

As Introduced

131st General Assembly

Regular Session

2015-2016

H. B. No. 102

**Representatives Craig, Antani
Cosponsors: Representatives Fedor, Reece, Strahorn**

A BILL

To amend sections 125.01, 125.09, 125.11, 3772.033, 1
5747.98, and 5751.98 and to enact sections 2
5747.61 and 5751.55 of the Revised Code to 3
provide a bid preference for state contracts to 4
a veteran-owned business and to authorize a 5
personal income and commercial activity tax 6
credit for a business that hires and employs a 7
veteran 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 13
the 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 23
of the supplies or performance of the service described in the 24
order, and the date of the purchase or rendering of the service, 25
or an itemization of the things done, material supplied, or 26
labor furnished, and the sum due pursuant to the contract or 27
obligation. 28

(C) "Products" means materials, manufacturer's supplies, 29
merchandise, goods, wares, and foodstuffs. 30

(D) "Produced" means the manufacturing, processing, 31
mining, developing, and making of a thing into a new article 32
with a distinct character in use through the application of 33
input, within the state, of Ohio products, labor, skill, or 34
other services. "Produced" does not include the mere assembling 35
or putting together of non-Ohio products or materials. 36

(E) "Ohio products" means products that are mined, 37
excavated, produced, manufactured, raised, or grown in the state 38
by a person where the input of Ohio products, labor, skill, or 39
other services constitutes no less than twenty-five per cent of 40
the manufactured cost. With respect to mined products, such 41
products shall be mined or excavated in this state. 42

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

all phases of contract administration, and receipt and 48
acceptance of the supplies and services and payment for them. 49

(G) "Services" means the furnishing of labor, time, or 50
effort by a person, not involving the delivery of a specific end 51
product other than a report which, if provided, is merely 52
incidental to the required performance. "Services" does not 53
include services furnished pursuant to employment agreements or 54
collective bargaining agreements. 55

(H) "Supplies" means all property, including, but not 56
limited to, equipment, materials, other tangible assets, and 57
insurance, but excluding real property or an interest in real 58
property. 59

(I) "Competitive selection" means any of the following 60
procedures for making purchases: 61

(1) Competitive sealed bidding under section 125.07 of the 62
Revised Code; 63

(2) Competitive sealed proposals under section 125.071 of 64
the Revised Code; 65

(3) Reverse auctions under section 125.072 of the Revised 66
Code. 67

(J) "Veteran" means a person who served in the armed 68
forces of the United States on active military duty and was 69
discharged from the service under honorable conditions, and who 70
either served on active duty for reasons other than training or, 71
while serving on active duty for training, incurred a disability 72
recognized by the United States department of veterans affairs 73
or department of defense as service-connected. 74

(K) "Qualifying veteran-owned business" means one of the 75

following that is also eligible for the Ohio products preference 76
allowed under section 125.09 of the Revised Code: 77

(1) A sole proprietorship owned by a veteran; 78

(2) A partnership in which a majority of the partnership 79
is owned by veterans; 80

(3) A limited liability company in which a majority of the 81
membership interests of the company are owned by veterans; or 82

(4) A corporation owned wholly by individuals in which a 83
majority of the common stock of the corporation is owned by 84
veterans. 85

Sec. 125.09. (A) Pursuant to section 125.07 of the Revised 86
Code, the department of administrative services may prescribe 87
such conditions under which competitive sealed bids will be 88
received and terms of the proposed purchase as it considers 89
necessary; provided, that all such conditions and terms shall be 90
reasonable and shall not unreasonably restrict competition, and 91
bidders may bid upon all or any item of the supplies or services 92
listed in such notice. Those bidders claiming the preference for 93
United States ~~and, Ohio,~~ and qualifying veteran-owned business 94
products outlined in this chapter shall designate in their bids 95
either that the product to be supplied is an Ohio product or 96
produced or mined by a qualifying veteran-owned business, or 97
that, under the rules established by the director of 98
administrative services, they qualify as having a significant 99
Ohio economic presence. 100

(B) The department may require that each bidder provide 101
sufficient information about the energy efficiency or energy 102
usage of the bidder's product or service. 103

(C) The director of administrative services shall, by rule 104

adopted pursuant to Chapter 119. of the Revised Code, prescribe 105
criteria and procedures for use by all state agencies in giving 106
preference to United States ~~and~~, Ohio, and qualifying veteran- 107
owned business products as required by division (B) of section 108
125.11 of the Revised Code. The rules shall extend to: 109

(1) Criteria for determining that a product is produced or 110
mined in the United States rather than in another country or 111
territory; 112

(2) Criteria for determining that a product is produced or 113
mined in Ohio; 114

(3) Subject to division (D) of this section, criteria for 115
determining whether a product is produced or mined by a 116
qualifying veteran-owned business; 117

(4) Information to be submitted by bidders as to the 118
nature of a product and the location where it is produced or 119
mined; 120

~~(4)~~ (5) Criteria and procedures to be used by the director 121
to qualify bidders located in states bordering Ohio who might 122
otherwise be excluded from being awarded a contract by operation 123
of this section and section 125.11 of the Revised Code. The 124
criteria and procedures shall recognize the level and regularity 125
of interstate commerce between Ohio and the border states and 126
provide that the non-Ohio businesses may qualify for award of a 127
contract as long as they are located in a state that imposes no 128
greater restrictions than are contained in this section and 129
section 125.11 of the Revised Code upon persons located in Ohio 130
selling products or services to agencies of that state. The 131
criteria and procedures shall also provide that a non-Ohio 132
business shall not bid on a contract for state printing in this 133

state if the business is located in a state that excludes Ohio 134
businesses from bidding on state printing contracts in that 135
state. 136

~~(5)~~(6) Criteria and procedures to be used to qualify 137
bidders whose manufactured products, except for mined products, 138
are produced in other states or in North America, but the 139
bidders have a significant Ohio economic presence in terms of 140
the number of employees or capital investment a bidder has in 141
this state. Bidders with a significant Ohio economic presence 142
shall qualify for award of a contract on the same basis as if 143
their products were produced in this state. 144

~~(6)~~(7) Criteria and procedures for the director to grant 145
waivers of the requirements of division (B) of section 125.11 of 146
the Revised Code on a contract-by-contract basis where 147
compliance with those requirements would result in the state 148
agency paying an excessive price for the product or acquiring a 149
disproportionately inferior product; 150

~~(7)~~(8) Such other requirements or procedures reasonably 151
necessary to implement the system of preferences established 152
pursuant to division (B) of section 125.11 of the Revised Code. 153

In adopting the rules required under ~~this division~~ 154
divisions (C) (1), (2), (4), (5), (6), (7), and (8) of this 155
section, the director shall, to the maximum extent possible, 156
conform to the requirements of the federal "Buy America Act," 47 157
Stat. 1520, (1933), 41 U.S.C.A. 10a-10d, as amended, and to the 158
regulations adopted thereunder. 159

(D) If the director of administrative services determines 160
that selection of the lowest qualifying veteran-owned business 161
bid, if any, will not result in an excessive price or a 162

disproportionately inferior product or service, the director 163
shall propose a contract award to the lowest qualifying veteran- 164
owned business bid at the bid price quoted. As used in this 165
division, "excessive price" means a price that exceeds the 166
lowest price submitted by a bidder that is not a qualifying 167
veteran-owned business by the lesser of five thousand dollars or 168
five per cent of that lowest price, after accounting for all 169
other preferences allowed to bidders under this section. 170

Sec. 125.11. (A) Subject to division (B) of this section, 171
contracts awarded pursuant to a reverse auction under section 172
125.072 of the Revised Code or pursuant to competitive sealed 173
bidding, including contracts awarded under section 125.081 of 174
the Revised Code, shall be awarded to the lowest responsive and 175
responsible bidder on each item in accordance with section 9.312 176
of the Revised Code. When the contract is for meat products as 177
defined in section 918.01 of the Revised Code or poultry 178
products as defined in section 918.21 of the Revised Code, only 179
those bids received from vendors offering products from 180
establishments on the current list of meat and poultry vendors 181
established and maintained by the director of administrative 182
services under section 125.17 of the Revised Code shall be 183
eligible for acceptance. The department of administrative 184
services may accept or reject any or all bids in whole or by 185
items, except that when the contract is for services or products 186
available from a qualified nonprofit agency pursuant to sections 187
125.60 to 125.6012 or 4115.31 to 4115.35 of the Revised Code, 188
the contract shall be awarded to that agency. 189

(B) Prior to awarding a contract under division (A) of 190
this section, the department of administrative services or the 191
state agency responsible for evaluating a contract for the 192
purchase of products shall evaluate the bids received according 193

to the criteria and procedures established pursuant to divisions 194
(C) (1) ~~and, (2), and (3)~~ of section 125.09 of the Revised Code 195
for determining if a product is produced or mined in the United 196
States ~~and, if a product is produced or mined in this state,~~ 197
and if a product is produced or mined by a qualifying veteran- 198
owned business. The department or other state agency shall first 199
remove bids that offer products that have not been or that will 200
not be produced or mined in the United States. From among the 201
remaining bids, the department or other state agency shall 202
select the lowest responsive and responsible bid, in accordance 203
with section 9.312 of the Revised Code, from among the bids that 204
offer products that have been produced or mined in this state or 205
from bids, if any, that offer products that have been produced 206
or mined by qualifying veteran-owned businesses under division 207
(D) of section 125.09 of the Revised Code, where sufficient 208
competition can be generated within this state to ensure that 209
compliance with these requirements will not result in an 210
excessive price for the product or acquiring a 211
disproportionately inferior product. 212

(C) Division (B) of this section applies to contracts for 213
which competitive bidding is waived by the controlling board. 214

(D) Division (B) of this section does not apply to the 215
purchase by the division of liquor control of spirituous liquor. 216

(E) The director of administrative services shall publish 217
in the form of a model act for use by counties, townships, 218
municipal corporations, or any other political subdivision 219
described in division (B) of section 125.04 of the Revised Code, 220
a system of preferences for products mined and produced in this 221
state and in the United States and for Ohio-based contractors. 222
The model act shall reflect substantial equivalence to the 223

system of preferences in purchasing and public improvement 224
contracting procedures under which the state operates pursuant 225
to this chapter and section 153.012 of the Revised Code. To the 226
maximum extent possible, consistent with the Ohio system of 227
preferences in purchasing and public improvement contracting 228
procedures, the model act shall incorporate all of the 229
requirements of the federal "Buy America Act," 47 Stat. 1520 230
(1933), 41 U.S.C. 10a to 10d, as amended, and the rules adopted 231
under that act. 232

Before and during the development and promulgation of the 233
model act, the director shall consult with appropriate statewide 234
organizations representing counties, townships, and municipal 235
corporations so as to identify the special requirements and 236
concerns these political subdivisions have in their purchasing 237
and public improvement contracting procedures. The director 238
shall promulgate the model act by rule adopted pursuant to 239
Chapter 119. of the Revised Code and shall revise the act as 240
necessary to reflect changes in this chapter or section 153.012 241
of the Revised Code. 242

The director shall make available copies of the model act, 243
supporting information, and technical assistance to any 244
township, county, or municipal corporation wishing to 245
incorporate the provisions of the act into its purchasing or 246
public improvement contracting procedure. 247

Sec. 3772.033. In carrying out the responsibilities vested 248
in the commission by this chapter, the commission may do all the 249
following and may designate any such responsibilities to the 250
executive director, to the commission's employees, or to the 251
gaming agents: 252

(A) Inspect and examine all premises where casino gaming 253

is conducted or gaming supplies, devices, or equipment are	254
manufactured, sold, or distributed;	255
(B) Inspect all gaming supplies, devices, and equipment in	256
or about a casino facility;	257
(C) Summarily impound and seize and remove from the casino	258
facility premises gaming supplies, devices, and equipment for	259
the purpose of examination and inspection;	260
(D) Determine any facts, or any conditions, practices, or	261
other matters, as the commission considers necessary or proper	262
to aid in the enforcement of this chapter or of a rule adopted	263
thereunder;	264
(E) Audit gaming operations, including those that have	265
ceased operation;	266
(F) Investigate, for the purpose of prosecution, any	267
suspected violation of this chapter or rules adopted thereunder;	268
(G) Investigate as appropriate to aid the commission and	269
to seek the executive director's advice in adopting rules;	270
(H) Secure information as is necessary to provide a basis	271
for recommending legislation for the improvement of this	272
chapter;	273
(I) Make, execute, and otherwise effectuate all contracts	274
and other agreements, including contracts for necessary	275
purchases of goods and services. Except for any contract entered	276
into with independent testing laboratories under section 3772.31	277
of the Revised Code, the commission shall ensure use of Ohio <u>or</u>	278
<u>qualifying veteran-owned business</u> products or services in	279
compliance with sections 125.09 and 125.11 of the Revised Code	280
and all rules adopted thereunder.	281

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

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

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

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

Sec. 5747.61. (A) As used in this section, "veteran" means
a person subject to the tax imposed by section 5747.02 of the
Revised Code who served in the armed forces of the United States
on active military duty and was discharged from the service
under honorable conditions, and who either served on active duty
for reasons other than training or, while serving on active duty
for training, incurred a disability recognized by the United
States department of veterans affairs or department of defense
as service-connected.

(B) There is hereby allowed a nonrefundable credit against

the tax imposed by section 5747.02 of the Revised Code for a 311
taxpayer that is an employer required to deduct and withhold 312
income tax from an employee's compensation and remit such 313
amounts under sections 5747.06 and 5747.07 of the Revised Code 314
and that employs a veteran for a period of twelve consecutive 315
months, provided the veteran is employed by the employer for at 316
least one thousand five hundred sixty hours during that period. 317
The amount of the credit shall equal two thousand dollars for 318
each veteran so employed. 319

The credit shall be claimed for the taxable year 320
immediately following the taxable year that includes the date 321
that is one year following the date on which the veteran was 322
hired. The credit shall be claimed in the order required under 323
section 5747.98 of the Revised Code. Any credit amount in excess 324
of the tax due after allowing for credits that precede the 325
credit allowed under this section in the order prescribed by 326
section 5747.98 of the Revised Code may be carried forward to 327
any ensuing taxable year, but the amount of any excess credit 328
allowed in any such year shall be deducted from the balance 329
carried forward to the next year. 330

A credit may be claimed under this section by a taxpayer 331
only once for each individual veteran. A person that claims the 332
credit under section 5751.55 of the Revised Code may not claim 333
the credit under this section for the same veteran. 334

Nothing in this section limits or disallows pass-through 335
treatment of the credit. 336

Sec. 5747.98. (A) To provide a uniform procedure for 337
calculating the amount of tax due under section 5747.02 of the 338
Revised Code, a taxpayer shall claim any credits to which the 339
taxpayer is entitled in the following order: 340

(1) The retirement income credit under division (B) of section 5747.055 of the Revised Code;	341 342
(2) The senior citizen credit under division (C) of section 5747.05 of the Revised Code;	343 344
(3) The lump sum distribution credit under division (D) of section 5747.05 of the Revised Code;	345 346
(4) The dependent care credit under section 5747.054 of the Revised Code;	347 348
(5) The lump sum retirement income credit under division (C) of section 5747.055 of the Revised Code;	349 350
(6) The lump sum retirement income credit under division (D) of section 5747.055 of the Revised Code;	351 352
(7) The lump sum retirement income credit under division (E) of section 5747.055 of the Revised Code;	353 354
(8) The low-income credit under section 5747.056 of the Revised Code;	355 356
(9) The credit for displaced workers who pay for job training under section 5747.27 of the Revised Code;	357 358
(10) The campaign contribution credit under section 5747.29 of the Revised Code;	359 360
(11) The twenty-dollar personal exemption credit under section 5747.022 of the Revised Code;	361 362
(12) The joint filing credit under division (G) of section 5747.05 of the Revised Code;	363 364
(13) The nonresident credit under division (A) of section 5747.05 of the Revised Code;	365 366

(14) The credit for a resident's out-of-state income under division (B) of section 5747.05 of the Revised Code;	367 368
(15) The earned income credit under section 5747.71 of the Revised Code;	369 370
(16) The credit for employers that reimburse employee child care expenses under section 5747.36 of the Revised Code;	371 372
(17) The credit for adoption of a minor child under section 5747.37 of the Revised Code;	373 374
(18) The credit for purchases of lights and reflectors under section 5747.38 of the Revised Code;	375 376
(19) The nonrefundable job retention credit under division (B) of section 5747.058 of the Revised Code;	377 378
(20) The credit for selling alternative fuel under section 5747.77 of the Revised Code;	379 380
(21) <u>The nonrefundable credit for employing veterans under section 5747.61 of the Revised Code;</u>	381 382
<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;	383 384 385
(22) <u>(23)</u> The job training credit under section 5747.39 of the Revised Code;	386 387
(23) <u>(24)</u> The enterprise zone credit under section 5709.66 of the Revised Code;	388 389
(24) <u>(25)</u> The credit for the eligible costs associated with a voluntary action under section 5747.32 of the Revised Code;	390 391 392
(25) <u>(26)</u> The credit for employers that establish on-site	393

child day-care centers under section 5747.35 of the Revised Code;	394 395
(26) <u>(27)</u> The ethanol plant investment credit under section 5747.75 of the Revised Code;	396 397
(27) <u>(28)</u> The credit for purchases of qualifying grape production property under section 5747.28 of the Revised Code;	398 399
(28) <u>(29)</u> The small business investment credit under section 5747.81 of the Revised Code;	400 401
(29) <u>(30)</u> The enterprise zone credits under section 5709.65 of the Revised Code;	402 403
(30) <u>(31)</u> The research and development credit under section 5747.331 of the Revised Code;	404 405
(31) <u>(32)</u> The credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	406 407
(32) <u>(33)</u> The refundable credit for rehabilitating a historic building under section 5747.76 of the Revised Code;	408 409
(33) <u>(34)</u> The refundable jobs creation credit or job retention credit under division (A) of section 5747.058 of the Revised Code;	410 411 412
(34) <u>(35)</u> The refundable credit for taxes paid by a qualifying entity granted under section 5747.059 of the Revised Code;	413 414 415
(35) <u>(36)</u> The refundable credits for taxes paid by a qualifying pass-through entity granted under division (I) of section 5747.08 of the Revised Code;	416 417 418
(36) <u>(37)</u> The refundable credit under section 5747.80 of the Revised Code for losses on loans made to the Ohio venture	419 420

capital program under sections 150.01 to 150.10 of the Revised Code; 421
422

~~(37)~~(38) The refundable motion picture production credit 423
under section 5747.66 of the Revised Code; 424

~~(38)~~(39) The refundable credit for financial institution 425
taxes paid by a pass-through entity granted under section 426
5747.65 of the Revised Code. 427

(B) For any credit, except the refundable credits 428
enumerated in this section and the credit granted under division 429
(H) of section 5747.08 of the Revised Code, the amount of the 430
credit for a taxable year shall not exceed the tax due after 431
allowing for any other credit that precedes it in the order 432
required under this section. Any excess amount of a particular 433
credit may be carried forward if authorized under the section 434
creating that credit. Nothing in this chapter shall be construed 435
to allow a taxpayer to claim, directly or indirectly, a credit 436
more than once for a taxable year. 437

Sec. 5751.55. (A) As used in this section, "veteran" has 438
the same meaning as in section 5747.61 of the Revised Code. 439

(B) There is hereby allowed a nonrefundable credit against 440
the tax imposed by section 5751.02 of the Revised Code for a 441
taxpayer that is an employer required to deduct and withhold 442
income tax from an employee's compensation and remit such 443
amounts under sections 5747.06 and 5747.07 of the Revised Code 444
and that employs a veteran for a period of twelve consecutive 445
months, provided the veteran is employed by the employer for at 446
least one thousand five hundred sixty hours during that period. 447
The amount of the credit shall equal two thousand dollars for 448
each veteran so employed. 449

The credit shall be claimed for the first tax period of 450
the calendar year immediately following the calendar year that 451
includes the date that is one year following the date on which 452
the veteran was hired. The credit shall be claimed in the order 453
required under section 5751.98 of the Revised Code. Any credit 454
amount in excess of the tax due after allowing for credits that 455
precede the credit allowed under this section in the order 456
prescribed by section 5751.98 of the Revised Code may be carried 457
forward to any ensuing tax period, but the amount of any excess 458
credit allowed in any such period shall be deducted from the 459
balance carried forward to the next period. 460

A credit may be claimed under this section by a taxpayer 461
only once for each individual veteran. A person that claims the 462
credit under section 5747.61 of the Revised Code may not claim 463
the credit under this section for the same veteran. 464

Sec. 5751.98. (A) To provide a uniform procedure for 465
calculating the amount of tax due under this chapter, a taxpayer 466
shall claim any credits to which it is entitled in the following 467
order: 468

(1) The nonrefundable jobs retention credit under division 469
(B) of section 5751.50 of the Revised Code; 470

(2) The nonrefundable credit for employing veterans under 471
section 5751.55 of the Revised Code; 472

(3) The nonrefundable credit for qualified research 473
expenses under division (B) of section 5751.51 of the Revised 474
Code; 475

~~(3)~~(4) The nonrefundable credit for a borrower's qualified 476
research and development loan payments under division (B) of 477
section 5751.52 of the Revised Code; 478

~~(4)~~(5) The nonrefundable credit for calendar years 2010 to 479
2029 for unused net operating losses under division (B) of 480
section 5751.53 of the Revised Code; 481

~~(5)~~(6) The refundable motion picture production credit 482
under section 5751.54 of the Revised Code; 483

~~(6)~~(7) The refundable jobs creation credit or job 484
retention credit under division (A) of section 5751.50 of the 485
Revised Code; 486

~~(7)~~(8) The refundable credit for calendar year 2030 for 487
unused net operating losses under division (C) of section 488
5751.53 of the Revised Code. 489

(B) For any credit except the refundable credits 490
enumerated in this section, the amount of the credit for a tax 491
period shall not exceed the tax due after allowing for any other 492
credit that precedes it in the order required under this 493
section. Any excess amount of a particular credit may be carried 494
forward if authorized under the section creating the credit. 495

Section 2. That existing sections 125.01, 125.09, 125.11, 496
3772.033, 5747.98, and 5751.98 of the Revised Code are hereby 497
repealed. 498