

As Introduced

**131st General Assembly
Regular Session
2015-2016**

S. B. No. 73

**Senator Tavares
Cosponsors: Senator Skindell**

A BILL

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

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

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

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

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

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