

Sponsor: HASSELL-THOMPSON

Co-sponsor(s): STEWART-COUSINS, ADAMS, DIAZ, DILAN, DUANE, ESPADA, HUNTLEY, KRUEGER, MONTGOMERY, OPPENHEIMER, PARKER, Peralta, PERKINS, SAMPSON, SAVINO, SCHNEIDERMAN, SMITH, STAVISKY, THOMPSON, ADAMS

Committee: WAYS AND MEANS

Law Section: State Finance Law

S8312 Summary

Relates to discretionary purchases by state agencies; provides that certain discretionary purchases shall be subject to written internal controls established by each state agency.

S8312 Actions

S8312 - SIGNED CHAP.173 - Jul 15, 2010

S8312 - DELIVERED TO GOVERNOR - Jul 6, 2010

S8312 - ORDERED TO THIRD READING RULES CAL.407 - Jun 29, 2010

S8312 - PASSED ASSEMBLY - Jun 29, 2010

S8312 - RETURNED TO SENATE - Jun 29, 2010

S8312 - ORDERED TO THIRD READING CAL.1255 - Jun 25, 2010

S8312 - PASSED SENATE - Jun 25, 2010

S8312 - DELIVERED TO ASSEMBLY - Jun 25, 2010

S8312 - REFERRED TO WAYS AND MEANS - Jun 25, 2010

S8312 - REFERRED TO RULES - Jun 22, 2010

S8312 Memo

BILL NUMBER: S8312

TITLE OF BILL: An act to amend the state finance law, in relation to discretionary purchases
PURPOSE:

This bill would amend the State Finance Law to raise the limit for purchasing from small businesses and MWBEs without formal competitive process from \$100,000 to \$200,000.

SUMMARY OF PROVISIONS:

Section 1 of this bill would amend State Finance Law 163(6) to raise the ceiling for purchasing from small businesses and MWBEs without formal competitive process from \$100,000 to \$200,000.

Section 2 adds a new paragraph n to subdivision 2 of section 161 of the State Finance Law.

Section 3 of this bill would provide for an effective date ninety days after the bill becomes law.

JUSTIFICATION:

In 2006, the Empire State Development Corporation commissioned a disparity study to evaluate whether minority and women-owned businesses had a full and fair opportunity to participate in state contracting. The results of that study were published on April 29, 2010, under the title "The State of Minority and Women-Owned Business

Enterprises: Evidence from New York." The report found evidence of statistically significant disparities between participation of MWBEs in the New York market and the availability of such businesses. It concluded that these disparities could not be explained by factors untainted by discrimination. This legislation is one of three bills that seek to address the findings of the disparity study, to remedy the results of past discrimination and to provide MWBEs with a full and fair opportunity to compete for contracting opportunities in New York State. It would raise the ceiling under which purchases could be made without competitive bid from MWBEs and small businesses from \$100,000 to \$200,000. This would provide State agencies with the flexibility they need to meet MWBE goals, and to ensure greater state contracting with small businesses generally.

EXISTING LAW: State Finance Law 163(6) presently sets a \$100,000 ceiling for purchases without competitive bid from certified MWBEs and small businesses.

LEGISLATIVE HISTORY: None.

FISCAL IMPLICATIONS: This bill would have no fiscal impact on the State or localities.

EFFECTIVE DATE: This bill would take effect ninety days after it becomes law.

S8312 Text

S T A T E O F N E W Y O R K

8312

I N S E N A T E June 22, 2010

Introduced by Sen. HASSELL-THOMPSON -- (at request of the Governor) - read twice and ordered printed, and when printed to be committed to the Committee on Rules AN ACT to amend the state finance law, in relation to discretionary purchases

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 6 of section 163 of the state finance law, as amended by section 3 of part D of chapter 56 of the laws of 2006, is amended to read as follows:

6. Discretionary buying thresholds. Pursuant to guidelines established by the state procurement council: the commissioner may purchase services and commodities in an amount not exceeding eighty-five thousand dollars without a formal competitive process; state agencies may purchase services and commodities in an amount not exceeding fifty thousand dollars without a formal competitive process; and state agencies may purchase commodities or services from small business concerns or those certified pursuant to article fifteen-A of the executive law, or commodities or technology that are recycled or remanufactured, in an amount not exceeding [one] TWO hundred thousand dollars without a formal competitive process.

S 2. Subdivision 2 of section 161 of the state finance law is amended by adding a new paragraph n to read as follows:

N. RECOMMEND TO THE COMMISSIONER NECESSARY LEGISLATIVE CHANGES OR MODIFICATIONS TO EXISTING OR PROPOSED RULES, REGULATIONS AND PROCEDURES THAT WOULD INCREASE ACCESS TO THE STATE'S PROCUREMENT PROCESS BY MINORITY-OWNED BUSINESS ENTERPRISES AND WOMEN-OWNED BUSINESS ENTERPRISES AND CREATE MODEL LANGUAGE TO BE USED BY AGENCIES WHEN ISSUING REQUESTS FOR BIDS OR PROPOSALS TO OTHER SOLICITATIONS OR OFFERS THAT WOULD INCREASE THE ABILITY OF SMALL BUSINESSES TO PARTICIPATE IN STATE PROCUREMENTS.

S 3. This act shall take effect on the ninetieth day after it shall have become a law; provided however, that the amendments to subdivision 6 of section 163 of the state finance law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith. *EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.* LBD17549-04-0