### As Introduced

# 132nd General Assembly Regular Session 2017-2018

S. B. No. 15

#### **Senator Tavares**

Cosponsors: Senators Thomas, Yuko, Schiavoni, Skindell

## A BILL

То	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
<pre>"Edge_business enterprise" means a sole proprietorship,</pre>	16
association, partnership, corporation, limited liability	17
corporation, or joint venture certified as a participant in the	18

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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
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university or college as defined in division (A) (1) of section	
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

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(a) Goals established under division (B)(2) of this	48
section shall be based on a percentage level of participation	49
and a percentage of contractor availability.	50
(b) Goals established under division (B)(2) of this	51
section shall be applied at the contract level, relative to an	52
overall dollar goal for each state agency, in accordance with	53
the following certification categories: construction,	54
architecture, and engineering; professional services; goods and	55
services; and information technology services.	56
(3) Establish a system of certifying EDGE business	57
enterprises based on a requirement that the business owner or	58
owners show both social and economic disadvantage based on the	59
following, as determined to be sufficient by the director:	60
(a) Relative wealth of the business seeking certification	61
as well as the personal wealth of the owner or owners of the	62
business;	63
(b) Social disadvantage based on any of the following:	64
(i) A rebuttable presumption when the business owner or	65
owners demonstrate membership in a racial minority group or show	66
personal disadvantage due to color, ethnic origin, gender,	67
physical disability, long-term residence in an environment	68
isolated from the mainstream of American society, location in an	69
area of high unemployment;	70
(ii) Some other demonstration of personal disadvantage not	71
common to other small businesses;	72
(iii) By business location in a qualified census tract.	73
(c) Economic disadvantage based on economic and business	74
size thresholds and eligibility criteria designed to stimulate	75

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
	0.1
(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
	100
(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;	101 102
the quartifications of an abor business enterprise;	102
(12) Establish a waiver mechanism to waive program goals	103

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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 <del>universities as</del>	111
defined in section 3345.011 of the Revised Code institutions of	112
<u>higher education</u> 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
<u>higher education</u> 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	
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

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percentage of the contracts for competition by minority business	133
enterprises only as specified in division (B) of section 125.081	134
of the Revised Code.	135
Sec. 3357.161. In awarding contracts, the board of	136
trustees of a technical college district shall set aside a	137
percentage of the contracts for competition by minority business	138
enterprises only as specified in division (B) of section 125.081	139
of the Revised Code.	140
Sec. 3358.10. Sections 3354.10, 3354.121, 3354.15, and	141
3354.16, and 3354.161 of the Revised Code apply to state	142
community college districts and their boards of trustees.	143
Section 2. That existing sections 123.152 and 3358.10 of	144
the Revised Code are hereby repealed.	145