

**As Introduced**

**132nd General Assembly**

**Regular Session**

**2017-2018**

**S. B. No. 15**

**Senator Tavares**

**Cosponsors: Senators Thomas, Yuko, Schiavoni, Skindell**

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**A BILL**

To amend sections 123.152 and 3358.10 and to enact 1  
sections 3354.161, 3355.121, and 3357.161 of the 2  
Revised Code to require community colleges, 3  
state community colleges, technical colleges, 4  
and university branches to comply with minority 5  
business enterprise set-aside requirements, and 6  
to require the Director of Administrative 7  
Services to establish guidelines for these 8  
entities, and the Northeast Ohio Medical 9  
University, to establish procurement goals for 10  
contracting with EDGE business enterprises. 11

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

**Section 1.** That sections 123.152 and 3358.10 be amended 12  
and sections 3354.161, 3355.121, and 3357.161 of the Revised 13  
Code be enacted to read as follows: 14

**Sec. 123.152.** (A) As used in this section, ~~"EDGE-:~~ 15

"Edge business enterprise" means a sole proprietorship, 16  
association, partnership, corporation, limited liability 17  
corporation, or joint venture certified as a participant in the 18

encouraging diversity, growth, and equity program by the 19  
director of administrative services under this section of the 20  
Revised Code. 21

"State institution of higher education" means a state 22  
university or college as defined in division (A)(1) of section 23  
3345.12 of the Revised Code, community college established under 24  
Chapter 3354. of the Revised Code, state community college 25  
established under Chapter 3358. of the Revised Code, university 26  
branch established under Chapter 3355. of the Revised Code, or 27  
technical college established under Chapter 3357. of the Revised 28  
Code, and includes the applicable boards of trustees or, in the 29  
case of a university branch district, any other managing 30  
authority. 31

(B) The director of administrative services shall 32  
establish a business assistance program known as the encouraging 33  
diversity, growth, and equity program and shall adopt rules in 34  
accordance with Chapter 119. of the Revised Code to administer 35  
the program that do all of the following: 36

(1) Establish procedures by which a sole proprietorship, 37  
association, partnership, corporation, limited liability 38  
corporation, or joint venture may apply for certification as an 39  
EDGE business enterprise; 40

(2) Except as provided in division (B)(14) of this 41  
section, establish agency procurement goals for contracting with 42  
EDGE business enterprises in the award of contracts under 43  
Chapters 123., 125., and 153. of the Revised Code based on the 44  
availability of eligible program participants by region or 45  
geographic area, as determined by the director, and by standard 46  
industrial code or equivalent code classification. 47

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

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

(3) Establish a system of certifying EDGE business enterprises based on a requirement that the business owner or owners show both social and economic disadvantage based on the following, as determined to be sufficient by the director:

(a) Relative wealth of the business seeking certification as well as the personal wealth of the owner or owners of the business;

(b) Social disadvantage based on any of the following:

(i) A rebuttable presumption when the business owner or owners demonstrate membership in a racial minority group or show personal disadvantage due to color, ethnic origin, gender, physical disability, long-term residence in an environment isolated from the mainstream of American society, location in an area of high unemployment;

(ii) Some other demonstration of personal disadvantage not common to other small businesses;

(iii) By business location in a qualified census tract.

(c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate

economic development through contract awards to businesses located in qualified census tracts.	76 77
(4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification;	78 79 80
(5) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the director;	81 82 83 84
(6) Establish a point system or comparable system to evaluate bid proposals to encourage EDGE business enterprises to participate in the procurement of professional design and information technology services;	85 86 87 88
(7) Establish a system to track data and analyze each certification category established under division (B) (2) (b) of this section;	89 90 91
(8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals;	92 93
(9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program;	94 95 96
(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;	97 98 99
(11) Implement a system of self-reporting by EDGE business enterprises as well as an on-site inspection process to validate the qualifications of an EDGE business enterprise;	100 101 102
(12) Establish a waiver mechanism to waive program goals	103

or participation requirements for those companies that, despite 104  
their best-documented efforts, are unable to contract with 105  
certified EDGE business enterprises; 106

(13) Establish a process for monitoring overall program 107  
compliance in which equal employment opportunity officers 108  
primarily are responsible for monitoring their respective 109  
agencies; 110

(14) Establish guidelines for state ~~universities as~~ 111  
~~defined in section 3345.011 of the Revised Code~~ institutions of 112  
higher education and the Ohio facilities construction commission 113  
created in section 123.20 of the Revised Code for awarding 114  
contracts pursuant to Chapters 153., 3318., and 3345. of the 115  
Revised Code to allow the ~~universities~~ state institutions of 116  
higher education and commission to establish agency procurement 117  
goals for contracting with EDGE business enterprises. 118

(C) Business and personal financial information and trade 119  
secrets submitted by encouraging diversity, growth, and equity 120  
program applicants to the director pursuant to this section are 121  
not public records for purposes of section 149.43 of the Revised 122  
Code, unless the director presents the financial information or 123  
trade secrets at a public hearing or public proceeding regarding 124  
the applicant's eligibility to participate in the program. 125

Sec. 3354.161. In awarding contracts, the board of 126  
trustees of a community college district shall set aside a 127  
percentage of the contracts for competition by minority business 128  
enterprises only as specified in division (B) of section 125.081 129  
of the Revised Code. 130

Sec. 3355.121. In awarding contracts, the managing 131  
authority of the university branch district shall set aside a 132

percentage of the contracts for competition by minority business enterprises only as specified in division (B) of section 125.081 of the Revised Code. 133  
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**Sec. 3357.161.** In awarding contracts, the board of trustees of a technical college district shall set aside a percentage of the contracts for competition by minority business enterprises only as specified in division (B) of section 125.081 of the Revised Code. 136  
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**Sec. 3358.10.** Sections 3354.10, 3354.121, 3354.15, ~~and~~ 3354.16, and 3354.161 of the Revised Code apply to state community college districts and their boards of trustees. 141  
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**Section 2.** That existing sections 123.152 and 3358.10 of the Revised Code are hereby repealed. 144  
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