

**STORAGE NAME:** h0319s1.bdt

**DATE:** April 4, 1997

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE  
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**BILL #:** CS/HB 319

**RELATING TO:** Minority Business Enterprises

**SPONSOR(S):** Rep. Andrews

**STATUTE(S) AFFECTED:** Amends sections 287.0943, F.S.; 288.703, F.S.

**COMPANION BILL(S):** SB 1798

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) BUSINESS DEVELOPMENT AND INTERNATIONAL TRADE YEAS 7 NAYS 0
- (2) GOVERNMENT OPERATIONS
- (3)
- (4)
- (5)

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**I. SUMMARY:**

In order to receive minority "set-asides" under the state's program for procurement of personal property and services, minority businesses must be certified as eligible to participate. Section 287, F.S., delineates the requirements for such certification, including number of employees, net worth, and lineage.

This bill amends section. 287.0943(2), F.S., to make ineligible for Minority Business Enterprise (MBE) certification, those minority-owned businesses which are the result of a transfer from a nonminority to a minority within a related immediate family group which occurred within two years of seeking certification if the combined net asset value of all members of that family group exceeds \$1 million dollars. This bill also amends section 288.703(1),F.S., changing the definition of "small business" from one with an annual net worth of \$3 million dollars to \$1 million dollars.

The Minority Business Advocacy and Assistance Office will be required to develop rules and forms to implement the provisions of this bill. The MBAAO has estimated that the additional staff, resources and training required in the first year will cost \$55,000, and \$35,000 in the second and third years.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

In order to receive minority "set-asides" under the state's program for procurement of personal property and services, minority businesses must be certified as eligible to participate. Section 287.0943(1)(e)2., F.S., requires businesses seeking MBE certification to meet the following criteria in order to be eligible for MBE certification:

1. That the applicant business be owned or controlled by a minority person,
2. If present ownership was obtained by transfer, that the minority owner had been a 51% owner for at least two years prior to certification where the transferor was a nonminority; and
3. Require that the prospective certified minority business enterprise be currently performing a useful business function. That section is expressly inapplicable to otherwise eligible applicants who take majority ownership of a business requiring professional licensure and an applicant who will be the licence holder for the firm when certified.

Section 288.703(1), F.S., limits the definition of a small business to one that, together with its affiliates, has a net worth of not more than \$3 million dollars. Additionally, it restricts the eligibility of sole proprietors to those with personal and business investments not exceeding \$3 million dollars.

According to the MBAAO, there are currently approximately 30 MBE firms with a net worth of between \$1 million and \$3 million dollars who would either lose their certification, or be ineligible for re-certification under this bill. That figure represents less than 1% of all certified MBEs in the state. Primarily, these businesses are owned by white women.

Section 288.703(2), F.S., limits the definition of "minority business enterprise" to one organized to engaged in commercial transactions, domiciled in Florida, which is at least 51% owned by minority persons.

Section 287.09431, F.S. provides for statewide and interlocal agreement on the certification of minority business enterprises. The purpose of this section is to establish a uniform certification process among the various local governmental entities throughout the state. The intent of this section is to avoid burdensome administrative requirements on MBE applicant firms and redundancy.

B. EFFECT OF PROPOSED CHANGES:

This bill would amend s. 287.0943(1) to further limit eligibility for MBE certification by deeming the ownership of the following businesses invalid for the purpose of qualifying for certification: where a transfer of majority ownership was made within an "immediate family group" from a nonminority to a minority person if the combined total net asset value of all members of that family group exceeds \$1 million dollars.

The bill further amends s.288.703(1) to limit the definition of a "small business" to one which, together with its affiliates, has a net worth of not more than \$1 million dollars and, limits eligible sole proprietors to those with business and personal investments not exceeding \$1 million dollars.

Finally, the bill amends s.288.703(2) to limit the definition of a "Minority business enterprise" [to exclude from eligibility for certification those minority owned businesses which are the result of a transfer from non-minority to a minority within a related immediate family group if the combined total net asset value of all members of such family group exceeds \$1 million dollars.]

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Yes, the bill will require the Minority Business Advocacy and Assistance Office of the Department of Labor and Employment Security to enact rules to administer the requirements of this bill.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

The MBAAO stated that this bill would require their investigations of applicant businesses to be much more extensive in order to determine the collective net worth of a "family group".

(3) any entitlement to a government service or benefit?

This bill would reduce the number of businesses entitled to MBE certification. Specifically, it would make ineligible for MBE certification those minority businesses having a net worth of over one million dollars. Further, it would make ineligible those MBE applicants who acquired ownership of the applicant business through a transfer from a nonminority within the same related immediate family group if the combined total net asset value of all members of that family group exceeds \$1 million dollars.

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

Yes. The bill would reduce the number of businesses entitled to MBE certification. Specifically, it would make ineligible for MBE certification those MBE applicants who acquired ownership of the applicant business through a transfer from a nonminority within the same immediate family group if the combined total net asset value of all members of that family group exceeds \$1 million dollars.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

Yes, some MBEs currently eligible for certification would no longer be eligible to participate in the program.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

N/A

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. SECTION-BY-SECTION ANALYSIS:

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

The MBAAO will incur minimal costs associated with the development of rules and procedures to implement the provisions of this bill.

2. Recurring Effects:

The MBAAO has estimated that the additional staff, resources and training required to implement this bill is as follows.

<u>FY 97/98</u>	<u>FY 98/99</u>
\$55,000	\$35,000
(1 FTE)	(1 FTE)

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See A.1 and 2 above

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Local governments that operate MBE programs will incur minimal costs associated with the development of rules and procedures to implement the provisions of this bill.

2. Recurring Effects:

Local governments that operate MBE programs will incur costs associated with administration.

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

It is foreseeable that the cost upon an applicant for gathering data and personal records will increase pursuant to this bill as more information will be required of an applicant.

2. Direct Private Sector Benefits:

None

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

Those local governments that currently operate a minority business procurement program will be required to expend funds to comply with this act. However, since the expenditure required in this act applies to all persons similarly situated, including the state and local governments, the bill is exempt from the provisions of article VII, Section 18 of the Florida Constitution.

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. **COMMENTS:**

VI. **AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:**

On March 26, 1997, the Committee on Business Development and International Trade passed HB 319 as a committee substitute. The committee substitute defined "immediate related family group" as one in which a child or children under 16 years old, a parent, or spouse residing in the same house or living unit.

VII. **SIGNATURES:**

COMMITTEE ON EDUCATIONAL SERVICES:

Prepared by:

Legislative Research Director:

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