

SENATE No. 01568

The Commonwealth of Massachusetts

PRESENTED BY:

Sonia Chang-Diaz

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 passage of the accompanying bill:

An Act to create equitable job access.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Russell Holmes</i>	<i>6th Suffolk</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>

SENATE No. 01568

By Ms. Chang-Diaz, petition (accompanied by bill, Senate, No. 1568) of Cabral, Eldridge, Swan and other members of the General Court for legislation to create equitable job access [Joint Committee on State Administration and Regulatory Oversight].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to create equitable job access.

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

1 SECTION 1. Section 1 of Chapter 7 of the General Laws, as appearing in the 2008
2 Official Edition, is hereby amended by inserting after the last paragraph the following
3 paragraphs:-

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

8 “Minority business enterprise”, as used in this chapter shall be defined as it is in
9 Section 40 of Chapter 23A.

10 “Women business enterprise” as used in this chapter shall be defined as it is in
11 Section 40 of Chapter 23A.

12 SECTION 2. Chapter 7 of the General Laws, as appearing in the 2008 Official
13 Edition, is hereby amended by inserting after Section 23B the following section:-

14 Section 23B ½ Contracting diversity goals

15 For the purposes of this chapter, it shall be the official goal of the Commonwealth to
16 achieve minority business enterprise and women business enterprise contracting goals within
17 state procurement that are reflective of the diverse racial, ethnic, and gender make-up of the
18 Commonwealth's population.

19 SECTION 3. Section 14C of Chapter 7 of the General Laws, as appearing in the
20 2008 Official Edition, is hereby amended by inserting after the last paragraph the following
21 paragraphs:-

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

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

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

36 The Comptroller shall, within 180 days of the effective date of this section, develop a
37 public reporting website, or area within an existing website administered by the Office of the
38 Comptroller, for the purposes of timely public disclosure of the data collected under this section.
39 Such website shall provide the data collected under this section in machine-readable format and
40 be searchable by the public to the project and vendor level. The Comptroller may use, but not be
41 limited to, the website of the Massachusetts Recovery and Reinvestment Office as a guide in
42 creating a user interface that is searchable to the project and vendor level. The Comptroller shall
43 transfer data received from awarding authorities through the MMARS into the public website on
44 at least a quarterly basis.

45 SECTION 4. Section 38F of Chapter 7 of the General Laws, as appearing in the 2008
46 Official Edition, is hereby amended by inserting after the word “project”, in line 9, the following
47 text:-

48 , including evidence of the applicant’s ability to advance the Commonwealth’s contracting and
49 workforce inclusion goals as stated in Section 23B ½ of Chapter 7.

50 SECTION 5. Section 1 of Chapter 149 of the General Laws, as appearing in the 2008
51 Official Edition, is hereby amended by inserting after the last paragraph, the following
52 paragraphs:-

53 “Low income community”, a municipality where the median household income is
54 65 percent or less than the statewide household median income. In the case of a municipality
55 with 50,000 residents or more, low income community shall mean a geographically contiguous,
56 historically recognized neighborhood of 10,000-50,000 residents.

57 “Minority business enterprise”, as used in this chapter shall be defined as it is in
58 Section 40 of Chapter 23A.

59 “Women business enterprise” as used in this chapter shall be defined as it is in
60 Section 40 of Chapter 23A.

61 SECTION 6. Section 44A of Chapter 149 of the General Laws, as appearing in the
62 2008 Official Edition, is hereby amended by striking out lines 12-16, and inserting in its place
63 thereof the following text:-

64 “Responsible” means demonstrably possessing the skill, ability and the integrity
65 necessary to faithfully perform the work called for by a particular contract, based upon a
66 determination of competent workmanship and financial soundness in accordance with the
67 provisions of section forty-four D of this chapter. In deliberating upon the responsibility of a
68 bidder, all contracting agencies shall give strong consideration to the bidder, contractor, or
69 proposed contractor’s ability to advance the Commonwealth’s contracting and workforce
70 inclusion goals as stated in Section 44A ½ of Chapter 149, and to any credible evidence or
71 reliable information about the bidder, contractor, or proposed contractor’s past or current work
72 performance, including, but not limited to, the failure of a bidder, contractor, or proposed
73 subcontractor to comply with the commitments made in their bidding or contract documents

74 regarding the employment of minority business enterprises and women business enterprises and
75 regarding workforce inclusion goals.

76 SECTION 7. Section 44A ½ in Chapter 149 of the General Laws, as appearing in the
77 2008 Official Edition, is hereby amended by inserting after the last paragraph the following
78 paragraphs:-

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

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

87 SECTION 8. Section 44D.5 of chapter 149 of the General Laws as appearing in the
88 2008 Official Edition, is hereby amended by inserting after line 92, the following text:-

89 (viii) Joint Ventures, documentation demonstrating that the interested general
90 contractors have formed an association of two or more businesses in which one of the businesses
91 is a minority business enterprise or a women business enterprise as defined section 40 of chapter
92 23A of the General Laws.

93 SECTION 9. Section 44D.5 of chapter 149 of the General Laws as appearing in the
94 2008 Official Edition, is hereby amended by inserting after line 110, the following text:-

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

98 SECTION 10. Chapter 149 of the General Laws is hereby amended by inserting
99 after section 44M the following section:-

100 Section 44N. Data collection and disclosure

101 Within 150 calendar days of the effective date of this section, any entity awarded a
102 contract for construction by a state agency shall provide written verification with every progress
103 payment request (PPR) submitted to the awarding authority detailing the portion of the payment
104 that will be allocated to minority business enterprises and women business enterprises
105 respectively, as defined in Section 40 of Chapter 23A, and detailing the total number of hours
106 worked by all employees on that contract during the period covered by the PPR; and including a
107 breakdown of hours worked by workers' ZIP codes of residence, as well as a breakdown of the
108 number of hours worked by women and workers of color, respectively. The reporting entity
109 shall take necessary steps to prevent the disclosure of individually-identifying information about
110 employees on this report.

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

114 The awarding authority shall submit the report to the Massachusetts Management
115 and Reporting System (MMARS) within 30 calendar days of receiving it. The Comptroller of

116 the Commonwealth shall, within 120 of the effective date of this section, develop appropriate
117 fields within the MMARS for receiving this data.

118 The Comptroller shall, within 180 days of the effective date of this section, develop a
119 public reporting website, or area within an existing website administered by the Office of the
120 Comptroller, for the purposes of timely public disclosure of the data collected under this section.
121 Such website shall provide the data collected under this section in machine-readable format and
122 be searchable by the public to the project and vendor level. The Comptroller may use, but not be
123 limited to, the website of the Massachusetts Recovery and Reinvestment Office as a guide in
124 creating a user interface that is searchable to the project and vendor level. The Comptroller shall
125 transfer data received from awarding authorities through the MMARS into the public website on
126 at least a quarterly basis.