

VIRGINIA SMALL BUSINESS COMMISSION

Executive Summary of the 2014 Interim Activity of the Virginia Small Business Commission

Pursuant to the powers and duties authorized under § 30-183 of the Code of Virginia, the Virginia Small Business Commission (the Commission) held three meetings during the 2014 interim.

Meetings

July 1, 2014

Legislation passed during the 2014 transferred the administration of the Virginia Jobs Investment Program (VJIP) from the Department of Small Business and Supplier Diversity (DSBSD) to the Virginia Economic Development Partnership Authority (VEDP). Representatives of VEDP provided the Commission with a brief history of VJIP and discussed the transition. Craig Herndon, Vice Chancellor for Workforce Development, Virginia Community College System (VCCS), discussed the status of skilled worker training in the Commonwealth, citing four challenges: (i) accessing high-quality regional demand data, (ii) driving interest among workforce supply to areas of regional demand, (iii) developing training that most closely aligns with skills demanded by the industry, and (iv) increasing credential attainment.

Katherine DeRosear, Director of Workforce Development, Virginia Manufacturers Association, then highlighted efforts under several initiatives established to close the career skills gap by 2020 and close the career planning gap by 2016. Ms. DeRosear emphasized the need to adopt uniform, valid measures of career readiness and that the establishment of the Career Readiness Certificate (CRC) program has made Virginia a pioneer in that effort.

September 21, 2014

The Commission received presentations on a variety of subjects pertaining to Virginia's small business community, including: (i) the Edward Lowe Foundation's economic gardening program, which supports existing small businesses; (ii) the Industry Cluster Initiative administered by the Frederick County Economic Development Authority; and (iii) online workforce development courses offered by the Hampton Roads Educational Telecommunications Association (HRETA).

In addition, the Commission reviewed the status of the implementation of the changes to the Virginia Board of Workforce Development (VBWD) required by House Bill 1009, passed during the 2014 legislative session. Elizabeth Creamer, Advisor for Workforce Development, Office of the Secretary of Commerce and Trade, indicated that the role of the VBWD, established by HB 1009 as a policy board, is to support the activities of the state's 15 local workforce investment boards. Among the changes to the workforce development system implemented pursuant to HB 1009 are the establishment of baseline measurements and annual goals for dramatically increasing workforce credential attainment rates. These goals emphasize certifications, licenses, apprenticeships, and shorter-term college certificates of occupational training. In terms of governance, HB 1009 established a more demand-driven workforce

development system. Ms. Creamer noted that several tasks had been completed under the HB 1009 mandates, including:

- Establishing a memorandum of understanding among the Secretaries of Commerce and Trade and Education and the Virginia Community College System regarding VBWD staffing;
- Anticipated hiring of a consultant to develop an operational handbook for the VBWD and to revise other governance documents;
- Integrating the Secretariat of Veterans and Defense Affairs with VBWD and workforce system activities; and
- Convening a cross-agency work group to draft standards for one-stop operations.

December 2, 2014

The final 2014 interim meeting of the Commission consisted of (i) follow-up information regarding the economic gardening program, (ii) an update on the status of the General Laws Special Joint Subcommittee Studying the Virginia Public Procurement Act, and (iii) an overview of the microbusiness set-aside program.

Hampton Roads Partnership Edward Lowe Foundation economic gardening program

Commission member E. Dana Dickens III provided the Commission with additional information on the economic gardening program sponsored by the Hampton Roads Partnership (HRP). Mr. Dickens noted that the HRP had disbanded and that most of the records pertaining to participating businesses were not available. However, Mr. Dickens was able to compile information on several companies that participated in the program.

In summary, these companies unanimously agreed that the program was successful. On that basis, Mr. Dickens suggested that the Commission consider recommending the establishment of a one-year economic gardening pilot program to determine whether a permanent state program could be sustained. Mr. Dickens proposed that the program be administered by VEDP, as the agency has experienced staff and was, at the time of the meeting, in the process of reviewing second-stage companies and economic gardening. Mr. Dickens estimated funding for the pilot program at \$250,000–\$300,000, anticipating the participation of 40–50 companies. Senator George L. Barker asked whether the amount requested would be a one-time allocation or an ongoing annual line item. Mr. Dickens responded that this allocation would support the one-year pilot program and that, at the conclusion of the year, the program would be reviewed to determine whether funds should be recommitted. The total cost for each participating company, according to Mr. Dickens, would be approximately \$4,200. Senator Ruff stated that a good approach would be to draft legislation directing VEDP to study the program and determine how to incorporate it into the agency's current programs. Senator Barker indicated his support for the approach, stating that it was a good first step. Delegate Daniel W. Marshall III Hampton Roads Partnership agreed that it was a good approach, but added that the legislation should also direct VEDP to determine if there is any federal funding available to cover the starting costs.

General Laws Special Joint Subcommittee Studying the Virginia Public Procurement Act (Special Joint Subcommittee)

Amigo Wade, Senior Attorney, Division of Legislative Services, provided an update on the actions taken by the Special Joint Subcommittee at its November 24, 2014, meeting. Mr. Wade stated that the Special Joint Subcommittee established two work groups to further examine the Virginia Public Procurement Act in the context of issues and concerns raised during the first year of the study. Work Group 1 focused on items pertaining to construction and related design professionals; Work Group 2 focused on issues pertaining to information technology, goods, and other professional services. Each work group was assigned a scope of work (SOW) document defining specific issues related to their subject matter areas, and each held a total of five meetings. Extensive, substantive discussion on several of the issues prevented both work groups from addressing the entirety of their respective SOWs. Each work group was able, however, to reach some consensus.

Work Group 1 recommended a draft containing provisions relating to, among other things, job order contracting, cooperative procurement, and design professional services term contracts. The Special Joint Subcommittee made amendments to the draft and recommended reporting it to the General Assembly.

Work Group 2 recommended two consensus drafts. The first draft removed the requirement that a determination be made in advance by a public body and set forth in writing that competitive sealed bidding (CSB) is either not practicable or not fiscally advantageous to the public, in order for goods, services, or insurance to be procured by competitive negotiation (CN). The recommended change would not affect the current preference for procuring construction through CSB or the requirement for using CN to procure professional services. The Special Joint Subcommittee recommended reporting the draft to the General Assembly.

The second draft recommended by Work Group 2 would, among other things, establish a two-year phaseout of the mandatory publication in newspapers of all requests for proposals. The Special Joint Subcommittee decided not to recommend the draft. Additional information regarding the drafts and activities of the work groups and the Special Joint Subcommittee can be found at: http://dls.virginia.gov/interim_studies_procurement.html.

Microbusiness Designation and Set-aside Program

Tracey Jeter, Director of DSBSD, stated that Executive Order (EO) 20, issued by Governor Terry McAuliffe on July 22, 2014, includes a number of initiatives aimed at maximizing the participation of small businesses in state procurement. The order established a microbusiness designation within the current small business certification. On September 11, 2014, DSBSD initiated an online certification process issuing solicitations to more than 14,000 eligible certified businesses that were included within the agency's database of certified businesses. A total of 1,834 businesses had applied for the microbusiness designation as of the meeting date; of that number, 1,638 have been approved, 63 denied, and 133 were still under review. As of September 15, 2014, DSBSD's certification unit began a restructuring effort that includes the designation of lead staff and recruitment of two supervisors for the Disadvantaged Business Enterprises program (a federal designation) and the state's Small, Women-owned, and

Minority-owned Business (SWaM) program. Ms. Jeter also stated that authorization has been received to fully staff the certification unit in order to support the new certification initiatives and that a complete assessment of the policies, procedures, and processes of the certification program has begun, with the objective of achieving enhanced efficiencies and increasing the number of vendors available to compete for procurement opportunities.

Senator Ruff expressed concern with the microbusiness designation, asserting that 25 employees is a larger number than the "micro" designation implies. Ms. Jeter stated that data became available online in order to get the information out to the affected communities as of September 11, 2014, and that her agency had worked with the Department of General Services to put together guidelines. Nicole Riley asked if the guidelines could be accessed, and Ms. Jeter replied that the guidelines were released on November 3, 2014. Ms. Riley then turned her inquiry to Governor McAuliffe's EO 20. She noted that one of the stated goals of the order was to expand the set-aside for competition among all certified small businesses to include purchases up to \$100,000 for goods and nonprofessional services and up to \$50,000 for professional services when the price quoted is "fair and reasonable." Ms. Riley asked how "fair and reasonable" is defined in the context of the new microbusiness designation, and Ms. Jeter replied that the issue has come up a number of times and that she will meet with the Office of the Attorney General and the Office of the Governor to get a clear determination. She further noted that while the guidelines include an award priority for microbusinesses and SWaM businesses, the determination remains an unresolved issue and that more work is needed.

Delegate Mark L. Cole stated that the federal government has a very rigorous small business program that has contracts specifically set aside for small businesses, and he asked if the state was doing anything similar. Ms. Jeter replied that the state's program does not work in that manner. Delegate Alfonso Lopez added that he thought the federal program consisted of goals rather than requirements. Ms. Riley asserted that she was aware of a business that provides goods and services that hovers around the threshold for the microbusiness designation and that the business has seen a drop in revenue of more than 40 percent since the new designation was instituted by the state. She asked if any consideration had been given to establishing different levels of thresholds for goods and services. Ms. Jeter replied the specific issue had not been brought up but that her agency was still getting feedback from state agencies regarding the program. Senator Ruff inquired about the possibility of getting a breakdown of the total available state procurement dollars and how much of that total is available for SWaM and micro- businesses—something that would segregate the procurement dollars for those small businesses that are unable to compete. Senator Ruff gave an example of a situation that frustrates constituents and legislators alike, that of a vendor that has been doing business with a state agency and then suddenly is informed by the agency that newly established regulations prohibit the agency from purchasing from the vendor.

Legislation

The Commission endorsed legislation requesting the Virginia Economic Development Partnership Authority and the Department of Housing and Community Development to jointly study the feasibility of incorporating programs to support existing high-growth companies into the state's current economic development programs and activities. The legislation defines

"existing high-growth companies" as privately held enterprises with high potential for growth that (i) employ fewer than 100 employees, (ii) generate annual revenues of \$50 million or less, and (iii) have moved beyond the startup phase of business development to become established businesses within the local and regional community.

No other specific legislative proposals for the 2015 session were endorsed.