

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1631
99TH GENERAL ASSEMBLY

5403H.03C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 37.020, RSMo, and to enact in lieu thereof one new section relating to minority-owned businesses.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 37.020, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 37.020, to read as follows:

37.020. 1. As used in this section, the following words and phrases mean:

- (1) "Certification", the determination, through whatever procedure is used by the office of administration, that a legal entity is a socially and economically disadvantaged small business concern for purposes of this section;
- (2) "Department", the office of administration and any public institution of higher learning in the state of Missouri;
- (3) "Minority business enterprise", a business that is:
 - (a) A sole proprietorship owned and controlled by a minority;
 - (b) A partnership or joint venture owned and controlled by minorities in which at least fifty-one percent of the ownership interest is held by minorities and the management and daily business operations of which are controlled by one or more of the minorities who own it; or
 - (c) A corporation or other entity whose management and daily business operations are controlled by one or more minorities who own it, and which is at least fifty-one percent owned by one or more minorities, or if stock is issued, at least fifty-one percent of the stock is owned by one or more minorities;
- (4) "Socially and economically disadvantaged individuals", individuals, regardless of gender, who have been subjected to racial, ethnic, or sexual prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities and whose

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 ability to compete in the free enterprise system has been impaired due to diminished capital and
20 credit opportunities as compared to others in the same business area. In determining the degree
21 of diminished credit and capital opportunities the office of administration shall consider, but not
22 be limited to, the assets and net worth of such individual;

23 (5) "Socially and economically disadvantaged small business concern", any small
24 business concern:

25 (a) Which is at least fifty-one percentum owned by one or more socially and
26 economically disadvantaged individuals; or, in the case of any publicly owned business, at least
27 fifty-one percentum of the stock of which is owned by one or more socially and economically
28 disadvantaged individuals; ~~and~~

29 (b) Whose management and daily business operations are controlled by one or more of
30 such individuals; **and**

31 **(c) A nonprofit corporation that:**

32 **a. Is organized under chapter 355 for charitable purposes;**

33 **b. Is headquartered in Missouri;**

34 **c. Is exempt from federal income tax under Section 501(c)(3) of the Internal**
35 **Revenue Code;**

36 **d. Has been in continuous existence for at least five years; and**

37 **e. Provides services relating to health, mental health, education and training, social**
38 **services, or corrections, and has:**

39 **(i) Fifty-one percent of socially and economically disadvantaged individuals**
40 **comprising the organization's board of directors;**

41 **(ii) Fifty-one percent of socially and economically disadvantaged individuals**
42 **comprising the organization's executive management with majority control of the firm's**
43 **daily business operation; or**

44 **(iii) Has a combined fifty-one percent of socially and economically disadvantaged**
45 **individuals comprising the organization's board of directors and executive management**
46 **with majority control of the firm's daily business operations;**

47 (6) "Women's business enterprise", a business that is:

48 (a) A sole proprietorship owned and controlled by a woman;

49 (b) A partnership or joint venture owned and controlled by women in which at least
50 fifty-one percent of the ownership interest is held by women and the management and daily
51 business operations of which are controlled by one or more of the women who own it; or

52 (c) A corporation or other entity whose management and daily business operations are
53 controlled by one or more women who own it, and which is at least fifty-one percent owned by

54 women, or if stock is issued, at least fifty-one percent of the stock is owned by one or more
55 women.

56 2. The office of administration, in consultation with each department, shall establish and
57 implement a plan to increase and maintain the participation of certified socially and economically
58 disadvantaged small business concerns or minority business enterprises, directly or indirectly,
59 in contracts for supplies, services, and construction contracts, consistent with goals determined
60 after an appropriate study conducted to determine the availability of socially and economically
61 disadvantaged small business concerns and minority business enterprises in the marketplace.
62 The commissioner of administration shall appoint an oversight review committee to oversee and
63 review the results of such study. The committee shall be composed of nine members, four of
64 whom shall be members of business, three of whom shall be from staff of selected departments,
65 one of whom shall be a member of the house of representatives, and one of whom shall be a
66 member of the senate.

67 3. The goals to be pursued by each department under the provisions of this section shall
68 be construed to overlap with those imposed by federal law or regulation, if any, shall run
69 concurrently therewith and shall be in addition to the amount required by federal law only to the
70 extent the percentage set by this section exceeds those required by federal law or regulations.

71 **4. For any Missouri-based 501(c)(3) organization or a limited liability corporation**
72 **comprised solely of Missouri-based 501(c)(3) under paragraph (c) of subdivision (5) of**
73 **subsection 1 of this section, additional points shall be awarded through the state**
74 **purchasing process in the same manner as a corporation that has been certified as either**
75 **a minority business enterprise or a women's business enterprise, provided that the**
76 **organization is subject to the same certification and auditing requirements as a minority**
77 **business enterprise or a women's business enterprise.**

78 **5. Nothing in this section shall prohibit the office of administration from certifying**
79 **a Missouri-based 501(c)(3) organization or a limited liability corporation comprised solely**
80 **of Missouri-based 501(c)(3) under paragraph (c) of subdivision (5) of subsection 1 of this**
81 **section as a minority business enterprise or a women's business enterprise for the purpose**
82 **of providing services to other states in accordance with those states' laws.**

83 **6. The office of administration shall publish this criteria on its website.**

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