
HOUSE BILL 1737

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Wineberry, Franklin, Ferguson, Riley, Forner, Ludwig, Miller, Winsley, Jacobsen and Anderson.

Read first time February 7, 1991. Referred to Committee on Trade & Economic Development\Appropriations.

1 AN ACT Relating to minority and women-owned businesses; amending
2 RCW 43.31.085, 43.31.055, and 39.19.030; adding a new chapter to Title
3 43 RCW; and making appropriations.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** INTENT. It is the intent of the legislature
6 to combat discrimination in the economy.

7 (1) The legislature finds that discrimination is in part
8 responsible for:

9 (a) The disproportionately small percentage of the state's
10 businesses that are owned by minorities and women;

11 (b) The limited and unequal opportunity minority and women
12 entrepreneurs and business owners have to procure small business
13 financing; and

14 (c) The difficulty many minority and women-owned contracting
15 businesses have in securing bonds and contract work.

1 (2) The legislature further finds that:

2 (a) Many minority and women entrepreneurs and business owners lack
3 training in how to establish and operate a business. This lack of
4 training inhibits their competitiveness when they apply for business
5 loans, bonds, and contracts;

6 (b) Minorities and women are an increasingly expanding portion of
7 the population and work force. In order for these individuals to fully
8 contribute to the society and economy it is necessary to ensure that
9 minority and women entrepreneurs and business owners are provided an
10 equal opportunity to procure small business financing, bonds, and
11 contracts; and

12 (c) The growth of small businesses will have a favorable impact on
13 the Washington economy by creating jobs, increasing competition in the
14 marketplace, and expanding tax revenues. Access to financial markets,
15 bonds, and contracts by entrepreneurs and small business owners is
16 vital to this process. Without reasonable access to financing, bonds,
17 and contracts, talented and aggressive entrepreneurs and small business
18 owners are cut out of the economic system and the state's economy
19 suffers.

20 (3) Therefore, the legislature declares there to be a substantial
21 public purpose in providing technical assistance in the areas of
22 marketing, finance, and management, and access to capital resources,
23 bonds, and contracts, to help start or expand a minority or women-owned
24 business, and specifically to encourage and make possible greater
25 participation by minorities and women in international trade, public
26 works and construction, and public facility concessions. To accomplish
27 these purposes, it is the intent of the legislature to:

28 (a) Develop training courses in financing, marketing, managing,
29 accounting, and recordkeeping for a small business and to make these

1 programs available to minority and women entrepreneurs and small
2 business owners;

3 (b) Make public works and construction projects and public facility
4 concessions accessible to a greater number of minority and women-owned
5 businesses;

6 (c) Provide for the lending of nonstate funds to qualified minority
7 and women entrepreneurs and business owners in order to provide the
8 maximum practicable opportunity for innovative minority and women
9 entrepreneurs and business owners to compete for small business
10 financing; and

11 (d) Provide professional services assistance grants and bond
12 guarantees on behalf of qualified contractors in order to provide the
13 maximum practicable opportunity for minority and women-owned
14 contracting businesses to participate in the Washington state economy
15 by bidding and completing various public and private contracting jobs.

16 I. EDUCATION AND TECHNICAL ASSISTANCE

17 **Sec. 2.** RCW 43.31.085 and 1989 c 430 s 2 are each amended to read
18 as follows:

19 MARKETING, FINANCE, AND MANAGEMENT ASSISTANCE. The business
20 assistance center shall:

21 (1) Serve as the state's lead agency and advocate for the
22 development and conservation of businesses.

23 (2) Coordinate the delivery of state programs to assist businesses.

24 (3) Provide comprehensive referral services to businesses requiring
25 government assistance.

26 (4) Serve as the business ombudsman within state government and
27 advise the governor and the legislature of the need for new legislation
28 to improve the effectiveness of state programs to assist businesses.

1 (5) Aggressively promote business awareness of the state's business
2 programs and distribute information on the services available to
3 businesses.

4 (6) Develop, in concert with local economic development and
5 business assistance organizations, coordinated processes that
6 complement both state and local activities and services.

7 (7) The business assistance center shall work with other federal,
8 state, and local agencies and organizations to ensure that business
9 assistance services including small business, trade services, and
10 distressed area programs are provided in a coordinated and cost-
11 effective manner.

12 (8) Provide technical assistance to minority and women-owned
13 business enterprises in a variety of areas, including, but not limited
14 to, marketing, finance, and management.

15 (9) In collaboration with the child care coordinating committee in
16 the department of social and health services, prepare and disseminate
17 information on child care options for employers and the existence of
18 the program. As much as possible, and through interagency agreements
19 where necessary, such information should be included in the routine
20 communications to employers from (a) the department of revenue, (b) the
21 department of labor and industries, (c) the department of community
22 development, (d) the employment security department, (e) the department
23 of trade and economic development, (f) the small business development
24 center, and (g) the department of social and health services.

25 ((+9)) (10) In collaboration with the child care coordinating
26 committee in the department of social and health services, compile
27 information on and facilitate employer access to individuals, firms,
28 organizations, and agencies that provide technical assistance to
29 employers to enable them to develop and support child care services or
30 facilities.

1 (~~(10)~~) (11) Actively seek public and private money to support the
2 child care facility fund described in RCW 43.31.502, staff and assist
3 the child care facility fund committee as described in RCW 43.31.504,
4 and work to promote applications to the committee for loan guarantees,
5 loans, and grants.

6 **Sec. 3.** RCW 43.31.055 and 1985 c 466 s 6 are each amended to read
7 as follows:

8 EXPORT ASSISTANCE. The department shall assist in expanding the
9 state's role as a major international gateway for landing and
10 transshipping goods bound for domestic and foreign markets. The
11 department shall identify and work with Washington businesses which can
12 utilize state assistance to increase domestic and foreign exports and
13 are capable of increasing production of goods and services, including
14 but not limited to manufactured goods, raw materials, services, and
15 retail trade. The department shall participate in trade and industry
16 exhibitions both foreign and domestic to promote and market state
17 products and services. The department's activities shall include, but
18 not be limited to:

19 (1) Operating an active and vigorous effort to market the state's
20 products and services internationally, coordinated with private and
21 public international trade efforts throughout the state.

22 (2) Coordinating with the domestic and foreign export market
23 development activities of the state department of agriculture.

24 (3) Sending delegations to foreign countries and other states to
25 promote trade with Washington.

26 (4) Acting as a centralized location for the assimilation and
27 distribution of trade information.

28 (5) Identifying domestic and international markets in which
29 minority and women-owned businesses may have an advantage and providing

1 technical assistance to those minority and women-owned businesses with
2 the capacity to participate in international trade.

3 NEW SECTION. **Sec. 4.** STANDARD COURSE OF INSTRUCTION. The
4 business assistance center within the department of trade and economic
5 development shall establish a standard course of instruction available
6 to resident minority and women small business owners and entrepreneurs.
7 The instruction shall be intensive, practical training courses in
8 financing, marketing, managing, accounting, and recordkeeping for a
9 small business, with an emphasis on federal, state, local, or private
10 programs available to assist small businesses. The business assistance
11 center shall appoint professional instructors, with practical knowledge
12 and experience on how to start and operate a business, to teach the
13 courses. Instruction shall be offered in major population centers
14 throughout the state at times and locations which are convenient for
15 minority and women small business owners and entrepreneurs.

16 NEW SECTION. **Sec. 5.** CERTIFICATE OF ACCREDITATION. Any small
17 business which is certified as a women's business enterprise or
18 minority business enterprise may select a key management employee or
19 employees to attend any course of instruction established under section
20 4 of this act. Minority and women residents planning to start
21 businesses are eligible to apply for admission to the courses pursuant
22 to section 6 of this act. When the records, maintained by the business
23 assistance center, indicate that a key management employee of a small
24 business has attended all of the courses offered, and has successfully
25 completed any tests required, the center shall award the course
26 participant a certificate of accreditation which acknowledges
27 successful completion of the courses. The center may also award a
28 certificate of accreditation if a review of a key management employee's

1 education, experience, and business history indicates that the business
2 already possesses the knowledge and skills offered through the course
3 of instruction, or if the key management employee successfully
4 completes all tests required of those who attend the course of
5 instruction.

6 NEW SECTION. **Sec. 6.** ENTREPRENEUR ELIGIBILITY. Any resident
7 woman or minority may apply to participate in the standard course of
8 instruction. All applications will be reviewed by the business
9 assistance center. If the center determines that the applicant has
10 sufficient capability to benefit from the instruction and a viable
11 business plan that will likely lead to the establishment of a new
12 business, then the center may admit the applicant.

13 II. FAIRNESS IN CONTRACTING AND CONCESSIONS

14 **Sec. 7.** RCW 39.19.030 and 1989 c 175 s 85 are each amended to read
15 as follows:

16 PARTICIPATION IN PUBLIC WORKS AND CONSTRUCTION. There is hereby
17 created the office of minority and women's business enterprises. The
18 governor shall appoint a director for the office, subject to
19 confirmation by the senate. The director may employ a deputy director
20 and a confidential secretary, both of which shall be exempt under
21 chapter 41.06 RCW, and such staff as are necessary to carry out the
22 purposes of this chapter.

23 The office shall consult with the minority and women's business
24 enterprises advisory committee to:

25 (1) Develop, plan, and implement programs to provide an opportunity
26 for participation by qualified minority and women-owned and controlled
27 businesses in public works and the process by which goods and services

1 are procured by state agencies and educational institutions from the
2 private sector;

3 (2) Develop a comprehensive plan insuring that qualified minority
4 and women-owned and controlled businesses are provided an opportunity
5 to participate in public contracts for public works and goods and
6 services;

7 (3) Identify barriers to equal participation by qualified minority
8 and women-owned and controlled businesses in all state agency and
9 educational institution contracts;

10 (4) Establish annual overall goals for participation by qualified
11 minority and women-owned and controlled businesses for each state
12 agency and educational institution to be administered on a contract-by-
13 contract basis or on a class-of-contracts basis;

14 (5) Require that each state agency adopt a plan, developed by each
15 agency in consultation with the director and the advisory committee, to
16 insure that minority and women-owned businesses are afforded the
17 maximum practicable opportunity to directly and meaningfully
18 participate in the execution of public contracts for public works and
19 construction. In order to achieve the established participation goals,
20 this plan shall include, but not be limited to, the agency contracting
21 directly with certified minority and women-owned businesses for public
22 works and construction;

23 (6) Develop and maintain a central minority and women's business
24 enterprise certification list for all state agencies and educational
25 institutions. No business is entitled to certification under this
26 chapter unless it meets the definition of small business concern as
27 established by the office. All applications for certification under
28 this chapter shall be sworn under oath;

29 ~~((6))~~ (7) Develop, implement, and operate a system of monitoring
30 compliance with this chapter;

1 (~~(7)~~) (8) Adopt rules under chapter 34.05 RCW, the Administrative
2 Procedure Act, governing: (a) Establishment of agency goals; (b)
3 development and maintenance of a central minority and women's business
4 enterprise certification program, including a definition of "small
5 business concern" which shall be consistent with the small business
6 requirements defined under section 3 of the Small Business Act, 15
7 U.S.C. Sec. 632, and its implementing regulations as guidance; (c)
8 procedures for monitoring and enforcing compliance with goals,
9 regulations, contract provisions, and this chapter; and (d) utilization
10 of standard clauses by state agencies and educational institutions, as
11 specified in RCW 39.19.050;

12 (~~(8)~~) (9) Submit an annual report to the governor and the
13 legislature outlining the progress in implementing this chapter;

14 (~~(9)~~) (10) Investigate complaints of violations of this chapter
15 with the assistance of the involved agency or educational institution;
16 and

17 (~~(10)~~) (11) Cooperate and act jointly or by division of labor
18 with the United States or other states, and with political subdivisions
19 of the state of Washington and their respective minority, socially and
20 economically disadvantaged and women business enterprise programs to
21 carry out the purposes of this chapter. However, the power which may
22 be exercised by the office under this subsection permits investigation
23 and imposition of sanctions only if the investigation relates to a
24 possible violation of chapter 39.19 RCW, and not to violation of local
25 ordinances, rules, regulations, however denominated, adopted by
26 political subdivisions of the state.

27 NEW SECTION. **Sec. 8.** PUBLIC FACILITIES CONCESSIONS. All public
28 facilities with concessions shall provide that at least thirty percent
29 of concessions are done by certified minority or women's business

1 enterprises. This section shall apply to all present concession
2 contracts when they are renewed, extended, or renegotiated and to all
3 new concession contracts established after July 1, 1991.

4 III. LOAN FUND

5 NEW SECTION. **Sec. 9.** DEFINITIONS. Unless the context clearly
6 requires otherwise, the definitions in this section apply throughout
7 sections 10 through 16 of this act.

8 (1) "Committee" means the Washington state minority and women-owned
9 businesses loan fund committee.

10 (2) "Department" means the department of community development.

11 (3) "Director" means the director of the department of community
12 development.

13 (4) "Fund" means the Washington state minority and women-owned
14 businesses loan fund.

15 (5) "Qualified business owner" means any resident owner of a
16 Washington state certified minority business enterprise or women's
17 business enterprise, certified as such by the office of minority and
18 women's business enterprises under chapter 39.19 RCW, who has received
19 a certificate of accreditation from the business assistance center.

20 (6) "Qualified entrepreneur" means any resident woman or minority
21 who has received a certificate of accreditation from the business
22 assistance center.

23 NEW SECTION. **Sec. 10.** COMMITTEE ESTABLISHED. There is
24 established within the department of community development the
25 Washington state minority and women-owned businesses loan fund
26 committee. The committee shall have seven members. The director shall
27 appoint the members, subject to the following requirements:

1 (1) Three members shall be experienced in investment finance and
2 have skills in providing capital to new and innovative businesses,
3 starting and operating businesses, and providing professional services
4 to small or expanding businesses.

5 (2) Two members shall represent minority business enterprises.

6 (3) Two members shall represent women's business enterprises.

7 (4) Each member appointed by the director shall serve a term of
8 three years, except that of the seven members first appointed, two
9 shall serve two-year terms and two shall serve one-year terms. A
10 person appointed to fill a vacancy shall serve only the unexpired term
11 of the member replaced. A member is eligible for reappointment. A
12 member may be removed by the director only for cause.

13 (5) The director shall designate a committee member as committee
14 chairperson. The committee may select such other officers as it deems
15 appropriate. Four members of the committee constitute a quorum. Four
16 affirmative votes are necessary for the transaction of business or the
17 exercise of any power or function of the committee.

18 (6) Committee members serve without compensation, but are entitled
19 to reimbursement for actual and necessary expenses incurred in the
20 performance of official duties in accordance with RCW 43.03.050 and
21 43.03.060.

22 (7) Committee members are not liable to the state, to the fund, or
23 to any other person as a result of their activities, whether
24 ministerial or discretionary, except for willful dishonesty or
25 intentional violations of law.

26 NEW SECTION. **Sec. 11.** LOAN FUND ESTABLISHED. There is
27 established the Washington state minority and women-owned businesses
28 loan fund. The fund is an account in the state treasury. All loan
29 payments of principal and interest which are transferred under section

1 13 of this act shall be deposited into the account. Moneys in the
2 account may be spent without legislative appropriation for loans under
3 this chapter. However, any expenditures of these moneys shall conform
4 to federal law. The department shall make available for use by the
5 committee an amount of federal funds equal to the amount of state funds
6 transferred or appropriated to the department for purposes of
7 supplementing the department's federal funds.

8 NEW SECTION. **Sec. 12.** LENDING AUTHORITY ESTABLISHED. Subject to
9 the restrictions contained in this chapter, the committee is authorized
10 to approve applications of qualified business owners and qualified
11 entrepreneurs for loans from the fund. Applications approved by the
12 committee under this chapter shall conform to applicable federal
13 requirements.

14 NEW SECTION. **Sec. 13.** LIMITATIONS ON LENDING AUTHORITY. (1) The
15 committee shall receive and approve loan applications on a quarterly
16 basis for each fiscal year. Department staff shall process and assist
17 in the preparation of applications. Each application shall show in
18 detail the nature of the business and the purpose intended for the
19 loan. Each application shall include a credit analysis of the business
20 to receive the loan. The committee chairperson may convene the
21 committee on short notice to respond to applications of an immediate
22 nature.

23 (2) The committee may only approve an application providing a loan
24 to a qualified business owner or qualified entrepreneur that:

25 (a) Will likely lead to the establishment of a new business or
26 improve an existing business;

1 (b) Would probably not be completed without the loan because other
2 capital or financing at feasible terms is unavailable or the return on
3 investment is inadequate.

4 (3) The committee shall not approve any application which would
5 result in a loan in excess of seventy-five thousand dollars without the
6 director's approval. The committee may approve an application which
7 results in a loan of up to one hundred fifty thousand dollars if the
8 application is approved by the director.

9 (4) The committee shall fix the terms and rates pertaining to its
10 loans.

11 (5) To the extent permitted under federal law the committee shall
12 require applicants to provide for the transfer of all payments of
13 principal and interest on loans to the fund created under this chapter.
14 Under circumstances where the federal law does not permit the committee
15 to require such transfer, the committee shall give priority to
16 applicants who provide for the transfer.

17 NEW SECTION. **Sec. 14.** OVERSIGHT. The committee shall keep
18 performance records on the loans made and the successes of the
19 businesses that receive loans, and the committee shall develop
20 performance standards for judging the effectiveness of its lending
21 practices. The committee shall report to the fiscal committees in the
22 legislature each January.

23 NEW SECTION. **Sec. 15.** COMMITTEE SUPPORT. The department shall
24 provide adequate and appropriate staff to the committee. A record of
25 committee proceedings shall be maintained by the department. The
26 department is encouraged to work with local development organizations
27 to promote applications for loans by the fund. The department shall
28 also provide assistance to local development organizations and lending

1 organizations to identify viable projects for consideration by the
2 committee. The department shall adopt such rules as are appropriate
3 for the committee to carry out its authority under this chapter.

4 NEW SECTION. **Sec. 16.** ELIGIBILITY FOR LOANS. The committee, with
5 the cooperation of the business assistance center, shall require all
6 loan applicants to be certified as either a qualified business owner or
7 a qualified entrepreneur under the terms of sections 4, 5, and 6 of
8 this act.

9 IV. BONDING ASSISTANCE

10 NEW SECTION. **Sec. 17.** DEFINITIONS. Unless the context clearly
11 requires otherwise, the definitions in this section apply throughout
12 sections 18 through 38 of this act.

13 (1) "Approved surety company" means a surety company approved by
14 the program supervisor for participation in providing direct bonding
15 assistance to qualified contractors.

16 (2) "Bond" means any bond or security required for bid, payment, or
17 performance of contracts.

18 (3) "Department" means the department of trade and economic
19 development.

20 (4) "Program" means the Washington state small business bonding
21 assistance program provided for in this chapter.

22 (5) "Program supervisor" means the program supervisor of the
23 Washington state small business bonding assistance program, or a person
24 duly authorized by the program supervisor to act on the program
25 supervisor's behalf.

26 (6) "Qualified contractor" means any resident minority business
27 enterprise or women's business enterprise, certified as such by the

1 office of minority and women's business enterprises under chapter 39.19
2 RCW and engaged in the contracting business, which has obtained a
3 certificate of accreditation from the Washington state small business
4 bonding assistance program.

5 NEW SECTION. **Sec. 18.** PROGRAM ESTABLISHED. There is established
6 within the department of trade and economic development the Washington
7 state small business bonding assistance program. The director of the
8 department shall appoint the program supervisor.

9 NEW SECTION. **Sec. 19.** PROGRAM SUPERVISOR'S DUTIES. The program
10 supervisor's primary duty is to assist resident minority and
11 women-owned small contracting businesses to acquire the managerial and
12 financial skills, standards, and assistance necessary to enable them to
13 obtain bid, payment, and performance bonds from surety companies for
14 either advertised or designated contracts. The program supervisor
15 shall implement the program by establishing a course of instruction as
16 set forth in section 24 of this act. The program supervisor shall
17 encourage surety companies and other private interests to help
18 implement this course of instruction to assist minority and women-owned
19 small contracting businesses.

20 NEW SECTION. **Sec. 20.** RULES. The program supervisor shall
21 promulgate rules to implement the program set forth in this chapter.
22 Such rules shall include, but are not limited to, the following:

23 (1) The standards and procedures for determining the course content
24 and other requirements of the specialized course of instruction
25 provided for in section 24 of this act including the standards to be
26 used to determine whether a certificate of accreditation should be
27 awarded pursuant to section 25 of this act.

1 (2) The standards to be used to determine whether a qualified
2 contractor has the need, level of capability, and is otherwise eligible
3 for professional services assistance as provided in this chapter.

4 (3) The standards to be used to determine the amount of
5 compensation which may be deducted by an approved surety company from
6 fees and charges and other amounts paid by a qualified contractor to
7 the company pursuant to a bond issued under section 32 of this act.

8 (4) The terms and conditions under which the program supervisor may
9 guarantee a bond issued by an approved surety company, including the
10 actions and procedures which are required of the company in the event
11 of a default by the contractor.

12 NEW SECTION. **Sec. 21.** OUTSIDE ASSISTANCE. The following
13 departments, offices, and agencies shall, at the request of the program
14 supervisor, provide information, advice, and assistance to the program
15 supervisor:

- 16 (1) The department of general administration;
- 17 (2) The Washington state business assistance center;
- 18 (3) The office of the insurance commissioner;
- 19 (4) The Washington state economic development finance authority;
- 20 (5) The office of minority and women's business enterprises.

21 NEW SECTION. **Sec. 22.** OTHER ASSISTANCE. The program supervisor
22 shall seek information, advice, and assistance from the association of
23 general contractors, regional minority contractor organizations, and
24 the United States small business administration and any other
25 appropriate organization or agency.

26 NEW SECTION. **Sec. 23.** ELIGIBILITY FOR BOND GUARANTEES. The
27 program supervisor, with the cooperation of the business assistance

1 center, shall require a contractor to be certified as a qualified
2 contractor under the terms of sections 4, 5, 6, 24, and 25 of this act
3 before a bond guarantee can be issued on the contractor's behalf.

4 NEW SECTION. **Sec. 24.** SPECIALIZED INSTRUCTION FOR SMALL
5 CONTRACTING BUSINESSES. The program supervisor shall work with the
6 business assistance center to modify the standard course of instruction
7 established in section 4 of this act in order to provide instruction
8 which is appropriate to the specific needs of contracting businesses.
9 This course of instruction shall be available to resident minority and
10 women small business contractors. The instruction shall be intensive,
11 practical training courses in financing, bidding for contracts,
12 managing, accounting, and recordkeeping for a contracting business,
13 with an emphasis on federal, state, local, or private programs
14 available to assist small contractors. The program supervisor shall
15 assist the business assistance center to appoint professional
16 instructors, with practical knowledge and experience in the field of
17 small business contracting, to teach those courses developed to meet
18 the specific needs of contracting businesses. Instruction shall be
19 offered in major population centers throughout the state at times and
20 locations which are convenient for people in the contracting business.

21 NEW SECTION. **Sec. 25.** ACCREDITATION OF SMALL CONTRACTING
22 BUSINESSES. Any resident minority or woman small business contractor
23 may select a key management employee or employees to attend any course
24 of instruction established under section 4 of this act. When the
25 records, maintained by the business assistance center, indicate that a
26 key management employee of a small contracting business has attended
27 all the courses offered, and has successfully completed any tests
28 required, the program supervisor shall award the small contracting

1 business a certificate of accreditation which acknowledges successful
2 completion of the courses. The program supervisor may also award a
3 certificate of accreditation if a review of the key management
4 employee's education, experience, and business history indicates that
5 the business already possesses the knowledge and skills offered through
6 the course of instruction, or if the key management employee
7 successfully completes all tests required of those who attend the
8 standard course of instruction.

9 NEW SECTION. **Sec. 26.** PROFESSIONAL SERVICES ASSISTANCE. The
10 program supervisor may provide assistance as described under sections
11 27 through 30 of this act to qualified contractors. Any qualified
12 contractor seeking a grant for professional services assistance must
13 apply for such assistance.

14 NEW SECTION. **Sec. 27.** GRANTS. The program supervisor may provide
15 a grant of up to two thousand five hundred dollars on behalf of a
16 qualified contractor for the acquisition of the professional services
17 of certified public accountants, construction management companies, or
18 any other technical, surety, financial, or managerial professionals.
19 Such professionals may assess or audit the operations, finances,
20 bookkeeping, and recordkeeping of the qualified contractor and make
21 recommendations, prepare statements and reports, and consult with and
22 train the qualified contractor's personnel in order to assist the
23 qualified contractor to obtain a bond for a particular contract and,
24 over time, enhance the competitiveness and self-sufficiency of the
25 qualified contractor. This assistance is only available to a qualified
26 contractor on a one-time basis.

1 NEW SECTION. **Sec. 28.** INITIAL EVALUATION. Based upon standards
2 established by the program supervisor, an initial evaluation of a
3 qualified contractor's application for professional services assistance
4 shall be performed by a program representative to determine whether the
5 applicant is eligible to receive a grant and whether the applicant has
6 sufficient capability to benefit from the grant, the level of such
7 capability, and the applicant's corresponding need for the types of
8 assistance provided for in section 27 of this act. After the initial
9 evaluation, applications shall be forwarded to the program supervisor
10 together with an initial evaluation statement.

11 NEW SECTION. **Sec. 29.** APPLICATION APPROVAL. If the program
12 supervisor determines that an applicant is a qualified contractor that
13 could benefit from professional services assistance the program
14 supervisor shall approve the application. If the application is
15 approved, the program supervisor has the authority to enter into an
16 agreement with the qualified contractor. Under the terms of this
17 agreement the qualified contractor shall abide by the program rules and
18 fully cooperate and comply with the advice and recommendations of the
19 program supervisor and any professionals rendering service pursuant to
20 section 27 of this act. The qualified contractor also agrees that a
21 failure to cooperate, comply, or abide by the rules may result in the
22 loss of services and the program supervisor's demand for reimbursement
23 of the grant. Upon agreement to these conditions by the qualified
24 contractor, the program supervisor shall provide a grant in an amount
25 deemed sufficient by the program supervisor to meet the needs of the
26 qualified contractor, but in no case may any single contractor receive
27 more than two thousand five hundred dollars in grant-related services
28 from the program.

1 NEW SECTION. **Sec. 30.** GRANT MONITORING. The program supervisor
2 shall administer all grants issued to assist qualified contractors and
3 shall monitor the performance of all grant recipients in order to
4 provide such further assistance as is necessary to insure that all
5 program requirements are met and that the program's purpose is
6 fulfilled. However, nothing in this chapter should be construed to
7 restrict the rendering of program services to any qualified contractor
8 over and above the services provided by the grant.

9 NEW SECTION. **Sec. 31.** BOND GUARANTEE APPLICATIONS. If a
10 qualified contractor makes a bond application to an approved surety
11 company for a public or private contracting job, but fails to obtain
12 the bond because the contractor is unable to meet the requirements of
13 the surety company on such bonding contracts, for reasons other than
14 nonperformance, and if the approved surety company applies to the
15 program supervisor to have the bond confected and issued by the
16 program, then the program supervisor may provide a bond guarantee of up
17 to seventy-five thousand dollars on behalf of the qualified contractor.

18 NEW SECTION. **Sec. 32.** BOND GUARANTEE APPROVAL. Upon receipt of
19 an approved surety company's application for a bond guarantee, the
20 program supervisor shall review the application in order to verify
21 that:

- 22 (1) The bond being sought by the qualified contractor is needed;
23 (2) The contracting job is within the qualified contractor's
24 capability to perform; and
25 (3) The qualified contractor has not been denied a bond due to
26 nonperformance.

27 Based upon subsections (1) through (3) of this section, the
28 program supervisor shall either approve or disapprove the application.

1 If the application is approved, the program supervisor has the
2 authority to enter into a contract with the approved surety company.
3 Under the terms of this contract the approved surety company shall
4 enter into a contract with, and issue the required bond to, the
5 qualified contractor at the standard fees and charges usually made by
6 the company for the type and amount of the bond issued. The bond
7 issued by the approved surety company shall be guaranteed by money in
8 the program fund. In return, the approved surety company agrees to
9 promptly remit to the program supervisor all fees, charges, or other
10 amounts collected by the company from the qualified contractor, except
11 for the standard fees and charges the program supervisor has agreed the
12 company may retain. The approved surety company also agrees to make a
13 reasonable, good-faith effort to pursue and collect any claims it may
14 have against a qualified contractor who defaults on a bond guaranteed
15 by the program, including, but not limited to, the institution of legal
16 proceedings against the defaulting contractor, prior to collecting on
17 the guarantee.

18 NEW SECTION. **Sec. 33.** FUNDING. The funds used to provide
19 professional services grants, guarantee bonds, and to pay defaulted
20 bonds pursuant to sections 26 through 32 of this act shall be all the
21 money in the program fund not otherwise expended, encumbered, or
22 allocated for the purposes provided in this chapter. However, the full
23 faith and credit of the state of Washington shall not be used to secure
24 the bonds and the state's liability shall be limited to the money
25 appropriated by the legislature.

26 NEW SECTION. **Sec. 34.** PROGRAM FUND ESTABLISHED. The Washington
27 state small business bonding assistance program fund is created as a
28 special fund in the state treasury. Any amounts appropriated, donated,

1 or granted to the program shall be deposited and credited to the
2 program fund established in this section. All fees, charges, or other
3 amounts collected by the program supervisor from the issuance of bond
4 guarantees as provided in section 32 of this act shall be deposited
5 immediately upon receipt into the program fund. The money in the fund
6 shall be appropriated by the legislature to be used solely as provided
7 for in this chapter.

8 NEW SECTION. **Sec. 35.** FUND SUPPORT. The program supervisor shall
9 solicit funds and support from surety companies and other public and
10 private entities with an interest in assisting Washington's small
11 business contractors and may enter into agreements with such companies
12 and interests by which they provide funds to the program fund to be
13 matched with funds from nonstate sources.

14 NEW SECTION. **Sec. 36.** MATCHING FUNDS. Prior to the money being
15 placed in the state general fund, an amount equal to money received by
16 the program supervisor from surety companies as payment on performance
17 bonds guaranteed by the program pursuant to section 32 of this act
18 shall be credited to the program fund established in this chapter.

19 NEW SECTION. **Sec. 37.** UNEXPENDED FUNDS. All unexpended and
20 unencumbered money in the program fund at the end of the fiscal year
21 shall remain in the program fund. The money in the program fund shall
22 be invested by the state treasurer in the same manner as money in the
23 state general fund and interest earned on the investment of the money
24 shall be credited to the program fund.

25 NEW SECTION. **Sec. 38.** FUND USE RESTRICTIONS. The money in the
26 program fund shall only be used as follows:

1 (1) To pay the salary and related benefits of the program
2 supervisor provided for in this chapter.

3 (2) To be disbursed by the program supervisor to enable qualified
4 contractors to obtain services provided for in this chapter.

5 (3) To guarantee bonds issued pursuant to sections 31 and 32 of
6 this act and to pay such bonds in the event of default by a qualified
7 contractor.

8 V. MISCELLANEOUS

9 NEW SECTION. **Sec. 39.** CAPTIONS NOT LAW. Section headings as used
10 in this act do not constitute part of the law.

11 NEW SECTION. **Sec. 40.** This chapter may be known and cited as
12 the omnibus minority and women-owned businesses assistance act.

13 NEW SECTION. **Sec. 41.** Sections 1, 4 through 6, and 8 through
14 40 of this act shall constitute a new chapter in Title 43 RCW.

15 NEW SECTION. **Sec. 42.** The sum of dollars, or as
16 much thereof as may be necessary, is appropriated for the biennium
17 ending June 30, 1993, from the general fund to the Washington state
18 small business bonding assistance program fund for the purposes of this
19 act.

20 NEW SECTION. **Sec. 43.** The sum of five million dollars, or as
21 much thereof as may be necessary, is appropriated for the biennium
22 ending June 30, 1993, from the general fund to the Washington state
23 minority and women-owned businesses loan fund for the purposes of this
24 act.

1 NEW SECTION. **Sec. 44.** The sum of dollars, or as
2 much thereof as may be necessary, is appropriated for the biennium
3 ending June 30, 1993, from the general fund to the department of trade
4 and economic development for the purposes of this act.