
ENGROSSED SUBSTITUTE HOUSE BILL 1737

State of Washington

52nd Legislature

1991 Regular Session

By House Committee on Trade & Economic Development (originally sponsored by Representatives Wineberry, Franklin, Ferguson, Riley, Forner, Ludwig, Miller, Winsley, Jacobsen and Anderson).

Read first time March 6, 1991.

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

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, when resources permit, domestic and international
29 markets in which minority and women-owned businesses may have an

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

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

18 II. FAIRNESS IN CONTRACTING AND CONCESSIONS

19 **Sec. 5.** RCW 39.19.030 and 1989 c 175 s 85 are each amended to read
20 as follows:

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

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

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

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

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

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

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

28 (6) Develop and maintain a central minority and women's business
29 enterprise certification list for all state agencies and educational
30 institutions. No business is entitled to certification under this

1 chapter unless it meets the definition of small business concern as
2 established by the office. All applications for certification under
3 this chapter shall be sworn under oath;

4 ~~((+6+))~~ (7) Develop, implement, and operate a system of monitoring
5 compliance with this chapter;

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

17 ~~((+8+))~~ (9) Submit an annual report to the governor and the
18 legislature outlining the progress in implementing this chapter;

19 ~~((+9+))~~ (10) Investigate complaints of violations of this chapter
20 with the assistance of the involved agency or educational institution;
21 and

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

1 ordinances, rules, regulations, however denominated, adopted by
2 political subdivisions of the state.

3 III. LOAN FUND

4 NEW SECTION. **Sec. 6.** DEFINITIONS. Unless the context clearly
5 requires otherwise, the definitions in this section apply throughout
6 sections 7 through 14 of this act.

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

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

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

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

14 NEW SECTION. **Sec. 7.** COMMITTEE ESTABLISHED. The director may
15 establish within the department of community development the Washington
16 state minority and women-owned businesses loan fund committee. The
17 committee shall have seven members. The director shall appoint the
18 members, subject to the following requirements:

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

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

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

25 (4) Each member appointed by the director shall serve a term of
26 three years, except that of the seven members first appointed, two
27 shall serve two-year terms and two shall serve one-year terms. A

1 person appointed to fill a vacancy shall serve only the unexpired term
2 of the member replaced. A member is eligible for reappointment. A
3 member may be removed by the director only for cause.

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

9 (6) Committee members serve without compensation, but are entitled
10 to reimbursement for actual and necessary expenses incurred in the
11 performance of official duties in accordance with RCW 43.03.050 and
12 43.03.060.

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

17 NEW SECTION. **Sec. 8.** LOAN FUND ESTABLISHED. There is established
18 the Washington state minority and women-owned businesses loan fund.
19 The fund is an account in the state treasury. All loan payments of
20 principal and interest which are transferred under section 10 of this
21 act shall be deposited into the account. Moneys in the account may be
22 spent without legislative appropriation for loans under this chapter.
23 However, any expenditures of these moneys shall conform to federal law.
24 No more than five percent of the fund balance may be spent to
25 administer the fund during the biennium. The department shall make
26 available for use by the committee an amount of federal funds equal to
27 the amount of state funds transferred or appropriated to the department
28 for purposes of supplementing the department's federal funds.

1 NEW SECTION. **Sec. 9.** LENDING AUTHORITY ESTABLISHED. Subject to
2 the restrictions contained in this chapter, the committee is authorized
3 to approve applications of qualified business owners and qualified
4 entrepreneurs for loans from the fund. Applications approved by the
5 committee under this chapter shall conform to applicable federal
6 requirements.

7 NEW SECTION. **Sec. 10.** LIMITATIONS ON LENDING AUTHORITY. (1) The
8 committee shall receive and approve loan applications on a quarterly
9 basis for each fiscal year. Department staff shall process and assist
10 in the preparation of applications. Each application shall show in
11 detail the nature of the business and the purpose intended for the
12 loan. Each application shall include a credit analysis of the business
13 to receive the loan. The committee chairperson may convene the
14 committee on short notice to respond to applications of an immediate
15 nature.

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

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

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

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

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

1 (5) To the extent permitted under federal law the committee shall
2 require applicants to provide for the transfer of all payments of
3 principal and interest on loans to the fund created under this chapter.
4 Under circumstances where the federal law does not permit the committee
5 to require such transfer, the committee shall give priority to
6 applicants who provide for the transfer.

7 NEW SECTION. **Sec. 11.** OVERSIGHT. The committee shall keep
8 performance records on the loans made and the successes of the
9 businesses that receive loans, and the committee shall develop
10 performance standards for judging the effectiveness of its lending
11 practices. The committee shall report to the fiscal committees in the
12 legislature each January.

13 NEW SECTION. **Sec. 12.** COMMITTEE SUPPORT. The department shall
14 provide adequate and appropriate staff to the committee. A record of
15 committee proceedings shall be maintained by the department. The
16 department is encouraged to work with local development organizations
17 to promote applications for loans by the fund. The department shall
18 also provide assistance to local development organizations and lending
19 organizations to identify viable projects for consideration by the
20 committee. The department shall adopt such rules as are appropriate
21 for the committee to carry out its authority under this chapter.

22 IV. MISCELLANEOUS

23 NEW SECTION. **Sec. 13.** CAPTIONS NOT LAW. Section headings as used
24 in this act do not constitute part of the law.

1 NEW SECTION. **Sec. 14.** This chapter may be known and cited as
2 the omnibus minority and women-owned businesses assistance act.

3 NEW SECTION. **Sec. 15.** Sections 1, 4, and 6 through 14 of this
4 act shall constitute a new chapter in Title 43 RCW.