

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

*As Engrossed: H3/14/17*

# A Bill

HOUSE BILL 2218

5 By: Representatives M. Gray, V. Flowers, M. Hodges  
6 By: Senators Irvin, D. Wallace, Elliott  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE MINORITY BUSINESS ECONOMIC  
10 DEVELOPMENT ACT; AND FOR OTHER PURPOSES.  
11

## Subtitle

14 TO AMEND THE MINORITY BUSINESS ECONOMIC  
15 DEVELOPMENT ACT.  
16  
17

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
19

20 *SECTION 1. Arkansas Code Title 15, Chapter 4, Subchapter 3, is amended*  
21 *to read as follows:*

22 *Subchapter 3 – Minority, Women, and Service-Disabled Veteran Business*  
23 *Economic Development Act*  
24

25 *15-4-301. Title.*

26 *This subchapter shall be known and may be cited as the “Minority,*  
27 *Women, and Service-Disabled Veteran Business Economic Development Act”.*  
28

29 *15-4-302. Purpose – Goals – Notice.*

30 *(a) The General Assembly finds that it is the policy of the State of*  
31 *Arkansas to support equal opportunity as well as economic development in*  
32 *every sector.*

33 *(b) The General Assembly recognizes that it is the purpose of this*  
34 *subchapter to support to the fullest all possible participation of firms*  
35 *owned and controlled by minority persons, women, and service-disabled*  
36 *veterans in state-funded and state-directed public construction programs and*



1 in the purchase of goods and services for the state.

2 (c) All state agencies shall attempt to ensure that ~~ten percent (10%)~~  
3 the following percentages of the total amount expended in state-funded and  
4 state-directed public construction programs and in the purchase of goods and  
5 services for the state each fiscal year ~~is~~ are paid to minority business  
6 enterprises, women-owned business enterprises, and service-disabled veteran-  
7 owned businesses:

8 (1) For minority business enterprises, ten percent (10%);

9 (2) For women-owned business enterprises, five percent (5%); and

10 (3) For service-disabled veteran-owned businesses, five percent  
11 (5%).

12 (d) To facilitate notification of potential respondents to procurement  
13 solicitations, a state agency shall publish all state contract solicitations  
14 on the website for the Office of State Procurement of the Department of  
15 Finance and Administration.

16  
17 15-4-303. Definitions.

18 As used in this subchapter:

19 ~~(1)(A) "Exempt" means goods and services classified as exempt~~  
20 ~~for the purpose of administering this subchapter.~~

21 ~~(B) The classification shall be determined by the Office~~  
22 ~~of State Procurement of the Department of Finance and Administration and the~~  
23 ~~Division of Minority Business Enterprise of the Arkansas Economic Development~~  
24 ~~Commission and submitted to the Arkansas Economic Development Council for its~~  
25 ~~review and consideration for the purposes of this subchapter;~~

26 ~~(2) (1) "Minority" means a lawful permanent resident of this~~  
27 ~~state who is:~~

28 (A) African American;

29 (B) Hispanic American;

30 (C) American Indian;

31 (D) Asian American; or

32 (E) Pacific Islander American; ~~or~~

33 ~~(F) A service-disabled veteran as designated by the United~~  
34 ~~States Department of Veterans Affairs;~~

35 ~~(3) (2) "Minority business enterprise" means a business that is~~  
36 ~~at least fifty-one percent (51%) owned by one (1) or more minority persons as~~

1 defined in this section;

2 ~~(4)~~ (3) “Minority, women, and service-disabled veteran business  
3 officer” means the individual within each state agency with the  
4 responsibility for carrying out the intended purposes of this subchapter;

5 ~~(5)(A)~~ “Nonexempt” means goods and services classified as  
6 nonexempt for the purpose of administering this subchapter.

7 ~~(B)~~ The classification shall be determined by the office  
8 and the division and submitted to the council for its review and  
9 consideration for the purposes of this subchapter;

10 ~~(6)~~ (4) “Procurement” means buying, purchasing, renting,  
11 leasing, or otherwise acquiring any goods or services;

12 (5) “Service-disabled veteran” means an individual who either:

13 (A) Meets the following requirements:

14 (i) Served on active duty with the United States  
15 Army, the United States Air Force, the United States Navy, the United States  
16 Marine Corps, or the United States Coast Guard for any length of time and at  
17 any location;

18 (ii) Was discharged or released under conditions  
19 other than dishonorable; and

20 (iii) Possesses either a:

21 (a) Disability rating letter issued by the  
22 United States Department of Veterans Affairs that establishes a service-  
23 connected disability rating; or

24 (b) Disability determination from the United  
25 States Department of Defense; or

26 (B) Is a reserve member of any of the United States Armed  
27 Forces listed in subdivision (5)(A)(i) of this section or a member of the  
28 National Guard who was:

29 (i) Called to federal active duty; and

30 (ii) Disabled from a disease or injury incurred or  
31 aggravated in the line of duty or while in training status;

32 (6) “Service-disabled veteran-owned business” means a business  
33 that is at least fifty-one percent (51%) owned by one (1) or more service-  
34 disabled veterans;

35 (7) “State agency” means a department, an office, a board, a  
36 commission, or an institution of this state, including a state-supported

1 *institution of higher education; and*

2 *(8) "State contract" means a state agreement, regardless of what*  
3 *it may be called, for the purchase of commodities and services and for the*  
4 *disposal of surplus commodities and services not otherwise exempt; and*

5 *(9) "Women-owned business enterprise" means a business that is*  
6 *at least fifty-one percent (51%) owned by one (1) or more women.*

7  
8 *15-4-304. Creation.*

9 *The Division of Minority, Women, and Service-Disabled Veteran Business*  
10 *Enterprise of the Arkansas Economic Development Commission:*

11 *(1) Is established and confirmed within the Arkansas Economic*  
12 *Development Commission ~~under the jurisdiction of the Arkansas Economic~~*  
13 *~~Development Council;~~*

14 *(2) Shall be operated as a division within the commission; and*

15 *(3) Shall perform the functions and duties as provided in this*  
16 *subchapter.*

17  
18 *15-4-305. Administrator.*

19 *The head of the Division of Minority, Women, and Service-Disabled*  
20 *Veteran Business Enterprise of the Arkansas Economic Development Commission*  
21 *is the Administrator of the Division of Minority, Women, and Service-Disabled*  
22 *Veteran Business Enterprise of the Arkansas Economic Development Commission*  
23 *and shall be appointed by the Governor.*

24  
25 *15-4-306. Duties.*

26 *The Division of Minority, Women, and Service-Disabled Veteran Business*  
27 *Enterprise of the Arkansas Economic Development Commission shall:*

28 *(1) Provide technical, managerial, and counseling services and*  
29 *assistance to minority business enterprises, women-owned business*  
30 *enterprises, and service-disabled veteran-owned businesses;*

31 *(2) With the participation of other state departments and state*  
32 *agencies as appropriate:*

33 *(A) Develop comprehensive plans and specific program goals*  
34 *for a minority business enterprise, women-owned business enterprise, and*  
35 *service-disabled veteran-owned business program;*

36 *(B) Establish regular performance monitoring and reporting*

1 systems to assure that goals are being achieved; and

2 (C) Evaluate the impact of federal and state support in  
3 achieving the objectives established by the Arkansas Economic Development  
4 Commission;

5 (3) Implement state policy in support of minority business  
6 enterprise and development, women-owned business enterprise and development,  
7 and service-disabled veteran-owned business and development and coordinate  
8 the plans, programs, and operations of state government that affect or may  
9 contribute to the establishment, preservation, and strengthening of minority  
10 business enterprises, women-owned business enterprises, and service-disabled  
11 veteran-owned businesses;

12 (4) Coordinate, make application for, and administer federal  
13 funding grants from the United States Minority Business Development Agency ~~of~~  
14 ~~the United States Department of Commerce, the United States Small Business~~  
15 Administration, the United States Department of Veterans Affairs, and other  
16 federal agencies ~~where~~ when applicable;

17 (5) Promote the mobilization of activities and resources of  
18 state agencies and local governments, business and trade associations,  
19 universities, foundations, professional organizations, and volunteer and  
20 other groups toward the growth of minority business enterprises, women-owned  
21 business enterprises, and service-disabled veteran-owned businesses, and  
22 facilitate the coordination of the efforts of these groups with those of  
23 other state departments and state agencies;

24 (6) Establish a center for the development, collection, and  
25 dissemination of information that will be helpful to persons and  
26 organizations throughout the state in undertaking or promoting the  
27 establishment and successful operation of minority business enterprises,  
28 women-owned business enterprises, and service-disabled veteran-owned  
29 businesses;

30 (7) Conduct coordinated reviews of all proposed state training  
31 and technical assistance activities in direct support of the minority  
32 business enterprise, women-owned business enterprise, and service-disabled  
33 veteran-owned business program to ensure consistency with program goals and  
34 to preclude duplication of effort of other state agencies with overlapping  
35 jurisdictions;

36 (8) Recommend appropriate legislative or executive actions to

1 *enhance minority business enterprise, women-owned business enterprise, and*  
2 *service-disabled veteran-owned business opportunities in this state;*

3 *(9) Assist minority business enterprises, women-owned business*  
4 *enterprises, and service-disabled veteran-owned businesses in obtaining*  
5 *governmental or commercial financing for business expansion, establishment of*  
6 *new businesses, or industrial development projects;*

7 *(10) Provide services to promote the organization of local*  
8 *development corporations for rural development and assist minority business*  
9 *enterprise, women-owned business enterprise, and service-disabled veteran-*  
10 *owned business persons in agrarian endeavors;*

11 *(11) Assist minority business enterprises, women-owned business*  
12 *enterprises, and service-disabled veteran-owned businesses to promote*  
13 *reciprocal foreign trade and investment;*

14 *(12) Assist minority, women, and service-disabled veteran*  
15 *business persons in business contract procurement from governmental and*  
16 *private commercial sources; and*

17 *(13) Provide a program effort to ensure participation of*  
18 *service-disabled veterans and women in Arkansas minority business enterprise*  
19 *activities, women-owned business enterprise activities, and service-disabled*  
20 *veteran-owned business activities.*

21  
22 *15-4-307. Minority, Women, and Service-Disabled Veteran Business*  
23 *Advisory Council.*

24 *(a) The Division of Minority, Women, and Service-Disabled Veteran*  
25 *Business Enterprise of the Arkansas Economic Development Commission shall be*  
26 *represented by a statewide Minority, Women, and Service-Disabled Veteran*  
27 *Business Advisory Council and shall report to that council.*

28 *(b)(1) The council shall consist of seven (7) members.*

29 *(2) The council shall:*

30 *(A) Monitor progress, make recommendations, and develop*  
31 *strategic plans for performance improvement; and*

32 *(B) Report to the Governor, the Speaker of the House of*  
33 *Representatives, and the President Pro Tempore of the Senate.*

34 *(c)(1) The Governor shall appoint three (3) members of the council*  
35 *with the advice and consent of the Senate.*

36 *(2) The President Pro Tempore of the Senate shall appoint two*

1 (2) members of the council.

2 (3) The Speaker of the House of Representatives shall appoint  
3 two (2) members of the council.

4 (4) Appointments shall reflect and be representative of the  
5 minority, women, and service-disabled veteran business ~~community~~ communities,  
6 resource organizations, entrepreneurs, corporations, and other minority,  
7 women, and service-disabled veteran business advocates.

8 (d) Except as otherwise provided by law, members of the council shall  
9 serve without compensation.

10 (e) The term of office of the council shall be at the pleasure of the  
11 appointing officer.

12 (f) There is established a formal relationship between the council and  
13 the Administrator of the Division of Minority, Women, and Service-Disabled  
14 Veteran Business Enterprise of the Arkansas Economic Development Commission.

15 (g)(1) The administrator ~~and the small-disadvantaged business officer~~  
16 shall be the liaison to the council and shall be responsible for submitting  
17 to the council any reports and documents under the provisions of this  
18 section.

19 (2) Their duties in relation to this section shall be considered  
20 official duty in the conduct of state business.

21 (h) The council's duties and responsibilities shall be to:

22 (1) Review reports and interpret each state agency's achievement  
23 of its goals under § 15-4-302(c);

24 (2) Advise the Governor when a state agency has not reached its  
25 goals under § 15-4-302(c);

26 (3) Make annual reports to the Governor, including without  
27 limitation:

28 (A) A summary of the state's performance in relation to  
29 the goals stated in § 15-4-302(c); and

30 (B) Any recommendations for modifications to the  
31 division's or other state agency's plans for improving statewide performance  
32 in relation to the goals stated in § 15-4-302(c);

33 (4) Recommend to the state agency, the division, and the Office  
34 of State Procurement of the Department of Finance and Administration  
35 corrective actions to strengthen minority, women, and service-disabled  
36 veteran business opportunities in the state; and

1           (5) Conduct public hearings when necessary to obtain public  
2 input and support for the purpose of carrying out the provisions of this  
3 subchapter.

4           (i) Each state agency, through its minority, women, and service-  
5 disabled veteran business officer, shall submit to the division, the council,  
6 and the office the state agency's plan to reach its goals for the coming  
7 fiscal year and shall:

8                 (1) Be submitted to the division by June 30 of each year;

9                 (2) Contain the name of the state agency submitting the plan;

10                (3) Contain a policy statement signed by the state agency head  
11 expressing a commitment to ~~use~~ strengthen minority business enterprises,  
12 women-owned business enterprises, and service-disabled veteran-owned  
13 businesses in all aspects of contracting to the maximum extent feasible;

14                (4) Identify the name of the minority, woman, and service-  
15 disabled veteran business officer in the state agency who is responsible for  
16 developing and administering the compliance plan;

17                (5) Establish a timetable for the state agency to reach its  
18 goals under the plan and the manner in which the state agency intends to  
19 reach its goals; and

20                (6) Contain any other procedures the division deems necessary to  
21 comply with the goals and the compliance plan.

22  
23           15-4-308. Administration.

24           (a) The Division of Minority, Women, and Service-Disabled Veteran  
25 Business Enterprise of the Arkansas Economic Development Commission and the  
26 Office of State Procurement of the Department of Finance and Administration  
27 shall serve as the principal coordinators of the initiative to ensure the  
28 successful implementation of this subchapter.

29           (b) The division and the office shall provide assistance to minority  
30 business enterprises, women-owned business enterprises, and service-disabled  
31 veteran-owned businesses seeking state contract opportunities with various  
32 state agencies.

33           (c) The division and the office shall maintain a directory of all  
34 minority, women, and service-disabled veteran business officers for each  
35 state agency.

36           (d) The division and the office shall provide management and technical



1 assistance to any state agency that experiences difficulty in complying with  
2 the provisions of this subchapter.

3 (e) The division and the office shall maintain a current directory of  
4 minority business enterprises, women-owned business enterprises, and service-  
5 disabled veteran-owned businesses and shall make the directory available to  
6 each state agency and minority, women, and service-disabled veteran business  
7 officer.

8 (f) The division shall serve as a central clearinghouse for  
9 information on state contracts, including a record of all pending state  
10 contracts upon which minority business enterprises, women-owned business  
11 enterprises, and service-disabled veteran-owned businesses may participate.

12  
13 ~~15-4-309. Exempt contracts.~~

14 ~~Upon the approval of the Minority Business Advisory Council, the~~  
15 ~~Division of Minority Business Enterprise of the Arkansas Economic Development~~  
16 ~~Commission and the Office of State Procurement of the Department of Finance~~  
17 ~~and Administration shall determine the classifications of state contracts to~~  
18 ~~be exempted from the goals established by this subchapter whenever there~~  
19 ~~exists an insufficient number of minority business enterprises to ensure~~  
20 ~~adequate competition.~~

21  
22 15-4-310. Minority, women, and service-disabled veteran business  
23 officer.

24 (a) Each state agency shall designate an individual as its minority,  
25 women, and service-disabled veteran business officer.

26 (b) The minority, women, and service-disabled veteran business officer  
27 shall be the person within the state agency with whom the Division of  
28 Minority, Women, and Service-Disabled Veteran Business Enterprise of the  
29 Arkansas Economic Development Commission and the Minority, Women, and  
30 Service-Disabled Veteran Business Advisory Council shall work in their  
31 efforts to accomplish the goals of this subchapter.

32 (c) Upon the appointment of the minority, women, and service-disabled  
33 veteran business officer in each state agency, the state agency shall notify  
34 the division and the Office of State Procurement of the Department of Finance  
35 and Administration.

36

1           15-4-311. Annual minority, women, and service-disabled veteran  
2 purchasing plan.

3           (a) Prior to June 30 each year, each state agency shall submit to the  
4 Division of Minority, Women, and Service-Disabled Veteran Business Enterprise  
5 of the Arkansas Economic Development Commission and the Office of State  
6 Procurement of the Department of Finance and Administration a minority,  
7 women, and service-disabled veteran purchasing plan that shall outline the  
8 state agency's plan to reach its goals for the coming fiscal year.

9           (b) The minority, women, and service-disabled veteran purchasing plan  
10 shall include without limitation:

11                   (1) The name of the state agency;

12                   (2) A policy statement signed by the state agency head  
13 expressing a commitment to use minority business enterprises, women-owned  
14 business enterprises, and service-disabled veteran-owned businesses in all  
15 aspects of contracting to the maximum extent feasible;

16                   (3) The name of the minority, women, and service-disabled  
17 veteran business officer in the state agency who is responsible for  
18 developing and administering the ~~compliance~~ purchasing plan;

19                   (4) The time table for the state agency to reach its goals under  
20 the purchasing plan and the manner in which the state agency intends to reach  
21 its goals, including without limitation the manner in which the state agency  
22 intends to include minority business enterprises, women-owned business  
23 enterprises, and service-disabled veteran-owned businesses in reaching its  
24 goals; and

25                   (5) Any other procedures the state agency deems necessary to  
26 comply with the goals and the ~~compliance~~ purchasing plan.

27           (c) The minority, women, and service-disabled veteran business officer  
28 shall determine the category to which a purchase shall be assigned for  
29 purposes of the minority, women, and service-disabled veteran purchasing plan  
30 required under this section.

31  
32           15-4-312. State agencies to submit reports.

33           The Minority, Women, and Service-Disabled Veteran Business Advisory  
34 Council shall require each state agency to produce within fifteen (15) days  
35 of the close of each three-month period a report summing up total procurement  
36 for all state contracts, ~~except exempt state contracts of the state agency,~~

1 and the dollar value and the percentage of the state contracts of the state  
2 agency awarded to minority business enterprises, women-owned business  
3 enterprises, and service-disabled veteran-owned businesses.

4  
5 15-4-313. Accelerated payments.

6 To ensure that minority business enterprises, women-owned business  
7 enterprises, and service-disabled veteran-owned businesses are not  
8 financially hindered due to delays in payment by state agencies entering into  
9 state contracts with minority business enterprises, women-owned business  
10 enterprises, and service-disabled veteran-owned businesses under this  
11 subchapter, state agencies shall accelerate payment to minority, women, and  
12 service-disabled veteran vendors to preclude accounts receivable problems of  
13 minority business enterprises, women-owned business enterprises, and service-  
14 disabled veteran-owned businesses caused by the State of Arkansas.

15  
16 15-4-314. Minority business enterprises, women-owned business  
17 enterprises, and service-disabled veteran-owned businesses certification  
18 process.

19 (a) The Division of Minority, Women, and Service-Disabled Veteran  
20 Business Enterprise of the Arkansas Economic Development Commission shall  
21 promulgate rules to create a certification process for minority business  
22 enterprises, women-owned business enterprises, and service-disabled veteran-  
23 owned businesses.

24 (b) The certification process shall include without limitation:

25 (1) Criteria for certification that shall include without  
26 limitation:

27 (A) A determination that the business is structured as a  
28 minority business enterprise, women-owned business enterprise, or service-  
29 disabled veteran-owned business;

30 (B) Verification of minority, woman, or service-disabled  
31 veteran ownership and control of the business; and

32 (C) Annual updates indicating continuing minority, woman,  
33 or service-disabled veteran ownership and control;

34 (2) A formal application process;

35 (3) An education program to assist minority business  
36 enterprises, women-owned business enterprises, and service-disabled veteran-

1 owned businesses in achieving certification; and  
2 (4) An outreach to ensure the broadest possible participation of  
3 minority business enterprises, women-owned business enterprises, service-  
4 disabled veteran-owned businesses, and persons proposing new minority  
5 business enterprises, women-owned business enterprises, or service-disabled  
6 veteran-owned businesses.

7 (c) The Office of State Procurement of the Department of Finance and  
8 Administration shall cooperate with the division to the fullest extent  
9 possible in sharing information concerning certification and registration of  
10 minority business enterprises, women-owned business enterprises, and service-  
11 disabled veteran-owned businesses carrying out the purposes of this section.

12  
13 /s/M. Gray  
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