

HOUSE BILL REPORT

HB 2925

As Reported by House Committee On:
Community & Economic Development & Trade

Title: An act relating to establishing a plan for improving the effectiveness of the office of minority and women's business enterprises.

Brief Description: Establishing a plan for improving the effectiveness of the office of minority and women's business enterprises.

Sponsors: Representatives Kenney, Pettigrew, Bailey, McDonald, Darneille, Upthegrove, Hasegawa, Loomis, Kelley, Hankins, Rolfes, Morrell, Schual-Berke and Santos.

Brief History:

Committee Activity:

Community & Economic Development & Trade: 1/24/08, 1/30/08 [DPS].

Brief Summary of Substitute Bill

- Requires the Office of Minority and Women's Business Enterprises to establish a plan to streamline certification, encourage participation of firms, and develop a database, in consultation with the Advisory Committee on Minority and Women's Business Enterprises.
- Requires establishment of the Advisory Committee on Minority and Women's Business Enterprises by July 1, 2008.

HOUSE COMMITTEE ON COMMUNITY & ECONOMIC DEVELOPMENT & TRADE

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Kenney, Chair; Pettigrew, Vice Chair; McDonald, Assistant Ranking Minority Member; Chase, Darneille, Haler, Rolfes and Sullivan.

Minority Report: Do not pass. Signed by 1 member: Representative Bailey, Ranking Minority Member.

Staff: Chris Cordes (786-7103).

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background:

The Office of Minority and Women's Business Enterprises (OMWBE) was created in 1983 with the purpose to provide minority and women-owned business enterprises (MWBE) the maximum practicable opportunity for increased participation in public works contracts and public contracts for goods and services. The OMWBE is required to:

- develop and implement programs and a comprehensive plan to provide an opportunity for qualified MWBE to participate in public works and in supplying goods and services to state agencies and educational institutions;
- identify barriers to equal participation by qualified MWBE in state agency and educational contracts;
- establish annual overall goals for MWBE participation for each state agency and educational institution to be administered on a contract or class-of-contracts basis;
- develop and maintain a central MWBE certification list for state agencies and educational institutions;
- develop and operate a system of monitoring compliance with the program, and investigate complaints of violations with the help of the involved agency or educational institution;
- cooperate and act jointly with the United States, other states, and Washington's political subdivisions with regard to their similar programs; and
- submit an annual report to the Governor and the Legislature outlining the progress in implementing the program.

The OMWBE is the sole authority to certify minority, women-owned, and socially and economically disadvantaged businesses for participation in public contracting programs. Only small business concerns, as defined by the OMWBE, may be certified.

Annual goals for participation in state contracts by qualified MWBE are established under an administrative rule. The rule uses a percentage of the reporting base, which includes all expenditure for public works, personal services, and the procurement of goods and services by state agencies and educational institutions.

Initiative 200 (I-200), adopted by the voters in 1998, prohibits discrimination or preferential treatment in public contracting on the basis of race, sex, color, ethnicity, or nationality. After I-200's passage, then-Governor Locke issued a directive on the implementation of programs, such as the OMWBE program, in light of I-200. Governor Locke directed that, in accordance with I-200, state agencies could not consider race, sex, color, ethnicity, or national origin in awarding contracts. Nor could agencies add preferences for meeting MWBE goals or award a contract to a bidder who did not submit the lowest bid but who met MWBE goals. He further directed the OMWBE to continue establishing laudatory, voluntary goals for state agencies and educational institutions to help eliminate improper discrimination by identifying disparities in participation by MWBE in state contracts. He directed these agencies and institutions to intensify their outreach and recruitment efforts to increase the number of available contractors within under represented groups.

In 2006 Governor Gregoire asked state agencies to work with the OMWBE to implement a Supplier Diversity Program. In her letter to the state agency directors, she noted that state contracts with certified MWBE have declined over the last six years. For minority businesses, the decline was from 5 percent to less than 1 percent and, for women-owned businesses, from 4 percent to 1 percent. She asked the agencies to designate agency leaders, track progress, and implement practical solutions.

Summary of Substitute Bill:

The Office of Minority and Women's Business Enterprises (OMWBE) must establish a plan to complete the following, with timelines and the goal of improving the OMWBE effectiveness:

- a project to streamline the certification process, improve outreach, and facilitate certified firms' inclusion in purchases made by state agencies and educational institutions;
- a project to improve the ability of the OMWBE to encourage certified firms to participate as prime contractors and subcontractors in contracts awarded by state agencies and educational institutions; and
- a database that allows communication with state agencies on the participation of firms certified under the OMWBE process.

The plan must be developed in consultation with the Advisory Committee on Minority and Women's Business Enterprises (Advisory Committee) and be reported to the Governor and Legislature by December 1, 2008.

The Advisory Committee must be established by July 1, 2008. Legislative intent states that membership should be as representative and diverse as possible. Membership must take into account statewide geographic distribution and include at least representatives from certified businesses, organizations that represent certified businesses, and state agencies. Local governments are recommended as participants on the Advisory Committee.

Substitute Bill Compared to Original Bill:

The substitute bill (1) deletes references to facilitating participation in contracts awarded by local governments; (2) clarifies that the OMWBE will work to encourage participation of firms as prime contractors, as well as subcontractors; (3) requires the Advisory Committee to be established by July 1, 2008, instead of April 1, 2008, and modifies the membership of the Advisory Committee by deleting references to businesses that are eligible to be certified and to mandatory local government membership; and (4) adds that the Legislature intends the Advisory Committee to be representative and diverse, and recommends the participation of local jurisdictions on the Advisory Committee.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony:

(In support) Since 1983 the state has been committed to improving opportunities for small disadvantaged businesses. Small business face difficult times and need support. The process under the OMWBE lost momentum after Initiative 200. How to be equal and fair in awarding state contracts had to be figured out. It is necessary that the OMWBE, as soon as possible, establish best practices to streamline the certification process and reduce its costs, provide technical assistance to the disadvantaged businesses, increase outreach, and have better tracking and accountability.

(In support of substitute bill) The substitute bill is supported.

(Opposed) None.

Persons Testifying: (In support) Representative Kenney, prime sponsor.

(In support of substitute bill) Cynthia Cooper, Office of Minority and Women's Business Enterprise.

Persons Signed In To Testify But Not Testifying: None.