

# AN ACT

To amend sections 122.921, 122.924, and 122.925 of the Revised Code to require political subdivisions to recognize state certifications of minority business enterprises, women-owned business enterprises, and veteran-friendly business enterprises.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 122.921, 122.924, and 122.925 of the Revised Code be amended to read as follows:

Sec. 122.921. (A) As used in this section, "minority business enterprise" has the same meaning as in division (E)(1) of section 122.71 of the Revised Code.

(B)(1) The director of development shall make rules in accordance with Chapter 119. of the Revised Code establishing procedures by which minority businesses may apply to the department of development for certification as minority business enterprises.

(2) The director shall approve the application of any minority business enterprise that complies with the rules adopted under this division. Any person adversely affected by an order of the director denying certification as a minority business enterprise may appeal as provided in Chapter 119. of the Revised Code. The director shall prepare and maintain a list of certified minority business enterprises.

(C) Every state agency authorized to enter into contracts for construction or contracts for purchases of equipment, materials, supplies, insurance, or services, and every port authority shall file a report every ninety days with the department of development. The report shall be filed at a time and in a form prescribed by the director of development. The report shall include the name of each minority business enterprise that the state agency or port authority entered into a contract with during the preceding ninety-day period and the total value and type of each such contract. No later than thirty days after the end of each fiscal year, the director shall notify in writing each state agency and port authority that has not complied with the reporting requirements of this division for the prior fiscal year. A copy of this notification regarding a state agency shall be submitted to the director of budget and management. No later than thirty days after the notification, the state agency or port authority shall submit to the director the information necessary to comply with the reporting requirements of this division.

If, after the expiration of this thirty-day period, a state agency has not complied with the reporting requirements of this division, the director of development shall certify to the director of budget and management that the state agency has not complied with the reporting requirements. A copy of this certification shall be submitted to the state agency. Thereafter, no funds of the state agency shall be expended during the fiscal year for construction or purchases of equipment,

materials, supplies, contracts of insurance, or services until the director of development certifies to the director of budget and management that the state agency has complied with the reporting requirements of this division for the prior fiscal year.

If any port authority has not complied with the reporting requirement after the expiration of the thirty-day period, the director of development shall certify to the speaker of the house of representatives and the president of the senate that the port authority has not complied with the reporting requirements of this division. A copy of this certification shall be submitted to the port authority. Upon receipt of the certification, the speaker of the house of representatives and the president of the senate shall take such action or make such recommendations to the members of the general assembly as they consider necessary to correct the situation.

(D)(1) Any person who has been certified as a minority business enterprise under this section may present the person's certification to a political subdivision as evidence that that person is eligible to participate in any public initiatives or strategies that the political subdivision has established to increase minority participation, representation, or inclusion in business opportunities, and in any programs the political subdivision may have that set aside a certain amount of public contracts to award to any of the economically disadvantaged groups listed in division (E)(1) of section 122.71 of the Revised Code.

(2) When considering this evidence, a political subdivision shall defer to the department's determination that the person is both of the following:

(a) A member of the economically disadvantaged group indicated on the certification;

(b) An owner of at least fifty-one per cent of the business, including corporate stock if a corporation, and has control over the management and day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to the person's percentage of ownership.

Sec. 122.924. (A) As used in this section:

"Women-owned business enterprise" means any individual, partnership, corporation, or joint venture of any kind that is owned and controlled by women who are United States citizens and residents of this state or of a reciprocal state.

"Owned and controlled" means that at least fifty-one per cent of the business, including corporate stock if it is a corporation, is owned by women and that such owners have control over the day-to-day operations of the business and an interest in the capital, assets, and profits and losses of the business proportionate to their percentage of ownership. In order to qualify as a women-owned business, a business shall have been owned by such owners at least one year.

(B) The director of development shall establish a business assistance program known as the women-owned business enterprise program and shall adopt rules in accordance with Chapter 119. of the Revised Code to administer the program that do all of the following:

(1) Establish procedures by which a business enterprise may apply for certification as a women-owned business enterprise;

(2) Establish standards to determine when a women-owned business enterprise no longer qualifies for women-owned business enterprise certification;

(3) Establish a system to make publicly available a list of women-owned business enterprises certified under this section;

(4) Establish a process to mediate complaints and to review women-owned business enterprise certification appeals;

(5) Implement an outreach program to educate potential participants about the women-owned business enterprise program;

(6) Establish a system to assist state agencies in identifying and utilizing women-owned business enterprises in their contracting processes;

(7) Implement a system of self-reporting by women-owned business enterprises as well as an on-site inspection process to validate the qualifications of women-owned business enterprises.

(C) Business and personal financial information and trade secrets submitted by women-owned business enterprise applicants to the director pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the director presents the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program.

(D) The director of development, upon approval of the attorney general, may enter into a reciprocal agreement with the appropriate officials of one or more states, when the other state has a business assistance program or programs substantially similar to the women-owned business enterprise program of this state. The agreement shall provide that a business certified by the other state as a women-owned business enterprise, which is owned and controlled by a resident or residents of that other state, shall be considered a women-owned business enterprise in this state under this section. The agreement shall provide that a women-owned business enterprise certified under this section, which is owned and controlled by a resident or residents of this state, shall be considered certified in the other state and eligible for programs of that state that provide an advantage or benefit to such businesses.

(E)(1) Any person who has been certified as a women-owned business enterprise under this section may present the person's certification to a political subdivision as evidence that that person is eligible to participate in any public initiatives or strategies that the political subdivision has established to increase the participation, representation, or inclusion of women in business opportunities, and in any programs the political subdivision may have that set aside a certain amount of public contracts to award to women-owned business enterprises.

(2) When considering this evidence, a political subdivision shall defer to the department's determination that the person is a woman, that the person owns and controls the person's business, and that the person has owned the person's business for at least one year.

Sec. 122.925. (A) As used in this section:

"Armed forces" means the armed forces of the United States, including the army, navy, air force, marine corps, coast guard, or any reserve component of those forces; the national guard of any state; the commissioned corps of the United States public health service; the merchant marine service during wartime; such other service as may be designated by congress; and the Ohio organized militia when engaged in full-time national guard duty for a period of more than thirty days.

"State agency" has the meaning defined in section 1.60 of the Revised Code.

"Veteran" means any person who has completed service in the armed forces, including the national guard of any state, or a reserve component of the armed forces, who has been honorably discharged or discharged under honorable conditions from the armed forces or who has been

transferred to the reserve with evidence of satisfactory service.

"Veteran-friendly business enterprise" means a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture that meets veteran employment standards established by the director of development and the director of transportation under this section.

(B) The director of development and the director of transportation shall establish and maintain the veteran-friendly business procurement program. The director of development shall adopt rules to administer the program for all state agencies except the department of transportation, and the director of transportation shall adopt rules to administer the program for the department of transportation. The rules shall be adopted under Chapter 119. of the Revised Code. The rules, as adopted separately by but with the greatest degree of consistency possible between the two directors, shall do all of the following:

(1) Establish criteria, based on the percentage of an applicant's employees who are veterans, that qualifies an applicant for certification as a veteran-friendly business enterprise;

(2) Establish procedures by which a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture may apply for certification as a veteran-friendly business enterprise;

(3) Establish procedures for certifying a sole proprietorship, association, partnership, corporation, limited liability company, or joint venture as a veteran-friendly business enterprise;

(4) Establish standards for determining when a veteran-friendly business enterprise no longer qualifies for certification as a veteran-friendly business enterprise;

(5) Establish procedures, to be used by state agencies or the department of transportation, for the evaluation and ranking of proposals, which provide preference or bonus points to each certified veteran-friendly business enterprise that submits a bid or other proposal for a contract with the state or an agency of the state other than the department of transportation, or with the department of transportation, for the rendering of services, or the supplying of materials, or for the construction, demolition, alteration, repair, or reconstruction of any public building, structure, highway, or other improvement;

(6) Implement an outreach program to educate potential participants about the veteran-friendly business procurement program; and

(7) Establish a process for monitoring overall performance of the veteran-friendly business procurement program.

(C)(1) Any person who has been certified as a veteran-friendly business enterprise under this section may present the person's certification to a political subdivision as evidence that the person is eligible to participate in any public initiatives or strategies that the political subdivision has established to reward veteran-friendly businesses or to increase the participation, representation, or inclusion of veteran-friendly businesses in business opportunities, and in any programs the political subdivision may have that set aside a certain amount of public contracts to award to veteran-friendly business enterprises.

(2) When considering this evidence, a political subdivision shall defer to the department's determination that the person meets the criteria established under division (B)(1) of this section.

SECTION 2. That existing sections 122.921, 122.924, and 122.925 of the Revised Code are

hereby repealed.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

Am. Sub. S. B. No. 105

134th G.A.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_