

2021 -- H 5717

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO PUBLIC PROPERTY AND WORKS -- MINORITY BUSINESS
ENTERPRISE

Introduced By: Representatives Williams, Hull, Barros, Alzate, Batista, Henries, Biah,
Abney, Morales, and Diaz

Date Introduced: February 24, 2021

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 37-14.1-1, 37-14.1-3 and 37-14.1-6 of the General Laws in Chapter
2 37-14.1 entitled "Minority Business Enterprise" are hereby amended to read as follows:

3 **37-14.1-1. Purpose.**

4 The purpose of this chapter is to carry out the state's policy of supporting the fullest possible
5 participation of firms owned and controlled by minorities ~~and women~~ (MBE's) in state funded and
6 state directed public construction programs and projects and in state purchases of goods and
7 services. This includes assisting MBE's throughout the life of contracts in which they participate.

8 **37-14.1-3. Definitions.**

9 (a) "Affirmative action" means taking specific steps to eliminate discrimination and its
10 effects, to ensure nondiscriminatory results and practices in the future, and to involve minority
11 business enterprises fully in contracts and programs funded by the state.

12 (b) "Compliance" means the condition existing when a contractor has met and implemented
13 the requirements of this chapter.

14 (c) "Contract" means a mutually binding legal relationship or any modification thereof
15 obligating the seller to furnish supplies or services, including construction, and the buyer to pay for
16 them. For purposes of this chapter, a lease is a contract.

17 (d) "Contractor" means ~~one~~ a person or entity who participates, through a contract or
18 subcontract, in any procurement or program covered by this chapter and includes lessees and

1 material suppliers.

2 (e) "Minority" means a person who is a citizen or lawful ~~permanent~~ resident of the ~~United~~
3 ~~States~~ state and who is:

4 (1) Black (a person having origins in any of the black racial groups of Africa);

5 (2) Hispanic (a person of Mexican, Puerto Rican, Cuban, Central or South American, or
6 other Spanish culture or origin, regardless of race);

7 (3) Portuguese (a person of Portuguese, Brazilian, or other Portuguese culture or origin,
8 regardless of race);

9 (4) Asian American (a person having origins in any of the original peoples of the Far East,
10 Southeast Asia, the Indian subcontinent, or the Pacific Islands);

11 (5) American Indian and Alaskan Native (a person having origins in any of the original
12 peoples of North America); or

13 (6) Members of other groups or other individuals found to be economically and socially
14 disadvantaged by the Small Business Administration under § 8(a) of the Small Business Act, as
15 amended, 15 U.S.C. § 637(a).

16 (f) "Minority business enterprise" or "MBE" means a small business concern, as defined
17 pursuant to § 3 of the federal Small Business Act, 15 U.S.C. § 632, and implementing regulations,
18 which is owned and controlled by one or more minorities ~~or women~~ and is organized and located
19 within the state. For the purposes of this chapter, owned and controlled means a business:

20 (1) Which is at least fifty-one percent (51%) owned by one or more minorities ~~or women~~
21 or, in the case of a publicly owned business, at least fifty-one percent (51%) of the stock of which
22 is owned by one or more minorities or women; and

23 (2) Whose management and daily business operations are controlled by one or more such
24 individuals.

25 (g) "MBE coordinator" means the official designated to have overall responsibility for
26 promotion of minority business enterprise in his or her departmental element.

27 (h) "Noncompliance" means the condition existing when a recipient or contractor has failed
28 to implement the requirements of this chapter.

29 **37-14.1-6. Minority business enterprise participation.**

30 (a) Minority business enterprises shall be included in all procurements and construction
31 projects under this chapter and shall be awarded a minimum of ~~ten percent (10%)~~ twenty-five
32 percent (25%) of the dollar value of the entire procurement or project. The director of the
33 department of administration is further authorized to establish by rules and regulation the
34 certification process and formulas for giving minority business enterprises a preference in contract

1 and subcontract awards.

2 (b) Any minority business enterprise currently certified by the U.S. Small Business
3 Administration as an 8(a) firm governed by 13 C.F.R. part 124 shall be deemed to be certified by
4 the department of administration as a minority business enterprise and shall only be required to
5 submit evidence of federal certification of good standing.

6 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
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- 1 This act would amend the Minority Business Enterprise chapter. The act would eliminate
2 women as a basis of qualification as a minority business enterprise. The act would further raise the
3 percentage of dollar value for applicable state procurement contracts from ten percent (10%) to
4 twenty-five percent (25%) for required minority business enterprises preference in contract awards.
5 This act would take effect upon passage.

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