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**SUBSTITUTE HOUSE BILL 1737**

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

17 II. FAIRNESS IN CONTRACTING AND CONCESSIONS

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

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

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. There is established  
15 within the department of community development the Washington state  
16 minority and women-owned businesses loan fund committee. The committee  
17 shall have seven members. The director shall appoint the members,  
18 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.

5        NEW SECTION.    **Sec. 16.**        The sum of five million dollars, or as  
6 much thereof as may be necessary, is appropriated for the biennium  
7 ending June 30, 1993, from the general fund to the Washington state  
8 minority and women-owned businesses loan fund for the purposes of this  
9 act.

10       NEW SECTION.    **Sec. 17.**        The sum of ..... dollars, or as  
11 much thereof as may be necessary, is appropriated for the biennium  
12 ending June 30, 1993, from the general fund to the department of trade  
13 and economic development for the purposes of this act.