

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

*As Engrossed: H2/23/17*

# A Bill

HOUSE BILL 1536

5 By: Representative M. Gray  
6 *By: Senator Irvin*  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE MINORITY BUSINESS ECONOMIC  
10 DEVELOPMENT ACT TO INCLUDE WOMEN-OWNED BUSINESSES;  
11 AND FOR OTHER PURPOSES.  
12  
13

## Subtitle

15 TO AMEND THE MINORITY BUSINESS ECONOMIC  
16 DEVELOPMENT ACT TO INCLUDE WOMEN-OWNED  
17 BUSINESSES.  
18  
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code Title 15, Chapter 4, Subchapter 3, is amended  
23 to read as follows:

24 Subchapter 3 – Minority and Women-owned Business Economic Development Act  
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26 15-4-301. Title.

27 This subchapter shall be known and may be cited as the “Minority and  
28 Women-owned Business Economic Development Act”.  
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30 15-4-302. Purpose.

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

34 (b) The General Assembly recognizes that it is the purpose of this  
35 subchapter to support to the fullest all possible participation of firms  
36 owned and controlled by minority persons or women in state-funded and state-



1 directed public construction programs and in the purchase of goods and  
2 services for the state.

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

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9 15-4-303. Definitions.

10 As used in this subchapter:

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

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

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

21 (A) African American;

22 (B) Hispanic American;

23 (C) American Indian;

24 (D) Asian American;

25 (E) Pacific Islander American; or

26 (F) A service-disabled veteran as designated by the United  
27 States Department of Veterans Affairs;

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

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

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

36 (B) The classification shall be determined by the office

1 and the division and submitted to the council for its review and  
2 consideration for the purposes of this subchapter;

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

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

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

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

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14 15-4-304. Creation.

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

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

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

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

23

24 15-4-305. Administrator.

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

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31 15-4-306. Duties.

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

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

1           (2) With the participation of other state departments and state  
2 agencies as appropriate:

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

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

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

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

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

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

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

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

1 (8) Recommend appropriate legislative or executive actions to  
2 enhance minority business and women-owned business opportunities in this  
3 state;

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

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

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

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

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

18  
19 15-4-307. Minority and Women-owned Business Advisory Council.

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

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

25 (2) The council shall:

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

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

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

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

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

36 (4) Appointments shall reflect and be representative of the

1 minority and women-owned business community, resource organizations,  
2 entrepreneurs, corporations, and other minority and women-owned business  
3 advocates.

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

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

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

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

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

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

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

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

22 (3) Make annual reports to the Governor;

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

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

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

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

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

35 (3) Contain a policy statement signed by the state agency head  
36 expressing a commitment to use minority business enterprises and women-owned

1 business enterprises in all aspects of contracting to the maximum extent  
2 feasible;

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

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

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

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12 15-4-308. Administration.

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

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

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

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

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

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

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35 15-4-309. Exempt contracts.

36 Upon the approval of the Minority and Women-owned Business Advisory

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

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9 15-4-310. Minority and women-owned business officer.

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

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

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

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22 15-4-311. Annual minority and women-owned purchasing plan.

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

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

31 (1) The name of the state agency;

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

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



1 compliance plan;

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

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

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8 15-4-312. State agencies to submit reports.

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

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16 15-4-313. Accelerated payments.

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

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

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

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

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

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

36 (B) Verification of minority or women ownership and

1 control of the business; and

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

4 (2) A formal application process;

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

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

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

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17 /s/M. Gray  
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