

**As Reported by the Senate Small Business and Economic Opportunity
Committee**

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Sub. S. B. No. 105

Senators Sykes, Schuring

**Cosponsors: Senators Antonio, Craig, Fedor, Huffman, S., Maharath, Thomas,
Williams, Yuko**

A BILL

To amend sections 9.318, 123.151, and 123.154 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 9.318, 123.151, and 123.154 of
the Revised Code be amended to read as follows:

Sec. 9.318. (A) As used in this section:

"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. 17

"State agency" has the meaning defined in section 1.60 of 18
the Revised Code. 19

"Veteran" means any person who has completed service in 20
the armed forces, including the national guard of any state, or 21
a reserve component of the armed forces, who has been honorably 22
discharged or discharged under honorable conditions from the 23
armed forces or who has been transferred to the reserve with 24
evidence of satisfactory service. 25

"Veteran-friendly business enterprise" means a sole 26
proprietorship, association, partnership, corporation, limited 27
liability company, or joint venture that meets veteran 28
employment standards established by the director of 29
administrative services and the director of transportation under 30
this section. 31

(B) The director of administrative services and the 32
director of transportation shall establish and maintain the 33
veteran-friendly business procurement program. The director of 34
administrative services shall adopt rules to administer the 35
program for all state agencies except the department of 36
transportation, and the director of transportation shall adopt 37
rules to administer the program for the department of 38
transportation. The rules shall be adopted under Chapter 119. of 39
the Revised Code. The rules, as adopted separately by but with 40
the greatest degree of consistency possible between the two 41
directors, shall do all of the following: 42

(1) Establish criteria, based on the percentage of an 43
applicant's employees who are veterans, that qualifies an 44
applicant for certification as a veteran-friendly business 45

enterprise;	46
(2) Establish procedures by which a sole proprietorship,	47
association, partnership, corporation, limited liability	48
company, or joint venture may apply for certification as a	49
veteran-friendly business enterprise;	50
(3) Establish procedures for certifying a sole	51
proprietorship, association, partnership, corporation, limited	52
liability company, or joint venture as a veteran-friendly	53
business enterprise;	54
(4) Establish standards for determining when a veteran-	55
friendly business enterprise no longer qualifies for	56
certification as a veteran-friendly business enterprise;	57
(5) Establish procedures, to be used by state agencies or	58
the department of transportation, for the evaluation and ranking	59
of proposals, which provide preference or bonus points to each	60
certified veteran-friendly business enterprise that submits a	61
bid or other proposal for a contract with the state or an agency	62
of the state other than the department of transportation, or	63
with the department of transportation, for the rendering of	64
services, or the supplying of materials, or for the	65
construction, demolition, alteration, repair, or reconstruction	66
of any public building, structure, highway, or other	67
improvement;	68
(6) Implement an outreach program to educate potential	69
participants about the veteran-friendly business procurement	70
program; and	71
(7) Establish a process for monitoring overall performance	72
of the veteran-friendly business procurement program.	73
<u>(C) (1) Any person who has been certified as a veteran-</u>	74

friendly business enterprise under this section may present the 75
person's certification to a political subdivision as evidence 76
that the person is eligible to participate in any public 77
initiatives or strategies that the political subdivision has 78
established to reward veteran-friendly businesses or to increase 79
the participation, representation, or inclusion of veteran- 80
friendly businesses in business opportunities, and in any 81
programs the political subdivision may have that set aside a 82
certain amount of public contracts to reward to veteran-friendly 83
business enterprises. 84

(2) When considering this evidence, a political 85
subdivision shall defer to the department's determination that 86
the person meets the criteria established under division (B)(1) 87
of this section. 88

Sec. 123.151. (A) As used in this section, "minority 89
business enterprise" has the same meaning as in division (E)(1) 90
of section 122.71 of the Revised Code. 91

(B)(1) The director of administrative services shall make 92
rules in accordance with Chapter 119. of the Revised Code 93
establishing procedures by which minority businesses may apply 94
to the equal employment opportunity coordinator for 95
certification as minority business enterprises. 96

(2) The coordinator shall approve the application of any 97
minority business enterprise that complies with the rules 98
adopted under this division. Any person adversely affected by an 99
order of the coordinator denying certification as a minority 100
business enterprise may appeal as provided in Chapter 119. of 101
the Revised Code. The coordinator shall prepare and maintain a 102
list of certified minority business enterprises. 103

(C) The department of administrative services, every other 104
state agency authorized to enter into contracts for construction 105
or contracts for purchases of equipment, materials, supplies, 106
insurance, or services, and every port authority shall file a 107
report every ninety days with the equal employment opportunity 108
coordinator. The report shall be filed at a time and in a form 109
prescribed by the coordinator. The report shall include the name 110
of each minority business enterprise that the agency or port 111
authority entered into a contract with during the preceding 112
ninety-day period and the total value and type of each such 113
contract. No later than thirty days after the end of each fiscal 114
year, the coordinator shall notify in writing each state agency 115
and port authority that has not complied with the reporting 116
requirements of this division for the prior fiscal year. A copy 117
of this notification regarding a state agency shall be submitted 118
to the director of budget and management. No later than thirty 119
days after the notification, the agency or port authority shall 120
submit to the coordinator the information necessary to comply 121
with the reporting requirements of this division. 122

If, after the expiration of this thirty-day period, a 123
state agency has not complied with the reporting requirements of 124
this division, the coordinator shall certify to the director of 125
budget and management that the agency has not complied with the 126
reporting requirements. A copy of this certification shall be 127
submitted to the agency. Thereafter, no funds of the agency 128
shall be expended during the fiscal year for construction or 129
purchases of equipment, materials, supplies, contracts of 130
insurance, or services until the coordinator certifies to the 131
director of budget and management that the agency has complied 132
with the reporting requirements of this division for the prior 133
fiscal year. 134

If any port authority has not complied with the reporting requirement after the expiration of the thirty-day period, the coordinator shall certify to the speaker of the house of representatives and the president of the senate that the port authority has not complied with the reporting requirements of this division. A copy of this certification shall be submitted to the port authority. Upon receipt of the certification, the speaker of the house of representatives and the president of the senate shall take such action or make such recommendations to the members of the general assembly as they consider necessary to correct the situation.

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

(2) When considering this evidence, a political subdivision shall defer to the department's determination that the person is both of the following:

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

(b) An owner of at least fifty-one per cent of the business, including corporate stock if a corporation, and has control over the management and day-to-day operations of the

business and an interest in the capital, assets, and profits and 165
losses of the business proportionate to the person's percentage 166
of ownership. 167

Sec. 123.154. (A) As used in this section: 168

"Women-owned business enterprise" means any individual, 169
partnership, corporation, or joint venture of any kind that is 170
owned and controlled by women who are United States citizens and 171
residents of this state or of a reciprocal state. 172

"Owned and controlled" means that at least fifty-one per 173
cent of the business, including corporate stock if it is a 174
corporation, is owned by women and that such owners have control 175
over the day-to-day operations of the business and an interest 176
in the capital, assets, and profits and losses of the business 177
proportionate to their percentage of ownership. In order to 178
qualify as a women-owned business, a business shall have been 179
owned by such owners at least one year. 180

(B) The director of administrative services shall 181
establish a business assistance program known as the women-owned 182
business enterprise program and shall adopt rules in accordance 183
with Chapter 119. of the Revised Code to administer the program 184
that do all of the following: 185

(1) Establish procedures by which a business enterprise 186
may apply for certification as a women-owned business 187
enterprise; 188

(2) Establish standards to determine when a women-owned 189
business enterprise no longer qualifies for women-owned business 190
enterprise certification; 191

(3) Establish a system to make publicly available a list 192
of women-owned business enterprises certified under this 193

section;	194
(4) Establish a process to mediate complaints and to	195
review women-owned business enterprise certification appeals;	196
(5) Implement an outreach program to educate potential	197
participants about the women-owned business enterprise program;	198
(6) Establish a system to assist state agencies in	199
identifying and utilizing women-owned business enterprises in	200
their contracting processes;	201
(7) Implement a system of self-reporting by women-owned	202
business enterprises as well as an on-site inspection process to	203
validate the qualifications of women-owned business enterprises.	204
(C) Business and personal financial information and trade	205
secrets submitted by women-owned business enterprise applicants	206
to the director pursuant to this section are not public records	207
for purposes of section 149.43 of the Revised Code, unless the	208
director presents the financial information or trade secrets at	209
a public hearing or public proceeding regarding the applicant's	210
eligibility to participate in the program.	211
(D) The director of administrative services, upon approval	212
of the attorney general, may enter into a reciprocal agreement	213
with the appropriate officials of one or more states, when the	214
other state has a business assistance program or programs	215
substantially similar to the women-owned business enterprise	216
program of this state. The agreement shall provide that a	217
business certified by the other state as a women-owned business	218
enterprise, which is owned and controlled by a resident or	219
residents of that other state, shall be considered a women-owned	220
business enterprise in this state under this section. The	221
agreement shall provide that a women-owned business enterprise	222

certified under this section, which is owned and controlled by a 223
resident or residents of this state, shall be considered 224
certified in the other state and eligible for programs of that 225
state that provide an advantage or benefit to such businesses. 226

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

(2) When considering this evidence, a political 237
subdivision shall defer to the department's determination that 238
the person is a woman, that the person owns and controls the 239
person's business, and that the person has owned the person's 240
business for at least one year. 241

Section 2. That existing sections 9.318, 123.151, and 242
123.154 of the Revised Code are hereby repealed. 243