

As Introduced

132nd General Assembly

Regular Session

2017-2018

H. B. No. 493

Representative Gonzales

Cosponsors: Representatives Boggs, Antonio, Miller

A BILL

To amend sections 122.71 and 123.152 and to enact 1
section 123.155 of the Revised Code to authorize 2
the Director of Administrative Services to enter 3
into reciprocal agreements with other states 4
with respect to the certification of minority 5
business enterprises and EDGE business 6
enterprises. 7

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

Section 1. That sections 122.71 and 123.152 be amended and 8
section 123.155 of the Revised Code be enacted to read as 9
follows: 10

Sec. 122.71. As used in sections 122.71 to 122.83 of the 11
Revised Code: 12

(A) "Financial institution" means any banking corporation, 13
trust company, insurance company, savings and loan association, 14
building and loan association, or corporation, partnership, 15
federal lending agency, foundation, or other institution engaged 16
in lending or investing funds for industrial or business 17
purposes. 18

(B) "Project" means any real or personal property 19
connected with or being a part of an industrial, distribution, 20
commercial, or research facility to be acquired, constructed, 21
reconstructed, enlarged, improved, furnished, or equipped, or 22
any combination thereof, with the aid provided under sections 23
122.71 to 122.83 of the Revised Code, for industrial, 24
commercial, distribution, and research development of the state. 25

(C) "Mortgage" means the lien imposed on a project by a 26
mortgage on real property, or by financing statements on 27
personal property, or a combination of a mortgage and financing 28
statements when a project consists of both real and personal 29
property. 30

(D) "Mortgagor" means the principal user of a project or 31
the person, corporation, partnership, or association 32
unconditionally guaranteeing performance by the principal user 33
of its obligations under the mortgage. 34

(E) (1) "Minority business enterprise" means an individual 35
who is a United States citizen and owns and controls a business, 36
or a partnership, corporation, or joint venture of any kind that 37
is owned and controlled by United States citizens, which citizen 38
or citizens are residents of this state or of a reciprocal state 39
and are members of one of the following economically 40
disadvantaged groups: Blacks or African Americans, American 41
Indians, Hispanics or Latinos, and Asians. 42

(2) "Owned and controlled" means that at least fifty-one 43
per cent of the business, including corporate stock if a 44
corporation, is owned by persons who belong to one or more of 45
the groups set forth in division (E) (1) of this section, and 46
that those owners have control over the management and day-to- 47
day operations of the business and an interest in the capital, 48

assets, and profits and losses of the business proportionate to 49
their percentage of ownership. In order to qualify as a minority 50
business enterprise, a business shall have been owned and 51
controlled by those persons at least one year prior to being 52
awarded a contract pursuant to this section. 53

(F) "Community improvement corporation" means a 54
corporation organized under Chapter 1724. of the Revised Code. 55

(G) "Ohio development corporation" means a corporation 56
organized under Chapter 1726. of the Revised Code. 57

(H) "Minority contractors business assistance 58
organization" means an entity engaged in the provision of 59
management and technical business assistance to minority 60
business enterprise entrepreneurs. 61

(I) "Minority business supplier development council" means 62
a nonprofit organization established as an affiliate of the 63
national minority supplier development council. 64

(J) "Regional economic development entity" means an entity 65
that is under contract with the director of development to 66
administer a loan program under this chapter in a particular 67
area of the state. 68

(K) "Community development corporation" means a 69
corporation organized under Chapter 1702. of the Revised Code 70
that consists of residents of the community and business and 71
civic leaders and that has as a principal purpose one or more of 72
the following: the revitalization and development of a low- to 73
moderate-income neighborhood or community; the creation of jobs 74
for low- to moderate-income residents; the development of 75
commercial facilities and services; providing training, 76
technical assistance, and financial assistance to small 77

businesses; and planning, developing, or managing low-income 78
housing or other community development activities. 79

(L) "Reciprocal state" means a state that is party to an 80
agreement under section 123.155 of the Revised Code. 81

Sec. 123.152. (A) As used in this section: 82

"EDGE business enterprise" means a sole proprietorship, 83
association, partnership, corporation, limited liability 84
corporation, or joint venture certified as a participant in the 85
encouraging diversity, growth, and equity program by the 86
director of administrative services under this section of the 87
Revised Code, and is owned and controlled by a citizen or 88
citizens of the United States of America, who are full-time 89
residents of this state or of a reciprocal state, and who are 90
socially and economically disadvantaged. 91

"Reciprocal state" means a state that is party to an 92
agreement under section 123.155 of the Revised Code. 93

(B) The director of administrative services shall 94
establish a business assistance program known as the encouraging 95
diversity, growth, and equity program and shall adopt rules in 96
accordance with Chapter 119. of the Revised Code to administer 97
the program that do all of the following: 98

(1) Establish procedures by which a sole proprietorship, 99
association, partnership, corporation, limited liability 100
corporation, or joint venture may apply for certification as an 101
EDGE business enterprise; 102

(2) Except as provided in division (B) (14) of this 103
section, establish agency procurement goals for contracting with 104
EDGE business enterprises in the award of contracts under 105
Chapters 123., 125., and 153. of the Revised Code based on the 106

availability of eligible program participants by region or 107
geographic area, as determined by the director, and by standard 108
industrial code or equivalent code classification. 109

(a) Goals established under division (B)(2) of this 110
section shall be based on a percentage level of participation 111
and a percentage of contractor availability. 112

(b) Goals established under division (B)(2) of this 113
section shall be applied at the contract level, relative to an 114
overall dollar goal for each state agency, in accordance with 115
the following certification categories: construction, 116
architecture, and engineering; professional services; goods and 117
services; and information technology services. 118

(3) Establish a system of certifying EDGE business 119
enterprises based on a requirement that the business owner or 120
owners show both social and economic disadvantage based on the 121
following, as determined to be sufficient by the director: 122

(a) Relative wealth of the business seeking certification 123
as well as the personal wealth of the owner or owners of the 124
business; 125

(b) Social disadvantage based on any of the following: 126

(i) A rebuttable presumption when the business owner or 127
owners demonstrate membership in a racial minority group or show 128
personal disadvantage due to color, ethnic origin, gender, 129
physical disability, long-term residence in an environment 130
isolated from the mainstream of American society, location in an 131
area of high unemployment; 132

(ii) Some other demonstration of personal disadvantage not 133
common to other small businesses; 134

(iii) By business location in a qualified census tract.	135
(c) Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through contract awards to businesses located in qualified census tracts.	136 137 138 139
(4) Establish standards to determine when an EDGE business enterprise no longer qualifies for EDGE business enterprise certification;	140 141 142
(5) Develop a process for evaluating and adjusting goals established by this section to determine what adjustments are necessary to achieve participation goals established by the director;	143 144 145 146
(6) Establish a point system or comparable system to evaluate bid proposals to encourage EDGE business enterprises to participate in the procurement of professional design and information technology services;	147 148 149 150
(7) Establish a system to track data and analyze each certification category established under division (B) (2) (b) of this section;	151 152 153
(8) Establish a process to mediate complaints and to review EDGE business enterprise certification appeals;	154 155
(9) Implement an outreach program to educate potential participants about the encouraging diversity, growth, and equity program;	156 157 158
(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;	159 160 161
(11) Implement a system of self-reporting by EDGE business	162

enterprises as well as an on-site inspection process to validate	163
the qualifications of an EDGE business enterprise;	164
(12) Establish a waiver mechanism to waive program goals	165
or participation requirements for those companies that, despite	166
their best-documented efforts, are unable to contract with	167
certified EDGE business enterprises;	168
(13) Establish a process for monitoring overall program	169
compliance in which equal employment opportunity officers	170
primarily are responsible for monitoring their respective	171
agencies;	172
(14) Establish guidelines for state universities as	173
defined in section 3345.011 of the Revised Code and the Ohio	174
facilities construction commission created in section 123.20 of	175
the Revised Code for awarding contracts pursuant to Chapters	176
153., 3318., and 3345. of the Revised Code to allow the	177
universities and commission to establish agency procurement	178
goals for contracting with EDGE business enterprises.	179
(C) Business and personal financial information and trade	180
secrets submitted by encouraging diversity, growth, and equity	181
program applicants to the director pursuant to this section are	182
not public records for purposes of section 149.43 of the Revised	183
Code, unless the director presents the financial information or	184
trade secrets at a public hearing or public proceeding regarding	185
the applicant's eligibility to participate in the program.	186
<u>Sec. 123.155. (A) As used in this section:</u>	187
<u>"EDGE business enterprise" has the meaning defined in</u>	188
<u>section 123.152 of the Revised Code.</u>	189
<u>"Minority business enterprise" has the meaning defined in</u>	190
<u>section 122.71 of the Revised Code.</u>	191

"Owned and controlled" has the meaning defined in section 122.71 of the Revised Code. 192
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(B) The director of administrative services, upon approval of the attorney general, may enter into a reciprocal agreement with the appropriate officials of one or more states, when the other state has a business assistance program or programs substantially similar to the minority business enterprise and EDGE business enterprise programs of this state. The agreement shall provide that a business certified by the other state, as a minority business or as a socially and economically disadvantaged business, and that is owned and controlled by a resident or residents of that other state, shall be considered a minority business enterprise or an EDGE business enterprise in this state. The agreement shall provide that a business enterprise certified under section 123.151 or 123.152 of the Revised Code, which is owned and controlled by a resident or residents of this state, shall be considered as certified in the other state and eligible for programs of that state that provide an advantage or benefit to such businesses. 194
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Section 2. That existing sections 122.71 and 123.152 of the Revised Code are hereby repealed. 211
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