
HOUSE BILL 3175

State of Washington

61st Legislature

2010 Regular Session

By Representative Darneille

Read first time 02/04/10. Referred to Committee on General Government Appropriations.

1 AN ACT Relating to transferring the office of minority and women's
2 business enterprises into the department of commerce; amending RCW
3 39.19.020, 39.19.030, 39.19.041, 39.19.060, 39.19.250, 42.17.2401, and
4 43.63A.690; creating a new section; repealing RCW 41.06.082; and
5 providing an effective date.

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

7 **Sec. 1.** RCW 39.19.020 and 1996 c 69 s 4 are each amended to read
8 as follows:

9 Unless the context clearly requires otherwise, the definitions in
10 this section apply throughout this chapter.

11 (1) "Advisory committee" means the advisory committee on minority
12 and women's business enterprises.

13 (2) "Broker" means a person that provides a bona fide service, such
14 as professional, technical, consultant, brokerage, or managerial
15 services and assistance in the procurement of essential personnel,
16 facilities, equipment, materials, or supplies required for performance
17 of a contract.

18 (3) "Director" means the director of the (~~office of minority and~~
19 ~~women's business enterprises~~) department of commerce.

1 (4) "Educational institutions" means the state universities, the
2 regional universities, The Evergreen State College, and the community
3 colleges.

4 (5) "Goals" means annual overall agency goals, expressed as a
5 percentage of dollar volume, for participation by minority and women-
6 owned and controlled businesses and shall not be construed as a minimum
7 goal for any particular contract or for any particular geographical
8 area. It is the intent of this chapter that such overall agency goals
9 shall be achievable and shall be met on a contract-by-contract or
10 class-of-contract basis.

11 (6) "Goods and/or services" includes professional services and all
12 other goods and services.

13 (7) "Office" means the office of minority and women's business
14 enterprises within the department of commerce.

15 (8) "Person" includes one or more individuals, partnerships,
16 associations, organizations, corporations, cooperatives, legal
17 representatives, trustees and receivers, or any group of persons.

18 (9) "Procurement" means the purchase, lease, or rental of any goods
19 or services.

20 (10) "Public works" means all work, construction, highway and ferry
21 construction, alteration, repair, or improvement other than ordinary
22 maintenance, which a state agency or educational institution is
23 authorized or required by law to undertake.

24 (11) "State agency" includes the state of Washington and all
25 agencies, departments, offices, divisions, boards, commissions, and
26 correctional and other types of institutions.

27 **Sec. 2.** RCW 39.19.030 and 1996 c 69 s 5 are each amended to read
28 as follows:

29 There is hereby created the office of minority and women's business
30 enterprises within the department of commerce. (~~The governor shall
31 appoint a director for the office, subject to confirmation by the
32 senate. The director may employ a deputy director and a confidential
33 secretary, both of which shall be exempt under chapter 41.06 RCW, and
34 such staff as are necessary to carry out the purposes of this
35 chapter.~~)

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

1 (1) Develop, plan, and implement programs to provide an opportunity
2 for participation by qualified minority and women-owned and controlled
3 businesses in public works and the process by which goods and services
4 are procured by state agencies and educational institutions from the
5 private sector;

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

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

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

17 (5) Develop and maintain a central minority and women's business
18 enterprise certification list for all state agencies and educational
19 institutions. No business is entitled to certification under this
20 chapter unless it meets the definition of small business concern as
21 established by the office. All applications for certification under
22 this chapter shall be sworn under oath;

23 (6) Develop, implement, and operate a system of monitoring
24 compliance with this chapter;

25 (7) Adopt rules under chapter 34.05 RCW, the administrative
26 procedure act, governing: (a) Establishment of agency goals; (b)
27 development and maintenance of a central minority and women's business
28 enterprise certification program, including a definition of "small
29 business concern" which shall be consistent with the small business
30 requirements defined under section 3 of the small business act, 15
31 U.S.C. Sec. 632, and its implementing regulations as guidance; (c)
32 procedures for monitoring and enforcing compliance with goals,
33 regulations, contract provisions, and this chapter; (d) utilization of
34 standard clauses by state agencies and educational institutions, as
35 specified in RCW 39.19.050; and (e) determination of an agency's or
36 educational institution's goal attainment consistent with the
37 limitations of RCW 39.19.075;

1 (8) Submit an annual report to the governor and the legislature
2 outlining the progress in implementing this chapter;

3 (9) Investigate complaints of violations of this chapter with the
4 assistance of the involved agency or educational institution; and

5 (10) Cooperate and act jointly or by division of labor with the
6 United States or other states, and with political subdivisions of the
7 state of Washington and their respective minority, socially and
8 economically disadvantaged and women business enterprise programs to
9 carry out the purposes of this chapter. However, the power which may
10 be exercised by the office under this subsection permits investigation
11 and imposition of sanctions only if the investigation relates to a
12 possible violation of chapter 39.19 RCW, and not to violation of local
13 ordinances, rules, regulations, however denominated, adopted by
14 political subdivisions of the state.

15 **Sec. 3.** RCW 39.19.041 and 1995 c 269 s 1302 are each amended to
16 read as follows:

17 The director or the director's designee may establish ad hoc
18 advisory committees, as necessary, to assist in the development of
19 policies to carry out the purposes of this chapter.

20 **Sec. 4.** RCW 39.19.060 and 1996 c 288 s 28 are each amended to read
21 as follows:

22 Each state agency and educational institution shall comply with the
23 annual goals established for that agency or institution under this
24 chapter for public works and procuring goods or services. This chapter
25 applies to all public works and procurement by state agencies and
26 educational institutions, including all contracts and other procurement
27 under chapters 28B.10, 39.04, 39.29, 43.19, and 47.28 RCW. Each state
28 agency shall adopt a plan, developed in consultation with the director
29 or the director's designee and the advisory committee, to insure that
30 minority and women-owned businesses are afforded the maximum
31 practicable opportunity to directly and meaningfully participate in the
32 execution of public contracts for public works and goods and services.
33 The plan shall include specific measures the agency will undertake to
34 increase the participation of certified minority and women-owned
35 businesses. The office shall annually notify the governor, the state

1 auditor, and the joint legislative audit and review committee of all
2 agencies and educational institutions not in compliance with this
3 chapter.

4 **Sec. 5.** RCW 39.19.250 and 2009 c 348 s 2 are each amended to read
5 as follows:

6 (1) For the purpose of annual reporting on progress required by
7 section 1 of this act, each state agency and educational institution
8 shall submit data to the office and the office of minority and women's
9 business enterprises on the participation by qualified minority and
10 women-owned and controlled businesses in the agency's or institution's
11 contracts and other related information requested by the director or
12 the director's designee. The director (~~(of the office of minority and~~
13 ~~women's business enterprises)~~) or the director's designee shall
14 determine the content and format of the data and the reporting
15 schedule, which must be at least annually.

16 (2) The office must develop and maintain a list of contact people
17 at each state agency and educational institution (~~(that is)~~) who are
18 able to present to hearings of the appropriate committees of the
19 legislature its progress in carrying out the purposes of chapter 39.19
20 RCW.

21 (3) The office must submit a report aggregating the data received
22 from each state agency and educational institution to the legislature
23 and the governor.

24 **Sec. 6.** RCW 42.17.2401 and 2009 c 565 s 24 are each amended to
25 read as follows:

26 For the purposes of RCW 42.17.240, the term "executive state
27 officer" includes:

28 (1) The chief administrative law judge, the director of
29 agriculture, the administrator of the Washington basic health plan, the
30 director of the department of services for the blind, the director of
31 the state system of community and technical colleges, the director of
32 commerce, the secretary of corrections, the director of early learning,
33 the director of ecology, the commissioner of employment security, the
34 chair of the energy facility site evaluation council, the secretary of
35 the state finance committee, the director of financial management, the
36 director of fish and wildlife, the executive secretary of the forest

1 practices appeals board, the director of the gambling commission, the
2 director of general administration, the secretary of health, the
3 administrator of the Washington state health care authority, the
4 executive secretary of the health care facilities authority, the
5 executive secretary of the higher education facilities authority, the
6 executive secretary of the horse racing commission, the executive
7 secretary of the human rights commission, the executive secretary of
8 the indeterminate sentence review board, the director of the department
9 of information services, the executive director of the state investment
10 board, the director of labor and industries, the director of licensing,
11 the director of the lottery commission, (~~the director of the office of~~
12 ~~minority and women's business enterprises,~~) the director of parks and
13 recreation, the director of personnel, the executive director of the
14 public disclosure commission, the executive director of the Puget Sound
15 partnership, the director of the recreation and conservation office,
16 the director of retirement systems, the director of revenue, the
17 secretary of social and health services, the chief of the Washington
18 state patrol, the executive secretary of the board of tax appeals, the
19 secretary of transportation, the secretary of the utilities and
20 transportation commission, the director of veterans affairs, the
21 president of each of the regional and state universities and the
22 president of The Evergreen State College, and each district and each
23 campus president of each state community college;

24 (2) Each professional staff member of the office of the governor;

25 (3) Each professional staff member of the legislature; and

26 (4) Central Washington University board of trustees, the boards of
27 trustees of each community college and each technical college, each
28 member of the state board for community and technical colleges, state
29 convention and trade center board of directors, committee for deferred
30 compensation, Eastern Washington University board of trustees,
31 Washington economic development finance authority, The Evergreen State
32 College board of trustees, executive ethics board, forest practices
33 appeals board, forest practices board, gambling commission, life
34 sciences discovery fund authority board of trustees, Washington health
35 care facilities authority, each member of the Washington health
36 services commission, higher education coordinating board, higher
37 education facilities authority, horse racing commission, state housing
38 finance commission, human rights commission, indeterminate sentence

1 review board, board of industrial insurance appeals, information
2 services board, recreation and conservation funding board, state
3 investment board, commission on judicial conduct, legislative ethics
4 board, liquor control board, lottery commission, marine oversight
5 board, Pacific Northwest electric power and conservation planning
6 council, parks and recreation commission, board of pilotage
7 commissioners, pollution control hearings board, public disclosure
8 commission, public pension commission, shorelines hearings board,
9 public employees' benefits board, salmon recovery funding board, board
10 of tax appeals, transportation commission, University of Washington
11 board of regents, utilities and transportation commission, Washington
12 state maritime commission, Washington personnel resources board,
13 Washington public power supply system executive board, Washington State
14 University board of regents, Western Washington University board of
15 trustees, and fish and wildlife commission.

16 **Sec. 7.** RCW 43.63A.690 and 2005 c 302 s 6 are each amended to read
17 as follows:

18 (1) The department shall provide technical assistance and loan
19 packaging services that enable minority and women-owned business
20 enterprises to obtain financing under the linked deposit program
21 created under RCW 43.86A.060.

22 (2) The department(~~(, in consultation with the office of minority~~
23 ~~and women's business enterprises,)~~) shall develop indicators to measure
24 the performance of the linked deposit program in the areas of job
25 creation or retention and providing access to capital to minority or
26 women's business enterprises.

27 NEW SECTION. **Sec. 8.** RCW 41.06.082 (Office of minority and
28 women's business enterprises--Certain personnel exempted from chapter)
29 and 1983 c 120 s 14 are each repealed.

30 NEW SECTION. **Sec. 9.** (1) The office of minority and women's
31 business enterprises is transferred to the department of commerce to be
32 an office within the department of commerce.

33 (2)(a) All reports, documents, surveys, books, records, files,
34 papers, or written material in the possession of the office of minority
35 and women's business enterprises shall be delivered to the custody of

1 the department of commerce. All cabinets, furniture, office equipment,
2 motor vehicles, and other tangible property employed by the office of
3 minority and women's business enterprises shall be made available to
4 the department of commerce. All funds, credits, or other assets held
5 by the office of minority and women's business enterprises shall be
6 assigned to the department of commerce.

7 (b) Any appropriations made to the office of minority and women's
8 business enterprises shall, on the effective date of this section, be
9 transferred and credited to the department of commerce.

10 (c) If any question arises as to the transfer of any personnel,
11 funds, books, documents, records, papers, files, equipment, or other
12 tangible property used or held in the exercise of the powers and the
13 performance of the duties and functions transferred, the director of
14 financial management shall make a determination as to the proper
15 allocation and certify the same to the state agencies concerned.

16 (3) All employees of the office of minority and women's business
17 enterprises classified under chapter 41.06 RCW, the state civil service
18 law, are transferred and assigned to the department of commerce to
19 perform their usual duties upon the same terms as formerly, without any
20 loss of rights, subject to any action that may be appropriate
21 thereafter in accordance with the laws and rules governing state civil
22 service.

23 (4) All rules and all pending business before the office of
24 minority and women's business enterprises shall be continued and acted
25 upon by the department of commerce. All existing contracts and
26 obligations shall remain in full force and shall be performed by the
27 department of commerce.

28 (5) The transfer of the powers, duties, functions, and personnel of
29 the office of minority and women's business enterprises shall not
30 affect the validity of any act performed before the effective date of
31 this section.

32 (6) If apportionments of budgeted funds are required because of the
33 transfers directed by this section, the director of financial
34 management shall certify the apportionments to the agencies affected,
35 the state auditor, and the state treasurer. Each of these shall make
36 the appropriate transfer and adjustments in funds and appropriation
37 accounts and equipment records in accordance with the certification.

1 (7) All classified employees of the office of minority and women's
2 business enterprises assigned to the department of commerce under this
3 section whose positions are within an existing bargaining unit
4 description at the department of commerce shall become a part of the
5 existing bargaining unit at the department of commerce and shall be
6 considered an appropriate inclusion or modification of the existing
7 bargaining unit under the provisions of chapter 41.80 RCW.

8 NEW SECTION. **Sec. 10.** This act takes effect July 1, 2010.

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