

SENATE BILL No. 464

By Senator Faust Goudeau

2-6

1 AN ACT creating the Kansas minority, woman, disadvantaged and
2 service-disabled veteran small business enterprise development act;
3 providing for development of such business enterprises through a
4 program to facilitate and increase participation by such business
5 enterprises in providing goods and services to state agencies and
6 postsecondary educational institutions; establishing the office of
7 minority and women business development within the department of
8 commerce to develop such program and assist state agencies and
9 postsecondary educational institutions to establish plans and goals for
10 such participation; providing for an advisory committee on certified
11 small business enterprises that may be established by the assistant
12 director of such office; authorizing the adoption of rules and
13 regulations; providing for penalties for violations of the provisions of
14 the act or rules and regulations adopted pursuant to the act.
15

16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. Sections 1 through 12, and amendments thereto, shall be
18 known and may be cited as the Kansas minority, woman, disadvantaged
19 and service-disabled veteran small business enterprise development act.

20 Sec. 2. As used in this act:

21 (a) "Affiliate or division of a larger business" or "affiliate" means two
22 or more business entities or concerns in which one controls or has the
23 power to control the other. "Affiliate" status shall be determined by the
24 assistant director upon consideration of the factors set forth by the small
25 business administration in 13 C.F.R. § 121.103.

26 (b) "Airport concession disadvantaged business enterprise" means a
27 concession that:

28 (1) Is at least 51%-owned by one or more individuals who are United
29 States citizens or lawful permanent residents and who are both socially and
30 economically disadvantaged or, if organized as a corporation, at least 51%
31 of the stock is owned by one or more such individuals;

32 (2) has management and daily business operations controlled by one
33 or more of such socially and economically disadvantaged individuals
34 specified in paragraph (1);

35 (3) meets United States department of transportation size standards
36 for a small business eligible to be certified as an airport concession

1 disadvantaged business enterprise pursuant to 49 C.F.R. § 23.33, including
2 size standards applicable to any affiliate;

3 (4) is an independent and viable for-profit business as determined by
4 the assistant director;

5 (5) has a real and substantial presence in Kansas;

6 (6) is a small business;

7 (7) performs a commercially useful function; and

8 (8) is certified as an "airport concession disadvantaged business
9 enterprise" by the assistant director or the office of civil rights within the
10 Kansas department of transportation.

11 (c) "Assistant director" means the assistant director for minority and
12 women business development of the office of minority and women
13 business development of the department of commerce established pursuant
14 to K.S.A. 74-5010a, and amendments thereto.

15 (d) "Broker" means a person that provides bona fide professional,
16 technical, consultant, brokerage or managerial services and assistance in
17 the procurement of essential personnel, facilities, equipment, materials or
18 supplies required for performance of a contract.

19 (e) "Certified small business enterprise" means an airport concession
20 disadvantaged business enterprise, minority business enterprise, woman
21 business enterprise, disadvantaged business enterprise or service-disabled
22 veteran-owned business enterprise.

23 (f) "Commercially useful function" means real and actual services
24 that are a distinct and verifiable element of the contracted work based
25 upon private sector trade or industry standards.

26 (g) "Committee" means the advisory committee on certified small
27 business enterprises that may be established by the assistant director as
28 provided by this act.

29 (h) "Concession" means one or more of the following types of for-
30 profit businesses:

31 (1) A business located at an airport or that has a facility at an airport
32 that is engaged in the sale of consumer goods or services to the public
33 pursuant to an agreement with the recipient, another concessionaire or the
34 owner or lessee of a terminal if other than the recipient; or

35 (2) a business conducting one or more of the following covered
36 activities, even if it does not maintain an office, store or other business
37 location at an airport, if the business:

38 (A) Manages contracts and subcontracts for goods or services for the
39 airport;

40 (B) is a web-based or other electronic business with service locations
41 at an airport terminal or that provides services that the public can access at
42 the terminal;

43 (C) is an advertising business that provides advertising displays or

1 messages to the public at the airport; or

2 (D) is a business that provides goods and services to concessionaires
3 that are located at the airport.

4 (i) "Contractor utilization plan" means a statement, in a form
5 prescribed by the assistant director, that must be submitted in a bid or
6 proposal for a performance contract that states a plan to utilize qualified
7 certified small business enterprises in the performance contract.

8 (j) "Control" means having day-to-day decision-making authority as
9 measured by:

10 (1) Voting power;

11 (2) officer and director votes;

12 (3) ability to bind the business entity;

13 (4) financial authority;

14 (5) shared officers and directors; or

15 (6) having more than 20% of the small business contracts directly or
16 indirectly attributable to the affiliate or any combination thereof.

17 (k) "Disadvantaged business enterprise" means a for-profit small
18 business concern that:

19 (1) Is at least 51%-owned, managed and independently controlled by
20 one or more individuals who are United States citizens or lawful
21 permanent residents and who are socially and economically
22 disadvantaged;

23 (2) meets United States department of transportation size standards
24 for a small business eligible to be certified as a disadvantaged business
25 enterprise pursuant to 13 C.F.R. part 121 and that does not exceed the cap
26 on average annual gross receipts specified in 49 C.F.R. § 26.65(b) and as
27 provided by 49 C.F.R. § 26.5.

28 (3) is an independent and viable for-profit business as determined by
29 the assistant director;

30 (4) has a real and substantial presence in Kansas;

31 (5) is a small business;

32 (6) performs a commercially useful function; and

33 (7) is certified as a "disadvantaged business enterprise" by the
34 assistant director or the office of civil rights of the Kansas department of
35 transportation.

36 (l) "Goals" means annual overall agency goals, expressed as a
37 percentage of dollar volume, for participation by certified small business
38 enterprises. "Goals" shall not be construed as minimum goals or quotas for
39 any particular contract or for any particular geographical area.

40 (m) "Good faith efforts" are efforts that, given all relevant
41 circumstances, the proposed bidder or potential contract recipient
42 documents as evidence of intent to meet the prescribed objectives of the
43 contract or modified objectives of the contract if the proposed bidder or

1 potential contract recipient submits evidence establishing why such
2 objectives should be modified to reflect availability or lack thereof in the
3 scope of work.

4 (n) "Goods or services" includes professional services and all other
5 goods and services.

6 (o) "Minority" means a person who is a citizen or lawful permanent
7 resident of the United States and who is an:

8 (1) African American, which means a person whose origins are in any
9 of the black racial groups of Africa and who has historically and
10 consistently identified such self as being such a person;

11 (2) Hispanic or Latino American, which means a person whose
12 origins are in Mexico, Central or South America, or any of the Spanish-
13 speaking islands of the Caribbean, regardless of race and who has
14 historically and consistently identified such self as being such a person;

15 (3) Asian or Pacific Islander American, which means a person whose
16 origins are in any of the original peoples of the Far East, Southeast Asia,
17 the islands of the Pacific or the Northern Marianas or the Indian
18 subcontinent and who has historically and consistently identified such self
19 as being such a person; or

20 (4) Native American, which means a person whose origins are from
21 any of the original peoples of North America and who maintains tribal
22 affiliation as demonstrated by active enrollment as a recognized member
23 of any federally or state-recognized tribe.

24 (p) "Minority business enterprise" means a for-profit small business
25 concern that:

26 (1) Is at least 51%-owned, managed and independently controlled by
27 one or more individuals who are United States citizens or lawful
28 permanent residents and who belong to a minority group;

29 (2) has a real and substantial presence in Kansas;

30 (3) is a small business;

31 (4) performs a commercially useful function; and

32 (5) is certified as a "minority business enterprise" by the assistant
33 director or the office of civil rights of the Kansas department of
34 transportation.

35 (q) "Office" means the office of minority and women business
36 development within the department of commerce established pursuant to
37 K.S.A. 74-5010a, and amendments thereto.

38 (r) "Person" includes one or more individuals, proprietorships,
39 partnerships, associations, labor or other organizations, corporations,
40 cooperatives, firms, legal representatives, trustees or receivers.

41 (s) "Personal net worth" means the net value of the assets of an
42 individual remaining after total liabilities are deducted. An individual's
43 personal net worth does not include the individual's ownership interest in

1 an applicant or participating certified small business enterprise or the
2 individual's equity in such individual's primary place of residence. An
3 individual's personal net worth includes only such individual's own share
4 of assets held jointly or as community property with the individual's
5 spouse.

6 (t) "Postsecondary educational institution" means the same as in
7 K.S.A. 74-3201b, and amendments thereto.

8 (u) "Procurement" means the purchase, lease or rental of any goods or
9 services.

10 (v) "Public works" means all work, construction, highway and ferry
11 construction, alteration, repair or improvement other than ordinary
12 maintenance that a state agency or postsecondary educational institution is
13 authorized or required by law to undertake.

14 (w) "Real and substantial presence" means:

15 (1) The small business enterprise maintains an office or place of
16 business in the state of Kansas;

17 (2) if the small business enterprise has employees, the small business
18 enterprise maintains the employees in one or more of the small business
19 enterprise's offices within this state to conduct or solicit the small business
20 enterprise's business in this state for the majority of their working time;

21 (3) the small business enterprise has transacted business more than
22 once in the state within the last three years; and

23 (4) if in business for less than one year, the small business enterprise
24 has provided information on in-progress and completed contracts,
25 including letters of reference or past performance reports to establish
26 successful contract performance, and any information demonstrating
27 performance of work in the industry for which the applicant small business
28 enterprise seeks certification as a certified small business enterprise.

29 (x) "Service-disabled veteran" means an individual who served in the
30 active military, naval or air services of the United States, who was
31 discharged or released under conditions other than dishonorable and whose
32 disability was incurred or aggravated in the line of duty in the active
33 military, naval or air services of the United States.

34 (y) "Service-disabled veteran-owned business enterprise" means a
35 for-profit small business concern pursuant to the small business act, 15
36 U.S.C. 632(q), and the federal small business administration's
37 implementing regulations, 13 C.F.R. 125, that:

38 (1) Is at least 51%-owned, managed and independently controlled by
39 one or more service-disabled veterans who are United States citizens or
40 lawful permanent residents;

41 (2) has a real and substantial presence in the state of Kansas;

42 (3) is a small business;

43 (4) performs a commercially useful function; and

1 (5) is certified by the United States department of veterans affairs and
2 meets the federal small business administration's service-disabled veteran-
3 owned small business concern program regulations.

4 (z) "Small business" means the same as defined in the federal small
5 business administration in 13 C.F.R. 121.101-107.

6 (aa) "Socially and economically disadvantaged individual" means any
7 individual who is a citizen or lawfully admitted permanent resident of the
8 United States and who:

9 (1) Is an owner of a firm, in which ownership and control are relied
10 upon for certification of the firm as a disadvantaged business enterprise;

11 (2) has been subjected to racial or ethnic prejudice or cultural bias
12 within American society because of such individual's identity as a member
13 of certain groups without regard to such individual's qualities. The social
14 disadvantage must stem from circumstances beyond the individual's
15 control. Any individual in the following groups is rebuttably presumed to
16 meet this requirement:

17 (A) Black Americans;

18 (B) Hispanic Americans;

19 (C) Native Americans;

20 (D) Asian-Pacific Americans;

21 (E) subcontinent Asian Americans; and

22 (F) women; and

23 (3) certifies that the individual has a personal net worth that does not
24 exceed the amount set forth in 49 C.F.R. 26 and 26.67.

25 (bb) "State agency" means the same as defined in K.S.A. 75-3701,
26 and amendments thereto.

27 (cc) "Woman" means a female person who is a citizen or lawful
28 permanent resident of the United States.

29 (dd) "Woman business enterprise" means a for-profit small business
30 concern that:

31 (1) Is at least 51%-owned, managed and independently controlled by
32 one or more women who are United States citizens or lawful permanent
33 residents;

34 (2) has a real and substantial presence in the state of Kansas;

35 (3) is a small business;

36 (4) performs a commercially useful function; and

37 (5) is certified as a "woman business enterprise" by the assistant
38 director or the office of civil rights of the Kansas department of
39 transportation.

40 Sec. 3. There is hereby created within the department of commerce a
41 Kansas certified small business enterprise development program. The
42 assistant director of the office of minority and woman business of the
43 department of commerce shall administer the provisions of the Kansas

1 certified small business enterprise development program. In administering
2 the provisions of the program, the assistant director is directed and
3 authorized to:

4 (a) Employ such staff as are necessary to carry out the purposes of
5 this act;

6 (b) develop, plan and implement, in consultation with the committee,
7 one or more programs to provide an opportunity for participation by
8 certified small business enterprises in public works and the process by
9 which goods and services are procured by state agencies and
10 postsecondary educational institutions from the private sector;

11 (c) develop, in consultation with the committee, a comprehensive
12 plan insuring that certified small business enterprises are provided an
13 opportunity to participate in public contracts for public works, goods and
14 services;

15 (d) identify, in consultation with the committee, any barrier to equal
16 participation by a certified small business enterprise in all state agency and
17 postsecondary educational institution contracts;

18 (e) establish annual overall goals for participation by certified small
19 business enterprises for each state agency and postsecondary educational
20 institution to be administered on a contract-by-contract basis or on a class-
21 of-contracts basis;

22 (f) develop and maintain a central certified small business enterprise
23 list for use by state agencies and postsecondary educational institutions.
24 No business shall be entitled to certification by the assistant director unless
25 the business meets the definition of a certified small business enterprise as
26 established by this act and the rules and regulations of the office. There
27 shall be a rebuttable presumption that when a certified small business
28 enterprise subcontracts a greater portion of the contract work than normal
29 industry practice, the certified small business enterprise is not performing
30 a commercially useful function;

31 (g) develop, implement and operate a system of monitoring
32 compliance with the provisions of this act;

33 (h) adopt rules and regulations, approved by the secretary of
34 commerce, as necessary to implement the provisions of this act, including
35 the:

36 (1) Establishment of agency goals;

37 (2) development and maintenance of a central certified small business
38 enterprise certification and qualification program, including applicable
39 definitions that shall be consistent with the small business requirements
40 defined by applicable federal regulations and Kansas law. Only persons
41 meeting the requirements as provided by this act and the rules and
42 regulations of the office shall be deemed a certified small business
43 enterprise by the assistant director. Except for instances of

1 misrepresentation or fraud, any person listed as a certified small business
2 enterprise on the office's online certified small business enterprise
3 directory on the date a contractor utilization plan is submitted shall be
4 eligible to participate as a certified small business enterprise on such
5 contract;

6 (3) procedures for monitoring and enforcing compliance with goals,
7 regulations, contract provisions and this act;

8 (4) utilization of standard clauses by state agencies and postsecondary
9 educational institutions;

10 (5) requirements for standard clauses in requests for proposals,
11 advertisements, bids or calls for bids, necessary to carry out the purposes
12 of this act, including notice of the statutory penalties for noncompliance
13 pursuant to section 10, and amendments thereto; and

14 (6) determination of an agency's or postsecondary educational
15 institution's attainment of the goals pursuant to this act of such agency or
16 postsecondary educational institution;

17 (i) submit an annual report to the governor and the legislature on the
18 progress in implementing this act;

19 (j) investigate complaints of violations of this act or the rules and
20 regulations adopted by the office pursuant to this act with the assistance of
21 any agency or postsecondary educational institution involved in the
22 alleged violation. Such investigations shall not include investigations of
23 alleged violations of any local ordinance, rule, regulation or resolution of a
24 political subdivision of this state;

25 (k) cooperate and act jointly with the federal government, other states
26 and political subdivisions of the state of Kansas, and their respective
27 certified small business enterprise programs, to carry out the purposes of
28 this act;

29 (l) develop policies to carry out the purposes of this act in
30 consultation with the committee and any other ad hoc advisory
31 committees, as may be of assistance to the assistant director;

32 (m) develop specific indicia of "good faith efforts" in cooperation
33 with the secretary of administration, who shall cooperate with the assistant
34 director for this purpose and to achieve the objectives of this act; and

35 (n) enter into contracts necessary to carry out the provisions of this
36 act.

37 Sec. 4. (a) Each state agency and postsecondary educational
38 institution shall comply with the annual goals established for that agency
39 or institution pursuant to section 3, and amendments thereto, for public
40 works and procuring goods or services. The provisions of this act and the
41 rules and regulations adopted pursuant to section 3, and amendments
42 thereto, shall be adhered to in all public works and procurement by state
43 agencies and postsecondary educational institutions, including all contracts

1 and other procurement pursuant to chapter 75 of the Kansas Statutes
2 Annotated, and amendments thereto. All program opportunities for
3 certified small business enterprises developed by the assistant director
4 shall be developed with the intent of compliance with the provisions of
5 K.S.A. 75-3739, and amendments thereto, to the extent possible. If any
6 provisions of this act are in conflict with the provisions of K.S.A. 75-3739,
7 and amendments thereto, then to such extent the provisions of this act shall
8 be construed as an exception, as provided by K.S.A. 75-3739(a)(4).

9 (b) Each state agency shall adopt a plan, developed in consultation
10 with the assistant director and the advisory committee on certified small
11 business enterprises, to ensure that certified small business enterprises are
12 afforded the maximum practicable opportunity to directly and
13 meaningfully participate in the execution of public contracts for public
14 works and goods and services. The plan shall include specific measures the
15 agency will undertake to increase the participation of certified small
16 business enterprises.

17 (c) The assistant director shall annually notify the governor, the post
18 auditor and the respective legislative house and senate committees with
19 applicable oversight responsibility of all agencies and postsecondary
20 educational institutions not in compliance with this act.

21 (d) Each city, county and unified school district may adopt a certified
22 small business enterprise procurement program in coordination with the
23 assistant director and in compliance with the provisions of this act and
24 applicable rules and regulations established pursuant to this act.

25 Sec. 5. (a) The office of minority and women business development
26 and the office of civil rights of the Kansas department of transportation
27 shall be the only authorities to perform certification of small business
28 enterprises in the state of Kansas. Such certification shall permit certified
29 small business enterprises to participate in programs for these enterprises
30 administered by the state of Kansas, any city, town, county, special
31 purpose district, public corporation created by the state, municipal
32 corporation or quasi-municipal corporation within the state of Kansas.

33 Sec. 6. The assistant director may create an advisory committee or
34 committees and appoint the members thereof, upon consultation with the
35 office of civil rights of the department of transportation, when the assistant
36 director determines that such advisory committee is useful for the
37 administration of this act. The members shall serve at the pleasure of the
38 assistant director. Such advisory committees shall consult with and advise
39 the assistant director and the office of civil rights of the department of
40 transportation as requested with regard to any matters pertaining to the
41 implementation or administration of this act. Members of any advisory
42 committee created pursuant to this section attending meetings of such
43 committee or attending a subcommittee meeting thereof authorized by the

1 assistant director shall be paid subsistence allowances, mileage and other
2 expenses as provided in K.S.A. 75-3223, and amendments thereto, but
3 shall receive no compensation for services as such members. The secretary
4 of commerce is authorized to expend funds to provide space for holding
5 meetings or other necessary expenses of any advisory committee or
6 subcommittee. The advisory committee shall meet at the request of the
7 assistant director.

8 Sec. 7. (a) It is the intent of this act that agency goals established
9 pursuant to this act for participation by certified small business enterprises
10 in public contracts be achievable, complimentary to federal objectives,
11 flexible and be met on a contract-by-contract or class-of-contract basis.

12 (b) Notwithstanding the provisions of K.S.A. 75-3739, and
13 amendments thereto, or any other law to the contrary, if necessary to
14 accomplish the intent of this act, any contract may be awarded to the next
15 lowest responsible bidder in turn, or all bids may be rejected and new bids
16 obtained, if the lowest responsible bidder, without justification, does not
17 meet the goals established for a particular contract pursuant to this act. The
18 dollar value of the total contract used for the calculation of the specific
19 contract goal may be increased or decreased to reflect executed change
20 orders. An apparent low bidder shall be in compliance with the contract
21 provisions required pursuant to this act as a condition precedent to the
22 granting of a notice of award by any state agency or postsecondary
23 educational institution, including either goal attainment or submission and
24 approval of an acceptable request for waiver.

25 (c) For purposes of subsection (b), justification for failure to meet the
26 goals established for a particular contract shall require the assistant
27 director's approval, in the sole discretion of the assistant director, of a
28 notarized affidavit submitted to the assistant director by the lowest
29 responsible bidder that sets forth the good faith efforts made by the bidder
30 to meet the goals and specifies the specific reasons such goals were not
31 attainable on the project at the time of bid.

32 Sec. 8. For the purpose of measuring a state agency's or
33 postsecondary educational institution's attainment of goals pursuant to this
34 act:

35 (a) Regulations adopted pursuant to section 3, and amendments
36 thereto, shall provide that if a certified small business enterprise is a broker
37 of goods or materials required by a contract, the contracting agency or
38 postsecondary educational institution may count only requests for
39 proposals, advertisements, bids or calls for bids necessary to carry out the
40 purposes of this act, which shall include notice of the statutory penalties
41 pursuant to section 10, and amendments thereto, for noncompliance; and

42 (b) any regulations adopted pursuant to section 3, and amendments
43 thereto, shall provide that if a certified small business enterprise is a broker

1 of goods or materials required by a contract, the contracting agency or
2 postsecondary educational institution may count only the dollar value of
3 the fee or commission charged and not the value of goods or materials
4 provided. The contracting agency or postsecondary educational institution
5 may, at its discretion, fix the dollar value of the fee or commission charged
6 at either the actual dollar value of such fee or commission or at a standard
7 percentage of the total value of the brokered goods, which percentage must
8 reflect the fees or commissions generally paid to brokers for providing
9 such services.

10 Sec. 9. (a) No person shall:

11 (1) Prevent or interfere with a contractor's or subcontractor's
12 compliance with this act or any rule and regulation adopted pursuant to
13 this act;

14 (2) submit any false or fraudulent information to the director
15 concerning compliance with this act or any rule and regulation adopted
16 pursuant to this act;

17 (3) fraudulently obtain, retain, attempt to obtain or retain or aid
18 another in fraudulently obtaining, retaining or attempting to obtain or
19 retain certification as a certified small business enterprise for the purpose
20 of this act;

21 (4) knowingly make a false statement, whether by affidavit, verified
22 statement, report or other representation, to any state official or employee
23 for the purpose of influencing the certification or denial of certification of
24 any entity as a certified small business enterprise;

25 (5) knowingly obstruct, impede or attempt to obstruct or impede any
26 state official or employee who is investigating the qualification of a
27 business entity that has requested certification as a certified small business
28 enterprise;

29 (6) fraudulently obtain, attempt to obtain or aid another person in
30 fraudulently obtaining or attempting to obtain public moneys to which the
31 person is not entitled pursuant to this act or any rule and regulation
32 adopted pursuant to this act; or

33 (7) knowingly make any false statement or representation that any
34 entity is or is not certified as a certified small business enterprise for
35 purposes of obtaining a contract governed by this act or any rule and
36 regulation adopted pursuant to this act.

37 (b) Any person or entity violating this act, or any rule and regulation
38 adopted pursuant to this act shall be subject to the penalties in section 10,
39 and amendments thereto. No provision of this section, and amendments
40 thereto, shall prevent a state agency or postsecondary educational
41 institution from pursuing any such procedure or sanction as is otherwise
42 provided by statute, rule and regulation or contract provision.

43 Sec. 10. (a) If the assistant director determines that, after notice and

1 an opportunity for a hearing in accordance with the Kansas administrative
2 procedure act, an individual, firm, corporation, partnership or other
3 business entity has engaged in or is engaging in any act or practice
4 constituting a violation of any provision of this act, any rule and regulation
5 adopted pursuant to this act or a contract requirement established pursuant
6 to this act, the assistant director may, pursuant to a written order, withhold
7 payment, debar the contractor, suspend or terminate the contract or subject
8 the contractor to civil penalties. The assistant director shall adopt rules and
9 regulations establishing criteria for the imposition of penalties pursuant to
10 this section. A civil monetary penalty imposed by the assistant director
11 shall not exceed the amount of \$5000 for each separate violation.

12 (b) Any willful repeated violation, exceeding a single violation, may,
13 in addition to any other penalties, disqualify the contractor from further
14 participation in state contracts for a minimum period of three years up to a
15 maximum of permanent disbarment. An apparent low bidder must be in
16 compliance with the contract provisions required pursuant to this act as a
17 condition precedent to the granting of a notice of award by any state
18 agency or postsecondary educational institution.

19 (c) Any business entity aggrieved by an order of the assistant director
20 made pursuant to this section may appeal such order to the district court in
21 the manner provided by the Kansas judicial review act. An appeal to the
22 district court or to an appellate court may stay the payment of a civil
23 penalty but shall not stay any other action of the director as provided by
24 subsection (a).

25 (d) Any penalty recovered pursuant to the provisions of this section
26 shall be remitted to the state treasurer, deposited in the state treasury and
27 credited to the state general fund.

28 (e) The procedures and sanctions provided in this section, and
29 amendments thereto, shall be in addition to any other remedies, civil
30 penalties or criminal penalties provided by law. No provision of this
31 section shall prevent any state agency or postsecondary educational
32 institution administering a contract from pursuing such other procedures or
33 sanctions as are otherwise provided by statute, rule and regulation or
34 contract provision.

35 Sec. 11. The attorney general may bring an action in the name of the
36 state against any person to restrain and prevent the doing of any act
37 prohibited or declared to be unlawful in this act. The attorney general may,
38 in the discretion of the court, recover the costs of the action including
39 reasonable attorney fees and the costs of investigation.

40 Sec. 12. If any provision or clause of this act or application thereof to
41 any person or circumstance is held invalid, such invalidity shall not affect
42 other provisions or applications of this act that can be given effect without
43 the invalid provision or application, and to this end the provisions of this

1 act are declared to be severable.

2 Sec. 13. This act shall take effect and be in force from and after its

3 publication in the statute book.