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S.B. 105
134th General Assembly

Final Analysis

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Primary Sponsors: Sens. Sykes and Schuring

Effective date: *

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SUMMARY

- Requires political subdivisions to accept the state's certification of a Minority Business Enterprise, Women-owned Business Enterprise, or Veteran-friendly Business Enterprise as proof of certain eligibility criteria for comparable local programs and initiatives.

DETAILED ANALYSIS

State certifications as evidence of local eligibility

The act requires political subdivisions to accept a state Minority Business Enterprise (MBE), Women-owned Business Enterprise (WBE), or Veteran-friendly Business Enterprise (VBE) certification as evidence of the certified business's eligibility to participate in comparable local programs and special initiatives. The act does not automatically qualify state-certified businesses for all comparable local programs – it merely requires subdivisions to defer to certain determinations by the Director of Development or the Director of Transportation related to the characteristics of a state-certified MBE, WBE, or VBE, as described below.¹

MBE

In the case of a state-certified MBE, the act requires political subdivisions to defer to the Director of Development's determination that an MBE certificate holder is part of an economically disadvantaged group, that the person owns or controls more than half of the

* The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.

¹ R.C. 122.921, 122.924, and 122.925.

business, and that the person's interest in the capital, assets, and profits or losses of the business is proportionate to the person's ownership interest.²

WBE

In the case of a state-certified WBE, the act requires political subdivisions to defer to the Director of Development's determination that a person issued a WBE certificate is a woman, that the person owns and controls the business, and that the person has owned the business for at least one year.³

VBE

In the case of a state-certified VBE, the act requires political subdivisions to defer to a determination by either the Director of Development or the Director of Transportation that one or more of the following criteria apply to the business:

- At least 10% of the business's employees are veterans or on active service;
- At least 51% of the business is owned by veterans or persons on active service;
- If the business is a corporation, at least 51% of the board of directors are veterans or persons on active service;
- The business is owned by a veteran and certified by the U.S. Department of Veterans Affairs as a Service-Disabled Veteran-Owned Small Business or a Veteran-Owned Small Business.⁴

Supplemental qualifications

The act does not preclude a subdivision from adopting requirements and qualifications for local programs that are supplemental to, or more stringent than those that apply for the comparable state certification. An applicant for a local program must demonstrate compliance with all local requirements and qualifications regardless of whether the applicant is certified under a state program. For example, Cincinnati requires prospective MBEs to provide proof that the business has an operating office in the Cincinnati market area and evidence that the business performs a "commercially useful function."⁵ A state MBE certification does not absolve a business from demonstrating adherence to the supplemental location and function qualifications as a prerequisite for obtaining certification under the Cincinnati MBE program.

Background

Under continuing law, the MBE, WBE, and VBE programs assist business enterprises owned by certain racial minorities, economically and socially disadvantaged individuals, and

² R.C. 122.921(D)(2).

³ R.C. 122.924(E)(2).

⁴ R.C. 122.925(C)(2); Ohio Administrative Code 123:5-1-01, not in the bill.

⁵ Cincinnati Code of Ordinances, [Sec. 324-1-M](#), available online at librarystage.municode.com.

women, as well as “veteran-friendly businesses” that meet certain benchmarks related to veteran or active military ownership or employment. Businesses certified under any of these programs are eligible for contract assistance, financial and bonding assistance, and management and technical assistance provided by the state. In addition, state agencies are required to set aside a certain amount of their contracts (generally 15%) each year for MBEs. Businesses certified through the VBE program are also afforded certain preferences in competing for state contracts.

HISTORY

Action	Date
Introduced	03-02-21
Reported, S. Small Business and Economic Opportunity	05-12-21
Passed Senate (33-0)	06-02-21
Reported, H. Economic and Workforce Development	11-18-21
Passed House (92-1)	01-26-22
Senate concurred in House amendments (31-0)	02-09-22