

Sub. S. B. No. 105
As Passed by the Senate

_____ moved to amend as follows:

In line 1 of the title, delete "9.318" and insert "122.921"; delete 1
"123.151" and insert "122.924"; delete "123.154" and insert "122.925" 2

In line 7, delete "9.318" and insert "122.921"; delete "123.151" and 3
insert "122.924"; delete "123.154" and insert "122.925" 4

Delete lines 9 through 88 5

After line 88, insert: 6

"Sec. 122.921. (A) As used in this section, "minority 7
business enterprise" has the same meaning as in division (E) (1) 8
of section 122.71 of the Revised Code. 9

(B) (1) The director of development shall make rules in 10
accordance with Chapter 119. of the Revised Code establishing 11
procedures by which minority businesses may apply to the 12
department of development for certification as minority business 13
enterprises. 14

(2) The director shall approve the application of any 15
minority business enterprise that complies with the rules 16



adopted under this division. Any person adversely affected by an 17
order of the director denying certification as a minority 18
business enterprise may appeal as provided in Chapter 119. of 19
the Revised Code. The director shall prepare and maintain a list 20
of certified minority business enterprises. 21

(C) Every state agency authorized to enter into contracts 22
for construction or contracts for purchases of equipment, 23
materials, supplies, insurance, or services, and every port 24
authority shall file a report every ninety days with the 25
department of development. The report shall be filed at a time 26
and in a form prescribed by the director of development. The 27
report shall include the name of each minority business 28
enterprise that the state agency or port authority entered into 29
a contract with during the preceding ninety-day period and the 30
total value and type of each such contract. No later than thirty 31
days after the end of each fiscal year, the director shall 32
notify in writing each state agency and port authority that has 33
not complied with the reporting requirements of this division 34
for the prior fiscal year. A copy of this notification regarding 35
a state agency shall be submitted to the director of budget and 36
management. No later than thirty days after the notification, 37
the state agency or port authority shall submit to the director 38
the information necessary to comply with the reporting 39
requirements of this division. 40

If, after the expiration of this thirty-day period, a 41
state agency has not complied with the reporting requirements of 42
this division, the director of development shall certify to the 43
director of budget and management that the state agency has not 44
complied with the reporting requirements. A copy of this 45
certification shall be submitted to the state agency. 46
Thereafter, no funds of the state agency shall be expended 47

during the fiscal year for construction or purchases of 48
equipment, materials, supplies, contracts of insurance, or 49
services until the director of development certifies to the 50
director of budget and management that the state agency has 51
complied with the reporting requirements of this division for 52
the prior fiscal year. 53

If any port authority has not complied with the reporting 54
requirement after the expiration of the thirty-day period, the 55
director of development shall certify to the speaker of the 56
house of representatives and the president of the senate that 57
the port authority has not complied with the reporting 58
requirements of this division. A copy of this certification 59
shall be submitted to the port authority. Upon receipt of the 60
certification, the speaker of the house of representatives and 61
the president of the senate shall take such action or make such 62
recommendations to the members of the general assembly as they 63
consider necessary to correct the situation. 64

(D) (1) Any person who has been certified as a minority 65
business enterprise under this section may present the person's 66
certification to a political subdivision as evidence that that 67
person is eligible to participate in any public initiatives or 68
strategies that the political subdivision has established to 69
increase minority participation, representation, or inclusion in 70
business opportunities, and in any programs the political 71
subdivision may have that set aside a certain amount of public 72
contracts to award to any of the economically disadvantaged 73
groups listed in division (E) (1) of section 122.71 of the 74
Revised Code. 75

(2) When considering this evidence, a political 76
subdivision shall defer to the department's determination that 77

the person is both of the following: 78

(a) A member of the economically disadvantaged group 79
indicated on the certification; 80

(b) An owner of at least fifty-one per cent of the 81
business, including corporate stock if a corporation, and has 82
control over the management and day-to-day operations of the 83
business and an interest in the capital, assets, and profits and 84
losses of the business proportionate to the person's percentage 85
of ownership. 86

Sec. 122.924. (A) As used in this section: 87

"Women-owned business enterprise" means any individual, 88
partnership, corporation, or joint venture of any kind that is 89
owned and controlled by women who are United States citizens and 90
residents of this state or of a reciprocal state. 91

"Owned and controlled" means that at least fifty-one per 92
cent of the business, including corporate stock if it is a 93
corporation, is owned by women and that such owners have control 94
over the day-to-day operations of the business and an interest 95
in the capital, assets, and profits and losses of the business 96
proportionate to their percentage of ownership. In order to 97
qualify as a women-owned business, a business shall have been 98
owned by such owners at least one year. 99

(B) The director of development shall establish a business 100
assistance program known as the women-owned business enterprise 101
program and shall adopt rules in accordance with Chapter 119. of 102
the Revised Code to administer the program that do all of the 103
following: 104

(1) Establish procedures by which a business enterprise 105

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

state has a business assistance program or programs 134
substantially similar to the women-owned business enterprise 135
program of this state. The agreement shall provide that a 136
business certified by the other state as a women-owned business 137
enterprise, which is owned and controlled by a resident or 138
residents of that other state, shall be considered a women-owned 139
business enterprise in this state under this section. The 140
agreement shall provide that a women-owned business enterprise 141
certified under this section, which is owned and controlled by a 142
resident or residents of this state, shall be considered 143
certified in the other state and eligible for programs of that 144
state that provide an advantage or benefit to such businesses. 145

(E) (1) Any person who has been certified as a women-owned 146
business enterprise under this section may present the person's 147
certification to a political subdivision as evidence that that 148
person is eligible to participate in any public initiatives or 149
strategies that the political subdivision has established to 150
increase the participation, representation, or inclusion of 151
women in business opportunities, and in any programs the 152
political subdivision may have that set aside a certain amount 153
of public contracts to award to women-owned business 154
enterprises. 155

(2) When considering this evidence, a political 156
subdivision shall defer to the department's determination that 157
the person is a woman, that the person owns and controls the 158
person's business, and that the person has owned the person's 159
business for at least one year. 160

Sec. 122.925. (A) As used in this section: 161

"Armed forces" means the armed forces of the United 162
States, including the army, navy, air force, marine corps, coast 163

guard, or any reserve component of those forces; the national 164
guard of any state; the commissioned corps of the United States 165
public health service; the merchant marine service during 166
wartime; such other service as may be designated by congress; 167
and the Ohio organized militia when engaged in full-time 168
national guard duty for a period of more than thirty days. 169

"State agency" has the meaning defined in section 1.60 of 170
the Revised Code. 171

"Veteran" means any person who has completed service in 172
the armed forces, including the national guard of any state, or 173
a reserve component of the armed forces, who has been honorably 174
discharged or discharged under honorable conditions from the 175
armed forces or who has been transferred to the reserve with 176
evidence of satisfactory service. 177

"Veteran-friendly business enterprise" means a sole 178
proprietorship, association, partnership, corporation, limited 179
liability company, or joint venture that meets veteran 180
employment standards established by the director of development 181
and the director of transportation under this section. 182

(B) The director of development and the director of 183
transportation shall establish and maintain the veteran-friendly 184
business procurement program. The director of development shall 185
adopt rules to administer the program for all state agencies 186
except the department of transportation, and the director of 187
transportation shall adopt rules to administer the program for 188
the department of transportation. The rules shall be adopted 189
under Chapter 119. of the Revised Code. The rules, as adopted 190
separately by but with the greatest degree of consistency 191
possible between the two directors, shall do all of the 192
following: 193

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

(7) Establish a process for monitoring overall performance 223
of the veteran-friendly business procurement program. 224

(C) (1) Any person who has been certified as a veteran- 225
friendly business enterprise under this section may present the 226
person's certification to a political subdivision as evidence 227
that the person is eligible to participate in any public 228
initiatives or strategies that the political subdivision has 229
established to reward veteran-friendly businesses or to increase 230
the participation, representation, or inclusion of veteran- 231
friendly businesses in business opportunities, and in any 232
programs the political subdivision may have that set aside a 233
certain amount of public contracts to award to veteran-friendly 234
business enterprises. 235

(2) When considering this evidence, a political 236
subdivision shall defer to the department's determination that 237
the person meets the criteria established under division (B) (1) 238
of this section." 239

Delete lines 89 through 241 240

In line 242, delete "9.318" and insert "122.921"; delete "123.151" 241
and insert "122.924" 242

In line 243, delete "123.154" and insert "122.925" 243

The motion was _____ agreed to.

SYNOPSIS 244

Conforming amendment: budget bill administrative changes 245

**R.C. 122.921, 122.924, and 122.925; 9.318, 123.151, and
123.154 (removed from the bill)** 246
247

Updates the Revised Code sections amended by the bill to 248
reflect the transfer of administrative authority over the 249
state's MBE, WBE, and VFBE programs and certifications to the 250
Department of Development under H.B. 110 of the 134th General 251
Assembly. Prior to this transfer, these programs and 252
certifications were administered by the Department of 253
Administrative Services. 254