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3 89th General Assembly
4 Regular Session, 2013

A Bill

SENATE BILL 882

5
6 By: Senator L. Chesterfield
7 By: Representative Fielding

8 Filed with: Senate Committee on Agriculture, Forestry and Economic Development
9 pursuant to A.C.A. §10-3-217.

For An Act To Be Entitled

10
11 AN ACT TO AMEND THE MINORITY BUSINESS ECONOMIC
12 DEVELOPMENT ACT; TO REQUIRE CONSTITUTIONAL OFFICES TO
13 COMPLY WITH THE MINORITY BUSINESS ECONOMIC
14 DEVELOPMENT ACT; TO EXPAND THE SIZE OF THE MINORITY
15 BUSINESS ADVISORY COUNCIL; TO MAKE TECHNICAL
16 CORRECTIONS; AND FOR OTHER PURPOSES.

Subtitle

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18
19 TO AMEND THE MINORITY BUSINESS ECONOMIC
20 DEVELOPMENT ACT.

21
22
23
24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

25
26 SECTION 1. Arkansas Code § 15-4-303(1) and (2), concerning the
27 definitions to be used under the Minority Business Economic Development Act,
28 are amended to read as follows:

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

31 (B) The classification shall be determined by the Office
32 of State Procurement of the Department of Finance and Administration and the
33 Division of Minority Business Enterprise of the Arkansas Economic Development
34 Commission and submitted to the Arkansas Economic Development ~~Council~~
35 Commission for its review and consideration for the purposes of this
36 subchapter;

1 (2) "Minority" means a:

2 (A) A lawful permanent resident of this state who is:

3 ~~(A) (i)~~ African American;

4 ~~(B) (ii)~~ Hispanic American;

5 ~~(C) (iii)~~ American Indian;

6 ~~(D) (iv)~~ Asian American;

7 ~~(E) (v)~~ Pacific Islander American; or

8 ~~(F) (vi)~~ A service-disabled veteran as designated by
 9 the United States Department of Veterans Affairs; or

10 (B) A person who:

11 (i) Is not a lawful resident of this state;

12 (ii) Meets the definition of a minority under
 13 subdivision (2)(A) of this section;

14 (iii) Owns a business with a physical presence in
 15 the state; and

16 (iv) Employs at least three (3) minorities as
 17 defined in subdivision (2)(A) of this section;

18
 19 SECTION 2. Arkansas Code § 15-4-303(4) and (5), concerning the
 20 definitions to be used under the Minority Business Economic Development Act,
 21 are amended to read as follows:

22 (4) "Minority business officer" means the ~~individual within~~
 23 person appointed by the executive head of each state agency with the to:

24 (A) Handle agency procurement; and

25 (B) Be responsible ~~responsibility~~ for carrying out the
 26 intended purposes of this subchapter;

27 (5)(A) "Nonexempt" means goods and services classified as
 28 nonexempt for the purpose of administering this subchapter.

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

32
 33 SECTION 3. Arkansas Code § 15-4-303(7), concerning the definitions to
 34 be used under the Minority Business Economic Development Act, is amended to
 35 read as follows:

1 (7) "State agency" means a department, an office, a board, a
2 commission, a constitutional officer, or an institution of this state,
3 including a state-supported institution of higher education; and
4

5 SECTION 4. Arkansas Code §§ 15-4-304 and 15-4-305 are amended to read
6 as follows:

7 15-4-304. Creation.

8 The Division of Minority Business Enterprise of the Arkansas Economic
9 Development Commission:

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

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

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

16
17 15-4-305. ~~Administrator~~ Director.

18 The head of the Division of Minority Business Enterprise of the
19 Arkansas Economic Development Commission is the ~~Administrator~~ Director of the
20 Division of Minority Business Enterprise of the Arkansas Economic Development
21 Commission and shall be appointed by the ~~Governor~~ Executive Director of the
22 Arkansas Economic Development Commission.

23
24 SECTION 5. Arkansas Code § 15-4-306(2), concerning the duties of the
25 Division of Minority Business Enterprise of the Arkansas Economic Development
26 Commission, is amended to read as follows:

27 (2) ~~With the participation of~~ Partner with other state
28 departments and state agencies as appropriate to:

29 (A) Develop comprehensive plans and specific program goals
30 for a minority business enterprise program;

31 (B) Establish regular performance monitoring and reporting
32 systems to assure that goals are being achieved; and

33 (C) Evaluate the impact of federal and state support in
34 achieving the objectives established by the ~~commission~~ Arkansas Economic
35 Development Commission;

36

1 SECTION 5. Arkansas Code § 15-4-306(6), concerning the duties of the
2 Division of Minority Business Enterprise of the Arkansas Economic Development
3 Commission, is amended to read as follows:

4 (6) ~~Establish~~ To the extent funds are available, establish a
5 center for the development, collection, and dissemination of information that
6 will be helpful to persons and organizations throughout the state in
7 undertaking or promoting the establishment and successful operation of
8 minority business enterprises;

9
10 SECTION 5. Arkansas Code § 15-4-306(13), concerning the duties of the
11 Division of Minority Business Enterprise of the Arkansas Economic Development
12 Commission, is amended to read as follows:

13 (13) Provide a program effort to ensure participation of
14 service-disabled veterans in Arkansas minority business enterprise
15 activities.

16
17 SECTION 6. Arkansas Code § 15-4-307 is amended to read as follows:
18 15-4-307. Minority Business Advisory Council.

19 (a) The Division of Minority Business Enterprise of the Arkansas
20 Economic Development Commission shall be represented by a statewide Minority
21 Business Advisory Council ~~and shall report to that council.~~

22 (b)(1) The council shall consist of ~~seven (7)~~ nine (9) members.

23 (2) The council shall:

24 (A) Monitor progress, and make recommendations, ~~and~~
25 ~~develop strategic plans through the division~~ for performance improvement; and

26 (B) Report to the Governor, the Speaker of the House of
27 Representatives, and the President Pro Tempore of the Senate.

28 (c)(1) The Governor shall appoint ~~three (3)~~ five (5) members of the
29 council with the advice and consent of the Senate.

30 (2) The President Pro Tempore of the Senate shall appoint two
31 (2) members of the council.

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

34 (4) Appointments shall reflect and be representative of the
35 minority business community, resource organizations, entrepreneurs,
36 corporations, and other minority business advocates.

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

3 (e) The term of office of the council shall be at the pleasure of the
4 appointing officer for a period not to exceed five (5) years.

5 (f) There is established a formal relationship between the council and
6 the ~~Administrator~~ Director of the Division of Minority Business Enterprise of
7 the Arkansas Economic Development Commission.

8 (g)(1) The ~~administrator and the small disadvantaged business officer~~
9 director shall be the liaison to the council and shall be responsible for
10 submitting to the council any reports and documents under ~~the provisions of~~
11 this section.

12 (2) ~~Their~~ The director's duties in relation to this section
13 shall be considered official duty in the conduct of state business.

14 (h) The council's duties and responsibilities ~~shall be~~ are to:

15 ~~(1) Review reports and interpret each agency's achievement of~~
16 ~~its goals;~~

17 ~~(2) Advise the Governor when an agency has not reached its~~
18 ~~goals;~~

19 ~~(3) (1) Make~~ Receive annual reports presented to the Governor by
20 the division;

21 ~~(4) (2) Recommend to the state agency, the division, and the~~
22 Office of State Procurement of the Department of Finance and Administration
23 corrective actions to strengthen minority business opportunities in the
24 state; and

25 ~~(5) (3) Conduct~~ Participate in public hearings when necessary to
26 obtain public input and support for the purpose of carrying out ~~the~~
27 ~~provisions of~~ this subchapter.

28 ~~(i) Each state agency, through its minority business officer, shall~~
29 ~~submit to the division, the council, and the office the agency's plan to~~
30 ~~reach its goals for the coming fiscal year and shall:~~

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

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

33 ~~(3) Contain a policy statement signed by the agency head~~
34 ~~expressing a commitment to use minority businesses in all aspects of~~
35 ~~contracting to the maximum extent feasible;~~

1 ~~(4) Identify the name of the minority business officer in the~~
2 ~~agency who is responsible for developing and administering the compliance~~
3 ~~plan;~~

4 ~~(5) Establish a timetable for the agency to reach its goals~~
5 ~~under the plan and the manner in which the agency intends to reach its goals;~~
6 ~~and~~

7 ~~(6) Contain any other procedures the division deems necessary to~~
8 ~~comply with the goals and the compliance plan.~~

9
10 SECTION 7. Arkansas Code § 15-4-308(e) and (f), concerning the
11 administration of the Minority Business Economic Development Act, is amended
12 to read as follows:

13 (e) The division ~~and the office~~ shall maintain a current directory of
14 minority businesses and shall make the directory available to each state
15 agency and minority business officer.

16 (f) The division office shall ~~serve as a central clearinghouse for~~
17 maintain information on state contracts, ~~including a record of all pending~~
18 ~~state contracts upon which minority businesses may participate.~~

19
20 SECTION 8. Arkansas Code §§ 15-4-309 – 15-4-312 are amended to read as
21 follows:

22 15-4-309. Exempt contracts.

23 ~~Upon the approval of the Minority Business Advisory Council, the The~~
24 ~~Division of Minority Business Enterprise of the Arkansas Economic Development~~
25 ~~Commission and the Office of State Procurement of the Department of Finance~~
26 ~~and Administration shall determine the classifications of contracts to be~~
27 ~~exempted from the goals established by this subchapter ~~whenever~~ when there~~
28 ~~exists an insufficient number of minority businesses to ensure adequate~~
29 ~~competition.~~

30
31 15-4-310. Minority business officer.

32 (a) ~~Each~~ The executive head of each state agency shall designate an
33 individual as its minority business officer.

34 (b) The minority business officer shall be the person within the state
35 agency with whom the Division of Minority Business Enterprise of the Arkansas

1 Economic Development Commission ~~and the Minority Business Advisory Council~~
 2 shall work in ~~their~~ its efforts to accomplish the goals of this subchapter.

3 (c) Upon the appointment of the minority business officer in each
 4 state agency, the executive head of the state agency shall notify the
 5 division and the Office of State Procurement of the Department of Finance and
 6 Administration.

7
 8 15-4-311. Annual minority purchasing plan.

9 (a) ~~Prior to June 30~~ Before July 15 each year, each state agency shall
 10 submit to the Division of Minority Business Enterprise of the Arkansas
 11 Economic Development Commission ~~and the Office of State Procurement of the~~
 12 ~~Department of Finance and Administration~~ a minority purchasing plan that
 13 ~~shall outline~~ outlines the state agency's plan to reach its goals for the
 14 coming fiscal year.

15 (b) The minority purchasing plan shall include without limitation:

16 (1) The name of the state agency;

17 (2) A policy statement signed by the executive head of the state
 18 agency ~~head~~ expressing a commitment to use minority business in all aspects
 19 of contracting to the maximum extent feasible;

20 (3) ~~The name of the minority business officer in the agency who~~
 21 ~~is responsible for developing and administering the compliance plan~~ A
 22 statement from the executive head of the state agency that the information
 23 submitted by the minority business officer is accurate and complete; and

24 (4) ~~The time table for the agency to reach its goals under the~~
 25 ~~plan and the manner in which the agency intends to reach its goals; and~~

26 (5) Any other procedures the agency ~~deems~~ Governor and the
 27 division deem necessary to comply with the goals and the compliance plan.

28
 29 15-4-312. State agencies to submit reports.

30 The Division of Minority Business ~~Advisory Council~~ Enterprise of the
 31 Arkansas Economic Development Commission shall require each state agency to
 32 produce within fifteen (15) days of the close of each three-month period a
 33 report summing up total procurement for all contracts, except exempt
 34 contracts of the state agency, and the dollar value and the percentage of the
 35 contracts of the state agency awarded to minority businesses.

36

1 SECTION 9. Arkansas Code Title 15, Chapter 4, Subchapter 3, is amended
2 to add an additional section to read as follows:

3 15-4-321. State agency responsibilities.

4 Through its minority business officer, each state agency shall submit
5 to the Division of Minority Business Enterprise of the Arkansas Economic
6 Development Commission the state agency's plan to reach its goals under this
7 subchapter for the coming fiscal year, which shall:

8 (1) Be submitted to the division by July 15 of each year;

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

10 (3) Contain a policy statement signed by the executive head of
11 the state agency expressing a commitment to use minority businesses in all
12 aspects of contracting to the maximum extent feasible;

13 (4) Contain a statement from the executive head of the state
14 agency that the information submitted by the minority business officer is
15 accurate and complete; and

16 (5) Contain any other procedures the Governor and the division
17 deem necessary to comply with the goals and the compliance plan.

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19
20 Referred by the Arkansas Senate

21 Prepared by: JLL/VJF
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