

**As Reported by the House Economic and Workforce Development
Committee**

134th General Assembly

**Regular Session
2021-2022**

Am. Sub. S. B. No. 105

Senators Sykes, Schuring

**Cosponsors: Senators Antonio, Craig, Fedor, Huffman, S., Maharath, Thomas,
Williams, Yuko, Blessing, Brenner, Cirino, Dolan, Gavarone, Hackett, Hoagland,
Hottinger, Kunze, Lang, Manning, Reineke, Romanchuk, Rulli, Wilson**

Representative Edwards

A BILL

To amend sections 122.921, 122.924, and 122.925 of
the Revised Code to require political
subdivisions to recognize state certifications
of minority business enterprises, women-owned
business enterprises, and veteran-friendly
business enterprises.

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

Section 1. That sections 122.921, 122.924, and 122.925 of
the Revised Code be amended to read as follows:

Sec. 122.921. (A) As used in this section, "minority
business enterprise" has the same meaning as in division (E)(1)
of section 122.71 of the Revised Code.

(B)(1) The director of development shall make rules in
accordance with Chapter 119. of the Revised Code establishing
procedures by which minority businesses may apply to the
department of development for certification as minority business

enterprises. 16

(2) The director shall approve the application of any 17
minority business enterprise that complies with the rules 18
adopted under this division. Any person adversely affected by an 19
order of the director denying certification as a minority 20
business enterprise may appeal as provided in Chapter 119. of 21
the Revised Code. The director shall prepare and maintain a list 22
of certified minority business enterprises. 23

(C) Every state agency authorized to enter into contracts 24
for construction or contracts for purchases of equipment, 25
materials, supplies, insurance, or services, and every port 26
authority shall file a report every ninety days with the 27
department of development. The report shall be filed at a time 28
and in a form prescribed by the director of development. The 29
report shall include the name of each minority business 30
enterprise that the state agency or port authority entered into 31
a contract with during the preceding ninety-day period and the 32
total value and type of each such contract. No later than thirty 33
days after the end of each fiscal year, the director shall 34
notify in writing each state agency and port authority that has 35
not complied with the reporting requirements of this division 36
for the prior fiscal year. A copy of this notification regarding 37
a state agency shall be submitted to the director of budget and 38
management. No later than thirty days after the notification, 39
the state agency or port authority shall submit to the director 40
the information necessary to comply with the reporting 41
requirements of this division. 42

If, after the expiration of this thirty-day period, a 43
state agency has not complied with the reporting requirements of 44
this division, the director of development shall certify to the 45

director of budget and management that the state agency has not 46
complied with the reporting requirements. A copy of this 47
certification shall be submitted to the state agency. 48
Thereafter, no funds of the state agency shall be expended 49
during the fiscal year for construction or purchases of 50
equipment, materials, supplies, contracts of insurance, or 51
services until the director of development certifies to the 52
director of budget and management that the state agency has 53
complied with the reporting requirements of this division for 54
the prior fiscal year. 55

If any port authority has not complied with the reporting 56
requirement after the expiration of the thirty-day period, the 57
director of development shall certify to the speaker of the 58
house of representatives and the president of the senate that 59
the port authority has not complied with the reporting 60
requirements of this division. A copy of this certification 61
shall be submitted to the port authority. Upon receipt of the 62
certification, the speaker of the house of representatives and 63
the president of the senate shall take such action or make such 64
recommendations to the members of the general assembly as they 65
consider necessary to correct the situation. 66

(D) (1) Any person who has been certified as a minority 67
business enterprise under this section may present the person's 68
certification to a political subdivision as evidence that that 69
person is eligible to participate in any public initiatives or 70
strategies that the political subdivision has established to 71
increase minority participation, representation, or inclusion in 72
business opportunities, and in any programs the political 73
subdivision may have that set aside a certain amount of public 74
contracts to award to any of the economically disadvantaged 75
groups listed in division (E) (1) of section 122.71 of the 76

<u>Revised Code.</u>	77
<u>(2) When considering this evidence, a political</u>	78
<u>subdivision shall defer to the department's determination that</u>	79
<u>the person is both of the following:</u>	80
<u>(a) A member of the economically disadvantaged group</u>	81
<u>indicated on the certification;</u>	82
<u>(b) An owner of at least fifty-one per cent of the</u>	83
<u>business, including corporate stock if a corporation, and has</u>	84
<u>control over the management and day-to-day operations of the</u>	85
<u>business and an interest in the capital, assets, and profits and</u>	86
<u>losses of the business proportionate to the person's percentage</u>	87
<u>of ownership.</u>	88
Sec. 122.924. (A) As used in this section:	89
"Women-owned business enterprise" means any individual,	90
partnership, corporation, or joint venture of any kind that is	91
owned and controlled by women who are United States citizens and	92
residents of this state or of a reciprocal state.	93
"Owned and controlled" means that at least fifty-one per	94
cent of the business, including corporate stock if it is a	95
corporation, is owned by women and that such owners have control	96
over the day-to-day operations of the business and an interest	97
in the capital, assets, and profits and losses of the business	98
proportionate to their percentage of ownership. In order to	99
qualify as a women-owned business, a business shall have been	100
owned by such owners at least one year.	101
(B) The director of development shall establish a business	102
assistance program known as the women-owned business enterprise	103
program and shall adopt rules in accordance with Chapter 119. of	104
the Revised Code to administer the program that do all of the	105

following:	106
(1) Establish procedures by which a business enterprise	107
may apply for certification as a women-owned business	108
enterprise;	109
(2) Establish standards to determine when a women-owned	110
business enterprise no longer qualifies for women-owned business	111
enterprise certification;	112
(3) Establish a system to make publicly available a list	113
of women-owned business enterprises certified under this	114
section;	115
(4) Establish a process to mediate complaints and to	116
review women-owned business enterprise certification appeals;	117
(5) Implement an outreach program to educate potential	118
participants about the women-owned business enterprise program;	119
(6) Establish a system to assist state agencies in	120
identifying and utilizing women-owned business enterprises in	121
their contracting processes;	122
(7) Implement a system of self-reporting by women-owned	123
business enterprises as well as an on-site inspection process to	124
validate the qualifications of women-owned business enterprises.	125
(C) Business and personal financial information and trade	126
secrets submitted by women-owned business enterprise applicants	127
to the director pursuant to this section are not public records	128
for purposes of section 149.43 of the Revised Code, unless the	129
director presents the financial information or trade secrets at	130
a public hearing or public proceeding regarding the applicant's	131
eligibility to participate in the program.	132
(D) The director of development, upon approval of the	133

attorney general, may enter into a reciprocal agreement with the 134
appropriate officials of one or more states, when the other 135
state has a business assistance program or programs 136
substantially similar to the women-owned business enterprise 137
program of this state. The agreement shall provide that a 138
business certified by the other state as a women-owned business 139
enterprise, which is owned and controlled by a resident or 140
residents of that other state, shall be considered a women-owned 141
business enterprise in this state under this section. The 142
agreement shall provide that a women-owned business enterprise 143
certified under this section, which is owned and controlled by a 144
resident or residents of this state, shall be considered 145
certified in the other state and eligible for programs of that 146
state that provide an advantage or benefit to such businesses. 147

(E) (1) Any person who has been certified as a women-owned 148
business enterprise under this section may present the person's 149
certification to a political subdivision as evidence that that 150
person is eligible to participate in any public initiatives or 151
strategies that the political subdivision has established to 152
increase the participation, representation, or inclusion of 153
women in business opportunities, and in any programs the 154
political subdivision may have that set aside a certain amount 155
of public contracts to award to women-owned business 156
enterprises. 157

(2) When considering this evidence, a political 158
subdivision shall defer to the department's determination that 159
the person is a woman, that the person owns and controls the 160
person's business, and that the person has owned the person's 161
business for at least one year. 162

Sec. 122.925. (A) As used in this section: 163

"Armed forces" means the armed forces of the United States, including the army, navy, air force, marine corps, coast guard, or any reserve component of those forces; the national guard of any state; the commissioned corps of the United States public health service; the merchant marine service during wartime; such other service as may be designated by congress; and the Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days.

"State agency" has the meaning defined in section 1.60 of the Revised Code.

"Veteran" means any person who has completed service in the armed forces, including the national guard of any state, or a reserve component of the armed forces, who has been honorably discharged or discharged under honorable conditions from the armed forces or who has been transferred to the reserve with evidence of satisfactory service.

"Veteran-friendly business enterprise" means a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture that meets veteran employment standards established by the director of development and the director of transportation under this section.

(B) The director of development and the director of transportation shall establish and maintain the veteran-friendly business procurement program. The director of development shall adopt rules to administer the program for all state agencies except the department of transportation, and the director of transportation shall adopt rules to administer the program for the department of transportation. The rules shall be adopted under Chapter 119. of the Revised Code. The rules, as adopted separately by but with the greatest degree of consistency

possible between the two directors, shall do all of the	194
following:	195
(1) Establish criteria, based on the percentage of an	196
applicant's employees who are veterans, that qualifies an	197
applicant for certification as a veteran-friendly business	198
enterprise;	199
(2) Establish procedures by which a sole proprietorship,	200
association, partnership, corporation, limited liability	201
company, or joint venture may apply for certification as a	202
veteran-friendly business enterprise;	203
(3) Establish procedures for certifying a sole	204
proprietorship, association, partnership, corporation, limited	205
liability company, or joint venture as a veteran-friendly	206
business enterprise;	207
(4) Establish standards for determining when a veteran-	208
friendly business enterprise no longer qualifies for	209
certification as a veteran-friendly business enterprise;	210
(5) Establish procedures, to be used by state agencies or	211
the department of transportation, for the evaluation and ranking	212
of proposals, which provide preference or bonus points to each	213
certified veteran-friendly business enterprise that submits a	214
bid or other proposal for a contract with the state or an agency	215
of the state other than the department of transportation, or	216
with the department of transportation, for the rendering of	217
services, or the supplying of materials, or for the	218
construction, demolition, alteration, repair, or reconstruction	219
of any public building, structure, highway, or other	220
improvement;	221
(6) Implement an outreach program to educate potential	222

participants about the veteran-friendly business procurement 223
program; and 224

(7) Establish a process for monitoring overall performance 225
of the veteran-friendly business procurement program. 226

(C) (1) Any person who has been certified as a veteran- 227
friendly business enterprise under this section may present the 228
person's certification to a political subdivision as evidence 229
that the person is eligible to participate in any public 230
initiatives or strategies that the political subdivision has 231
established to reward veteran-friendly businesses or to increase 232
the participation, representation, or inclusion of veteran- 233
friendly businesses in business opportunities, and in any 234
programs the political subdivision may have that set aside a 235
certain amount of public contracts to award to veteran-friendly 236
business enterprises. 237

(2) When considering this evidence, a political 238
subdivision shall defer to the department's determination that 239
the person meets the criteria established under division (B) (1) 240
of this section. 241

Section 2. That existing sections 122.921, 122.924, and 242
122.925 of the Revised Code are hereby repealed. 243