

STORAGE NAME: h2127a.gg
DATE: April 26, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
ANALYSIS**

BILL #: HB 2127 (PCB BDIT 00-05)

RELATING TO: State Procurement/Minority Business

SPONSOR(S): Committee on Business Development & International Trade and Representative Bradley

TIED BILL(S):

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

- (1) BUSINESS DEVELOPMENT & INTERNATIONAL TRADE YEAS 6 NAYS 3
- (2) GOVERNMENTAL OPERATIONS YEAS 5 NAYS 1
- (3) GENERAL GOVERNMENT APPROPRIATIONS YEAS 9 NAYS 0
- (4)
- (5)

I. SUMMARY:

HB 2127 revises provisions relating to the state procurement process. This bill provides penalties for discrimination as well as false representation, with regard to minority business enterprise programs. It provides for the revocation of certification as a minority business enterprise program obtained by false representation and for the disqualification of a business from doing business with the state. This bill also provides for the denial or revocation of the right to transact business with public entities as a penalty for discrimination.

This bill transfers the Minority Business Advocacy and Assistance Office from the Department of Labor and Employment Security to the Department of Management Services effective July 1, 2000. It renames the office as the Office of Supplier Diversity and directs the Executive Office of the Governor to take the necessary action to insure the transfer of the budget, as appropriated.

This bill prohibits an agency from denying all bidders a fair opportunity to compete in the public procurement of commodities and services based on race, national origin, gender, religion, or physical disability, and provides a complaint process.

This legislation provides that certification as a minority business enterprise by local governmental jurisdictions or organizations shall be accepted by the Office of Supplier Diversity for doing business with the state, when the office determines that the state's minority business certification criteria are applied in the local certification process.

This bill directs the Auditor General to make random reviews / audits of certified minority business enterprises to deter fraud. It provides that, unless certification is permanently revoked, a business for which certification has been revoked may not apply or reapply for certification or recertification for a minimum of 36 months.

This bill revises the definition of "small business" to allow up to 200 permanent full-time employees, a net worth of up to \$5 million, and to include any Florida-based firm which has a Small Business Administration 8(a) certification.

The bill provides for the denial or revocation of the right for discriminatory vendors to transact business with public entities.

The fiscal impact of the bill includes the transfer of 22 positions and \$1,265,304 in General Revenue from the Department of Labor and Employment Security to the Department of Management Services. The Auditor General anticipates expending \$46,000 from General Revenue to conduct required audits.

This bill provides an effective date of July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

History of Minority Business Assistance

Since 1982, the Legislature has enacted provisions designed to provide market, managerial, technical, and financial assistance to minority-owned businesses that have suffered economic disadvantage in the private marketplace. The primary focus of these provisions is on government procurement in an effort to create a sheltered market for minority business enterprises in state contracting.

The Florida Small and Minority Business Assistance Act of 1985, enacted as Chapter 85-104, L.O.F., was the first comprehensive effort to define and facilitate measured improvements in these businesses through government assistance. The Act established additional procurement requirements for technical, managerial, and financial assistance to minority business enterprises. In 1989, the U.S. Supreme Court reviewed the authority of state and local governments to implement measures such as these in City of Richmond v. Croson, 478 U.S. 469 (1989). The court determined that the state's actions must be justified by objective proof of disparate treatment by the state towards the minority groups intended to benefit from the provisions. The Legislature commissioned a study to gather this evidence, the results of which were presented in 1991. The study determined that disparities existed in government contracting, and spending goals were enacted by Chapter 91-162, L.O.F., to encourage increased levels of spending with minority business enterprises.

In 1994, Chapter 94-322, L.O.F., was adopted, which created a statewide, unified certification process by way of an interlocal agreement between the state and political subdivisions. It also provided that minority firms undergo a singular review to be qualified for participation in assistance programs for the state and all political subdivisions that opt to enter into the agreement, as well as, appointed a task force consisting of state, local, public and private officials that would develop, through collaborative effort, common procedures and criteria to guide the uniform certification. The Commission on Minority Economic and Business Development was created as the central oversight body for minority business enterprise development efforts, provided the commission budget responsibilities, and made it a fiscal entity of the Department of Commerce. In addition, the act provided a review by repealer during the 2001 legislative session of all provisions relating to minority business enterprise programs.

Chapter 94-322, L.O.F., also consolidated the functions of the Bureau of Minority Business Enterprise Assistance Office (Department of Management Services) and the Small and Minority Business Advocate (Department of Commerce) under the commission's Minority Business Advocacy and Assistance Office. Also, the Small and Minority Business Advisory Council in the Department of Commerce was repealed and replaced with the Florida Council on Small and Minority Business Development under the commission.

In 1996, Chapter 96-320, L.O.F., was adopted dissolving the Department of Commerce and the Florida International Affairs Commission, and transferred their duties to Enterprise Florida Inc. and the Florida Commission on Tourism.

These provisions transferred the Minority Business Advocacy and Assistance Office to the Department of Labor and Employment Security, repealed the Commission on Minority Economic and Business Development, and provided enhanced responsibilities and duties for the Minority Business Advocacy and Assistance Office.

Some of Florida's Current Provisions for Small and Minority Business Assistance

Miscellaneous provisions

Section 17.11, F.S., provides that the Comptroller shall report from the state automated management accounting subsystem, no less than quarterly, the disbursements agencies made to: *small businesses*, as defined in the Florida Small and Minority Business Assistance Act of 1985; *certified minority business enterprises in the aggregate*; and *certified minority business enterprises broken down into categories of minority persons*, as well as gender and nationality subgroups. The information must be made available to the agencies, the Minority Business Advocacy and Assistance Office, the Governor, the President of the Senate, and the Speaker of the House of Representatives.

Section 255.101, F.S., relates to contracts for public construction works and the utilization of minority business enterprises. This section provides that public officials charged with the letting of contracts for public works and other structures shall operate in accordance with s. 287.093, F.S., and rules adopted pursuant thereto, for the utilization of minority business enterprises.

Section 255.102, F.S., relates to contractor utilization of minority business enterprises. This section provides that agencies shall consider the use of price preferences, weighted preference formulas, or other preferences for construction contracts, determined appropriate by the Minority Business Advocacy and Assistance Office to increase minority participants. Additionally, this section provides that the Minority Business Advocacy and Assistance Office, in collaboration with the Department of Management Services and the State University System, shall adopt rules to determine what is a "good faith effort" for purposes of contractor compliance with minority participation goals established for competitively awarded building and construction projects.

Chapter 287

Section 287.093, F.S., provides that any county, municipality, community college, or district school board may set aside up to 10 percent or more of the total amount of funds allocated for the procurement of personal property and services, for the purpose of entering into contracts with minority business enterprises. Such contracts shall be competitively bid only among minority business enterprises. This section specifically states that the set-aside

shall be used to redress present effects of past discriminatory practices and shall be subject to periodic reassessment to account for changing needs and circumstances.

Section 287.0931, F.S., relates to minority business enterprises and their participation in bond underwriting. This section provides that any state or local government agency, or political subdivision thereof, issuing bonds or other tax-exempt obligations through one or more underwriters is encouraged to offer not less than 20 percent participation to minority firms. Further, to meet such participation requirement, the minority firm must have full-time employees located in this state, must have a permanent place of business located in this state, and must be a firm which is at least 51-percent-owned by minority persons as defined in s. 288.703(3), F.S. However, for the purpose of bond underwriting only, the requirement that a minority person be a permanent resident of this state does not apply.

Section 287.094, F.S., provides penalties for false representation of minority business enterprises.

Section 287.0943, F.S., provides the certification procedures and criteria for minority business enterprises to be used by the Minority Business Certification Task Force and to be adopted ultimately by the Secretary of the Department of Labor.

Section 287.09431, F.S., enacts the statewide and interlocal agreement on certification of business concerns for the status of minority business enterprise.

Section 287.09451, F.S., establishes the Minority Business Advocacy and Assistance Office within the Department of Labor along with its powers and duties. This section provides for spending goals by industry category and subdivided goals by minority group, to be used by state agencies.

Section 287.0947, F.S., provides for the Secretary of the Department of Labor and Employment Security to create the Florida Advisory Council on Small and Minority Business Development with the purpose of advising and assisting the secretary in carrying out the secretary's duties with respect to minority businesses and economic and business development.

Chapter 288

Section 288.702, F.S., creates the "Florida Small and Minority Business Assistance Act of 1985."

Section 288.703, F.S., provides definitions, including:

(1) "Small business" means an independently owned and operated business concern that employs 100 or fewer permanent full-time employees and that, together with its affiliates, has a net worth of not more than \$3 million and an average net income after federal income taxes, excluding any carryover losses, for the preceding 2 years of not more than \$2 million. As applicable to sole proprietorships, the \$3 million net worth requirement shall include both personal and business investments.

(2) "Minority business enterprise" means any small business concern as defined in subsection (1) which is organized to engage in commercial transactions, which is domiciled in Florida, and which is at least 51-percent-owned by minority persons who are members of an insular group that is of a particular racial, ethnic, or gender makeup or national origin, which has been subjected historically to disparate treatment due to identification in and with

that group resulting in an under representation of commercial enterprises under the group's control, and whose management and daily operations are controlled by such persons. A minority business enterprise may primarily involve the practice of a profession. Ownership by a minority person does not include ownership which is the result of a transfer from a nonminority person to a minority person within a related immediate family group if the combined total net asset value of all members of such family group exceeds \$1 million. For purposes of this subsection, the term "related immediate family group" means one or more children under 16 years of age and a parent of such children or the spouse of such parent residing in the same house or living unit.

(3) "Minority person" is a lawful, permanent resident of Florida who is: (a) An African American person having origins in any of the racial groups of the African Diaspora; (b) A Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race; (c) An Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands prior to 1778; (d) A Native American, a person who has origins in any of the Indian Tribes of North America prior to 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services; and (e) An American woman.

(4) "Certified minority business enterprise" means a business which has been certified by the certifying organization or jurisdiction in accordance with s. 287.0943(1), F.S.

(5) "Department" means the Department of Labor and Employment Security.

Section 288.7031, F.S., speaks to the application of certain definitions providing that the definitions of "small business," "minority business enterprise," and "certified minority business enterprise" provided in s. 288.703, F.S., apply to the state and all political subdivisions of the state.

Section 288.707, F.S., creates the Florida Black Business Investment Board to carry out the purposes and provisions of ss. 9 - 21, Chapter 85-104, L.O.F., the Florida Small and Minority Business Assistance Act. These provisions include the power to: adopt bylaws; sue and be sued in its own name; make and execute contracts; acquire, hold and dispose of personal property for its corporate purposes; and encourage financial institutions to participate in consortia for the purpose of investing in black business enterprise.

Section 288.708, F.S., provides for an executive director and employees of the BBIB.

Section 288.709, F.S., provides for the powers of the BBIB, including the powers necessary and convenient to carry out the provisions of ss. 9-21, chapter 85-104, L.O.F.

Section 288.7091, F.S., specifies the duties of the BBIB.

Section 288.7095, F.S., specifies that black business investment corporations shall coordinate with EFI and OTTED to avoid duplication and to develop local business and the necessary infrastructure to support it.

Section 288.71, F.S., specifies conditions for action by the BBIB. The board requires all programs in which the board participates to demonstrate that proposed investments are economically sound and beneficial and that the business will be able to compete successfully in the private sector with requested financial assistance.

Section 288.711, F.S., creates the Florida Investment Incentive Trust Fund, from which loans can be drawn for investments or loans to encourage the development of appropriate financial mechanisms in the private sector to capitalize and assist in the development of black business enterprises.

Section 288.712, F.S., authorizes the establishment of Florida guarantor funds to assure capital availability to black business enterprises in obtaining surety bonds and other credit instruments.

Section 288.713, F.S., authorizes the board to issue capital participation instruments in the form of stock or equity investments repayable solely from revenues derived from underlying equity or loans made to black business enterprises and any payments from an insurer or guarantor of loans.

Section 288.714, F.S., requires an annual report setting forth the operations and accomplishments of the board and the participation of black businesses in the board's programs.

Disparity Studies

The 1995 Disparity Study by FSU found no disparity in state contracting and suggested a race and gender-neutral small and disadvantaged business program. The 1997 Disparity Study done by D. J. Miller and Associates found over-utilization of women and Hispanic firms, and a small under-utilization of black, Asian, and Native American contracting firms. The Miller Disparity Study suggested lower goals be set over a broader range of state spending. Neither of these studies has been adopted by the Legislature. The Miller Disparity Study came out before court decisions requiring more particularized fact finding. Subsequently, the recommendations provided in that study could not be used as the basis for expanding minority contracting goals today.

In City of Richmond v. J.A. Croson Company, 109 S.Ct.706, 712, 488 U.S. 469, 474 (1989), the United States Supreme Court adopted strict scrutiny as the standard of Equal Protection Clause review of race-conscious remedial measures. Where a state or municipal government adopts race-based classifications, the Equal Protection Clause of the Fourteenth Amendment requires that the measures be necessary to the fulfillment of a compelling state interest, and that it be narrowly tailored to the fulfillment of that interest. Specifically, the Equal Protection Clause of the Fourteenth Amendment provides that "[n]o State will ...deny to any person within its jurisdiction the equal protection of the laws." It further prohibits state and local governments from discriminating on the basis of race in order to undo the effects of past discrimination except in one circumstance: where that is necessary to eliminate their own maintenance of a system of unlawful racial classification.

Subsequent to its decision in Croson, the Supreme Court has been frequently quoted for its dicta suggesting that race-neutral measures are the future of minority business enterprise.

In Phillips & Jordan, Inc. v. Ben G. Watts, (N.D. Fla. 1996) (No.4:96cv286-ws), the court granted summary judgement in favor of the plaintiffs, and clearly indicated that separate disparity analyses for contracts awarded by FDOT's district offices should have been conducted for each district. The court specifically stated:

Although the vast majority of FDOT maintenance contracts are let at the district level, and although the demographics vary considerably from district to district within the State of Florida, MGT did not analyze

the disparity data on a district-by-district basis. Instead, the data from individual districts and counties were aggregated; availability and utilization rates were determined on a state-wide basis; disparity indices were calculated for the state as a whole, and program goals were ultimately set on a state-wide basis. FDOT's experts, Kenneth Tatum and Gerald L. Jackson, have suggested that district-by-district analysis was eschewed simply because it would have increased the administrative burdens and costs to FDOT. Id. at 17.

C. EFFECT OF PROPOSED CHANGES:

HB 2127 provides penalties for discrimination as well as false representation, with regard to minority business enterprise programs. It provides for the revocation of certification as a minority business enterprise program obtained by false representation and for the disqualification of a business from doing business with the state.

This bill provides for the transfer of the Minority Business Advocacy and Assistance Office from the Department of Labor and Employment Security to the Department of Management Services effective July 1, 2000. The office is renamed the Office of Supplier Diversity. This bill also directs the Executive Office of the Governor to take the necessary action to insure the transfer of the budget, as appropriated.

This bill prohibits an agency from denying all bidders a fair opportunity to compete in the public procurement of commodities and services based on race, national origin, gender, religion, or physical disability. It provides a complaint process for alleged discrimination by an agency. This bill prohibits the owner of a minority business enterprise that has been found guilty of discrimination under this section from creating a new business entity for the purpose of circumventing this section and attempting to transact business with the state.

This bill provides for the denial or revocation of the right to transact business with public entities for discrimination. It prohibits an entity or affiliate that has been placed on the discriminatory vendor list from submitting a bid for contract with a public entity or acting as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and prohibits the entity from transacting business with any public entity. It prohibits public entities from accepting bids from, awarding contracts to, or transacting any business with any entity or affiliate on the discriminatory vendor list for 36 months from the date that entity was placed on the list unless the vendor was removed from the list. This bill prohibits public entities which were transacting business with an entity at the time of the discrimination which resulted in that entity being placed on the discriminatory vendor list from accepting any bid from, award any contract to, or transact any business with any other entity which is under the same, or substantially the same, control as the entity whose name appears on the discriminatory vendor list.

This legislation provides that certification as a minority business enterprise by local governmental jurisdictions or organizations shall be accepted by the Office of Supplier Diversity for the purpose of doing business with the state, when the office determines that the state's minority business certification criteria are included in the criteria applied in the local certification process.

With regard to the assessing the status of ownership and control, this bill changes *licensure* of a minority owner in his or her trade or profession, to *demonstrated expertise* in such trade. It requires businesses to comply with all state licensing requirements prior to becoming a certified minority business enterprise.

This bill provides that, for one year from the effective date of the act, the executor of the statewide interlocal agreement may elect to accept only minority business enterprises certified pursuant to criteria in place at the time the agreement was signed. After that time, either party may elect to withdraw from the agreement without further notice.

This bill directs the Auditor General to make random reviews/audits of certified minority business enterprises to deter fraud. It provides that, unless certification is permanently revoked, a business for which certification has been revoked may not apply or reapply for certification or recertification for a minimum of 36 months.

See Section-by-Section Analysis for details.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 Amends s. 287.094, F.S. Retitles the section to relate to penalties for discrimination, as well as false representation, with regard to minority business enterprise programs. Provides that the certification as a minority business enterprise program obtained by false representation shall be permanently revoked and the business will be barred from doing business with the state for three years. Provides that a business will be barred from doing business with the state for three years and will be permanently disqualified from doing business as a certified minority business enterprise if the business did not act in good faith to fulfill the terms of a contract calling for it to use the services or commodities of a certified minority business enterprise.

Prohibits an agency from denying all bidders a fair opportunity to compete in the public procurement of commodities and services based on race, national origin, gender, religion, or physical disability. Provides a complaint process for alleged discrimination by an agency. Complaints may be filed within 60 days after the facts giving rise to the claim are known or reasonably should have been discovered. The Office of Supplier Diversity shall refer the complaint to the Inspector General for the agency subject to the complaint within ten days and the Inspector General shall coordinate a prompt investigation and issue written findings of fact. The Chief Inspector General is required to refer any state employee determined to have participated in prohibited discrimination under this act for disciplinary action.

Prohibits the owner of a minority business enterprise that has been found guilty of discrimination under this section from creating a new business entity for the purpose of circumventing this section and attempting to transact business with the state.

Section 2 Amends s. 287.0943, F.S. Provides for the acceptance of a certification as a minority business enterprise by local governmental jurisdictions or organizations by the Department of Management Services (DMS), Office of Supplier Diversity (OSD), for the purpose of doing business with the state when OSD determines that the state's minority business certification criteria are applied in the local certification process.

With regard to the Minority Business Certification Task Force, this bill specifies that proposals with regard to the uniform criteria and procedures for certification shall be made in accordance with the certification criteria established in the Florida Statutes. With regard to assessing the status of ownership and control, this bill changes *licensure* of a minority owner in his or her trade or profession to *demonstrated expertise* in such trade. Requires businesses to comply with all state licensing requirements prior to becoming a certified minority business enterprise.

Provides that a business *seeking to perform* a useful business function is eligible and redefines "useful business function" to include businesses that provide materials, supplies, equipment, or services solely to governmental entities. Provides for an audit / review within two years when a business receives payments or awards exceeding \$100,000 in a single fiscal year. Also provides for random reviews / audits to be performed as deemed necessary by the OSD.

Provides that, for one year from the effective date of the act, the executor of the statewide interlocal agreement may elect to accept only minority business enterprises certified pursuant to criteria in place at the time the agreement was signed. After that time, either party may elect to withdraw from the agreement without further notice.

Directs the Auditor General to make random reviews / audits of certified minority business enterprises to deter fraud. Provides that, unless certification is permanently revoked, a business for which certification has been revoked may not apply or reapply for certification or recertification for a minimum of 36 months.

Corrects cross references and makes conforming changes. Changes references from the Department of Labor and Employment Security to the Department of Management Services.

Section 3 Provides for the transfer of the Minority Business Advocacy and Assistance Office from the Department of Labor and Employment Security to the Department of Management Services effective July 1, 2000. Renames the office as the Office of Supplier Diversity. Directs the Executive Office of the Governor to take the necessary action to insure the transfer of the budget, as appropriated.

Section 4 Amends s. 287.09451, F.S., conforming to the transfer and renaming of the Minority Business Advocacy and Assistance Office in the Department of Labor & Employment Security to the Office of Supplier Diversity within the Department of Management Services.

Section 5 Amends s. 288.703, F.S., relating to definitions. Revises the definition of "small business" to mean an independently owned and operated business concern that employs 200 or fewer permanent full-time positions and that, together with its affiliates, has a net worth of not more than \$5 million or any Florida-based firm which has the Small Business Administration 8(a) certification. As applicable to sole proprietorships, the \$5 million net worth requirement shall include both personal and business investments. Corrects cross references and makes conforming changes.

Section 6 Creates s. 287.134, F.S., relating to the denial or revocation of the right to transact business with public entities for discrimination. Provides definitions. Defines "discrimination" or "discriminated" as a determination of liability by a state circuit court or federal district court for a violation of any state or federal law prohibiting discrimination on the basis of race, gender, national origin, disability, or religion by an entity. If appeal is made, the determination of liability does not occur until the completion of any appeals to a higher tribunal.

Prohibits an entity or affiliate that has been placed on the discriminatory vendor list from submitting a bid for contract with a public entity or acting as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and from transacting business with any public entity. Prohibits public entities from accepting bids from, awarding contracts to, or transacting any business with any entity or affiliate on the discriminatory

vendor list for 36 months from the date that entity was placed on the list unless the vendor was removed from the list. Prohibits public entities which were transacting business with an entity at the time of the discrimination which resulted in that entity being placed on the discriminatory vendor list from accepting any bid from, awarding any contract to, or transacting any business with any other entity which is under the same, or substantially the same, control as the entity whose name appears on the discriminatory vendor list.

An entity must notify the department within 30 days after a final determination of discrimination. A public entity which receives information that an entity has discriminated shall transmit that information to the department within 10 days. Before entering into a contract with the state, all entities are required to disclose whether they have been found liable by the courts for violation of any state or federal law prohibiting discrimination. Invitation to bid, requests for proposals, and written contract documents of the state are required to contain a statement informing entities that businesses on the discriminatory vendor list may not submit a bid pursuant to this act.

The department will maintain and publish a list of disqualified vendors. The initial list will be published on January 1, 2001, and an updated list will be published quarterly. These lists will be published in the Florida Administrative Quarterly. A business disqualified under this act will be disqualified on the date the final order is entered, not on publication of the list.

The department will investigate allegations of discrimination and determine whether good cause exists to place an entity on the discriminatory vendor list. Any entity which the department intends to place on the list will be notified in writing, of the right to a hearing, the procedure to be followed, and the applicable time requirements. An entity slated to be placed on the list may file a petition for a formal appeal. Chapter 120, F.S., applies to any formal hearing under this section except where they conflict with provisions specified by this bill. The department is required to prove, for any proceeding under this section, that it is in the public interest for the entity to be placed on the discriminatory vendor list. A vendor placed on the list may petition for removal from the list no sooner than six months from the date the final order is entered which disqualifies that vendor from doing business with the state. An entity may be removed from the list subject to such terms and conditions as may be prescribed by an administrative law judge. Placement on the discriminatory vendor list shall not affect any rights or obligations under any contract or agreement which predates the conviction or placement on the list.

The provisions of this section do not apply to any activities regulated by the Florida Public Service Commission or to the purchase of goods or services made by any public entity from the Department of Corrections, from the nonprofit corporation organized under chapter 946, F.S., or from any accredited nonprofit workshop certified under ss. 413.032 - 413.037, F.S.

Section 7 Amends subsection (2) of s. 17.11, F.S., conforming to the transfer and renaming of the Minority Business Advocacy and Assistance Office in the Department of Labor & Employment Security to the Office of Supplier Diversity within the Department of Management Services.

Section 8 Amends subsections (1) & (2) of s. 255.102, F.S., conforming to the transfer and renaming of the Minority Business Advocacy and Assistance Office in the Department of Labor & Employment Security to the Office of Supplier Diversity within the Department of Management Services.

Section 9 Amends subsection (19) of s. 287.012, F.S., conforming to the transfer and renaming of the Minority Business Advocacy and Assistance Office in the Department of Labor & Employment Security to the Office of Supplier Diversity within the Department of Management Services.

Section 10 Amends subsections (2) & (4) of s. 287.042, F.S., conforming to the transfer and renaming of the Minority Business Advocacy and Assistance Office in the Department of Labor & Employment Security to the Office of Supplier Diversity within the Department of Management Services.

Section 11 Amends subsections (5) & (6) of s. 287.057, F.S., conforming to the transfer and renaming of the Minority Business Advocacy and Assistance Office in the Department of Labor & Employment Security to the Office of Supplier Diversity within the Department of Management Services.

Section 12 Amending section 287.09431, F.S., conforming to the transfer and renaming of the Minority Business Advocacy and Assistance Office in the Department of Labor & Employment Security to the Office of Supplier Diversity within the Department of Management Services. Correcting a cross reference.

Section 13 Provides an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Recurring:	<u>FTE</u>	<u>FY 2000-01</u>
Department of Labor and Employment Security		
Salaries & Benefits	(22)	(927,036)
Other Personal Services		(100,000)
Expenses		<u>(238,268)</u>
Total - General Revenue Fund	<u>(22)</u>	<u>(1,265,304)</u>
Department of Management Services		
Salaries & Benefits	22	927,036
Other Personal Services		100,000
Expenses		<u>238,268</u>
Total - General Revenue Fund	<u>22</u>	<u>1,265,304</u>
Office of the Auditor General		
Salaries & Benefits	<u>1</u>	<u>46,000</u>
Total - General Revenue Fund	<u>1</u>	<u>46,000</u>
Recurring - Grand Total - General Revenue Fund	<u>1</u>	<u>46,000</u>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill requires the transfer of the Minority Business Advocacy and Assistance Office from the Department of Labor and Employment Security to the Department of Management Services.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or take an action requiring expenditures of funds.

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 state sales tax shared with municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 12, 2000, the Committee on Governmental Operations adopted five amendments and reported this bill favorably as amended. The amendments did as follows:

- Clarified sentence structure on page 1;
- Included at least one woman business owner on the Minority Business Certification Task Force;
- Clarified language regarding expertise and licensure so that both are part of the criteria for certification;
- Clarified what review is necessary of a minority business for continued certification; and
- Clarified that reviews or audits can be used for continued certification.

On April 26, 2000, the Committee on General Government Appropriations adopted one amendment and reported the bill favorable as amended. The amendment allows the Auditor General, for the purpose of deterring fraud, to review the criteria by which a business became certified as a certified minority business. The amendment is traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON BUSINESS DEVELOPMENT & INTERNATIONAL TRADE:

Prepared by:

Staff Director:

J. Paul Whitfield, Jr.

J. Paul Whitfield, Jr.

AS REVISED BY THE COMMITTEE ON GOVERNMENTAL OPERATIONS:

Prepared by:

Staff Director:

Jennifer D. Krell

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