

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

A Bill

SENATE BILL 882

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

For An Act To Be Entitled

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

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18 TO AMEND THE MINORITY BUSINESS ECONOMIC
19 DEVELOPMENT ACT.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code § 15-4-303(1) and (2), concerning the
25 definitions to be used under the Minority Business Economic Development Act,
26 are amended to read as follows:

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

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

35 (2) "Minority" means a:

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



1 ~~(A)~~ (i) African American;
 2 ~~(B)~~ (ii) Hispanic American;
 3 ~~(C)~~ (iii) American Indian;
 4 ~~(D)~~ (iv) Asian American;
 5 ~~(E)~~ (v) Pacific Islander American; or
 6 ~~(F)~~ (vi) A service-disabled veteran as designated by
 7 the United States Department of Veterans Affairs; or

8 (B) A person who:
 9 (i) Is not a lawful resident of this state;
 10 (ii) Meets the definition of a minority under
 11 subdivision (2)(A) of this section;
 12 (iii) Owns a business with a physical presence in
 13 the state; and
 14 (iv) Employs at least three (3) minorities as
 15 defined in subdivision (2)(A) of this section;

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

20 (4) “Minority business officer” means the ~~individual within~~
 21 person appointed by the executive head of each state agency with the to:

22 (A) Handle agency procurement; and
 23 (B) Be responsible ~~responsibility~~ for carrying out the
 24 intended purposes of this subchapter;

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

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

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

34 (7) “State agency” means a department, an office, a board, a
 35 commission, a constitutional officer, or an institution of this state,
 36 including a state-supported institution of higher education; and

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

15-4-304. Creation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 14 SECTION 6. Arkansas Code § 15-4-307 is amended to read as follows:

15 15-4-307. Minority Business Advisory Council.

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

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

20 (2) The council shall:

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

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

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

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

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

31 (4) Appointments shall reflect and be representative of the
 32 minority business community, resource organizations, entrepreneurs,
 33 corporations, and other minority business advocates.

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

36 (e) The term of office of the council shall be at the pleasure of the

1 appointing officer for a period not to exceed five (5) years.

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

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

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

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

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

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

16 ~~(3) (1) Make~~ Receive annual reports presented to the Governor by
 17 the division;

18 ~~(4) (2) Recommend to the state agency,~~ the division, and the
 19 Office of State Procurement of the Department of Finance and Administration
 20 corrective actions to strengthen minority business opportunities in the
 21 state; and

22 ~~(5) (3) Conduct~~ Participate in public hearings when necessary to
 23 obtain public input and support for the purpose of carrying out ~~the~~
 24 ~~provisions of~~ this subchapter.

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

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

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

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

33 ~~(4) Identify the name of the minority business officer in the~~
 34 ~~agency who is responsible for developing and administering the compliance~~
 35 ~~plan;~~

36 ~~(5) Establish a timetable for the agency to reach its goals~~

1 ~~under the plan and the manner in which the agency intends to reach its goals;~~
 2 ~~and~~

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

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

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

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

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 16 SECTION 8. Arkansas Code §§ 15-4-309 – 15-4-312 are amended to read as
 17 follows:

18 15-4-309. Exempt contracts.

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

26
 27 15-4-310. Minority business officer.

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

30 (b) The minority business officer shall be the person within the state
 31 agency with whom the Division of Minority Business Enterprise of the Arkansas
 32 Economic Development Commission ~~and the Minority Business Advisory Council~~
 33 shall work in ~~their~~ its efforts to accomplish the goals of this subchapter.

34 (c) Upon the appointment of the minority business officer in each
 35 state agency, the executive head of the state shall notify the
 36 division and the Office of State Procurement of the Department of Finance and

1 Administration.

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3 15-4-311. Annual minority purchasing plan.

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

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

11 (1) The name of the state agency;

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

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

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

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

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24 15-4-312. State agencies to submit reports.

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

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

34 15-4-321. State agency responsibilities.

35 Through its minority business officer, each state agency shall submit
36 to the Division of Minority Business Enterprise of the Arkansas Economic

1 Development Commission the state agency's plan to reach its goals under this
2 subchapter for the coming fiscal year, which shall:

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

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

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

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

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

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