

HOUSE No. 3372

The Commonwealth of Massachusetts

PRESENTED BY:

Russell E. Holmes

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to equity in public contracting in honor of Bruce C. Bolling.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Russell E. Holmes

6th Suffolk

Carlos Gonzalez

10th Hampden

HOUSE No. 3372

By Mr. Holmes of Boston, a petition (accompanied by bill, House, No. 3372) of Russell E. Holmes and Carlos Gonzalez relative to diversity in public contracting. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to equity in public contracting in honor of Bruce C. Bolling.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Be it enacted by the Senate and House of Representatives in General Court assembled,
2 and by the authority of the same, as follows:

3 SECTION 1. Section 1 of Chapter 7 of the General Laws, as appearing in the 2014
4 Official Edition, is hereby amended by inserting after the last paragraph the following
5 paragraphs:-

6 “Low income community”, a municipality where the median household income is 65
7 percent or less than the statewide household median income. In the case of a municipality with
8 50,000 residents or more, low income community shall mean a geographically contiguous,
9 historically recognized neighborhood of 10,000-50,000 residents.

10 “Minority business enterprise”, as used in this chapter shall be defined as it is in Section
11 58 of Chapter 7 of the General Laws, as appearing in the 2014 Official Edition.

12 “Women business enterprise” as used in this chapter shall be defined as it is in Section 58
13 of Chapter 7 of the General Laws, as appearing in the 2014 Official Edition.

14 SECTION 2. Section 14C of said chapter 7 of the General Laws as so appearing in the
15 2014 Official Edition, is hereby amended by inserting after the last paragraph the following
16 paragraphs:-

17 Within 150 calendar days of the effective date of this section, any entity awarded a
18 contract under the provisions of Chapter 7, shall provide written verification with every invoice
19 submitted to the awarding authority detailing the portion of the payment that will be allocated to
20 minority business enterprises and women business enterprises, and reporting the racial, ethnic
21 and gender make-up of the awardees’ workforce in Massachusetts. The awardee shall take
22 necessary steps to prevent the disclosure of individually-identifying information about
23 employees on this report.

24 The executive office of administration and finance shall, within 90 calendar days of the
25 effective date of this section, promulgate a template reporting form, for optional use by the
26 awarding authority, to assist contractors in meeting the requirements of this section.

27 The awarding authority shall submit the report to the Massachusetts Management and
28 Reporting System (MMARS) within 30 calendar days of receiving it. The Comptroller of the
29 Commonwealth shall, within 120 of the effective date of this section, develop appropriate fields
30 within the MMARS for receiving this data.

31 SECTION 3. Section 22O of chapter 7 of the General Laws, as appearing in the 2014
32 Official Edition, is hereby amended by adding the following sentence:- The commonwealth shall
33 seek to achieve minority business enterprise and women business enterprise contracting goals

34 within state procurement that reflect the diverse racial, ethnic and gender makeup of the
35 commonwealth's population.

36 SECTION 4. Section 1 of chapter 149 of the General Laws, as appearing in the 2012
37 Official Edition is hereby amended by inserting after the last paragraph the following
38 paragraphs:-

39 "Low income community", a municipality where the median household income is 65
40 percent or less than the statewide household median income. In the case of a municipality with
41 50,000 residents or more, low income community shall mean a geographically contiguous,
42 historically recognized neighborhood of 10,000-50,000 residents.

43 "Minority business enterprise", as used in this chapter shall be defined as it is in Section
44 58 of Chapter 7 of the General Laws, as appearing in the 2012 Official Edition.

45 "Women business enterprise" as used in this chapter shall be defined as it is in Section 58
46 of Chapter 7 of the General Laws, as appearing in the 2012 Official Edition.

47 SECTION 5. The definition of "Responsible" in section 44A of chapter 149 of the
48 General Laws, as so appearing, is hereby amended by adding the following words:- provided,
49 however, that in deliberating upon the responsibility of a bidder, a contracting public agency
50 shall consider a bidder's compliance with commitments made in previous bids or contract
51 documents with the Commonwealth, if any, including, but not limited to, the failure of a bidder,
52 contractor, or proposed subcontractor to comply with the commitments regarding the
53 employment of minority business enterprises and women business enterprises and regarding
54 workforce inclusion goals.

55 SECTION 6. Section 44A½ of said chapter 149, as so appearing, is hereby amended by
56 inserting after the last paragraph the following paragraphs:-

57 (d) It shall be the goal of the Commonwealth to achieve minority business enterprise and
58 women business enterprise contracting goals and workforce participation goals on the totality of
59 state-funded design and construction contracts that are reflective of the diverse racial, ethnic, and
60 gender make-up of the Commonwealth's population.

61 (e) It shall be the goal of the Commonwealth that job creation on state-funded
62 construction contracts be targeted to members of the community in which a project is physically
63 located and that the workforce on that project reflect the demographic diversity of the host
64 community, when construction projects are located in low income communities.

65 SECTION 7. Paragraph (1) of subsection (e) of section 44D½ of said section 149, as so
66 appearing, is hereby amended by adding the following clause:-

67 (viii) Joint Ventures, documentation demonstrating that the firm has formed an
68 association of not less than 2 businesses in which 1 of the businesses is a minority business
69 enterprise or a women business enterprise.

70 SECTION 8. Said section 44D½ of said chapter 149, as so appearing, is hereby amended
71 by inserting after line 110, the following text:-

72 (iii) Evidence of the bidder, contractor, or proposed contractor's ability to advance the
73 Commonwealth's contracting and workforce inclusion goals as stated in Section 44A ½ of
74 Chapter 149.

75 SECTION 9. Said chapter 149, as so appearing, is hereby amended by inserting after
76 section 44M the following section:-

77 Section 44N. Data collection and disclosure

78 Within 150 calendar days of the effective date of this section, any entity awarded a
79 contract for construction by a state agency shall provide written verification with every progress
80 payment request (PPR) submitted to the awarding authority detailing the portion of the payment
81 that will be allocated to minority business enterprises and women business enterprises
82 respectively, as defined in Section 58 of Chapter 7, and detailing the total number of hours
83 worked by all employees on that contract during the period covered by the PPR; and including a
84 breakdown of hours worked by workers' ZIP codes of residence, as well as a breakdown of the
85 number of hours worked by women and workers of color, respectively. The reporting entity shall
86 take necessary steps to prevent the disclosure of individually-identifying information about
87 employees on this report.

88 The executive office of administration and finance shall, within 90 calendar days of the
89 effective date of this section, promulgate a template reporting form, for optional use by the
90 awarding authority, to assist contractors in meeting the requirements of this section.

91 The awarding authority shall submit the report to the Massachusetts Management and
92 Reporting System (MMARS) within 30 calendar days of receiving it. The Comptroller of the
93 Commonwealth shall, within 120 of the effective date of this section, develop appropriate fields
94 within the MMARS for receiving this data.