

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on State Administration offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause

and insert:

Section 1. Section 288.706, Florida Statutes, is created to read:

288.706 Florida Minority Business Loan Mobilization Program.--

(1) The Legislature finds that it is in the interest of the public welfare to meaningfully assist minority business enterprises that are vital to the overall economy of the state. It is the intent of the Legislature to promote diversity in state contracting by eliminating barriers to minority business enterprises providing goods and services to the state. Finally, the Legislature recognizes the contribution of minority business enterprises to employment opportunities in this state.

(2) The Florida Minority Business Loan Mobilization Program is created to promote the development of minority

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1 business enterprises, as defined in s. 288.703(2); to increase
2 the ability of minority business enterprises to compete for
3 state contracts; and to sustain the economic growth of
4 minority business enterprises, in this state. The goal of the
5 program is to assist minority business enterprises by
6 facilitating working capital loans to minority business
7 enterprises that are vendors on state agency contracts. The
8 Department of Management Services shall administer the
9 program.

10 (3) Under the Florida Minority Business Loan
11 Mobilization Program a state agency is authorized to disburse,
12 as necessary, up to 10 percent of the base contract award
13 amount to a minority business enterprise vendor as a retainer,
14 to be applied by that vendor toward the completion of the
15 basic services portion of the contract. This retainer may be
16 awarded to a minority business enterprise vendor who has a
17 state agency contract to perform construction or professional
18 services or to provide goods and services. Professional
19 services include, but are not limited to, architectural,
20 engineering, information technology, legal, or accounting
21 services.

22 (4) In lieu of applying for participation in the
23 Florida Minority Business Loan Mobilization Program, a
24 minority business enterprise vendor awarded a state agency
25 contract for the performance of professional services may
26 apply with that contracting state agency for up to 5 percent
27 of the base contract award. The contracting state agency may
28 award such advance in order to facilitate the performance of
29 that contract.

30 (5) The following Florida Minority Business Loan
31 Mobilization Program procedures apply to minority business

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1 enterprise vendors on contracts awarded by a state agency for
2 construction or professional services or for the provision of
3 goods and services:

4 (a) Upon receipt of an award of a prime contract or
5 subcontract, a minority business enterprise vendor may seek to
6 obtain working capital financing from a participating lending
7 institution approved by the Department of Management Services.
8 The minority business enterprise vendor shall complete all the
9 necessary requirements of the participating lending
10 institution in order to obtain a working capital agreement. A
11 minority business enterprise vendor shall only be entitled to
12 participate in the program if a working capital agreement is
13 established with an approved participating lending
14 institution.

15 (b) The working capital agreement may provide for a
16 line of credit that is no less than 125 percent and no more
17 than 200 percent of the designated loan mobilization payment
18 described in paragraph (c).

19 (c) The designated loan mobilization payment is that
20 portion of the contract award that is to be disbursed by the
21 agency under this section. The actual amount of the
22 designated loan mobilization payment shall be no less than
23 \$5,000 and no greater than \$250,000. The amount of the
24 designated loan mobilization payment shall be:

25 1. No less than 5 percent and no more than 10 percent
26 of the base contract amount between the prime minority
27 business enterprise contract vendor and the contracting state
28 agency; or

29 2. No less than 5 percent and no more than 10 percent
30 of the contract amount between a subcontract minority business
31 enterprise vendor and a minority business enterprise or

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1 non-minority business enterprise in prime contract vendor.

2 (d) The contracting agency shall disburse the
3 designated loan mobilization payment directly to the lending
4 institution on behalf of the minority business enterprise
5 vendor. The designated loan mobilization payment shall be
6 pledged as collateral by the minority business enterprise
7 vendor for the working capital agreement. Upon disbursement,
8 the state agency retains no interest in the designated loan
9 mobilization payment.

10 (e) Disbursement of designated loan mobilization
11 payment shall be made when:

12 1. The minority business enterprise prime contract
13 vendor requests disbursement of the designated loan
14 mobilization payment in the first application for payment or,
15 in the case of contracts other than construction contracts, by
16 letter delivered to the contracting state agency after the
17 award of the contract but prior to the date of commencement of
18 the contract. Such application or letter shall be accompanied
19 by a working capital agreement with a participating lending
20 institution. The designated loan mobilization payment shall be
21 disbursed pursuant to the working capital agreement and this
22 subsection.

23 a. For construction contracts, the disbursement of the
24 designated loan mobilization payment shall occur following the
25 issuance of a notice to proceed from the contracting state
26 agency and within 10 working days after that state agency's
27 approval of the vendor's initial application for payment.

28 b. For contracts other than construction contracts,
29 the disbursement of the designated loan mobilization payment
30 shall occur within 10 days after the contracting state
31 agency's approval of the minority business enterprise vendor's

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1 letter of request for the designated loan mobilization
2 payment.

3 c. The designated loan mobilization payment may be
4 paid by the contracting state agency prior to the commencement
5 of work. In order to ensure that the contract time contract
6 provisions that provide assurance of timely completion do not
7 commence until the minority business enterprise vendor has
8 adequate working capital, the contract documents may provide
9 that the contract shall commence at such time as the
10 contracting state agency releases the designated loan
11 mobilization payment to the participating lending institution
12 pursuant to the working capital agreement.

13 2. The term "subcontract vendor," as used in this
14 subparagraph, is limited to subcontractors and suppliers to
15 prime contractors only.

16 a. Prior to the release of a designated loan
17 mobilization payment to the subcontract minority business
18 enterprise vendor, that subcontract minority business
19 enterprise vendor shall submit to the state agency which is
20 party to the prime contract a letter of request for the
21 payment of the funds which also indicates that the prime
22 contractor is on notice of the request. That letter shall be
23 accompanied by a working capital agreement conditioned only by
24 the award of the contract to the minority business enterprise
25 vendor.

26 b. No prime contractor shall retain more than 5
27 percent of the amount earned by a subcontract minority
28 business enterprise vendor participating in this program. If
29 the prime contract vendor is also participating in this
30 program, the amount the prime vendor retains shall be subject
31 to the provisions governing prime contract vendors.

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1 (6) All prime contractors shall be required to
2 incorporate the designated loan mobilization payment
3 procedures in subcontract agreements or purchase orders with
4 minority business enterprise vendors participating in this
5 program and cooperate in the release of designated loan
6 mobilization payments to achieve the objective of providing
7 working capital for subcontract minority business enterprise
8 vendors.

9 (7) The contracting state agency shall encourage prime
10 contractors to make weekly or biweekly payments to subcontract
11 minority business enterprise vendors participating in this
12 program.

13 (8) The contracting state agency shall monitor
14 compliance with this section. Nothing contained in this
15 section shall be construed to limit the contracting state
16 agency's right to insist upon strict compliance with the
17 requirements of the contract documents.

18 (9) The contracting state agency shall not be a party
19 to a working capital agreement between a participating lending
20 institution and a participating minority business enterprise
21 vendor. The participating lending institution shall notify
22 the contracting state agency head of vendor program
23 applications received by such institution.

24 (10) Nothing contained in this section shall prevent
25 the contracting state agency from consenting to a disbursement
26 procedure in which a minority business enterprise vendor
27 agrees to an assignment of contract proceeds in order to
28 procure a line of credit. Participation in the Florida
29 Minority Business Loan Mobilization Program does not prohibit
30 any such agreement.

31 (11) The Department of Management Services may adopt

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1 rules to implement the provisions of this section.

2 (a) The Department of Management Services may adopt
3 rules to establish criteria for lending institutions to
4 participate in the Florida Minority Business Loan Program.
5 Such criteria shall ensure that the lending institution is
6 operating in a safe and sound manner.

7 This list of approved lending institutions shall not be
8 exclusive. A minority business enterprise vendor who has a
9 working relationship with a lending institution is encouraged
10 to request that the lending institution apply to participate
11 as a lending institution for the program.

12 Section 2. This act shall take effect October 1, 2002.

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15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 On page 1, lines 1 through 24,
18 remove: all of said lines

19

20 and insert:

21 An act relating to the Florida Minority
22 Business Loan Mobilization Program; creating s.
23 288.706, F.S.; providing legislative findings
24 and intent; creating the Florida Minority
25 Business Loan Mobilization Program for certain
26 purposes; providing for program administration
27 by the Department of Management Services;
28 authorizing state agencies to expend a certain
29 amount of a contract award to minority business
30 enterprises for certain purposes; authorizing
31 professional services vendors to apply for a

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1 direct retainer from agencies of a percentage
2 of a base contract amount; specifying
3 procedures for certain minority business
4 enterprise performance contracts; providing for
5 working capital agreements and lines of credit;
6 providing requirements and limitations;
7 providing requirements for prime contractors;
8 providing agency requirements; providing for
9 alternative agency disbursement procedures;
10 authorizing the Department of Management
11 Services to adopt rules; providing an effective
12 date.

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