

By the Committee on Business Development & International  
Trade and Representative Bradley

1                                   A bill to be entitled  
2           An act relating to state procurement; amending  
3           s. 287.094, F.S.; revising provisions relating  
4           to minority business enterprise programs;  
5           providing for revoking the certification of  
6           certain minority businesses under certain  
7           circumstances; providing exceptions;  
8           prohibiting agencies from denying contractors,  
9           firms, or individuals an opportunity to compete  
10          in public procurement of commodities and  
11          services under certain circumstances; providing  
12          for filing of certain complaints; providing  
13          procedures and requirements; providing a  
14          penalty for certain discrimination; amending s.  
15          287.0943, F.S.; requiring the Office of  
16          Supplier Diversity to accept certain businesses  
17          as certified minority businesses for certain  
18          purposes under certain circumstances; revising  
19          criteria for certification of minority business  
20          enterprises; requiring businesses to comply  
21          with state licensing requirements for certain  
22          certification; providing for review or audit of  
23          certain businesses under certain circumstances;  
24          providing for random reviews or audits of  
25          certain business by the Office of Supplier  
26          Diversity; authorizing the Auditor General to  
27          review or audit certain minority businesses for  
28          certain purposes; transferring the Minority  
29          Business Advocacy and Assistance Office from  
30          the Department of Labor and Employment Security  
31          to the Department of Management Services and

1 renaming the office as the Office of Supplier  
2 Diversity; amending s. 287.09451, F.S., to  
3 conform to such transfer and renaming; amending  
4 s. 288.703, F.S.; revising certain definitions;  
5 creating s. 287.134, F.S.; providing  
6 definitions; prohibiting certain entities or  
7 affiliates from bidding on certain contracts;  
8 prohibiting public entities from accepting  
9 certain bids from, awarding certain contracts  
10 to, or transacting business with certain  
11 entities; requiring invitations to bid,  
12 requests for proposals, and certain written  
13 contracts to contain notice of provisions;  
14 providing requirements, procedures, and  
15 limitations for determinations of  
16 discrimination by certain entities; providing  
17 for notice and administrative hearings;  
18 providing for nonapplication to certain  
19 activities; amending ss. 17.11, 255.102,  
20 287.012, 287.042, 287.057, and 287.9431, F.S.,  
21 to conform; providing an effective date.

22  
23 Be It Enacted by the Legislature of the State of Florida:

24  
25 Section 1. Section 287.094, Florida Statutes, is  
26 amended to read:

27 287.094 Minority business enterprise programs; penalty  
28 for discrimination and false representation.--

29 (1) It is unlawful for any individual to falsely claim  
30 to be ~~represent~~ any entity as a minority business enterprise  
31 for purposes of qualifying for certification with any

1 governmental certifying organization as a minority business  
2 enterprise in order to participate under a program of a state  
3 agency which is designed to assist certified minority business  
4 enterprises in the receipt of contracts with the agency for  
5 the provision of goods or services. The certification of any  
6 contractor, firm, or individual obtained by such false  
7 representation shall be permanently revoked and the entity  
8 shall be barred from doing business with state government for  
9 a period of 36 months. Any person who violates this section is  
10 guilty of a felony of the second degree, punishable as  
11 provided in s. 775.082, s. 775.083, or s. 775.084.

12 (2) Any contractor, firm, or individual which falsely  
13 represents to an agency or to a contractor, pursuant to a  
14 state contract, that it is a certified minority business  
15 enterprise or which represents that it will use the services  
16 or commodities of a certified minority business enterprise and  
17 subsequently does not do so shall be in breach of contract.  
18 Upon determination that a breach has occurred, all payments  
19 under the contract may be immediately suspended. The  
20 contractor or firm may show that it attempted through  
21 reasonable and objective means and in good faith to comply  
22 with the terms of the contract relating to minority business  
23 enterprises but was unable to comply. If the agency determines  
24 that the contractor or firm did not act in good faith, all  
25 amounts paid to the contractor or firm under the state  
26 contract intended for expenditure with the certified minority  
27 business enterprises shall be forfeited and recoverable by the  
28 Department of Legal Affairs. In addition, the contract may be  
29 rescinded and the agency may return all goods received and  
30 recover all amounts paid under the contract.

31

1           (3) Any ~~No~~ contractor, firm, or individual shall be  
2 barred from doing business with state government for a period  
3 of 36 months, and shall be permanently disqualified from doing  
4 business with state government as a certified minority  
5 business enterprise, if qualified for 36 months to bid on  
6 contracts or negotiate for the rendering of professional  
7 services pursuant to s. 287.055 awarded by an agency after the  
8 office determines that the contractor, firm, or individual has  
9 falsely represented that it is a certified minority business  
10 enterprise, or the office has determined that the contractor,  
11 firm, or individual has not acted in good faith to fulfill the  
12 terms of a contract calling for it to use the services or  
13 commodities of a certified minority business enterprise. If  
14 the Department of Legal Affairs, agency final order, or a  
15 court of law determines or a court of law adjudges that a  
16 person was involved in a violation of this section, knew about  
17 such violation, or collaborated with a contractor or firm in  
18 such violation, the person, or any contractor or firm the  
19 person is employed by or affiliated with, shall be barred from  
20 doing business with state government for a period of at least  
21 36 months shall not be a qualified vendor for the state for at  
22 least 36 months to bid on contracts or negotiate for the  
23 rendering of professional services pursuant to s. 287.055  
24 awarded by an agency after such determination is made.

25           (4) No agency shall deny any contractor, firm, or  
26 individual a fair opportunity to compete in the public  
27 procurement of commodities and services based on race,  
28 national origin, gender, religion, or physical disability,  
29 which for purposes of this subsection constitutes prohibited  
30 discrimination. Complaints alleging prohibited discrimination  
31 by an agency in its public procurement may be filed with the

1 Office of Supplier Diversity within 60 days after the facts  
2 giving rise to the complaint are known, or reasonably should  
3 have been discovered. Any complaint shall be filed in  
4 writing, and must set forth the specific facts giving rise to  
5 the claim of prohibited discrimination. The Office of  
6 Supplier Diversity shall, within 10 days, refer the complaint  
7 to the Inspector General for the agency that is the subject of  
8 the complaint, who shall coordinate a prompt investigation and  
9 issue written findings of fact. These findings shall be  
10 reviewed by the Chief Inspector General or his or her  
11 designee, who is authorized to conduct any further  
12 investigation deemed necessary or appropriate. Upon a final  
13 determination that an agency has abused its discretion by  
14 engaging in prohibited discrimination, the Chief Inspector  
15 General shall refer any state employee determined to have  
16 participated in the prohibited discrimination for disciplinary  
17 action in accordance with Chapter 60K(9), Florida  
18 Administrative Code, and subsequently enacted rules, up to and  
19 including termination.

20 (5)(4) The owner of a minority business enterprise  
21 that has been found guilty under subsection (1) or subsection  
22 (3) shall not attempt to circumvent this section by creating a  
23 new business entity for the purposes of attempting to transact  
24 business in this state ~~corporate~~ structure.

25 Section 2. Section 287.0943, Florida Statutes, is  
26 amended to read:

27 287.0943 Certification of minority business  
28 enterprises.--

29 (1) A business certified by any local governmental  
30 jurisdiction or organization shall be accepted by the  
31 Department of Management Services, Office of Supplier

1 Diversity, as a certified minority business enterprise for  
2 purposes of doing business with state government when the  
3 Office of Supplier Diversity determines that the state's  
4 minority business enterprise certification criteria are  
5 applied in the local certification process.

6 (2)(1)(a) The office is hereby directed to convene a  
7 "Minority Business Certification Task Force." The task force  
8 shall meet as often as necessary, but no less frequently than  
9 annually.

10 (b) The task force shall be regionally balanced and  
11 comprised of officials representing the department, counties,  
12 municipalities, school boards, special districts, and other  
13 political subdivisions of the state who administer programs to  
14 assist minority businesses in procurement or development in  
15 government-sponsored programs. The following organizations may  
16 appoint two members each of the task force who fit the  
17 description above:

- 18 1. The Florida League of Cities, Inc.
- 19 2. The Florida Association of Counties.
- 20 3. The Florida School Boards Association, Inc.
- 21 4. The Association of Special Districts.
- 22 5. The Florida Association of Minority Business  
23 Enterprise Officials.
- 24 6. The Florida Association of Government Purchasing  
25 Officials.

26  
27 In addition, the ~~Minority Business Advocacy and Assistance~~  
28 Office of Supplier Diversity shall appoint seven members  
29 consisting of three representatives of minority business  
30 enterprises, two officials of the office, and two at-large  
31 members to ensure balance ~~regional, gender, racial, and ethnic~~

1 ~~balance among the groups specified in s. 288.703(3)~~. The  
2 chairperson of the Legislative Committee on Intergovernmental  
3 Relations or a designee shall be a member of the task force,  
4 ex officio. A quorum shall consist of one-third of the current  
5 members, and the task force may take action by majority vote.  
6 Any vacancy may only be filled by the organization or agency  
7 originally authorized to appoint the position.

8 (c) The purpose of the task force will be to propose  
9 uniform criteria and procedures by which participating  
10 entities and organizations can qualify businesses to  
11 participate in procurement or contracting programs as  
12 certified minority business enterprises in accordance with the  
13 certification criteria established by law.

14 (d) A final list of the criteria and procedures  
15 proposed by the task force shall be considered by the  
16 secretary. The task force may seek technical assistance from  
17 qualified providers of technical, business, and managerial  
18 expertise to ensure the reliability of the certification  
19 criteria developed.

20 (e) In assessing the status of ownership and control,  
21 certification criteria shall, at a minimum:

22 1. Link ownership by a minority person, as defined in  
23 s. 288.703(3), or as dictated by the legal obligations of a  
24 certifying organization, to day-to-day control and financial  
25 risk by the qualifying minority owner, and to demonstrated  
26 expertise licensure of a minority owner in any trade or  
27 profession that the minority business enterprise will offer to  
28 the state when certified; ~~however, the minority licenseholder~~  
29 ~~need not be the controlling owner of the enterprise, but must~~  
30 ~~hold an ownership interest. Minority business enterprises~~  
31 ~~presently certified by the state will not be subject to the~~

1 ~~licensure requirement until 5 years after the effective date~~  
2 ~~of this act. Businesses must comply with all state licensing~~  
3 ~~requirements prior to becoming certified as a minority~~  
4 ~~business enterprise.~~

5           2. If present ownership was obtained by transfer,  
6 require the minority person on whom eligibility is based to  
7 have owned at least 51 percent of the applicant firm for a  
8 minimum of 2 years, when any previous majority ownership  
9 interest in the firm was by a nonminority who is or was a  
10 relative, former employer, or current employer of the minority  
11 person on whom eligibility is based. This requirement shall  
12 not apply to minority persons who are otherwise eligible who  
13 take a 51-percent-or-greater interest in a firm that requires  
14 professional licensure to operate and who will be the  
15 qualifying licenseholder for the firm when certified. A  
16 transfer made within a related immediate family group from a  
17 nonminority person to a minority person in order to establish  
18 ownership by a minority person shall be deemed to have been  
19 made solely for purposes of satisfying certification criteria  
20 and shall render such ownership invalid for purposes of  
21 qualifying for such certification if the combined total net  
22 asset value of all members of such family group exceeds \$1  
23 million. For purposes of this subparagraph, the term "related  
24 immediate family group" means one or more children under 16  
25 years of age and a parent of such children or the spouse of  
26 such parent residing in the same house or living unit.

27           3. Require that prospective certified minority  
28 business enterprises be currently performing or seeking to  
29 perform a useful business function. A "useful business  
30 function" is defined as a business function which results in  
31 the provision of materials, supplies, equipment, or services



1 to customers ~~other than state or local government~~. Acting as a  
2 conduit to transfer funds to a nonminority business does not  
3 constitute a useful business function unless it is done so in  
4 a normal industry practice. As used in this section, the term  
5 "acting as a conduit" means, in part, not acting as a regular  
6 dealer by making sales of material, goods, or supplies from  
7 items bought, kept in stock, and regularly sold to the public  
8 in the usual course of business. Brokers, manufacturer's  
9 representatives, sales representatives, and nonstocking  
10 distributors are considered as conduits that do not perform a  
11 useful business function, unless normal industry practice  
12 dictates.

13 (f) When a business receives payments or awards  
14 exceeding \$100,000 in one fiscal year, a review/audit will be  
15 conducted within 2 years. In addition, random reviews/audits  
16 will be conducted as deemed appropriate by the Office of  
17 Supplier Diversity.~~The certification procedures should~~  
18 ~~include, at a minimum, an onsite visit to inspect business~~  
19 ~~operations and verify statements included in the application,~~  
20 ~~unless verification can be accomplished by other methods of~~  
21 ~~adequate verification or assessment of ownership and control.~~

22 (g) The certification criteria approved by the task  
23 force and adopted by the Department of Management Services  
24 ~~Labor and Employment Security~~ shall be included in a statewide  
25 and interlocal agreement as defined in s. 287.09431 and, in  
26 accordance with s. 163.01, shall be executed according to the  
27 terms included therein.

28 (h) The certification procedures should allow an  
29 applicant seeking certification to designate on the  
30 application form the information the applicant considers to be  
31 proprietary, confidential business information. As used in

1 this paragraph, "proprietary, confidential business  
2 information" includes, but is not limited to, any information  
3 that would be exempt from public inspection pursuant to the  
4 provisions of s. 119.07(3); trade secrets; internal auditing  
5 controls and reports; contract costs; or other information the  
6 disclosure of which would injure the affected party in the  
7 marketplace or otherwise violate s. 286.041. The executor in  
8 receipt of the application shall issue written and final  
9 notice of any information for which noninspection is requested  
10 but not provided for by law.

11 (i) A business that is certified under the provisions  
12 of the statewide and interlocal agreement shall be deemed a  
13 certified minority enterprise in all jurisdictions or  
14 organizations where the agreement is in effect, and that  
15 business is deemed available to do business as such within any  
16 such jurisdiction or with any such organization statewide. All  
17 state agencies must accept minority business enterprises  
18 certified in accordance with the statewide and interlocal  
19 agreement of s. 287.09431, and that business shall also be  
20 deemed a "certified minority business enterprise" as defined  
21 in s. 288.703. However, any governmental jurisdiction or  
22 organization that administers a minority business purchasing  
23 program may reserve the right to establish further  
24 certification procedures necessary to comply with federal law.

25 (j) The statewide and interlocal agreement shall be  
26 guided by the terms and conditions found therein and may be  
27 amended at any meeting of the task force and subsequently  
28 adopted by the secretary of the Department of Management  
29 Services ~~Labor and Employment Security~~. The amended agreement  
30 must be enacted, initialed, and legally executed by at least  
31 two-thirds of the certifying entities party to the existing

1 agreement and adopted by the state as originally executed in  
2 order to bind the certifying entity.

3 (k) The task force shall meet for the first time no  
4 later than 45 days after the effective date of this act.

5 (3)~~(2)~~(a) The office shall review and evaluate the  
6 certification programs and procedures of all prospective  
7 executors of the statewide and interlocal agreement to  
8 determine if their programs exhibit the capacity to meet the  
9 standards of the agreement.

10 (b) The evaluations shall, at a minimum, consider: the  
11 certifying entity's capacity to conduct investigations of  
12 applicants seeking certification under the designated  
13 criteria; the ability of the certifying entity to collect the  
14 requisite data and to establish adequate protocol to store and  
15 exchange said information among the executors of the agreement  
16 and to provide adequate security to prevent unauthorized  
17 access to information gathered during the certification  
18 process; and the degree to which any legal obligations or  
19 supplemental requirements unique to the certifying entity  
20 exceed the capacity of that entity to conduct certifications.

21 (c) Any firms certified by organizations or  
22 governmental entities determined not to meet the state  
23 certification criteria ~~standards of the agreement~~ shall not be  
24 eligible to participate as certified minority business  
25 enterprises in the minority business assistance programs of  
26 the state ~~or of the executors of the agreement~~. For a period  
27 of 1 year from the effective date of this legislation, the  
28 executor of the statewide and interlocal agreement may elect  
29 to accept only minority business enterprises certified  
30 pursuant to criteria in place at the time the agreement was  
31 signed. After the 1-year period, either party may elect to

1 ~~withdraw from the agreement without further notice. Such a~~  
2 ~~firm may subsequently apply to an executor of the agreement~~  
3 ~~for certification.~~

4 (d) Any organizations or governmental entities  
5 determined by the office not to meet the standards of the  
6 agreement shall not be eligible to execute the statewide and  
7 interlocal agreement as a participating organization until  
8 approved by the office.

9 (e) Any participating program receiving three or more  
10 challenges to its certification decisions pursuant to  
11 subsection (3) from other organizations that are executors to  
12 the statewide and interlocal agreement, shall be subject to a  
13 review by the office, as provided in paragraphs (a) and (b),  
14 of the organization's capacity to perform under such agreement  
15 and in accordance with the core criteria established by the  
16 task force. The office shall submit a report to the secretary  
17 of the Department of Management Services ~~Labor and Employment~~  
18 ~~Security~~ regarding the results of the review.

19 (f) The office shall maintain a directory of all  
20 executors of the statewide and interlocal agreement. The  
21 directory should be communicated to the general public.

22 ~~(4)(3)~~ A certification may be challenged by any  
23 executor to the statewide and interlocal agreement upon the  
24 grounds of failure by the certifying organization to adhere to  
25 the adopted criteria or to the certifying organization's rules  
26 and procedures, or on the grounds of a misrepresentation or  
27 fraud by the certified minority business enterprise. The  
28 challenge shall proceed according to procedures specified in  
29 the agreement.

30 ~~(5)(4)~~(a) The secretary of the Department of  
31 Management Services ~~Labor and Employment Security~~ shall

1 execute the statewide and interlocal agreement established  
2 under s. 287.09431 on behalf of the state. The office shall  
3 certify minority business enterprises in accordance with the  
4 laws of this state ~~agreement~~ and, by affidavit, shall  
5 recertify such minority business enterprises not less than  
6 once each year.

7 (b) The office shall contract with parties to the  
8 statewide and interlocal agreement to perform onsite visits  
9 associated with state certifications. ~~The Minority Business  
10 Advocacy and Assistance Office may perform random, onsite  
11 reviews of certified minority business enterprises to  
12 determine whether the applicants are meeting all certification  
13 requirements of a certified minority business enterprise and  
14 of a qualified vendor.~~

15 (6)~~(5)~~(a) The office shall maintain up-to-date records  
16 of all certified minority business enterprises, as defined in  
17 s. 288.703, ~~that are certified by a party to the statewide and  
18 interlocal agreement~~ and of applications for certification  
19 that were denied and shall make this list available to all  
20 agencies. The office shall, for statistical purposes, collect  
21 and track subgroupings of gender and nationality status for  
22 each certified minority business enterprise. Agency spending  
23 shall also be tracked for these subgroups. The records may  
24 include information about minority business enterprises that  
25 provide legal services, auditing services, and health  
26 services. Agencies shall use this list in efforts to meet the  
27 minority business enterprise procurement goals set forth in s.  
28 289.09451 ~~289-0945~~.

29 (b) The office shall establish and administer a  
30 computerized data bank to carry out the requirements of  
31 paragraph (a), to be available to all executors of the

1 statewide and interlocal agreement. Data maintained in the  
2 data bank shall be sufficient to allow each executor to  
3 reasonably monitor certifications it has issued.

4 (7)~~(6)~~ The office shall identify minority business  
5 enterprises eligible for certification in all areas of state  
6 services and commodities purchasing. The office may contract  
7 with a private firm or other agency, if necessary, in seeking  
8 to identify minority business enterprises for certification.  
9 Agencies may request the office to identify certifiable  
10 minority business enterprises that are in the business of  
11 providing a given service or commodity; the office shall  
12 respond to such requests and seek out such certifiable  
13 minority business enterprises.

14 (8)~~(7)~~ The office shall adopt rules necessary to  
15 implement this section.

16 (9)~~(8)~~ State agencies shall comply with this act  
17 except to the extent that the requirements of this act are in  
18 conflict with federal law.

19 (10)~~(9)~~ Any transfer of ownership or permanent change  
20 in the management and daily operations of a certified minority  
21 business enterprise which may affect certification must be  
22 reported to the original certifying jurisdiction or entity and  
23 to the office within 14 days of the transfer or change taking  
24 place. In the event of a transfer of ownership, the transferee  
25 seeking to do business with the state as a certified minority  
26 business enterprise is responsible for such reporting. In the  
27 event of a permanent change in the management and daily  
28 operations, owners seeking to do business with the state as a  
29 certified minority business enterprise are responsible for  
30 reporting such change to the office. Any person violating the  
31 provisions of this subsection shall be guilty of a misdemeanor

1 of the first degree, punishable as provided in s. 775.082 or  
2 s. 775.083.

3 (11)~~(10)~~ To deter fraud in the program, the Auditor  
4 General shall conduct random reviews or audits of certified  
5 minority business enterprises ~~may review these certifications~~  
6 pursuant to s. 11.45.

7 (12)~~(11)~~ Any executor of the statewide and interlocal  
8 agreement may revoke the certification or recertification of a  
9 firm doing business as a certified minority business  
10 enterprise if the minority business enterprise does not meet  
11 the requirements of the jurisdiction or certifying entity that  
12 certified or recertified the firm as a certified minority  
13 business enterprise, or the requirements of subsection (1), s.  
14 288.703, and any rule of the office or the Department of  
15 Management Services or if the business acquired certification  
16 or recertification by means of falsely representing any entity  
17 as a minority business enterprise for purposes of qualifying  
18 for certification or recertification.

19 (13)~~(12)~~ Unless permanently revoked, a certified  
20 minority business enterprise for which certification or  
21 recertification has been revoked may not apply or reapply for  
22 certification or recertification for a minimum of 36 months  
23 after the date of the notice of revocation.

24 (14)~~(13)~~(a) Except for certification decisions issued  
25 by the Office of Supplier Diversity, an executor to the  
26 statewide and interlocal agreement shall, in accordance with  
27 its rules and procedures:

28 1. Give reasonable notice to affected persons or  
29 parties of its decision to deny certification based on failure  
30 to meet eligibility requirements of the statewide and  
31

1 interlocal agreement of s. 287.09431, together with a summary  
2 of the grounds therefor.

3 2. Give affected persons or parties an opportunity, at  
4 a convenient time and place, to present to the agency written  
5 or oral evidence in opposition to the action or of the  
6 executor's refusal to act.

7 3. Give a written explanation of any subsequent  
8 decision of the executor overruling the objections.

9 (b) An applicant that is denied minority business  
10 enterprise certification based on failure to meet eligibility  
11 requirements of the statewide and interlocal agreement  
12 pursuant to s. 287.09431 may not reapply for certification or  
13 recertification until at least 6 months after the date of the  
14 notice of the denial of certification or recertification.

15 ~~(15)(14)~~ The office shall adopt rules in compliance  
16 with this part.

17 Section 3. Effective July 1, 2000, the Minority  
18 Business Advocacy and Assistance Office is transferred by a  
19 type two transfer as defined in s. 20.06(2), Florida Statutes,  
20 from the Department of Labor and Employment Security to the  
21 Department of Management Services and renamed as the Office of  
22 Supplier Diversity. The Executive Office of the Governor shall  
23 take the necessary actions to ensure the transfer of the  
24 budget, as appropriated, of the Minority Business Advocacy and  
25 Assistance Office from the Department of Labor and Employment  
26 Security to the Department of Management Services.

27 Section 4. Section 287.09451, Florida Statutes, is  
28 amended to read:

29 287.09451 ~~Minority Business Advocacy and Assistance~~  
30 Office of Supplier Diversity; powers, duties, and functions.--  
31



1           (1) The Legislature finds that there is evidence of a  
2 systematic pattern of past and continuing racial  
3 discrimination against minority business enterprises and a  
4 disparity in the availability and use of minority business  
5 enterprises in the state procurement system. It is determined  
6 to be a compelling state interest to rectify such  
7 discrimination and disparity. Based upon statistical data  
8 profiling this discrimination, the Legislature has enacted  
9 race-conscious and gender-conscious remedial programs to  
10 ensure minority participation in the economic life of the  
11 state, in state contracts for the purchase of commodities and  
12 services, and in construction contracts. The purpose and  
13 intent of this section is to increase participation by  
14 minority business enterprises accomplished by encouraging the  
15 use of minority business enterprises and the entry of new and  
16 diversified minority business enterprises into the  
17 marketplace.

18           (2) The ~~Minority Business Advocacy and Assistance~~  
19 Office of Supplier Diversity is established within the  
20 Department of Management Services ~~Labor and Employment~~  
21 ~~Security~~ to assist minority business enterprises in becoming  
22 suppliers of commodities, services, and construction to state  
23 government.

24           (3) The secretary shall appoint an executive director  
25 for the ~~Minority Business Advocacy and Assistance~~ Office of  
26 Supplier Diversity, who shall serve at the pleasure of the  
27 secretary.

28           (4) The ~~Minority Business Advocacy and Assistance~~  
29 Office of Supplier Diversity shall have the following powers,  
30 duties, and functions:  
31

1           (a) To adopt rules to determine what constitutes a  
2 "good faith effort" for purposes of state agency compliance  
3 with the minority business enterprise procurement goals set  
4 forth in s. 287.042. Factors which shall be considered by the  
5 Minority Business Enterprise Assistance Office in determining  
6 good faith effort shall include, but not be limited to:  
7           1. Whether the agency scheduled presolicitation or  
8 prebid meetings for the purpose of informing minority business  
9 enterprises of contracting and subcontracting opportunities.  
10           2. Whether the contractor advertised in general  
11 circulation, trade association, or minority-focus media  
12 concerning the subcontracting opportunities.  
13           3. Whether the agency effectively used services and  
14 resources of available minority community organizations;  
15 minority contractors' groups; local, state, and federal  
16 minority business assistance offices; and other organizations  
17 that provide assistance in the recruitment and placement of  
18 minority business enterprises or minority persons.  
19           4. Whether the agency provided written notice to a  
20 reasonable number of minority business enterprises that their  
21 interest in contracting with the agency was being solicited in  
22 sufficient time to allow the minority business enterprises to  
23 participate effectively.  
24           (b) To adopt rules to determine what constitutes a  
25 "good faith effort" for purposes of contractor compliance with  
26 contractual requirements relating to the use of services or  
27 commodities of a minority business enterprise under s.  
28 287.094(2). Factors which shall be considered by the ~~Minority~~  
29 ~~Business Advocacy and Assistance~~ Office of Supplier Diversity  
30 in determining whether a contractor has made good faith  
31 efforts shall include, but not be limited to:

1           1. Whether the contractor attended any presolicitation  
2 or prebid meetings that were scheduled by the agency to inform  
3 minority business enterprises of contracting and  
4 subcontracting opportunities.

5           2. Whether the contractor advertised in general  
6 circulation, trade association, or minority-focus media  
7 concerning the subcontracting opportunities.

8           3. Whether the contractor provided written notice to a  
9 reasonable number of specific minority business enterprises  
10 that their interest in the contract was being solicited in  
11 sufficient time to allow the minority business enterprises to  
12 participate effectively.

13           4. Whether the contractor followed up initial  
14 solicitations of interest by contacting minority business  
15 enterprises or minority persons to determine with certainty  
16 whether the minority business enterprises or minority persons  
17 were interested.

18           5. Whether the contractor selected portions of the  
19 work to be performed by minority business enterprises in order  
20 to increase the likelihood of meeting the minority business  
21 enterprise procurement goals, including, where appropriate,  
22 breaking down contracts into economically feasible units to  
23 facilitate minority business enterprise participation.

24           6. Whether the contractor provided interested minority  
25 business enterprises or minority persons with adequate  
26 information about the plans, specifications, and requirements  
27 of the contract or the availability of jobs.

28           7. Whether the contractor negotiated in good faith  
29 with interested minority business enterprises or minority  
30 persons, not rejecting minority business enterprises or  
31

1 minority persons as unqualified without sound reasons based on  
2 a thorough investigation of their capabilities.

3           8. Whether the contractor effectively used the  
4 services of available minority community organizations;  
5 minority contractors' groups; local, state, and federal  
6 minority business assistance offices; and other organizations  
7 that provide assistance in the recruitment and placement of  
8 minority business enterprises or minority persons.

9           (c) To adopt rules and do all things necessary or  
10 convenient to guide all state agencies toward making  
11 expenditures for commodities, contractual services,  
12 construction, and architectural and engineering services with  
13 certified minority business enterprises in accordance with the  
14 minority business enterprise procurement goals set forth in s.  
15 287.042.

16           (d) To monitor the degree to which agencies procure  
17 services, commodities, and construction from minority business  
18 enterprises in conjunction with the Department of Banking and  
19 Finance as specified in s. 17.11.

20           (e) To receive and disseminate information relative to  
21 procurement opportunities, availability of minority business  
22 enterprises, and technical assistance.

23           (f) To advise agencies on methods and techniques for  
24 achieving procurement objectives.

25           (g) To provide a central minority business enterprise  
26 certification process which includes independent verification  
27 of status as a minority business enterprise.

28           (h) To develop procedures to investigate complaints  
29 against minority business enterprises or contractors alleged  
30 to violate any provision related to this section or s.  
31 287.0943, that may include visits to worksites or business

1 premises, and to refer all information on businesses suspected  
2 of misrepresenting minority status to the Department of  
3 Management Services ~~Labor and Employment Security~~ for  
4 investigation. When an investigation is completed and there is  
5 reason to believe that a violation has occurred, the  
6 Department of Labor and Employment Security shall refer the  
7 matter to the office of the Attorney General, Department of  
8 Legal Affairs, for prosecution.

9 (i) To maintain a directory of all minority business  
10 enterprises which have been certified and provide this  
11 information to any agency or business requesting it.

12 (j) To encourage all firms which do more than \$1  
13 million in business with the state within a 12-month period to  
14 develop, implement, and submit to this office a minority  
15 business development plan.

16 (k) To communicate on a monthly basis with the Small  
17 and Minority Business Advisory Council to keep the council  
18 informed on issues relating to minority enterprise  
19 procurement.

20 (l) To serve as an advocate for minority business  
21 enterprises, and coordinate with the small and minority  
22 business ombudsman, as defined in s. 288.703, which duties  
23 shall include:

24 1. Ensuring that agencies supported by state funding  
25 effectively target the delivery of services and resources, as  
26 related to minority business enterprises.

27 2. Establishing standards within each industry with  
28 which the state government contracts on how agencies and  
29 contractors may provide the maximum practicable opportunity  
30 for minority business enterprises.

31

1           3. Assisting agencies and contractors by providing  
2 outreach to minority businesses, by specifying and monitoring  
3 technical and managerial competence for minority business  
4 enterprises, and by consulting in planning of agency  
5 procurement to determine how best to provide opportunities for  
6 minority business enterprises.

7           4. Integrating technical and managerial assistance for  
8 minority business enterprises with government contracting  
9 opportunities.

10           (m) To certify minority business enterprises, as  
11 defined in s. 288.703, and as specified in ss. 287.0943 and  
12 287.09431, and shall recertify such minority businesses not  
13 less than once a year. Minority business enterprises must be  
14 recertified annually by affidavit.

15           (n)1. To develop procedures to be used by an agency in  
16 identifying commodities, contractual services, architectural  
17 and engineering services, and construction contracts, except  
18 those architectural, engineering, construction, or other  
19 related services or contracts subject to the provisions of  
20 chapter 339, that could be provided by minority business  
21 enterprises. Each agency is encouraged to spend 21 percent of  
22 the moneys actually expended for construction contracts, 25  
23 percent of the moneys actually expended for architectural and  
24 engineering contracts, 24 percent of the moneys actually  
25 expended for commodities, and 50.5 percent of the moneys  
26 actually expended for contractual services during the previous  
27 fiscal year, except for the state university construction  
28 program which shall be based upon public education capital  
29 outlay projections for the subsequent fiscal year, and  
30 reported to the Legislature pursuant to s. 216.023, for the  
31 purpose of entering into contracts with certified minority

1 business enterprises as defined in s. 288.703(2), or approved  
2 joint ventures. However, in the event of budget reductions  
3 pursuant to s. 216.221, the base amounts may be adjusted to  
4 reflect such reductions. The overall spending goal for each  
5 industry category shall be subdivided as follows:

6       a. For construction contracts: 4 percent for black  
7 Americans, 6 percent for Hispanic-Americans, and 11 percent  
8 for American women.

9       b. For architectural and engineering contracts: 9  
10 percent for Hispanic-Americans, 1 percent for Asian-Americans,  
11 and 15 percent for American women.

12       c. For commodities: 2 percent for black Americans, 4  
13 percent for Hispanic-Americans, 0.5 percent for  
14 Asian-Americans, 0.5 percent for Native Americans, and 17  
15 percent for American women.

16       d. For contractual services: 6 percent for black  
17 Americans, 7 percent for Hispanic-Americans, 1 percent for  
18 Asian-Americans, 0.5 percent for Native Americans, and 36  
19 percent for American women.

20       2. For the purposes of commodities contracts for the  
21 purchase of equipment to be used in the construction and  
22 maintenance of state transportation facilities involving the  
23 Department of Transportation, "minority business enterprise"  
24 has the same meaning as provided in s. 288.703. "Minority  
25 person" has the same meaning as in s. 288.703(3). In order to  
26 ensure that the goals established under this paragraph for  
27 contracting with certified minority business enterprises are  
28 met, the department, with the assistance of the ~~Minority~~  
29 ~~Business Advocacy and Assistance~~ Office of Supplier Diversity,  
30 shall make recommendations to the Legislature on revisions to  
31 the goals, based on an updated statistical analysis, at least

1 once every 5 years. Such recommendations shall be based on  
2 statistical data indicating the availability of and disparity  
3 in the use of minority businesses contracting with the state.  
4 The results of the first updated disparity study must be  
5 presented to the Legislature no later than December 1, 1996.

6 3. In determining the base amounts for assessing  
7 compliance with this paragraph, the ~~Minority Business Advocacy~~  
8 ~~and Assistance Office~~ of Supplier Diversity may develop, by  
9 rule, guidelines for all agencies to use in establishing such  
10 base amounts. These rules must include, but are not limited  
11 to, guidelines for calculation of base amounts, a deadline for  
12 the agencies to submit base amounts, a deadline for approval  
13 of the base amounts by the ~~Minority Business Advocacy and~~  
14 ~~Assistance Office~~ of Supplier Diversity, and procedures for  
15 adjusting the base amounts as a result of budget reductions  
16 made pursuant to s. 216.221.

17 4. To determine guidelines for the use of price  
18 preferences, weighted preference formulas, or other  
19 preferences, as appropriate to the particular industry or  
20 trade, to increase the participation of minority businesses in  
21 state contracting. These guidelines shall include  
22 consideration of:

- 23 a. Size and complexity of the project.
- 24 b. The concentration of transactions with minority  
25 business enterprises for the commodity or contractual services  
26 in question in prior agency contracting.
- 27 c. The specificity and definition of work allocated to  
28 participating minority business enterprises.
- 29 d. The capacity of participating minority business  
30 enterprises to complete the tasks identified in the project.

31



1 e. The available pool of minority business enterprises  
2 as prime contractors, either alone or as partners in an  
3 approved joint venture that serves as the prime contractor.

4 5. To determine guidelines for use of joint ventures  
5 to meet minority business enterprises spending goals. For  
6 purposes of this section, "joint venture" means any  
7 association of two or more business concerns to carry out a  
8 single business enterprise for profit, for which purpose they  
9 combine their property, capital, efforts, skills, and  
10 knowledge. The guidelines shall allow transactions with joint  
11 ventures to be eligible for credit against the minority  
12 business enterprise goals of an agency when the contracting  
13 joint venture demonstrates that at least one partner to the  
14 joint venture is a certified minority business enterprise as  
15 defined in s. 288.703, and that such partner is responsible  
16 for a clearly defined portion of the work to be performed, and  
17 shares in the ownership, control, management,  
18 responsibilities, risks, and profits of the joint venture.  
19 Such demonstration shall be by verifiable documents and sworn  
20 statements and may be reviewed by the ~~Minority Business~~  
21 ~~Advocacy and Assistance~~ Office of Supplier Diversity at or  
22 before the time a contract bid is submitted. An agency may  
23 count toward its minority business enterprise goals a portion  
24 of the total dollar amount of a contract equal to the  
25 percentage of the ownership and control held by the qualifying  
26 certified minority business partners in the contracting joint  
27 venture, so long as the joint venture meets the guidelines  
28 adopted by the office.

29 (o)1. To establish a system to record and measure the  
30 use of certified minority business enterprises in state  
31 contracting. This system shall maintain information and

1 statistics on certified minority business enterprise  
2 participation, awards, dollar volume of expenditures and  
3 agency goals, and other appropriate types of information to  
4 analyze progress in the access of certified minority business  
5 enterprises to state contracts and to monitor agency  
6 compliance with this section. Such reporting must include, but  
7 is not limited to, the identification of all subcontracts in  
8 state contracting by dollar amount and by number of  
9 subcontracts and the identification of the utilization of  
10 certified minority business enterprises as prime contractors  
11 and subcontractors by dollar amounts of contracts and  
12 subcontracts, number of contracts and subcontracts, minority  
13 status, industry, and any conditions or circumstances that  
14 significantly affected the performance of subcontractors.  
15 Agencies shall report their compliance with the requirements  
16 of this reporting system at least annually and at the request  
17 of the office. All agencies shall cooperate with the office in  
18 establishing this reporting system. Except in construction  
19 contracting, all agencies shall review contracts costing in  
20 excess of CATEGORY FOUR as defined in s. 287.017 to determine  
21 if such contracts could be divided into smaller contracts to  
22 be separately bid and awarded, and shall, when economical,  
23 offer such smaller contracts to encourage minority  
24 participation.

25         2. To report agency compliance with the provisions of  
26 subparagraph 1. for the preceding fiscal year to the Governor  
27 and Cabinet, the President of the Senate, the Speaker of the  
28 House of Representatives, and the secretary of the Department  
29 of Labor and Employment Security on or before February 1 of  
30 each year. The report must contain, at a minimum, the  
31 following:

- 1           a. Total expenditures of each agency by industry.
- 2           b. The dollar amount and percentage of contracts  
3 awarded to certified minority business enterprises by each  
4 state agency.
- 5           c. The dollar amount and percentage of contracts  
6 awarded indirectly to certified minority business enterprises  
7 as subcontractors by each state agency.
- 8           d. The total dollar amount and percentage of contracts  
9 awarded to certified minority business enterprises, whether  
10 directly or indirectly, as subcontractors.
- 11          e. A statement and assessment of good faith efforts  
12 taken by each state agency.
- 13          f. A status report of agency compliance with  
14 subsection (6), as determined by the Minority Business  
15 Enterprise Office.
- 16          (5)(a) Each agency shall, at the time the  
17 specifications or designs are developed or contract sizing is  
18 determined for any proposed procurement costing in excess of  
19 CATEGORY FOUR, as defined in s. 287.017, forward a notice to  
20 the ~~Minority Business Advocacy and Assistance~~ Office of  
21 Supplier Diversity of the proposed procurement and any  
22 determination on the designs of specifications of the proposed  
23 procurement that impose requirements on prospective vendors,  
24 no later than 30 days prior to the issuance of a solicitation,  
25 except that this provision shall not apply to emergency  
26 acquisitions. The 30-day notice period shall not toll the time  
27 for any other procedural requirements.
- 28          (b) If the ~~Minority Business Advocacy and Assistance~~  
29 Office of Supplier Diversity determines that the proposed  
30 procurement will not likely allow opportunities for minority  
31 business enterprises, the office may, within 20 days after it

1 receives the information specified in paragraph (a), propose  
2 the implementation of minority business enterprise utilization  
3 provisions or submit alternative procurement methods that  
4 would significantly increase minority business enterprise  
5 contracting opportunities.

6 (c) Whenever the agency and the ~~Minority Business~~  
7 ~~Advocacy and Assistance~~ Office of Supplier Diversity disagree,  
8 the matter shall be submitted for determination to the head of  
9 the agency or the senior-level official designated pursuant to  
10 this section as liaison for minority business enterprise  
11 issues.

12 (d) Should the proposed procurement proceed to  
13 competitive bidding, the office is hereby granted standing to  
14 protest, pursuant to this section, in a timely manner, any  
15 contract award in competitive bidding for contractual services  
16 and construction contracts that fail to include minority  
17 business enterprise participation, if any responding bidder  
18 has demonstrated the ability to achieve any level of  
19 participation, or, any contract award for commodities where, a  
20 reasonable and economical opportunity to reserve a contract,  
21 statewide or district level, for minority participation was  
22 not executed or, an agency failed to adopt an applicable  
23 preference for minority participation. The bond requirement  
24 shall be waived for the office purposes of this subsection.

25 (e) An agency may presume that a bidder offering no  
26 minority participation has not made a good faith effort when  
27 other bidders offer minority participation of firms listed as  
28 relevant to the agency's purchasing needs in the pertinent  
29 locality or statewide to complete the project.

30 (f) Paragraph (a) will not apply when the ~~Minority~~  
31 ~~Business Advocacy and Assistance~~ Office of Supplier Diversity

1 determines that an agency has established a work plan to allow  
2 advance consultation and planning with minority business  
3 enterprises and where such plan clearly demonstrates:

- 4 1. A high level of advance planning by the agency with  
5 minority business enterprises.
- 6 2. A high level of accessibility, knowledge, and  
7 experience by minority business enterprises in the agency's  
8 contract decisionmaking process.
- 9 3. A high quality of agency monitoring and enforcement  
10 of internal implementation of minority business utilization  
11 provisions.
- 12 4. A high quality of agency monitoring and enforcement  
13 of contractor utilization of minority business enterprises,  
14 especially tracking subcontractor data, and ensuring the  
15 integrity of subcontractor reporting.
- 16 5. A high quality of agency outreach, agency  
17 networking of major vendors with minority vendors, and  
18 innovation in techniques to improve utilization of minority  
19 business enterprises.
- 20 6. Substantial commitment, sensitivity, and proactive  
21 attitude by the agency head and among the agency minority  
22 business staff.

23 (6) Each state agency shall coordinate its minority  
24 business enterprise procurement activities with the ~~Minority~~  
25 ~~Business Advocacy and Assistance~~ Office of Supplier Diversity.  
26 At a minimum, each agency shall:

- 27 (a) Adopt a minority business enterprise utilization  
28 plan for review and approval by the ~~Minority Business Advocacy~~  
29 ~~and Assistance~~ Office of Supplier Diversity which should  
30 require meaningful and useful methods to attain the  
31 legislative intent in assisting minority business enterprises.

1           (b) Designate a senior-level employee in the agency as  
2 a minority enterprise assistance officer, responsible for  
3 overseeing the agency's minority business utilization  
4 activities, and who is not also charged with purchasing  
5 responsibility. A senior-level agency employee and agency  
6 purchasing officials shall be accountable to the agency head  
7 for the agency's minority business utilization performance.  
8 ~~The Minority Business Advocacy and Assistance Office of~~  
9 Supplier Diversity shall advise each agency on compliance  
10 performance.

11           (c) If an agency deviates significantly from its  
12 utilization plan in 2 consecutive or 3 out of 5 total fiscal  
13 years, the ~~Minority Business Advocacy and Assistance Office of~~  
14 Supplier Diversity may review any and all solicitations and  
15 contract awards of the agency as deemed necessary until such  
16 time as the agency meets its utilization plan.

17           Section 5. Subsections (1), (4), (5), (6), and (8) of  
18 section 288.703, Florida Statutes, are amended to read:

19           288.703 Definitions.--As used in this act, the  
20 following words and terms shall have the following meanings  
21 unless the content shall indicate another meaning or intent:

22           (1) "Small business" means an independently owned and  
23 operated business concern that employs 200 ~~100~~ or fewer  
24 permanent full-time employees and that, together with its  
25 affiliates, has a net worth of not more than ~~\$5\$3~~ million or  
26 any firm based in this state which has a Small Business  
27 Administration 8(a) certification ~~and an average net income~~  
28 ~~after federal income taxes, excluding any carryover losses,~~  
29 ~~for the preceding 2 years of not more than \$2 million.~~ As  
30 applicable to sole proprietorships, the ~~\$5\$3~~ million net  
31

1 worth requirement shall include both personal and business  
2 investments.

3 (4) "Certified minority business enterprise" means a  
4 business which has been certified by the certifying  
5 organization or jurisdiction in accordance with s. 287.0943(1)  
6 and (2).

7 (5) "Department" means the Department of Management  
8 Services ~~Labor and Employment Security~~.

9 (6) "Ombudsman" means an office or individual whose  
10 responsibilities include coordinating with the ~~Minority~~  
11 ~~Business Advocacy and Assistance Office of Supplier Diversity~~  
12 for the interests of and providing assistance to small and  
13 minority business enterprises in dealing with governmental  
14 agencies and in developing proposals for changes in state  
15 agency rules.

16 (8) "Secretary" means the secretary of the Department  
17 of Management Services ~~Labor and Employment Security~~.

18 Section 6. Section 287.134, Florida Statutes, is  
19 created to read:

20 287.134 Discrimination; denial or revocation of the  
21 right to transact business with public entities.--

22 (1) As used in this section:

23 (a) "Affiliate" means:

24 1. A predecessor or successor of an entity that  
25 discriminated; or

26 2. An entity under the control of any natural person  
27 or entity that is active in the management of the entity that  
28 discriminated. The term "affiliate" includes those officers,  
29 directors, executives, partners, shareholders, employees,  
30 members, and agents who are active in the management of an  
31 affiliate. The ownership by one entity of shares constituting

1 a controlling interest in another entity, or a pooling of  
2 equipment or income among entities when not for fair market  
3 value under an arm's length agreement, shall be a prima facie  
4 case that one entity controls another entity.

5 (b) "Discrimination" or "discriminated" means a  
6 determination of liability by a state circuit court or federal  
7 district court for a violation of any state or federal law  
8 prohibiting discrimination on the basis of race, gender,  
9 national origin, disability, or religion by an entity; if an  
10 appeal is made, the determination of liability does not occur  
11 until the completion of any appeals to a higher tribunal.

12 (c) "Discriminatory vendor list" means the list  
13 required to be kept by the department pursuant to paragraph  
14 (3)(d).

15 (d) "Department" means the Department of Management  
16 Services.

17 (e) "Entity" means any natural person or any entity  
18 organized under the laws of any state or of the United States  
19 with the legal power to enter into a binding contract and  
20 which bids or applies to bid on contracts let by a public  
21 entity, or which otherwise transacts or applies to transact  
22 business with a public entity.

23 (f) "Public entity" means this state and any  
24 department or agency of this state.

25 (g) "Senior Management" includes chief executive  
26 officers; assistant chief executive officers, including, but  
27 not limited to, assistant presidents, vice presidents, or  
28 assistant treasurers; chief financial officers; chief  
29 personnel officers; or any employee of an entity performing  
30 similar functions.

31



1       (2)(a) An entity or affiliate who has been placed on  
2 the discriminatory vendor list may not submit a bid on a  
3 contract to provide any goods or services to a public entity,  
4 may not submit a bid on a contract with a public entity for  
5 the construction or repair of a public building or public  
6 work, may not submit bids on leases of real property to a  
7 public entity, may not be awarded or perform work as a  
8 contractor, supplier, subcontractor, or consultant under a  
9 contract with any public entity, and may not transact business  
10 with any public entity.

11       (b) No public entity shall accept any bid from, award  
12 any contract to, or transact any business with any entity or  
13 affiliate on the discriminatory vendor list for a period of 36  
14 months from the date that entity or affiliate was placed on  
15 the discriminatory vendor list unless that entity or affiliate  
16 has been removed from the list pursuant to paragraph (3)(f).  
17 No public entity which was transacting business with an entity  
18 at the time of the discrimination which resulted in that  
19 entity being placed on the discriminatory vendor list shall  
20 accept any bid from, award any contract to, or transact any  
21 business with any other entity who is under the same, or  
22 substantially the same, control as the entity whose name  
23 appears on the discriminatory vendor list so long as that  
24 entity's name appears on the discriminatory vendor list.

25       (3)(a) All invitations to bid, as defined by s.  
26 287.012(11), requests for proposals, as defined by s.  
27 287.012(15), and any written contract document of the state  
28 shall contain a statement informing entities of the provisions  
29 of paragraph (2)(a).

30       (b) An entity must notify the department within 30  
31 days after a final determination of discrimination. Any

1 public entity which receives information that an entity has  
2 discriminated shall transmit that information to the  
3 department in writing within 10 days. Before entering into  
4 any contract with the state, all entities shall disclose to  
5 the department whether they have been found liable, in a state  
6 circuit court or federal court, for violation of any state or  
7 federal law prohibiting discrimination based on race, gender,  
8 national origin, disability, or religion.

9 (c) The department shall maintain a list of the names  
10 and addresses of any entity which has been disqualified from  
11 the public contracting and purchasing process under this  
12 section. The department shall publish an initial list on  
13 January 1, 2001, and shall publish an updated version of the  
14 list quarterly thereafter. The initial list and revised  
15 quarterly lists shall be published in the Florida  
16 Administrative Weekly. Notwithstanding this paragraph, an  
17 entity or affiliate disqualified from the public contracting  
18 and purchasing process pursuant to this section shall be  
19 disqualified as of the date the final order is entered.

20 (d)1. Upon receiving reasonable information from any  
21 source that an entity has discriminated, the department shall  
22 investigate the information and determine whether good cause  
23 exists to place that entity or an affiliate of that entity on  
24 the discriminatory vendor list. If good cause exists, the  
25 department shall notify the entity or affiliate in writing of  
26 its intent to place the name of that entity or affiliate on  
27 the discriminatory vendor list, and of the entity's or  
28 affiliate's right to a hearing, the procedure that must be  
29 followed, and the applicable time requirements. If the entity  
30 of affiliate does not request a hearing, the department shall  
31 enter a final order placing the name of the entity or

1 affiliate on the discriminatory vendor list. No entity or  
2 affiliate may be placed on the discriminatory vendor list  
3 without receiving an individual notice of intent from the  
4 department.

5 2. Within 21 days after receipt of the notice of  
6 intent, the entity or affiliate may file a petition for a  
7 formal hearing pursuant to ss. 120.569 and 120.57(1) to  
8 determine whether it is in the public interest for that entity  
9 or affiliate to be placed on the discriminatory vendor list.  
10 An entity or affiliate may not file a petition for an informal  
11 hearing under s. 120.57(2). The procedures of chapter 120  
12 shall apply to any formal hearing under this section except  
13 where they are in conflict with the following provisions:

14 a. The petition shall be filed with the department.  
15 The department shall be a party to the proceeding for all  
16 purposes.

17 b. Within 5 days after the filing of the petition, the  
18 department shall notify the Division of Administrative  
19 Hearings of the request for a formal hearing. The director of  
20 the Division of Administrative Hearings shall, within 5 days  
21 after receipt of notice from the department, assign an  
22 administrative law judge to preside over the proceeding. The  
23 administrative law judge, upon request by a party, may  
24 consolidate related proceedings.

25 c. The administrative law judge shall conduct the  
26 formal hearing within 30 days after being assigned, unless  
27 otherwise stipulated by the parties.

28 d. Within 30 days after the formal hearing or receipt  
29 of the hearing transcript, whichever is later, the  
30 administrative law judge shall enter a final order, which  
31 shall consist of findings of fact, conclusions of law,

1 interpretation of agency rules, and any other information  
2 required by law or rule to be contained in the final order.  
3 Such final order shall place or not place the entity or  
4 affiliate on the discriminatory vendor list.  
5 e. The final order of the administrative law judge  
6 shall be final agency action for purposes of s. 120.68.  
7 f. At any time after the filing of the petition,  
8 informal disposition may be made pursuant to s. 120.57(4). In  
9 that event, the administrative law judge shall enter a final  
10 order adopting the stipulation, agreed settlement, or consent  
11 order.  
12 3. It shall not be in the public interest to place an  
13 entity or affiliate on the discriminatory vendor list if:  
14 a. Discrimination did not occur;  
15 b. The discrimination was committed by an employee of  
16 the entity or affiliate other than senior management; or  
17 c. The member of senior management responsible for the  
18 discrimination is no longer an employee of the entity or  
19 affiliate.  
20 4. In determining whether it is in the public interest  
21 to place an entity or affiliate on the discriminatory vendor  
22 list, the administrative law judge shall consider the  
23 following factors:  
24 a. The nature and details of the discrimination.  
25 b. The degree of culpability of the entity or  
26 affiliate proposed to be placed on the discriminatory vendor  
27 list.  
28 c. The prompt or voluntary payment of any damages or  
29 penalty as a result of the discrimination.  
30 d. Prior or future self-policing by the entity or  
31 affiliate to prevent discrimination.

1           e. Compliance by the entity or affiliate with the  
2 notification provisions of paragraph (b).

3           f. The needs of public entities for additional  
4 competition in the procurement of goods and services in their  
5 respective markets.

6           g. Mitigation based upon any demonstration of good  
7 citizenship by the entity or affiliate.

8           5. In any proceeding under this section, the  
9 department shall be required to prove by clear and convincing  
10 evidence that it is in the public interest for the entity to  
11 which the department has given notice under this section to be  
12 placed on the discriminatory vendor list. Proof of  
13 discrimination by the entity or a person or entity which is an  
14 affiliate of such entity shall constitute a prima facie case  
15 that it is in the public interest for the entity or affiliate  
16 to which the department has given notice to be put on the  
17 discriminatory vendor list. Status as an affiliate must be  
18 proven by clear and convincing evidence.

19           6. Any entity or affiliate which has been notified by  
20 the department of the department's intent to place the  
21 entity's or affiliate's name on the discriminatory vendor list  
22 may offer evidence on any relevant issue. Upon establishment  
23 of a prima facie case that it is in the public interest for  
24 the entity or affiliate to which the department has given  
25 notice to be put on the discriminatory vendor list, that  
26 entity or affiliate may prove by a preponderance of the  
27 evidence that it would not be in the public interest to put  
28 such entity on the discriminatory vendor list, based upon  
29 evidence addressing the factors in subparagraphs 3. and 4.

30           (e)1. An entity on the discriminatory vendor list may  
31 petition for removal from the list no sooner than 6 months

1 from the date a final order is entered disqualifying that  
2 entity from the public purchasing and contracting process  
3 pursuant to this section. The petition shall be filed with  
4 the department and the proceeding shall be conducted pursuant  
5 to the procedures and requirements of this subsection.

6 2. An entity may be removed from the discriminatory  
7 vendor list subject to such terms and conditions as may be  
8 prescribed by the administrative law judge upon a  
9 determination that removal is in the public interest. In  
10 determining whether removal would be in the public interest,  
11 the administrative law judge shall give consideration to any  
12 relevant factors, including, but not limited to, the factors  
13 identified in subparagraphs 3. and 4.

14 3. If a petition for removal is denied, the entity or  
15 affiliate may not petition for another hearing on removal for  
16 a period of 9 months after the date of denial. The department  
17 may petition for removal prior to the the expiration of such  
18 period if, in the department's discretion, the department  
19 determines that removal would be in the public interest.

20 (4) Placement on the discriminatory vendor list shall  
21 not affect any rights or obligations under any contract,  
22 franchise, or other binding agreement which predates such  
23 conviction or placement on the discriminatory vendor list.

24 (5) The provisions of this section do not apply to any  
25 activities regulated by the Florida Public Service Commission  
26 or to the purchase of goods or services made by any public  
27 entity from the Department of Corrections, from the nonprofit  
28 corporation organized under chapter 946, or from any  
29 accredited nonprofit workshop certified under ss.  
30 413.032-413.037.

31

1           Section 7. Subsection (2) of section 17.11, Florida  
2 Statutes, is amended to read:

3           17.11 To report disbursements made.--

4           (2) The Comptroller shall also cause to have reported  
5 from the Florida Accounting Information Resource Subsystem no  
6 less than quarterly the disbursements which agencies made to  
7 small businesses, as defined in the Florida Small and Minority  
8 Business Assistance Act of 1985; to certified minority  
9 business enterprises in the aggregate; and to certified  
10 minority business enterprises broken down into categories of  
11 minority persons, as well as gender and nationality subgroups.  
12 This information shall be made available to the agencies, the  
13 ~~Minority Business Advocacy and Assistance~~ Office of Supplier  
14 Diversity, the Governor, the President of the Senate, and the  
15 Speaker of the House of Representatives. Each agency shall be  
16 responsible for the accuracy of information entered into the  
17 Florida Accounting Information Resource Subsystem for use in  
18 this reporting.

19           Section 8. Subsections (1) and (2) of section 255.102,  
20 Florida Statutes, are amended to read:

21           255.102 Contractor utilization of minority business  
22 enterprises.--

23           (1) Agencies shall consider the use of price  
24 preferences, weighted preference formulas, or other  
25 preferences for construction contracts, as determined  
26 appropriate by the ~~Minority Business Advocacy and Assistance~~  
27 Office of Supplier Diversity ~~in collaboration with the~~  
28 ~~Department of Management Services~~ to increase minority  
29 participation.

30           (2) The ~~Minority Business Advocacy and Assistance~~  
31 Office of Supplier Diversity, in collaboration with the

1 ~~Department of Management Services and~~ the State University  
2 System, shall adopt rules to determine what is a "good faith  
3 effort" for purposes of contractor compliance with minority  
4 participation goals established for competitively awarded  
5 building and construction projects. Pro forma efforts shall  
6 not be considered good faith. Factors which shall be  
7 considered by the state agency in determining whether a  
8 contractor has made good faith efforts shall include, but not  
9 be limited to:

10 (a) Whether the contractor attended any  
11 presolicitation or prebid meetings that were scheduled by the  
12 agency to inform minority business enterprises of contracting  
13 and subcontracting opportunities.

14 (b) Whether the contractor advertised in general  
15 circulation, trade association, or minority-focus media  
16 concerning the subcontracting opportunities.

17 (c) Whether the contractor provided written notice to  
18 all relevant subcontractors listed on the minority vendor list  
19 for that locality and statewide as provided by the agency as  
20 of the date of issuance of the invitation to bid, that their  
21 interest in the contract was being solicited in sufficient  
22 time to allow the minority business enterprises to participate  
23 effectively.

24 (d) Whether the contractor followed up initial  
25 solicitations of interest by contacting minority business  
26 enterprises, the ~~Minority Business Advocacy and Assistance~~  
27 Office of Supplier Diversity, or minority persons who  
28 responded and provided detailed information about prebid  
29 meetings, access to plans, specifications, contractor's  
30 project manager, subcontractor bonding, if any, payment  
31 schedule, bid addenda, and other assistance provided by the



1 contractor to enhance minority business enterprise  
2 participation.

3 (e) Whether the contractor selected portions of the  
4 work to be performed by minority business enterprises in order  
5 to increase the likelihood of meeting the minority business  
6 enterprise procurement goals, including, where appropriate,  
7 breaking down contracts into economically feasible units to  
8 facilitate minority business enterprise participation under  
9 reasonable and economical conditions of performance.

10 (f) Whether the contractor provided the ~~Minority~~  
11 ~~Business Advocacy and Assistance~~ Office of Supplier Diversity  
12 as well as interested minority business enterprises or  
13 minority persons with adequate information about the plans,  
14 specifications, and requirements of the contract or the  
15 availability of jobs at a time no later than when such  
16 information was provided to other subcontractors.

17 (g) Whether the contractor negotiated in good faith  
18 with interested minority business enterprises or minority  
19 persons, not rejecting minority business enterprises or  
20 minority persons as unqualified without sound reasons based on  
21 a thorough investigation of their capabilities or imposing  
22 implausible conditions of performance on the contract.

23 (h) Whether the contractor diligently seeks to replace  
24 a minority business enterprise subcontractor that is unable to  
25 perform successfully with another minority business  
26 enterprise.

27 (i) Whether the contractor effectively used the  
28 services of available minority community organizations;  
29 minority contractors' groups; local, state, and federal  
30 minority business assistance offices; and other organizations

31

1 that provide assistance in the recruitment and placement of  
2 minority business enterprises or minority persons.

3 (3) If an agency considers any other criteria in  
4 determining whether a contractor has made a good faith effort,  
5 the agency shall adopt such criteria in accordance with s.  
6 120.54, and, where required by that section, by rule, after  
7 May 31, 1994. In adopting such criteria, the agency shall  
8 identify the specific factors in as objective a manner as  
9 possible to be used to assess a contractor's performance  
10 against said criteria.

11 (4) Notwithstanding the provisions of s. 287.0945 to  
12 the contrary, agencies shall monitor good faith efforts of  
13 contractors in competitively awarded building and construction  
14 projects, in accordance with rules established pursuant to  
15 this section. It is the responsibility of the contractor to  
16 exercise good faith efforts in accordance with rules  
17 established pursuant to this section, and to provide  
18 documentation necessary to assess efforts to include minority  
19 business participation.

20 Section 9. Subsection (19) of section 287.012, Florida  
21 Statutes, is amended to read:

22 287.012 Definitions.--The following definitions shall  
23 apply in this part:

24 (19) "Office" means the ~~Minority Business Advocacy and~~  
25 ~~Assistance~~ Office of Supplier Diversity of the Department of  
26 Management Services ~~Labor and Employment Security~~.

27 Section 10. Paragraphs (a) and (c) of subsection (2)  
28 and paragraphs (b) and (c) of subsection (4) of section  
29 287.042, Florida Statutes, are amended to read:

30 287.042 Powers, duties, and functions.--The department  
31 shall have the following powers, duties, and functions:

1           (2)(a) To plan and coordinate purchases in volume and  
2 to negotiate and execute purchasing agreements and contracts  
3 for commodities and contractual services under which state  
4 agencies shall make purchases pursuant to s. 287.056, and  
5 under which a federal, county, municipality, institutions  
6 qualified pursuant to s. 240.605, private nonprofit community  
7 transportation coordinator designated pursuant to chapter 427,  
8 while conducting business related solely to the Commission for  
9 the Transportation Disadvantaged, or other local public agency  
10 may make purchases. The department may restrict purchases from  
11 some term contracts to state agencies only for those term  
12 contracts where the inclusion of other governmental entities  
13 will have an adverse effect on competition or to those federal  
14 facilities located in this state. In such planning or  
15 purchasing the ~~Minority Business Advocacy and Assistance~~  
16 Office of Supplier Diversity may monitor to ensure that  
17 opportunities are afforded for contracting with minority  
18 business enterprises. The department, for state term  
19 contracts, and all agencies, for multiyear contractual  
20 services or term contracts, shall explore reasonable and  
21 economical means to utilize certified minority business  
22 enterprises. Purchases by any county, municipality, private  
23 nonprofit community transportation coordinator designated  
24 pursuant to chapter 427, while conducting business related  
25 solely to the Commission for the Transportation Disadvantaged,  
26 or other local public agency under the provisions in the state  
27 purchasing contracts, and purchases, from the corporation  
28 operating the correctional work programs, of products or  
29 services that are subject to paragraph (1)(f), are exempt from  
30 the competitive sealed bid requirements otherwise applying to  
31 their purchases.

1           (c) Any person who files an action protesting a  
2 decision or intended decision pertaining to contracts  
3 administered by the department or a state agency pursuant to  
4 s. 120.57(3)(b) shall post with the department or the state  
5 agency at the time of filing the formal written protest a bond  
6 payable to the department or state agency in an amount equal  
7 to 1 percent of the department's or the state agency's  
8 estimate of the total volume of the contract or \$5,000,  
9 whichever is less, which bond shall be conditioned upon the  
10 payment of all costs which may be adjudged against him or her  
11 in the administrative hearing in which the action is brought  
12 and in any subsequent appellate court proceeding. For protests  
13 of decisions or intended decisions of the department  
14 pertaining to agencies' requests for approval of exceptional  
15 purchases, the bond shall be in an amount equal to 1 percent  
16 of the requesting agency's estimate of the contract amount for  
17 the exceptional purchase requested or \$5,000, whichever is  
18 less. In lieu of a bond, the department or state agency may,  
19 in either case, accept a cashier's check or money order in the  
20 amount of the bond. If, after completion of the administrative  
21 hearing process and any appellate court proceedings, the  
22 agency prevails, it shall recover all costs and charges which  
23 shall be included in the final order or judgment, excluding  
24 attorney's fees. This section shall not apply to protests  
25 filed by the ~~Minority Business Advocacy and Assistance~~ Office  
26 of Supplier Diversity. Upon payment of such costs and charges  
27 by the person protesting the award, the bond, cashier's check,  
28 or money order shall be returned to him or her. If the person  
29 protesting the award prevails, he or she shall recover from  
30 the agency all costs and charges which shall be included in  
31 the final order of judgment, excluding attorney's fees.

1           (4) To establish a system of coordinated, uniform  
2 procurement policies, procedures, and practices to be used by  
3 agencies in acquiring commodities and contractual services,  
4 which shall include, but not be limited to:

5           (b) Development of procedures for the releasing of  
6 requests for proposals, invitations to bid, and other  
7 competitive acquisitions which procedures shall include, but  
8 are not limited to, notice by publication in the Florida  
9 Administrative Weekly, on Government Services Direct, or by  
10 mail at least 10 days before the date set for submittal of  
11 proposals or bids. The ~~Minority Business Advocacy and~~  
12 ~~Assistance~~ Office of Supplier Diversity may consult with  
13 agencies regarding the development of bid distribution  
14 procedures to ensure that maximum distribution is afforded to  
15 certified minority business enterprises as defined in s.  
16 288.703.

17           (c) Development of procedures for the receipt and  
18 opening of bids or proposals by an agency. Such procedures  
19 shall provide the ~~Minority Business Advocacy and Assistance~~  
20 ~~Office~~ of Supplier Diversity an opportunity to monitor and  
21 ensure that the contract award is consistent with the original  
22 request for proposal or invitation to bid, in accordance with  
23 s. 287.0945(6), and subject to the review of bid responses  
24 within standard timelines.

25           Section 11. Subsection (5) and paragraph (a) of  
26 subsection (6) of section 287.057, Florida Statutes, are  
27 amended to read:

28           287.057 Procurement of commodities or contractual  
29 services.--

30           (5) Upon issuance of any invitation to bid or request  
31 for proposals, an agency shall forward to the department one

1 copy of each invitation to bid or request for proposals for  
2 all commodity and contractual services purchases in excess of  
3 the threshold amount provided in s. 287.017 for CATEGORY TWO.  
4 An agency shall also, upon request, furnish a copy of all  
5 competitive sealed bid or competitive sealed proposal  
6 tabulations. The ~~Minority Business Advocacy and Assistance~~  
7 Office of Supplier Diversity may also request from the  
8 agencies any information submitted to the department pursuant  
9 to this subsection.

10 (6)(a) In order to strive to meet the minority  
11 business enterprise procurement goals set forth in s.  
12 287.0945, an agency may reserve any contract for competitive  
13 sealed bidding only among certified minority business  
14 enterprises. Agencies shall review all their contracts each  
15 fiscal year and shall determine which contracts may be  
16 reserved for bidding only among certified minority business  
17 enterprises. This reservation may only be used when it is  
18 determined, by reasonable and objective means, before the  
19 invitation to bid that there are capable, qualified certified  
20 minority business enterprises available to bid on a contract  
21 to provide for effective competition. The ~~Minority Business~~  
22 ~~Advocacy and Assistance~~ Office of Supplier Diversity shall  
23 consult with any agency in reaching such determination when  
24 deemed appropriate.

25 Section 12. Section 287.09431, Florida Statutes, is  
26 amended to read:

27 287.09431 Statewide and interlocal agreement on  
28 certification of business concerns for the status of minority  
29 business enterprise.--The statewide and interlocal agreement  
30 on certification of business concerns for the status of  
31 minority business enterprise is hereby enacted and entered

1 into with all jurisdictions or organizations legally joining  
2 therein. If, within 2 years from the date that the  
3 certification core criteria are approved by the Department of  
4 Labor and Employment Security, the agreement included herein  
5 is not executed by a majority of county and municipal  
6 governing bodies that administer a minority business  
7 assistance program on the effective date of this act, then the  
8 Legislature shall review this agreement. It is the intent of  
9 the Legislature that if the agreement is not executed by a  
10 majority of the requisite governing bodies, then a statewide  
11 uniform certification process should be adopted, and that said  
12 agreement should be repealed and replaced by a mandatory state  
13 government certification process.

14  
15 ARTICLE I

16  
17 PURPOSE, FINDINGS, AND POLICY.--

18 (1) The parties to this agreement, desiring by common  
19 action to establish a uniform certification process in order  
20 to reduce the multiplicity of applications by business  
21 concerns to state and local governmental programs for minority  
22 business assistance, declare that it is the policy of each of  
23 them, on the basis of cooperation with one another, to remedy  
24 social and economic disadvantage suffered by certain groups,  
25 resulting in their being historically underutilized in  
26 ownership and control of commercial enterprises. Thus, the  
27 parties seek to address this history by increasing the  
28 participation of the identified groups in opportunities  
29 afforded by government procurement.

30 (2) The parties find that the State of Florida  
31 presently certifies firms for participation in the minority

1 business assistance programs of the state. The parties find  
2 further that some counties, municipalities, school boards,  
3 special districts, and other divisions of local government  
4 require a separate, yet similar, and in most cases redundant  
5 certification in order for businesses to participate in the  
6 programs sponsored by each government entity.

7 (3) The parties find further that this redundant  
8 certification has proven to be unduly burdensome to the  
9 minority-owned firms intended to benefit from the underlying  
10 purchasing incentives.

11 (4) The parties agree that:

12 (a) They will facilitate integrity, stability, and  
13 cooperation in the statewide and interlocal certification  
14 process, and in other elements of programs established to  
15 assist minority-owned businesses.

16 (b) They shall cooperate with agencies, organizations,  
17 and associations interested in certification and other  
18 elements of minority business assistance.

19 (c) It is the purpose of this agreement to provide for  
20 a uniform process whereby the status of a business concern may  
21 be determined in a singular review of the business information  
22 for these purposes, in order to eliminate any undue expense,  
23 delay, or confusion to the minority-owned businesses in  
24 seeking to participate in the minority business assistance  
25 programs of state and local jurisdictions.

26

27 ARTICLE II

28

29 DEFINITIONS.--As used in this agreement and contracts  
30 made pursuant to it, unless the context clearly requires  
31 otherwise:





1           (1) All awarding organizations shall accept a  
2 certification granted by any participating organization which  
3 has been approved according to s. 287.0943(3)~~(2)~~ and has  
4 entered into this agreement, as valid status of minority  
5 business enterprise.

6           (2) A participating organization shall certify a  
7 business concern that meets the definition of minority  
8 business enterprise in this agreement, in accordance with the  
9 duly adopted eligibility criteria.

10           (3) All participating organizations shall issue notice  
11 of certification decisions granting or denying certification  
12 to all other participating organizations within 14 days of the  
13 decision. Such notice may be made through electronic media.

14           (4) No certification will be granted without an onsite  
15 visit to verify ownership and control of the prospective  
16 minority business enterprise, unless verification can be  
17 accomplished by other methods of adequate verification or  
18 assessment of ownership and control.

19           (5) The certification of a minority business  
20 enterprise pursuant to the terms of this agreement shall not  
21 be suspended, revoked, or otherwise impaired except on any  
22 grounds which would be sufficient for revocation or suspension  
23 of a certification in the jurisdiction of the participating  
24 organization.

25           (6) The certification determination of a party may be  
26 challenged by any other participating organization by the  
27 issuance of a timely written notice by the challenging  
28 organization to the certifying organization's determination  
29 within 10 days of receiving notice of the certification  
30 decision, stating the grounds therefor.

31



1           AGREEMENT EVALUATION.--The designated state and local  
2 officials may meet from time to time as a group to evaluate  
3 progress under the agreement, to formulate recommendations for  
4 changes, or to propose a new agreement.

5  
6                                   ARTICLE VII  
7

8           OTHER ARRANGEMENTS.--Nothing in this agreement shall be  
9 construed to prevent or inhibit other arrangements or  
10 practices of any party in order to comply with federal law.

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12                                   ARTICLE VIII  
13

14           EFFECT AND WITHDRAWAL.--

15           (1) This agreement shall become effective when  
16 properly executed by a legal representative of the  
17 participating organization, when enacted into the law of the  
18 state and after an ordinance or other legislation is enacted  
19 into law by the governing body of each participating  
20 organization. Thereafter it shall become effective as to any  
21 participating organization upon the enactment of this  
22 agreement by the governing body of that organization.

23           (2) Any party may withdraw from this agreement by  
24 enacting legislation repealing the same, but no such  
25 withdrawal shall take effect until one year after the  
26 governing body of the withdrawing party has given notice in  
27 writing of the withdrawal to the other parties.

28           (3) No withdrawal shall relieve the withdrawing party  
29 of any obligations imposed upon it by law.

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31                                   ARTICLE IX

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FINANCIAL RESPONSIBILITY.--

(1) A participating organization shall not be financially responsible or liable for the obligations of any other participating organization related to this agreement.

(2) The provisions of this agreement shall constitute neither a waiver of any governmental immunity under Florida law nor a waiver of any defenses of the parties under Florida law. The provisions of this agreement are solely for the benefit of its executors and not intended to create or grant any rights, contractual or otherwise, to any person or entity.

ARTICLE X

VENUE AND GOVERNING LAW.--The obligations of the parties to this agreement are performable only within the county where the participating organization is located, and statewide for the ~~Minority Business Advocacy and Assistance Office of Supplier Diversity~~, and venue for any legal action in connection with this agreement shall lie, for any participating organization except the ~~Minority Business Advocacy and Assistance Office of Supplier Diversity~~, exclusively in the county where the participating organization is located. This agreement shall be governed by and construed in accordance with the laws and court decisions of the state.

ARTICLE XI

CONSTRUCTION AND SEVERABILITY.--This agreement shall be liberally construed so as to effectuate the purposes thereof. The provisions of this agreement shall be severable and if any

1 phrase, clause, sentence, or provision of this agreement is  
2 declared to be contrary to the State Constitution or the  
3 United States Constitution, or the application thereof to any  
4 government, agency, person, or circumstance is held invalid,  
5 the validity of the remainder of this agreement and the  
6 applicability thereof to any government, agency, person, or  
7 circumstance shall not be affected thereby. If this agreement  
8 shall be held contrary to the State Constitution, the  
9 agreement shall remain in full force and effect as to all  
10 severable matters.

11 Section 13. This act shall take effect July 1, 2000.

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HOUSE SUMMARY

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16 Transfers the Minority Business Advocacy and Assistance  
17 Office from the Department of Labor and Employment  
18 Security to the Department of Management Services and  
19 renames the office as the Office of Supplier Diversity.  
20 Revises provisions relating to minority business  
21 enterprise programs to provide for revoking the  
22 certification of minority businesses, prohibit agencies  
23 from denying contractors, firms, or individuals an  
24 opportunity to compete in public procurement of  
25 commodities and services. Provides a penalty for  
26 discrimination. Requires the Office of Supplier Diversity  
27 to accept approved businesses as certified minority  
28 businesses, revises criteria for certification of  
29 minority business enterprises, and requires businesses to  
30 comply with state licensing requirements for  
31 certification as a minority business enterprise. Provides  
for review or audit of such businesses by the Office of  
Supplier Diversity and the Auditor General. Prohibits  
discriminating entities or affiliates from bidding on  
contracts and prohibits public entities from accepting  
bids from, awarding contracts to, or transacting business  
with discriminating entities. Provides requirements,  
procedures, and limitations for determinations of  
discrimination by entities. Provides for notice and  
administrative hearings. Provides for nonapplication to  
specified activities. See bill for details.

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