

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

A Bill

HOUSE BILL 1536

5 By: Representative M. Gray
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE MINORITY BUSINESS ECONOMIC
9 DEVELOPMENT ACT TO INCLUDE WOMEN-OWNED BUSINESSES;
10 AND FOR OTHER PURPOSES.
11

Subtitle

12
13 TO AMEND THE MINORITY BUSINESS ECONOMIC
14 DEVELOPMENT ACT TO INCLUDE WOMEN-OWNED
15 BUSINESSES.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code Title 15, Chapter 4, Subchapter 3, is amended
22 to read as follows:

23 Subchapter 3 – Minority and Women-owned Business Economic Development Act
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25 15-4-301. Title.

26 This subchapter shall be known and may be cited as the “Minority and
27 Women-owned Business Economic Development Act”.
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29 15-4-302. Purpose.

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 or women in state-funded and state-
36 directed public construction programs and in the purchase of goods and



1 services for the state.

2 (c) All state agencies shall attempt to ensure that ten percent (10%)
 3 of the total amount expended in state-funded and state-directed public
 4 construction programs and in the purchase of goods and services for the state
 5 each fiscal year is paid to a combination of minority business enterprises
 6 and women-owned business enterprises.

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 8 15-4-303. Definitions.

9 As used in this subchapter:

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

12 (B) The classification shall be determined by the Office
 13 of State Procurement of the Department of Finance and Administration and the
 14 Division of Minority and Women-owned Business Enterprise of the Arkansas
 15 Economic Development Commission and submitted to the Arkansas Economic
 16 Development Council for its review and consideration for the purposes of this
 17 subchapter;

18 (2) "Minority" means a lawful permanent resident of this state
 19 who is:

- 20 (A) African American;
- 21 (B) Hispanic American;
- 22 (C) American Indian;
- 23 (D) Asian American;
- 24 (E) Pacific Islander American; or
- 25 (F) A service-disabled veteran as designated by the United

26 States Department of Veterans Affairs;

27 (3) "Minority business enterprise" means a business that is at
 28 least fifty-one percent (51%) owned by one (1) or more minority persons as
 29 defined in this section;

30 (4) "Minority and women-owned business officer" means the
 31 individual within each state agency with the responsibility for carrying out
 32 the intended purposes of this subchapter;

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

35 (B) The classification shall be determined by the office
 36 and the division and submitted to the council for its review and

1 consideration for the purposes of this subchapter;

2 (6) "Procurement" means buying, purchasing, renting, leasing, or
3 otherwise acquiring any goods or services;

4 (7) "State agency" means a department, an office, a board, a
5 commission, or an institution of this state, including a state-supported
6 institution of higher education; ~~and~~

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

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

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13 15-4-304. Creation.

14 The Division of Minority and Women-owned Business Enterprise of the
15 Arkansas Economic Development Commission:

16 (1) Is established and confirmed within the Arkansas Economic
17 Development Commission under the jurisdiction of the Arkansas Economic
18 Development Council;

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

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

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23 15-4-305. Administrator.

24 The head of the Division of Minority and Women-owned Business
25 Enterprise of the Arkansas Economic Development Commission is the
26 Administrator of the Division of Minority and Women-owned Business Enterprise
27 of the Arkansas Economic Development Commission and shall be appointed by the
28 Governor.

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30 15-4-306. Duties.

31 The Division of Minority and Women-owned Business Enterprise of the
32 Arkansas Economic Development Commission shall:

33 (1) Provide technical, managerial, and counseling services and
34 assistance to minority business enterprises and women-owned business
35 enterprises;

36 (2) With the participation of other state departments and state

1 agencies as appropriate:

2 (A) Develop comprehensive plans and specific program goals
3 for a minority business enterprise and women-owned business enterprise
4 program;

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

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

10 (3) Implement state policy in support of minority business
11 enterprise and development and women-owned business enterprise and
12 development and coordinate the plans, programs, and operations of state
13 government that affect or may contribute to the establishment, preservation,
14 and strengthening of minority business enterprises and women-owned business
15 enterprises;

16 (4) Coordinate, make application for, and administer federal
17 funding grants from the Minority Business Development Agency of the United
18 States Department of Commerce, the United States Small Business
19 Administration, and other federal agencies where applicable;

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

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

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

36 (8) Recommend appropriate legislative or executive actions to

1 enhance minority business and women-owned business opportunities in this
2 state;

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

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

10 (11) Assist minority business enterprises and women-owned
11 business enterprises to promote reciprocal foreign trade and investment;

12 (12) Assist minority business and women-owned business persons
13 in business contract procurement from governmental and private commercial
14 sources; and

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

17
18 15-4-307. Minority and Women-owned Business Advisory Council.

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

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

24 (2) The council shall:

25 (A) Monitor progress, make recommendations, and develop
26 strategic plans for performance improvement; and

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

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

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

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

35 (4) Appointments shall reflect and be representative of the
36 minority and women-owned business community, resource organizations,

1 entrepreneurs, corporations, and other minority and women-owned business
2 advocates.

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

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

7 (f) There is established a formal relationship between the council and
8 the Administrator of the Division of Minority and Women-owned Business
9 Enterprise of the Arkansas Economic Development Commission.

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

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

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

17 (1) Review reports and interpret each state agency's achievement
18 of its goals;

19 (2) Advise the Governor when a state agency has not reached its
20 goals;

21 (3) Make annual reports to the Governor;

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

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

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

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

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

34 (3) Contain a policy statement signed by the state agency head
35 expressing a commitment to use minority business enterprises and women-owned
36 business enterprises in all aspects of contracting to the maximum extent

1 feasible;

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

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

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

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11 15-4-308. Administration.

12 (a) The Division of Minority and Women-owned Business Enterprise of
13 the Arkansas Economic Development Commission and the Office of State
14 Procurement of the Department of Finance and Administration shall serve as
15 the principal coordinators of the initiative to ensure the successful
16 implementation of this subchapter.

17 (b) The division and the office shall provide assistance to minority
18 business enterprises and women-owned business enterprises seeking state
19 contract opportunities with various state agencies.

20 (c) The division and the office shall maintain a directory of all
21 minority and women-owned business officers for each state agency.

22 (d) The division and the office shall provide management and technical
23 assistance to any state agency that experiences difficulty in complying with
24 the provisions of this subchapter.

25 (e) The division and the office shall maintain a current directory of
26 minority business enterprises and women-owned business enterprises and shall
27 make the directory available to each state agency and minority and women-
28 owned business officer.

29 (f) The division shall serve as a central clearinghouse for
30 information on state contracts, including a record of all pending state
31 contracts upon which minority business enterprises and women-owned business
32 enterprises may participate.

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34 15-4-309. Exempt contracts.

35 Upon the approval of the Minority and Women-owned Business Advisory
36 Council, the Division of Minority and Women-owned Business Enterprise of the

1 Arkansas Economic Development Commission and the Office of State Procurement
2 of the Department of Finance and Administration shall determine the
3 classifications of state contracts to be exempted from the goals established
4 by this subchapter whenever there exists an insufficient number of minority
5 business enterprises and women-owned business enterprises to ensure adequate
6 competition.

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8 15-4-310. Minority and women-owned business officer.

9 (a) Each state agency shall designate an individual as its minority
10 and women-owned business officer.

11 (b) The minority and women-owned business officer shall be the person
12 within the state agency with whom the Division of Minority and Women-owned
13 Business Enterprise of the Arkansas Economic Development Commission and the
14 Minority and Women-owned Business Advisory Council shall work in their
15 efforts to accomplish the goals of this subchapter.

16 (c) Upon the appointment of the minority and women-owned business
17 officer in each state agency, the state agency shall notify the division and
18 the Office of State Procurement of the Department of Finance and
19 Administration.

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21 15-4-311. Annual minority and women-owned purchasing plan.

22 (a) Prior to June 30 each year, each state agency shall submit to the
23 Division of Minority and Women-owned Business Enterprise of the Arkansas
24 Economic Development Commission and the Office of State Procurement of the
25 Department of Finance and Administration a minority and women-owned
26 purchasing plan that shall outline the state agency's plan to reach its goals
27 for the coming fiscal year.

28 (b) The minority and women-owned purchasing plan shall include without
29 limitation:

30 (1) The name of the state agency;

31 (2) A policy statement signed by the state agency head
32 expressing a commitment to use minority ~~business~~ and women-owned businesses
33 in all aspects of contracting to the maximum extent feasible;

34 (3) The name of the minority and women-owned business officer in
35 the state agency who is responsible for developing and administering the
36 compliance plan;

1 (4) The time table for the state agency to reach its goals under
2 the plan and the manner in which the state agency intends to reach its goals;
3 and

4 (5) Any other procedures the state agency deems necessary to
5 comply with the goals and the compliance plan.

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7 15-4-312. State agencies to submit reports.

8 The Minority and Women-owned Business Advisory Council shall require
9 each state agency to produce within fifteen (15) days of the close of each
10 three-month period a report summing up total procurement for all state
11 contracts, except exempt state contracts of the state agency, and the dollar
12 value and the percentage of the contracts of the state agency awarded to
13 minority business enterprises and women-owned business enterprises.

14
15 15-4-313. Accelerated payments.

16 To ensure that minority business enterprises and women-owned business
17 enterprises are not financially hindered due to delays in payment by state
18 agencies entering into state contracts with minority business enterprises and
19 women-owned business enterprises under this subchapter, state agencies shall
20 accelerate payment to minority vendors and women-owned vendors to preclude
21 accounts receivable problems of minority business enterprises and women-owned
22 business enterprises caused by the State of Arkansas.

23
24 15-4-314. Minority business enterprises and women-owned business
25 enterprises certification process.

26 (a) The Division of Minority and Women-owned Business Enterprise of
27 the Arkansas Economic Development Commission shall promulgate rules to create
28 a certification process for minority business enterprises and women-owned
29 business enterprises.

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

31 (1) Criteria for certification that shall include without
32 limitation:

33 (A) A determination that the business is structured as a
34 minority business enterprise or women-owned business enterprises;

35 (B) Verification of minority or women ownership and
36 control of the business; and

1 (C) Annual updates indicating continuing minority or women
 2 ownership and control;

3 (2) A formal application process;

4 (3) An education program to assist minority business enterprises
 5 and women-owned business enterprises in achieving certification; and

6 (4) An outreach to ensure the broadest possible participation of
 7 minority business enterprises, women-owned business enterprises, and persons
 8 proposing new minority business enterprises or women-owned business
 9 enterprises.

10 (c) The Office of State Procurement of the Department of Finance and
 11 Administration shall cooperate with the division to the fullest extent
 12 possible in sharing information concerning certification and registration of
 13 minority business enterprises and women-owned business enterprises carrying
 14 out the purposes of this section.

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