

As Introduced

**131st General Assembly
Regular Session
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H. B. No. 627

Representative Boyce

A BILL

To amend sections 125.081 and 153.01 of the Revised Code to specify that certain products, services, and supplies, to be purchased by the state through competitive selection, are eligible to be set aside for competition by only minority business enterprises and to clarify that plans prepared by an architect or engineer are not required for such purchases.

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

Section 1. That sections 125.081 and 153.01 of the Revised Code be amended to read as follows:

Sec. 125.081. (A) (1) From the purchases that the department of administrative services is required by law to make through competitive selection, the director of administrative services shall select a number of such purchases, the aggregate value of which equals approximately fifteen per cent of the estimated total value of all such purchases to be made in the current fiscal year. The director shall set aside the purchases selected for competition only by minority business enterprises, as defined in division (E) (1) of section 122.71 of the Revised

Code. The competitive selection procedures for such purchases 20
set aside shall be the same as for all other purchases the 21
department is required to make through competitive selection, 22
except that only minority business enterprises certified by the 23
equal employment opportunity coordinator of the department of 24
administrative services in accordance with the rules adopted 25
under division (B) (1) of section 123.151 of the Revised Code and 26
listed by the director under section 125.08 of the Revised Code 27
shall be qualified to compete. 28

(2) Purchases that the department of administrative 29
services is required by law to make through competitive 30
selection for any of the following are eligible to be set aside 31
for competition by only minority business enterprises under 32
division (A) (1) of this section: 33

(a) Products, services, and supplies for the maintenance 34
of an existing structure, or for the repair or replacement of 35
defective or deteriorated components without substantial changes 36
to the structure or its major systems; 37

(b) When the relocation or reconfiguration does not 38
involve substantial modification to the structure or its major 39
systems, products, services, and supplies for the relocation or 40
reconfiguration of nonbearing, movable partition walls, or other 41
services including lighting equipment, plumbing fixtures, and 42
electrical outlets and switches; 43

(c) Products and supplies, including capital equipment, 44
associated with the performance of construction work; and 45

(d) Products, services, and supplies for repainting, 46
recarpeting, or any other activities for renewing existing 47
finished surfaces. 48

As used in this division, "major systems" means the 49
structural system of the building and its primary components; 50
the plumbing system for potable water distribution and waste 51
water collection components, but not end-user fixtures or their 52
direct connections; the electrical supply and distribution 53
system up to and including the service panel box; and the 54
heating, ventilating, and cooling system up to but not including 55
the final service area distribution and return ductwork. 56

(B) To the extent that any agency of the state, other than 57
the department of administrative services, the legislative and 58
judicial branches, boards of elections, and the adjutant 59
general, is authorized to make purchases, the agency shall set 60
aside a number of purchases, the aggregate value of which equals 61
approximately fifteen per cent of the aggregate value of such 62
purchases for the current fiscal year for competition by 63
minority business enterprises only. The procedures for such 64
purchases shall be the same as for all other such purchases made 65
by the agency, except that only minority business enterprises 66
certified by the equal employment opportunity coordinator in 67
accordance with rules adopted under division (B)(1) of section 68
123.151 of the Revised Code shall be qualified to compete. 69

(C) In the case of purchases set aside under division (A) 70
or (B) of this section, if no bid is submitted by a minority 71
business enterprise, the purchase shall be made according to 72
usual procedures. The contracting agency shall from time to time 73
set aside such additional purchases for which only minority 74
business enterprises may compete, as are necessary to replace 75
those purchases previously set aside for which no minority 76
business enterprises bid and to ensure that, in any fiscal year, 77
the aggregate amount of contracts awarded to minority business 78
enterprises will equal approximately fifteen per cent of the 79

total amount of contracts awarded by the agency. 80

(D) The provisions of this section shall not preclude any 81
minority business enterprise from competing for any other state 82
purchases that are not specifically set aside for minority 83
business enterprises. 84

(E) No funds of any state agency shall be expended in any 85
fiscal year for any purchase for which competitive selection is 86
required, until the director of the department of administrative 87
services certifies to the equal employment opportunity 88
coordinator, the clerk of the senate, and the clerk of the house 89
of representatives of the general assembly that approximately 90
fifteen per cent of the aggregate amount of the projected 91
expenditure for such purchases in the fiscal year has been set 92
aside as provided for in this section. 93

(F) Any person who intentionally misrepresents self as 94
owning, controlling, operating, or participating in a minority 95
business enterprise for the purpose of obtaining contracts, 96
subcontracts, or any other benefits under this section shall be 97
guilty of theft by deception as provided for in section 2913.02 98
of the Revised Code. 99

Sec. 153.01. (A) Whenever any building or structure for 100
the use of the state or any institution supported in whole or in 101
part by the state or in or upon the public works of the state 102
that is administered by the Ohio facilities construction 103
commission or by any other state officer or state agency 104
authorized by law to administer a project, including an 105
educational institution listed in section 3345.50 of the Revised 106
Code, is to be erected or constructed, whenever additions, 107
alterations, or structural or other improvements are to be made, 108
or whenever heating, cooling, or ventilating plants or other 109

equipment is to be installed or material supplied therefor, the 110
estimated cost of which amounts to two hundred thousand dollars 111
or more, or the amount determined pursuant to section 153.53 of 112
the Revised Code or more, each officer, board, or other 113
authority upon which devolves the duty of constructing, 114
erecting, altering, or installing the same, referred to in 115
sections 153.01 to 153.60 of the Revised Code as the public 116
authority, shall cause to be made, by an architect or engineer 117
whose contract of employment shall be prepared and approved by 118
the attorney general, the following: 119

(1) Full and accurate plans, suitable for the use of 120
mechanics and other builders in the construction, improvement, 121
addition, alteration, or installation; 122

(2) Details to scale and full-sized, so drawn and 123
represented as to be easily understood; 124

(3) Definite and complete specifications of the work to be 125
performed, together with directions that will enable a competent 126
mechanic or other builder to carry them out and afford bidders 127
all needful information; 128

(4) A full and accurate estimate of each item of expense 129
and the aggregate cost of those items of expense; 130

(5) A life-cycle cost analysis; 131

(6) Further data as may be required by the Ohio facilities 132
construction commission. 133

(B) (1) Division (A) of this section shall not be required 134
with respect to a construction management contract entered into 135
with a construction manager at risk as described in section 136
9.334 of the Revised Code or a design-build contract entered 137
into with a design-build firm as described in section 153.693 of 138

the Revised Code.	139
(2) <u>Division (A) of this section shall not be required</u>	140
<u>with respect to purchases described under division (A) (2) of</u>	141
<u>section 125.081 of the Revised Code.</u>	142
<u>(3)</u> Nothing in this chapter shall interfere with the power	143
of the director of transportation to prepare plans for, acquire	144
rights-of-way for, construct, or maintain roads, highways, or	145
bridges, or to let contracts for those purposes.	146
Section 2. That existing sections 125.081 and 153.01 of	147
the Revised Code are hereby repealed.	148