

SENATE BILL NO. 1196

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR WASHINGTON.

3576S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 37.020, RSMo, and to enact in lieu thereof seven new sections relating to state contracts.

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

Section A. Section 37.020, RSMo, is repealed and seven
2 new sections enacted in lieu thereof, to be known as sections
3 37.020, 37.760, 37.762, 37.764, 37.766, 37.768, and 37.770, to
4 read as follows:

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

3 (1) "Certification", the determination, through
4 whatever procedure is used by the office of administration,
5 that a legal entity is a socially and economically
6 disadvantaged small business concern for purposes of this
7 section;

8 (2) "Department", the office of administration and any
9 public institution of higher learning in the state of
10 Missouri;

11 (3) "Minority business enterprise", a business that is:

12 (a) A sole proprietorship owned and controlled by a
13 minority;

14 (b) A partnership or joint venture owned and
15 controlled by minorities in which at least fifty-one percent
16 of the ownership interest is held by minorities and the

17 management and daily business operations of which are
18 controlled by one or more of the minorities who own it; or

19 (c) A corporation or other entity whose management and
20 daily business operations are controlled by one or more
21 minorities who own it, and which is at least fifty-one
22 percent owned by one or more minorities, or if stock is
23 issued, at least fifty-one percent of the stock is owned by
24 one or more minorities;

25 (4) "Socially and economically disadvantaged
26 individuals", individuals, regardless of gender, who have
27 been subjected to racial, ethnic, or sexual prejudice or
28 cultural bias because of their identity as a member of a
29 group without regard to their individual qualities and whose
30 ability to compete in the free enterprise system has been
31 impaired due to diminished capital and credit opportunities
32 as compared to others in the same business area. In
33 determining the degree of diminished credit and capital
34 opportunities the office of administration shall consider,
35 but not be limited to, the assets and net worth of such
36 individual;

37 (5) "Socially and economically disadvantaged small
38 business concern", any small business concern:

39 (a) Which is at least fifty-one percentum owned by one
40 or more socially and economically disadvantaged individuals;
41 or, in the case of any publicly owned business, at least
42 fifty-one percentum of the stock of which is owned by one or
43 more socially and economically disadvantaged individuals; and

44 (b) Whose management and daily business operations are
45 controlled by one or more of such individuals;

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

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

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

54 (c) A corporation or other entity whose management and
55 daily business operations are controlled by one or more
56 women who own it, and which is at least fifty-one percent
57 owned by women, or if stock is issued, at least fifty-one
58 percent of the stock is owned by one or more women.

59 2. The office of administration, in consultation with
60 each department, shall establish and implement a plan to
61 increase and maintain the participation of certified
62 socially and economically disadvantaged small business
63 concerns or minority business enterprises, directly or
64 indirectly, in contracts for supplies, services, and
65 construction contracts, consistent with goals determined
66 after an appropriate study conducted to determine the
67 availability of socially and economically disadvantaged
68 small business concerns and minority business enterprises in
69 the marketplace. **Such study shall be completed by December**
70 **31, 2026.** The commissioner of administration shall appoint
71 an oversight review committee to oversee and review the
72 results of such study. The committee shall be composed of
73 nine members, four of whom shall be members of business,
74 three of whom shall be from staff of selected departments,
75 one of whom shall be a member of the house of
76 representatives, and one of whom shall be a member of the
77 senate.

78 3. The goals to be pursued by each department under
79 the provisions of this section shall be construed to overlap
80 with those imposed by federal law or regulation, if any,

81 shall run concurrently therewith and shall be in addition to
82 the amount required by federal law only to the extent the
83 percentage set by this section exceeds those required by
84 federal law or regulations.

85 4. The commissioner of administration may designate a
86 nonprofit organization as a minority business enterprise or
87 women's business enterprise for the exclusive purpose of
88 competing in other states, provided that the organization is
89 headquartered in Missouri and the collective majority of the
90 organization's board of directors and executive management
91 in charge of daily business operations are minorities or
92 women.

37.760. As used in sections 37.760 to 37.770, the
2 following terms shall mean:

3 (1) "Agency", any state department or any division or
4 branch thereof, or any bureau, board, commission,
5 institution, officer or office of the state of Missouri;

6 (2) "Commissioner", the commissioner of administration
7 appointed under section 37.010;

8 (3) "Committee", the minority business enterprise and
9 women's business enterprise oversight review committee
10 created under section 37.762;

11 (4) "Minority business enterprise", the same meaning
12 as defined in section 37.020;

13 (5) "Women's business enterprise", the same meaning as
14 defined in section 37.020.

37.762. 1. There is hereby established the "Minority
2 Business Enterprise and Women's Business Enterprise
3 Oversight Review Committee". The committee shall consist of
4 seven members. The governor shall appoint four members to
5 the committee, two of whom shall represent the interests of
6 the minority community in this state, and two of whom shall

7 represent the interests of business owners in this state.
8 The speaker of the house of representatives shall appoint
9 one member of the committee from the house of
10 representatives. The president pro tempore of the senate
11 shall appoint one member from the senate. The commissioner
12 shall be an ex officio member of the committee.

13 2. The committee shall conduct a new study, in
14 addition to the study required by subsection 2 of section
15 37.020, to ensure participation from socially and
16 economically disadvantaged minority or women's business
17 enterprises. Such study shall be completed by December 31,
18 2025.

37.764. Members of the committee shall not be
2 compensated for their services, but they shall be reimbursed
3 for actual and necessary expenses incurred in the
4 performance of their duties. The members of the committee
5 shall elect one member as chair and one member as vice chair
6 who shall serve as chair in the absence of the chair. Each
7 member shall serve for a term of two years and may be
8 reappointed for an additional term of two years. The office
9 of administration shall provide staff to the committee and
10 aid it in the performance of its duties.

37.766. The specific duties of the committee shall
2 include, but not be limited to, the following:

3 (1) Compiling a database of minority business
4 enterprises and women's business enterprises, certified
5 under section 37.023, that have participated, directly or
6 indirectly, in contracts for supplies, services, and
7 construction with any agency of this state, and making such
8 database available to all agencies;

9 (2) Making recommendations to agencies for
10 implementation of a system to alert minority business

11 enterprises and women's business enterprises, certified
12 under section 37.023, of upcoming contracts for supplies,
13 services, and construction;

14 (3) Establishing requirements for parties to contracts
15 with agencies for supplies, services, or construction that
16 need subcontractors to notify potential subcontractors who
17 are minority business enterprises and women's business
18 enterprises, certified under section 37.023, of the party's
19 need for a subcontractor. Such requirements shall include,
20 but not be limited to:

21 (a) Written notification sent to the certified
22 minority business enterprise or women's business
23 enterprise's principal place of business; and

24 (b) Maintaining records of the notifications sent
25 under paragraph (a) of this subdivision; and

26 (4) Proposing sanctions for parties failing to comply
27 with any requirements established under subdivision (3) of
28 this section.

37.768. 1. The office of administration shall enforce
2 the requirements developed by the committee under
3 subdivision (3) of section 37.766.

4 2. The office of administration shall promulgate rules
5 necessary for the enforcement of such requirements and
6 necessary to aid the committee in performing its duties
7 under section 37.766. Any rule or portion of a rule, as
8 that term is defined in section 536.010, that is created
9 under the authority delegated in this section shall become
10 effective only if it complies with and is subject to all of
11 the provisions of chapter 536 and, if applicable, section
12 536.028. This section and chapter 536 are nonseverable and
13 if any of the powers vested with the general assembly
14 pursuant to chapter 536 to review, to delay the effective

15 date, or to disapprove and annul a rule are subsequently
16 held unconstitutional, then the grant of rulemaking
17 authority and any rule proposed or adopted after August 28,
18 2024, shall be invalid and void.

37.770. Under section 23.253 of the Missouri sunset
2 act:

3 (1) The provisions of the new program authorized under
4 sections 37.760 to 37.768 shall automatically sunset six
5 years after the effective date of sections 37.760 to 37.768
6 unless reauthorized by an act of the general assembly;

7 (2) If such program is reauthorized, the program
8 authorized under sections 37.760 to 37.768 shall
9 automatically sunset twelve years after the effective date
10 of the reauthorization of sections 37.760 to 37.768; and

11 (3) This section shall terminate on September first of
12 the calendar year immediately following the calendar year in
13 which the program authorized under sections 37.760 to 37.768
14 is sunset.

✓