

As Introduced

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H. B. No. 494

Representative Pillich

Cosponsors: Representatives Fende, Lundy, Murray, Phillips, Garland,
Antonio, Ashford, Reece

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A B I L L

To amend sections 125.01, 125.09, 125.11, 3772.033, 1
5747.98, and 5751.98 and to enact sections 5747.61 2
and 5751.55 of the Revised Code to provide a five 3
per cent bid preference for state contracts to a 4
business owned by veterans and to authorize a 5
personal income and commercial activity tax credit 6
for a business that hires and employs a veteran 7
for at least one year. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 125.01, 125.09, 125.11, 3772.033, 9
5747.98, and 5751.98 be amended and sections 5747.61 and 5751.55 10
of the Revised Code be enacted to read as follows: 11

Sec. 125.01. As used in this chapter: 12

(A) "Order" means a copy of a contract or a statement of the 13
nature of a contemplated expenditure, a description of the 14
property or supplies to be purchased or service to be performed, 15
other than a service performed by officers and regular employees 16
of the state, and per diem of the national guard, and the total 17
sum of the expenditure to be made therefor, if the sum is fixed 18

and ascertained, otherwise the estimated sum thereof, and an 19
authorization to pay for the contemplated expenditure, signed by 20
the person instructed and authorized to pay upon receipt of a 21
proper invoice. 22

(B) "Invoice" means an itemized listing showing delivery of 23
the supplies or performance of the service described in the order, 24
and the date of the purchase or rendering of the service, or an 25
itemization of the things done, material supplied, or labor 26
furnished, and the sum due pursuant to the contract or obligation. 27

(C) "Products" means materials, manufacturer's supplies, 28
merchandise, goods, wares, and foodstuffs. 29

(D) "Produced" means the manufacturing, processing, mining, 30
developing, and making of a thing into a new article with a 31
distinct character in use through the application of input, within 32
the state, of Ohio products, labor, skill, or other services. 33
"Produced" does not include the mere assembling or putting 34
together of non-Ohio products or materials. 35

(E) "Ohio products" means products that are mined, excavated, 36
produced, manufactured, raised, or grown in the state by a person 37
where the input of Ohio products, labor, skill, or other services 38
constitutes no less than twenty-five per cent of the manufactured 39
cost. With respect to mined products, such products shall be mined 40
or excavated in this state. 41

(F) "Purchase" means to buy, rent, lease, lease purchase, or 42
otherwise acquire supplies or services. "Purchase" also includes 43
all functions that pertain to the obtaining of supplies or 44
services, including description of requirements, selection and 45
solicitation of sources, preparation and award of contracts, all 46
phases of contract administration, and receipt and acceptance of 47
the supplies and services and payment for them. 48

(G) "Services" means the furnishing of labor, time, or effort 49

by a person, not involving the delivery of a specific end product 50
other than a report which, if provided, is merely incidental to 51
the required performance. "Services" does not include services 52
furnished pursuant to employment agreements or collective 53
bargaining agreements. 54

(H) "Supplies" means all property, including, but not limited 55
to, equipment, materials, other tangible assets, and insurance, 56
but excluding real property or an interest in real property. 57

(I) "Competitive selection" means any of the following 58
procedures for making purchases: 59

(1) Competitive sealed bidding under section 125.07 of the 60
Revised Code; 61

(2) Competitive sealed proposals under section 125.071 of the 62
Revised Code; 63

(3) Reverse auctions under section 125.072 of the Revised 64
Code. 65

(J) "Veteran" means a person who served in the armed forces 66
of the United States on active military duty and was discharged 67
from the service under honorable conditions, and who either served 68
on active duty for reasons other than training or, while serving 69
on active duty for training, incurred a disability recognized by 70
the United States department of veterans affairs or department of 71
defense as service-connected. 72

(K) "Qualifying veteran-owned business" means one of the 73
following that is also eligible for the Ohio products preference 74
allowed under section 125.09 of the Revised Code: 75

(1) A sole proprietorship owned by a veteran; 76

(2) A partnership in which a majority of the partnership is 77
owned by veterans; 78

(3) A limited liability company in which a majority of the 79

membership interests of the company are owned by veterans; or 80

(4) A corporation owned wholly by individuals in which a 81
majority of the common stock of the corporation is owned by 82
veterans. 83

Sec. 125.09. (A) Pursuant to section 125.07 of the Revised 84
Code, the department of administrative services may prescribe such 85
conditions under which competitive sealed bids will be received 86
and terms of the proposed purchase as it considers necessary; 87
provided, that all such conditions and terms shall be reasonable 88
and shall not unreasonably restrict competition, and bidders may 89
bid upon all or any item of the supplies or services listed in 90
such notice. Those bidders claiming the preference for United 91
States ~~and, Ohio, and~~ qualifying veteran-owned business products 92
outlined in this chapter shall designate in their bids either that 93
the product to be supplied is an Ohio product or produced or mined 94
by a qualifying veteran-owned business, or that, under the rules 95
established by the director of administrative services, they 96
qualify as having a significant Ohio economic presence. 97

(B) The department may require that each bidder provide 98
sufficient information about the energy efficiency or energy usage 99
of the bidder's product or service. 100

(C) The director of administrative services shall, by rule 101
adopted pursuant to Chapter 119. of the Revised Code, prescribe 102
criteria and procedures for use by all state agencies in giving 103
preference to United States ~~and, Ohio, and~~ qualifying 104
veteran-owned business products as required by division (B) of 105
section 125.11 of the Revised Code. The rules shall extend to: 106

(1) Criteria for determining that a product is produced or 107
mined in the United States rather than in another country or 108
territory; 109

(2) Criteria for determining that a product is produced or 110
mined in Ohio; 111

(3) Subject to division (D) of this section, criteria for 112
determining whether a product is produced or mined by a qualifying 113
veteran-owned business; 114

(4) Information to be submitted by bidders as to the nature 115
of a product and the location where it is produced or mined; 116

~~(4)~~(5) Criteria and procedures to be used by the director to 117
qualify bidders located in states bordering Ohio who might 118
otherwise be excluded from being awarded a contract by operation 119
of this section and section 125.11 of the Revised Code. The 120
criteria and procedures shall recognize the level and regularity 121
of interstate commerce between Ohio and the border states and 122
provide that the non-Ohio businesses may qualify for award of a 123
contract as long as they are located in a state that imposes no 124
greater restrictions than are contained in this section and 125
section 125.11 of the Revised Code upon persons located in Ohio 126
selling products or services to agencies of that state. The 127
criteria and procedures shall also provide that a non-Ohio 128
business shall not bid on a contract for state printing in this 129
state if the business is located in a state that excludes Ohio 130
businesses from bidding on state printing contracts in that state. 131

~~(5)~~(6) Criteria and procedures to be used to qualify bidders 132
whose manufactured products, except for mined products, are 133
produced in other states or in North America, but the bidders have 134
a significant Ohio economic presence in terms of the number of 135
employees or capital investment a bidder has in this state. 136
Bidders with a significant Ohio economic presence shall qualify 137
for award of a contract on the same basis as if their products 138
were produced in this state. 139

~~(6)~~(7) Criteria and procedures for the director to grant 140

waivers of the requirements of division (B) of section 125.11 of 141
the Revised Code on a contract-by-contract basis where compliance 142
with those requirements would result in the state agency paying an 143
excessive price for the product or acquiring a disproportionately 144
inferior product; 145

~~(7)~~(8) Such other requirements or procedures reasonably 146
necessary to implement the system of preferences established 147
pursuant to division (B) of section 125.11 of the Revised Code. 148

In adopting the rules required under ~~this division~~ divisions 149
(C)(1), (2), (4), (5), (6), (7), and (8) of this section, the 150
director shall, to the maximum extent possible, conform to the 151
requirements of the federal "Buy America Act," 47 Stat. 1520, 152
(1933), 41 U.S.C.A. 10a-10d, as amended, and to the regulations 153
adopted thereunder. 154

(D) Where the director of administrative services determines 155
that selection of the lowest qualifying veteran-owned business 156
bid, if any, will not result in an excessive price or a 157
disproportionately inferior product or service, the director shall 158
propose a contract award to the low qualifying veteran-owned 159
business bid at the bid price quoted. As used in this division, 160
"excessive price" means a price that exceeds the lowest price 161
submitted by a bidder that is not a qualifying veteran-owned 162
business by the lesser of five thousand dollars or five per cent 163
of that lowest price, after accounting for all other preferences 164
allowed to bidders under this section. 165

Sec. 125.11. (A) Subject to division (B) of this section, 166
contracts awarded pursuant to a reverse auction under section 167
125.072 of the Revised Code or pursuant to competitive sealed 168
bidding, including contracts awarded under section 125.081 of the 169
Revised Code, shall be awarded to the lowest responsive and 170
responsible bidder on each item in accordance with section 9.312 171

of the Revised Code. When the contract is for meat products as 172
defined in section 918.01 of the Revised Code or poultry products 173
as defined in section 918.21 of the Revised Code, only those bids 174
received from vendors offering products from establishments on the 175
current list of meat and poultry vendors established and 176
maintained by the director of administrative services under 177
section 125.17 of the Revised Code shall be eligible for 178
acceptance. The department of administrative services may accept 179
or reject any or all bids in whole or by items, except that when 180
the contract is for services or products available from a 181
qualified nonprofit agency pursuant to sections 125.60 to 125.6012 182
or 4115.31 to 4115.35 of the Revised Code, the contract shall be 183
awarded to that agency. 184

(B) Prior to awarding a contract under division (A) of this 185
section, the department of administrative services or the state 186
agency responsible for evaluating a contract for the purchase of 187
products shall evaluate the bids received according to the 188
criteria and procedures established pursuant to divisions (C)(1) 189
~~and, (2), and (3)~~ of section 125.09 of the Revised Code for 190
determining if a product is produced or mined in the United States 191
~~and, if a product is produced or mined in this state, and if a~~ 192
product is produced or mined by a qualifying veteran-owned 193
business. The department or other state agency shall first remove 194
bids that offer products that have not been or that will not be 195
produced or mined in the United States. From among the remaining 196
bids, the department or other state agency shall select the lowest 197
responsive and responsible bid, in accordance with section 9.312 198
of the Revised Code, from among the bids that offer products that 199
have been produced or mined in this state or from bids, if any, 200
that offer products that have been produced or mined by qualifying 201
veteran-owned businesses in accordance with division (D) of 202
section 125.09 of the Revised Code, where sufficient competition 203

can be generated within this state to ensure that compliance with 204
these requirements will not result in an excessive price for the 205
product or acquiring a disproportionately inferior product. 206

(C) Division (B) of this section applies to contracts for 207
which competitive bidding is waived by the controlling board. 208

(D) Division (B) of this section does not apply to the 209
purchase by the division of liquor control of spirituous liquor. 210

(E) The director of administrative services shall publish in 211
the form of a model act for use by counties, townships, municipal 212
corporations, or any other political subdivision described in 213
division (B) of section 125.04 of the Revised Code, a system of 214
preferences for products mined and produced in this state and in 215
the United States and for Ohio-based contractors. The model act 216
shall reflect substantial equivalence to the system of preferences 217
in purchasing and public improvement contracting procedures under 218
which the state operates pursuant to this chapter and section 219
153.012 of the Revised Code. To the maximum extent possible, 220
consistent with the Ohio system of preferences in purchasing and 221
public improvement contracting procedures, the model act shall 222
incorporate all of the requirements of the federal "Buy America 223
Act," 47 Stat. 1520 (1933), 41 U.S.C. 10a to 10d, as amended, and 224
the rules adopted under that act. 225

Before and during the development and promulgation of the 226
model act, the director shall consult with appropriate statewide 227
organizations representing counties, townships, and municipal 228
corporations so as to identify the special requirements and 229
concerns these political subdivisions have in their purchasing and 230
public improvement contracting procedures. The director shall 231
promulgate the model act by rule adopted pursuant to Chapter 119. 232
of the Revised Code and shall revise the act as necessary to 233
reflect changes in this chapter or section 153.012 of the Revised 234
Code. 235

The director shall make available copies of the model act, 236
supporting information, and technical assistance to any township, 237
county, or municipal corporation wishing to incorporate the 238
provisions of the act into its purchasing or public improvement 239
contracting procedure. 240

Sec. 3772.033. In carrying out the responsibilities vested in 241
the commission by this chapter, the commission may do all the 242
following and may designate any such responsibilities to the 243
executive director, to the commission's employees, or to the 244
gaming agents: 245

(A) Inspect and examine all premises where casino gaming is 246
conducted or gaming supplies, devices, or equipment are 247
manufactured, sold, or distributed; 248

(B) Inspect all gaming supplies, devices, and equipment in or 249
about a casino facility; 250

(C) Summarily impound and seize and remove from the casino 251
facility premises gaming supplies, devices, and equipment for the 252
purpose of examination and inspection; 253

(D) Determine any facts, or any conditions, practices, or 254
other matters, as the commission considers necessary or proper to 255
aid in the enforcement of this chapter or of a rule adopted 256
thereunder; 257

(E) Audit gaming operations, including those that have ceased 258
operation; 259

(F) Investigate, for the purpose of prosecution, any 260
suspected violation of this chapter or rules adopted thereunder; 261

(G) Investigate as appropriate to aid the commission and to 262
seek the executive director's advice in adopting rules; 263

(H) Secure information as is necessary to provide a basis for 264
recommending legislation for the improvement of this chapter; 265

(I) Make, execute, and otherwise effectuate all contracts and 266
other agreements, including contracts for necessary purchases of 267
goods and services. Except for any contract entered into with 268
independent testing laboratories under section 3772.31 of the 269
Revised Code, the commission shall ensure use of Ohio or 270
qualifying veteran-owned business products or services in 271
compliance with sections 125.09 and 125.11 of the Revised Code and 272
all rules adopted thereunder. 273

(J) Employ the services of persons the commission considers 274
necessary for the purposes of consultation or investigation, and 275
fix the salaries of, or contract for the services of, legal, 276
accounting, technical, operational, and other personnel and 277
consultants; 278

(K) Secure, by agreement, information and services as the 279
commission considers necessary from any state agency or other unit 280
of state government; 281

(L) Acquire furnishings, equipment, supplies, stationery, 282
books, and all other things the commission considers necessary or 283
desirable to successfully and efficiently carry out the 284
commission's duties and functions; and 285

(M) Perform all other things the commission considers 286
necessary to effectuate the intents and purposes of this chapter. 287
This section shall not prohibit the commission from imposing 288
administrative discipline, including fines and suspension or 289
revocation of licenses, on licensees under this chapter if the 290
licensee is found to be in violation of the commission's rules. 291

Sec. 5747.61. (A) As used in this section, "veteran" means a 292
person subject to the tax imposed by section 5747.02 of the 293
Revised Code who served in the armed forces of the United States 294
on active military duty and was discharged from the service under 295
honorable conditions, and who either served on active duty for 296

reasons other than training or, while serving on active duty for 297
training, incurred a disability recognized by the United States 298
department of veterans affairs or department of defense as 299
service-connected. 300

(B) There is hereby allowed a nonrefundable credit against 301
the tax imposed by section 5747.02 of the Revised Code for a 302
taxpayer that is an employer required to deduct and withhold 303
income tax from an employee's compensation and remit such amounts 304
under sections 5747.06 and 5747.07 of the Revised Code and that 305
employs a veteran for a period of twelve consecutive months, 306
provided the veteran is employed by the employer for at least one 307
thousand five hundred sixty hours during that period. The amount 308
of the credit shall equal two thousand dollars for each veteran so 309
employed. 310

The credit shall be claimed for the taxable year immediately 311
following the taxable year that includes the date that is one year 312
following the date on which the veteran was hired. The credit 313
shall be claimed in the order required under section 5747.98 of 314
the Revised Code. Any credit amount in excess of the tax due after 315
allowing for credits that precede the credit under this section in 316
that order may be carried forward to any ensuing taxable year, but 317
the amount of any excess credit allowed in any such year shall be 318
deducted from the balance carried forward to the next year. 319

A credit may be claimed under this section by a taxpayer only 320
once for each individual veteran. A person that claims the credit 321
under section 5751.55 of the Revised Code may not claim the credit 322
under this section for the same veteran. 323

Nothing in this section limits or disallows pass-through 324
treatment of the credit. 325

Sec. 5747.98. (A) To provide a uniform procedure for 326

calculating the amount of tax due under section 5747.02 of the Revised Code, a taxpayer shall claim any credits to which the taxpayer is entitled in the following order:

- (1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;
- (2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;
- (3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;
- (4) The dependent care credit under section 5747.054 of the Revised Code;
- (5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;
- (6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;
- (7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;
- (8) The low-income credit under section 5747.056 of the Revised Code;
- (9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;
- (10) The campaign contribution credit under section 5747.29 of the Revised Code;
- (11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;
- (12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;
- (13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;

(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	356 357
(15) The credit for employers that enter into agreements with child day-care centers under section 5747.34 of the Revised Code;	358 359
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	360 361
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	362 363
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	364 365
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	366 367
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	368 369
(21) <u>The nonrefundable credit for employing veterans under section 5747.61 of the Revised Code;</u>	370 371
<u>(22)</u> The second credit for purchases of new manufacturing machinery and equipment and the credit for using Ohio coal under section 5747.31 of the Revised Code;	372 373 374
(22) <u>(23)</u> The job training credit under section 5747.39 of the Revised Code;	375 376
(23) <u>(24)</u> The enterprise zone credit under section 5709.66 of the Revised Code;	377 378
(24) <u>(25)</u> The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	379 380
(25) <u>(26)</u> The credit for employers that establish on-site child day-care centers under section 5747.35 of the Revised Code;	381 382
(26) <u>(27)</u> The ethanol plant investment credit under section 5747.75 of the Revised Code;	383 384

(27) <u>(28)</u> The credit for purchases of qualifying grape	385
production property under section 5747.28 of the Revised Code;	386
(28) <u>(29)</u> The small business investment credit under section	387
5747.81 of the Revised Code;	388
(29) <u>(30)</u> The credit for research and development and	389
technology transfer investors under section 5747.33 of the Revised	390
Code;	391
(30) <u>(31)</u> The enterprise zone credits under section 5709.65 of	392
the Revised Code;	393
(31) <u>(32)</u> The research and development credit under section	394
5747.331 of the Revised Code;	395
(32) <u>(33)</u> The credit for rehabilitating a historic building	396
under section 5747.76 of the Revised Code;	397
(33) <u>(34)</u> The refundable credit for rehabilitating a historic	398
building under section 5747.76 of the Revised Code;	399
(34) <u>(35)</u> The refundable jobs creation credit or job retention	400
credit under division (A) of section 5747.058 of the Revised Code;	401
(35) <u>(36)</u> The refundable credit for taxes paid by a qualifying	402
entity granted under section 5747.059 of the Revised Code;	403
(36) <u>(37)</u> The refundable credits for taxes paid by a	404
qualifying pass-through entity granted under division (J) of	405
section 5747.08 of the Revised Code;	406
(37) <u>(38)</u> The refundable credit for tax withheld under	407
division (B)(1) of section 5747.062 of the Revised Code;	408
(38) <u>(39)</u> The refundable credit for tax withheld under section	409
5747.063 of the Revised Code;	410
(39) <u>(40)</u> The refundable credit under section 5747.80 of the	411
Revised Code for losses on loans made to the Ohio venture capital	412
program under sections 150.01 to 150.10 of the Revised Code;	413

~~(40)~~(41) The refundable motion picture production credit 414
under section 5747.66 of the Revised Code. 415

(B) For any credit, except the refundable credits enumerated 416
in this section and the credit granted under division (I) of 417
section 5747.08 of the Revised Code, the amount of the credit for 418
a taxable year shall not exceed the tax due after allowing for any 419
other credit that precedes it in the order required under this 420
section. Any excess amount of a particular credit may be carried 421
forward if authorized under the section creating that credit. 422
Nothing in this chapter shall be construed to allow a taxpayer to 423
claim, directly or indirectly, a credit more than once for a 424
taxable year. 425

Sec. 5751.55. (A) As used in this section, "veteran" has the 426
same meaning as in section 5747.61 of the Revised Code. 427

(B) There is hereby allowed a nonrefundable credit against 428
the tax imposed by section 5751.02 of the Revised Code for a 429
taxpayer that is an employer required to deduct and withhold 430
income tax from an employee's compensation and remit such amounts 431
under sections 5747.06 and 5747.07 of the Revised Code and that 432
employs a veteran for a period of twelve consecutive months, 433
provided the veteran is employed by the employer for at least one 434
thousand five hundred sixty hours during that period. The amount 435
of the credit shall equal two thousand dollars for each veteran so 436
employed. 437

The credit shall be claimed for the first tax period of the 438
calendar year immediately following the calendar year that 439
includes the date that is one year following the date on which the 440
veteran was hired. The credit shall be claimed in the order 441
required under section 5751.98 of the Revised Code. Any credit 442
amount in excess of the tax due after allowing for credits that 443
precede the credit under this section in that order may be carried 444

forward to any ensuing tax period, but the amount of any excess 445
credit allowed in any such period shall be deducted from the 446
balance carried forward to the next period. 447

A credit may be claimed under this section by a taxpayer only 448
once for each individual veteran. A person that claims the credit 449
under section 5747.61 of the Revised Code may not claim the credit 450
under this section for the same veteran. 451

Sec. 5751.98. (A) To provide a uniform procedure for 452
calculating the amount of tax due under this chapter, a taxpayer 453
shall claim any credits to which it is entitled in the following 454
order: 455

(1) The nonrefundable jobs retention credit under division 456
(B) of section 5751.50 of the Revised Code; 457

(2) The nonrefundable credit for employing veterans under 458
section 5751.55 of the Revised Code; 459

(3) The nonrefundable credit for qualified research expenses 460
under division (B) of section 5751.51 of the Revised Code; 461

~~(3)~~(4) The nonrefundable credit for a borrower's qualified 462
research and development loan payments under division (B) of 463
section 5751.52 of the Revised Code; 464

~~(4)~~(5) The nonrefundable credit for calendar years 2010 to 465
2029 for unused net operating losses under division (B) of section 466
5751.53 of the Revised Code; 467

~~(5)~~(6) The refundable credit for calendar year 2030 for 468
unused net operating losses under division (C) of section 5751.53 469
of the Revised Code; 470

~~(6)~~(7) The refundable jobs creation credit or job retention 471
credit under division (A) of section 5751.50 of the Revised Code. 472

(B) For any credit except the refundable credits enumerated 473

in this section, the amount of the credit for a tax period shall 474
not exceed the tax due after allowing for any other credit that 475
precedes it in the order required under this section. Any excess 476
amount of a particular credit may be carried forward if authorized 477
under the section creating the credit. 478

Section 2. That existing sections 125.01, 125.09, 125.11, 479
3772.033, 5747.98, and 5751.98 of the Revised Code are hereby 480
repealed. 481