of chapter six; .

