

As Introduced

132nd General Assembly

Regular Session

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H. B. No. 492

Representative Gonzales

Cosponsors: Representatives Boggs, Kelly, Antonio, Pelanda

A BILL

To amend section 123.153 and to enact section 1
123.154 of the Revised Code to establish the 2
women-owned business enterprise program 3
requiring state agencies to establish women- 4
owned business procurement goals. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That section 123.153 be amended and section 6
123.154 of the Revised Code be enacted to read as follows: 7

Sec. 123.153. (A) As used in this section: 8

(1) "Minority business enterprise" has the same meaning as 9
in section 123.151 of the Revised Code. 10

(2) "EDGE business enterprise" has the same meaning as in 11
section 123.152 of the Revised Code. 12

(3) "Women-owned business enterprise" has the same meaning 13
as in section 123.154 of the Revised Code. 14

(B) ~~Beginning October 1, 2009, and on~~ Not later than the 15
first day of October in each year ~~thereafter~~, the director of 16
administrative services shall submit a written report to the 17

governor and to each member of the general assembly describing 18
the progress made by state agencies in advancing the minority 19
business enterprise program ~~and,~~ the encouraging diversity, 20
growth, and equity program, and the women-owned business 21
enterprise program. The report shall highlight the initiatives 22
implemented to encourage participation of minority-owned, ~~as-~~ 23
~~well as~~ socially and economically disadvantaged, and women-owned 24
businesses in programs funded by federal money received by the 25
state for fiscal stabilization and recovery purposes. The report 26
shall also include the total number of procurement contracts 27
each agency has entered into with certified minority business 28
enterprises ~~and,~~ EDGE business enterprises, and women-owned 29
business enterprises. 30

Sec. 123.154. (A) As used in this section: 31

"Women-owned business enterprise" means any individual, 32
partnership, corporation, or joint venture of any kind that is 33
owned and controlled by women who are United States citizens and 34
residents of this state or of a reciprocal state. 35

"Owned and controlled" means that at least fifty-one per 36
cent of the business, including corporate stock if it is a 37
corporation, is owned by women and that such owners have control 38
over the day-to-day operations of the business and an interest 39
in the capital, assets, and profits and losses of the business 40
proportionate to their percentage of ownership. In order to 41
qualify as a women-owned business, a business shall have been 42
owned by such owners at least one year. 43

(B) The director of administrative services shall 44
establish a business assistance program known as the women-owned 45
business enterprise program and shall adopt rules in accordance 46
with Chapter 119. of the Revised Code to administer the program 47

that do all of the following: 48

(1) Establish procedures by which a business enterprise 49
may apply for certification as a women-owned business 50
enterprise; 51

(2) Except as provided in division (B) (13) of this 52
section, establish agency procurement goals for contracting with 53
women-owned business enterprises in the award of contracts under 54
Chapters 123., 125., and 153. of the Revised Code based on the 55
availability of eligible program participants by region or 56
geographic area, as determined by the director, and by standard 57
industrial code or equivalent code classification. 58

(a) Goals established under division (B) (2) of this 59
section shall be based on a percentage level of participation 60
and a percentage of contractor availability. 61

(b) Goals established under division (B) (2) of this 62
section shall be applied at the contract level, relative to an 63
overall dollar goal for each state agency, in accordance with 64
the following certification categories: construction, 65
architecture, and engineering; professional services; goods and 66
services; and information technology services. 67

(3) Establish standards to determine when a women-owned 68
business enterprise no longer qualifies for women-owned business 69
enterprise certification; 70

(4) Develop a process for evaluating and adjusting goals 71
established by this section to determine what adjustments are 72
necessary to achieve participation goals established by the 73
director; 74

(5) Establish a point system or comparable system to 75
evaluate bid proposals to encourage women-owned business 76

<u>enterprises to participate in the procurement of professional</u>	77
<u>design and information technology services;</u>	78
<u>(6) Establish a system to track data and analyze each</u>	79
<u>certification category established under division (B) (2) (b) of</u>	80
<u>this section;</u>	81
<u>(7) Establish a process to mediate complaints and to</u>	82
<u>review women-owned business enterprise certification appeals;</u>	83
<u>(8) Implement an outreach program to educate potential</u>	84
<u>participants about the women-owned business enterprise program;</u>	85
<u>(9) Establish a system to assist state agencies in</u>	86
<u>identifying and utilizing women-owned business enterprises in</u>	87
<u>their contracting processes;</u>	88
<u>(10) Implement a system of self-reporting by women-owned</u>	89
<u>business enterprises as well as an on-site inspection process to</u>	90
<u>validate the qualifications of women-owned business enterprises;</u>	91
<u>(11) Establish a waiver mechanism to waive program goals</u>	92
<u>or participation requirements for those that, despite their</u>	93
<u>best-documented efforts, are unable to contract with certified</u>	94
<u>women-owned business enterprises;</u>	95
<u>(12) Establish a process for monitoring overall program</u>	96
<u>compliance in which equal employment opportunity officers</u>	97
<u>primarily are responsible for monitoring their respective</u>	98
<u>agencies;</u>	99
<u>(13) Establish guidelines for state universities as</u>	100
<u>defined in section 3345.011 of the Revised Code and the Ohio</u>	101
<u>facilities construction commission created in section 123.20 of</u>	102
<u>the Revised Code for awarding contracts pursuant to Chapters</u>	103
<u>153., 3318., and 3345. of the Revised Code to allow the</u>	104

universities and commission to establish agency procurement 105
goals for contracting with women-owned business enterprises. 106

(C) Business and personal financial information and trade 107
secrets submitted by women-owned business enterprise applicants 108
to the director pursuant to this section are not public records 109
for purposes of section 149.43 of the Revised Code, unless the 110
director presents the financial information or trade secrets at 111
a public hearing or public proceeding regarding the applicant's 112
eligibility to participate in the program. 113

(D) The director of administrative services, upon approval 114
of the attorney general, may enter into a reciprocal agreement 115
with the appropriate officials of one or more states, when the 116
other state has a business assistance program or programs 117
substantially similar to the women-owned business enterprise 118
program of this state. The agreement shall provide that a 119
business certified by the other state as a women-owned business 120
enterprise, which is owned and controlled by a resident or 121
residents of that other state, shall be considered a women-owned 122
business enterprise in this state under this section. The 123
agreement shall provide that a women-owned business enterprise 124
certified under this section, which is owned and controlled by a 125
resident or residents of this state, shall be considered 126
certified in the other state and eligible for programs of that 127
state that provide an advantage or benefit to such businesses. 128

Section 2. That existing section 123.153 of the Revised 129
Code is hereby repealed. 130