

110TH CONGRESS
1ST SESSION

S. 1702

To promote employment of individuals with severe disabilities through Federal Government contracting and procurement processes, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 2007

Mr. ROBERTS (for himself, Mr. KENNEDY, Ms. COLLINS, and Mr. LIEBERMAN) introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To promote employment of individuals with severe disabilities through Federal Government contracting and procurement processes, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Employer Work Incen-
5 tive Act for Individuals with Severe Disabilities”.

6 **SEC. 2. PURPOSE.**

7 The purpose of this Act is to promote employment
8 opportunities for individuals with severe disabilities, by re-
9 quiring Federal agencies to offer incentives to Government

1 contractors and subcontractors that employ substantial
2 numbers of individuals with severe disabilities.

3 **SEC. 3. FINDINGS.**

4 Congress makes the following findings:

5 (1) Of the 9,400,000 people with severe disabili-
6 ties in the United States who want to work, only
7 26.1 percent are employed.

8 (2) The Social Security trustees project that, by
9 2029, the Disability Trust Fund will be exhausted,
10 13 years before the Old Age and Survivors Trust
11 Fund.

12 (3) A June 2005 Government Accountability
13 Office (GAO) report designated modernizing federal
14 disability programs as a high-risk area, one that re-
15 quires urgent attention and organizational trans-
16 formation to ensure that programs function in the
17 most economical, efficient and effective manner pos-
18 sible. Solutions to these problems are likely to re-
19 quire fundamental changes, including regulatory and
20 legislative action.

21 (4) If one percent of people with severe disabili-
22 ties now receiving Social Security Disability Insur-
23 ance and Supplemental Security Income payments
24 were employed, the projected 10-year cost savings
25 for the Treasury would equal \$45,000,000,000.

1 (5) It is appropriate for the Federal Govern-
 2 ment to offer incentives to government contractors
 3 who employ significant numbers of individuals with
 4 severe disabilities.

5 **SEC. 4. CONTRACTORS EMPLOYING INDIVIDUALS WITH SE-**
 6 **VERE DISABILITIES.**

7 (a) CONTRACTORS EMPLOYING INDIVIDUALS WITH
 8 SEVERE DISABILITIES.—The Office of Federal Procure-
 9 ment Policy Act (41 U.S.C. 403 et seq.) is amended by
 10 adding at the end the following new section:

11 **“SEC. 43. CONTRACTORS EMPLOYING INDIVIDUALS WITH**
 12 **SEVERE DISABILITIES.**

13 “(a) TARGETS FOR THE PARTICIPATION OF BUSI-
 14 NESSES EMPLOYING INDIVIDUALS WITH SEVERE DIS-
 15 ABILITIES.—

16 “(1) GOVERNMENT-WIDE TARGET.—The Ad-
 17 ministrator shall annually establish a Government-
 18 wide target for procurement contracts awarded to
 19 businesses that employ individuals with severe dis-
 20 abilities. The Government-wide target shall be estab-
 21 lished at not less than 2.5 percent of the total value
 22 of all prime contract and subcontract procurements
 23 for each fiscal year.

24 “(2) EXECUTIVE AGENCY TARGETS.—Each ex-
 25 ecutive agency shall have an annual procurement

1 target that presents, for that agency, the maximum
 2 practicable opportunity for businesses that employ
 3 individuals with severe disabilities to participate in
 4 the performance of contracts, and the performance
 5 of subcontracts to prime contracts, entered into by
 6 such agency.

7 “(3) CUMULATIVE TARGET.—The Adminis-
 8 trator shall ensure that the cumulative procurement
 9 targets for executive agencies established pursuant
 10 to paragraph (2) meet or exceed the annual Govern-
 11 ment-wide procurement target established pursuant
 12 to paragraph (1).

13 “(4) DATABASE.—The Administrator shall
 14 work with the Administrator of General Services to
 15 establish and maintain a database of eligible non-
 16 profit and for profit business entities that qualify as
 17 businesses that employ individuals with severe dis-
 18 abilities.

19 “(b) INCENTIVES FOR THE EMPLOYMENT OF INDIVIDUALS WITH SEVERE DISABILITIES.—

21 “(1) REGULATIONS.—

22 “(A) IN GENERAL.—The Administrator
 23 shall promulgate regulations in the Federal Ac-
 24 quisition Regulation providing that the partici-
 25 pation of businesses that employ individuals

1 with severe disabilities or the participation of
2 prime contractors that subcontract to such
3 businesses shall be an evaluation factor in all
4 contracts awarded by executive agencies. The
5 Administrator shall ensure that this evaluation
6 factor is given sufficient weight to allow all
7 agencies to be in compliance with the 2.5 per-
8 cent contracting targets under subsection (a).

9 “(B) DOCUMENTATION REQUIREMENT.—
10 The regulations promulgated under subpara-
11 graph (A) shall provide that an executive agen-
12 cy awarding a contract may not evaluate a busi-
13 ness as a business that employs individuals with
14 severe disabilities unless the business provides
15 to such agency—

16 “(i) documentation that the business
17 currently qualifies as a business that em-
18 ploys individuals with severe disabilities;

19 “(ii) documentation that the business
20 has a history of hiring individuals with se-
21 vere disabilities, a letter of commitment
22 stating that the business will meet the em-
23 ployment criteria provided under sub-
24 section (e)(1)(B) within 1 year after the

1 starting date of the contract, and a plan
2 for meeting such criteria; or

3 “(iii) documentation that the em-
4 ployer currently employs at least one indi-
5 vidual with severe disabilities, a letter of
6 commitment stating that the business will
7 meet the employment criteria provided
8 under subsection (e)(1)(B) within 1 year
9 after the starting date of the contract, and
10 a plan for meeting such criteria.

11 “(C) CONSEQUENCES OF FAILURE TO
12 QUALIFY FOR ADVANTAGE.—The failure of a
13 business that is awarded a contract (either as
14 a prime contractor or a subcontractor) as a re-
15 sult of a preference given pursuant to subpara-
16 graph (A) to meet the employment criteria pro-
17 vided under subsection (e)(1)(B) within 1 year
18 after the starting date of such contract shall re-
19 sult in the termination of such contract, unless
20 a one-time waiver is submitted and approved,
21 for good cause, before the end of such time pe-
22 riod.

23 “(c) COORDINATION BETWEEN AGENCIES AND IN-
24 TERESTED GROUPS.—The Assistant Secretary of Labor
25 for Employment and Training shall be responsible for

1 seeking and obtaining input from the executive agencies
 2 responsible for Federal procurement and from individuals,
 3 groups, associations, and disability organizations regard-
 4 ing the effectiveness, outreach, utilization, and advance-
 5 ment of the goals and purposes of the employment and
 6 contracting program under this section.

7 “(d) REGIONAL ASSISTANCE CENTERS.—The Sec-
 8 retary of Labor shall utilize existing Regional Assistance
 9 Centers to provide assistance to businesses in qualifying
 10 for the incentives established pursuant to subsection (b).
 11 The Regional Assistance Centers shall be headquartered
 12 in the Department of Labor’s regional workforce offices
 13 operated under the authority of the Secretary.

14 “(e) DEFINITIONS.—In this section:

15 “(1) The term ‘business that employs individ-
 16 uals with severe disabilities’ means an eligible non-
 17 profit or for-profit business entity that—

18 “(A) demonstrates that it has established
 19 an integrated employment setting, meaning that
 20 the employment setting for severely disabled
 21 employees is similar to the employment setting
 22 for non-disabled employees performing similar
 23 tasks and that severely disabled employees are
 24 not unnecessarily physically separated from

1 non-disabled or other disabled employees in
2 their employment settings;

3 “(B) beginning not later than 1 year after
4 the starting date of the contract for which the
5 Federal procurement advantage was utilized,
6 employs individuals with severe disabilities—

7 “(i) in not less than 25 percent of the
8 full-time equivalent positions of the busi-
9 ness, if the business has 50 or fewer full-
10 time equivalent employees;

11 “(ii) in not less than 18 percent of the
12 full-time equivalent positions, if the busi-
13 ness has between 51 and 250 full-time
14 equivalent employees; or

15 “(iii) in not less than 15 percent of
16 the full-time equivalent positions, if the
17 business has more than 250 full-time posi-
18 tions; and

19 “(C)(i) pays wages to each of the individ-
20 uals with severe disabilities at not less than the
21 applicable rate described in section 6(a)(1) of
22 the Fair Labor Standards Act of 1938 (29
23 U.S.C. 206(a)(1)), regardless of whether the in-
24 dividuals are engaged in supported employment,
25 or training, under a contract with an executive

1 agency or a program that receives Federal
2 funds; and

3 “(ii) does not employ any individual with a
4 severe disability pursuant to a special certificate
5 issued under section 14(c) of the Fair Labor
6 Standards Act of 1938 (29 U.S.C. 214(c)); and

7 “(D) makes contributions for at least 50
8 percent of the total cost of the annual pre-
9 miums for health insurance coverage for its em-
10 ployees.

11 “(2)(A) The term ‘individual with a severe dis-
12 ability’ means an individual who is a disabled bene-
13 ficiary (as defined in section 1148(k)(2) of the So-
14 cial Security Act (42 U.S.C. 1320b–19(k)(2)) or an
15 individual who would be considered to be such a dis-
16 abled beneficiary but for having income or assets in
17 excess of the income or asset eligibility limits estab-
18 lished under title II or XVI of the Social Security
19 Act, respectively (42 U.S.C. 401 et seq., 1381 et
20 seq.).

21 “(B) The term ‘individuals with severe disabil-
22 ities’ means more than 1 individual with a severe
23 disability.”.

1 (b) CLERICAL AMENDMENT.—The table of contents
2 in section 1(b) of such Act is amended by adding at the
3 end the following new item:

“Sec. 43. Contractors employing individuals with severe disabilities.”.

4 **SEC. 5. REPORTING.**

5 Not later than August 31 of each year, the Assistant
6 Secretary of Labor for Employment and Training shall
7 submit to Congress an annual report on progress made
8 in achieving the targets established under section 43 of
9 the Office of Federal Procurement Policy Act, as added
10 by section 4.

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