
HOUSE BILL 1738

State of Washington 52nd Legislature 1991 Regular Session

By Representatives Wineberry, Miller, Grant, May, Jacobsen, R. Fisher, Locke, Holland, Belcher, Ferguson, Hine, Wang, Winsley, Forner and Anderson.

Read first time February 7, 1991. Referred to Committee on Energy & Utilities.

1 AN ACT Relating to increasing utilities procurement contracts by
2 women-owned and minority-owned enterprises; adding new sections to
3 chapter 80.04 RCW; creating a new section; and prescribing penalties.

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

5 NEW SECTION. **Sec. 1.** (1) The legislature hereby finds and
6 declares that the essence of the American economic system of private
7 enterprise is free competition. Only through full and free competition
8 can free markets, reasonable and just prices, free entry into business,
9 and opportunities for the expression and growth of personal initiative
10 and individual judgment be assured. The preservation and expansion of
11 that competition is basic to the economic well-being of this state and
12 that well-being cannot be realized unless the actual and potential
13 capacity of women-owned and minority-owned business enterprises is
14 encouraged and developed. Therefore, it is the declared policy of the
15 state to aid the interests of women-owned and minority-owned business

1 enterprises in order to preserve reasonable and just prices and a free
2 competitive enterprise, to ensure that a fair proportion of the total
3 purchases and contracts or subcontracts for commodities, supplies,
4 technology, property, and services for regulated utilities are awarded
5 to women-owned and minority-owned business enterprises, and to maintain
6 and strengthen the overall economy of the state.

7 (2) (a) The legislature finds all of the following:

8 (i) The opportunity for full participation in our free enterprise
9 system by women-owned and minority-owned business enterprises is
10 essential if this state is to attain social and economic equality for
11 those businesses and improve the functioning of the state economy.

12 (ii) Public agencies which have established short and long-range
13 women-owned and minority-owned business enterprise goals are awarding
14 thirty percent or more of their contracts to these business
15 enterprises.

16 (iii) Women-owned and minority-owned business enterprises have
17 traditionally received less than a proportionate share of regulated
18 public utility procurement contracts.

19 (iv) It is in the state's interest to expeditiously improve the
20 economically disadvantaged position of women-owned and minority-owned
21 business enterprises.

22 (v) The position of these businesses can be improved by providing
23 long-range substantial goals for procurement by regulated public
24 utilities of technology, equipment, supplies, services, materials, and
25 construction work from women-owned and minority-owned businesses.

26 (vi) That procurement also benefits the public utilities and
27 consumers of the state by encouraging the expansion of the number of
28 suppliers for procurements, thereby encouraging competition among the
29 suppliers and promoting economic efficiency in the process.

30 (b) It is the purpose of this act to do all of the following:

1 (i) Encourage greater economic opportunity for women-owned and
2 minority-owned business enterprises;

3 (ii) Promote competition among regulated public utility suppliers
4 in order to enhance economic efficiency in the procurement of electric,
5 gas, and telephone corporation contracts and contracts of their
6 commission-regulated subsidiaries and affiliates; and

7 (iii) Clarify and expand the program for the procurement by
8 regulated public utilities of technology, equipment, supplies,
9 services, materials, and construction work from women-owned and
10 minority-owned business enterprises.

11 NEW SECTION. **Sec. 2.** For the purposes of sections 3 through
12 5 of this act, the following definitions apply:

13 (1) "Women-owned business" means a business enterprise that is at
14 least fifty-one percent owned by a woman or women; or, in the case of
15 any publicly owned business, at least fifty-one percent of the stock of
16 which is owned by one or more women; and whose management and daily
17 business operations are controlled by one or more of those individuals.

18 (2) "Minority-owned business" means a business enterprise that is
19 at least fifty-one percent owned by a minority group or groups; or, in
20 the case of any publicly owned business, at least fifty-one percent of
21 the stock of which is owned by one or more minority, and whose
22 management and daily business operations are controlled by one or more
23 of those individuals. The contracting utility shall presume that
24 minority includes African-Americans, Hispanic Americans, Native
25 Americans, and Asian-Pacific Americans.

26 (3) "Control" means exercising the power to make policy decisions.

27 (4) "Operate" means being actively involved in the day-to-day
28 management and not merely officers or directors.

1 NEW SECTION. **Sec. 3.**

(1) The commission shall require each
2 electric, gas, and telephone corporation with gross annual revenues
3 exceeding twenty-five million dollars and their commission-regulated
4 subsidiaries and affiliates, to submit annually a detailed and
5 verifiable plan for increasing women-owned and minority-owned business
6 enterprise procurement in all categories.

7 (2) These annual plans shall include short-term and long-term goals
8 and timetables, but not quotas, and shall include methods for
9 encouraging both prime contractors and grantees to engage women-owned
10 and minority-owned business enterprises in subcontracts in all
11 categories which provide subcontracting opportunities.

12 (3) The commission shall establish guidelines for all electric,
13 gas, and telephone corporations with gross annual revenues exceeding
14 twenty-five million dollars and their commission-regulated subsidiaries
15 and affiliates, to be utilized in establishing programs pursuant to
16 this section.

17 (4) Every electric, gas, and telephone corporation with gross
18 annual revenues exceeding twenty-five million dollars shall furnish an
19 annual report to the commission regarding the implementation of
20 programs established pursuant to this section in such form as the
21 commission shall require, and at the time that the commission shall
22 annually designate.

23 (5) The commission shall provide an annual report to the
24 legislature, by September 1 of each year, on the progress of activities
25 undertaken by each electric, gas, and telephone corporation with gross
26 annual revenues exceeding twenty-five million dollars pursuant to this
27 section in the implementation of women-owned and minority-owned
28 business enterprise development programs. The commission shall
29 recommend a program for carrying out the policy declared in this

1 section, together with recommendations for legislation that it deems
2 necessary or desirable to further that policy.

3 NEW SECTION. **Sec. 4.** (1) The commission shall develop and
4 publish regulations setting forth criteria for verifying and
5 determining the eligibility of women-owned and minority-owned business
6 enterprises for procurement contracts.

7 (2) The commission shall develop, and require every electric, gas,
8 and telephone corporation with gross annual revenues exceeding twenty-
9 five million dollars and their commission-regulated subsidiaries and
10 affiliates to implement, an outreach program to inform and recruit
11 women-owned and minority-owned business enterprises to apply for
12 procurement contracts under this section.

13 NEW SECTION. **Sec. 5.** A person or corporation, through its
14 directors, officers, or agent, that falsely represents the business as
15 a women-owned or minority-owned business enterprise in the procurement
16 or attempt to procure contracts from electric, gas, and telephone
17 corporations with gross annual revenues exceeding twenty-five million
18 dollars and their commission-regulated subsidiaries and affiliates
19 pursuant to sections 3 through 5 of this act, shall be punished by a
20 fine of not more than five thousand dollars, or by imprisonment in the
21 county jail for not to exceed one year or in the state prison for not
22 to exceed five years of its directors, officers, or agents responsible
23 for the false statements, or both the fine and imprisonment.

24 NEW SECTION. **Sec. 6.** Sections 2 through 5 of this act are
25 each added to chapter 80.04 RCW.