

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

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

11 The Committee on General Government Appropriations offered the
12 following:

14 **Substitute to Amendment (01323-sa -240273) (with title**
15 **amendment)**

16 On page 1 line 17 through page 7, line 12,
17 remove: all of said lines

19 and insert:

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

22 288.706 Florida Minority Business Loan Mobilization
23 Program.--

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

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1 opportunities in this state.

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

13 (3) Notwithstanding ss. 215.422(14) and 216.181(16),
14 under the Florida Minority Business Loan Mobilization Program
15 a state agency is authorized to disburse, as provided in
16 subsection (5), as necessary, up to 10 percent of the base
17 contract award amount to a minority business enterprise vendor
18 as a retainer, to be applied by that vendor toward the
19 completion of the basic services portion of the contract.

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

28 (5) The following Florida Minority Business Loan
29 Mobilization Program procedures apply to minority business
30 enterprise vendors on contracts awarded by a state agency for
31 construction or professional services or for the provision of

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1 goods and services:

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

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

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

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

27 2. No less than 5 percent and no more than 10 percent
28 of the contract amount between a subcontract minority business
29 enterprise vendor and a minority business enterprise or
30 non-minority business enterprise in prime contract vendor.

31 (d) The contracting agency shall disburse the

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1 designated loan mobilization payment payable to the minority
2 business enterprise vendor and financial institution using the
3 tax identification number of the minority business enterprise
4 vendor.

5 (e) Disbursement of designated loan mobilization
6 payment shall be made when:

7 1. Notwithstanding ss. 215.422(14) and 216.181(16),
8 the minority business enterprise prime contract vendor
9 requests disbursement of the designated loan mobilization
10 payment in the first application for payment or, in the case
11 of contracts other than construction contracts, by letter
12 delivered to the contracting state agency after the execution
13 of the contract but prior to the date of commencement of the
14 work. The designated loan mobilization payment shall be made
15 payable to the minority business enterprise vendor and the
16 financial institution using the tax identification number of
17 the minority business enterprise vendor and shall be disbursed
18 pursuant to the working capital agreement and this subsection.

19 a. For construction contracts, the disbursement of the
20 designated loan mobilization payment shall occur following the
21 issuance of a notice to proceed from the contracting state
22 agency and after the state agency's approval of vendor's
23 initial application for payment.

24 b. For contracts other than construction contracts,
25 the disbursement of the designated loan mobilization payment
26 shall occur after the contracting state agency's approval of
27 the minority business enterprise vendor's letter of request
28 for the designated loan mobilization payment.

29 c. Notwithstanding ss. 215.422(14) and 216(16), the
30 designated loan mobilization payment may be paid by the
31 contracting state agency prior to the commencement of work.

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1 In order to ensure that the contract time provision that
2 provide assurance of timely completion do not commence until
3 the minority business enterprise vendor has adequate working
4 capital, the contract documents may provide that the contract
5 shall commence at such time as the contracting state agency
6 releases the designated loan mobilization payment to the
7 minority business enterprise prime contract vendor and
8 participating financial institution pursuant to the working
9 capital agreement.

10 2. The term "subcontract vendor," as used in this
11 subparagraph, is limited to subcontractors and suppliers to
12 prime contractors only.

13 a. Prior to the release of a designated loan
14 mobilization payment to the prime contract vendor on behalf of
15 the subcontract minority business enterprise vendor, the
16 subcontract minority business enterprise vendor and prime
17 contract vendor shall submit to the state agency which is
18 party to the prime contract a letter of request for the
19 payment of funds which also indicated that the prime
20 contractor is on notice of the request. The prime contract
21 vendor shall pay to the subcontract minority business
22 enterprise vendor the designated loan mobilization payment
23 within 10 working days of receipt of the funds from the state
24 agency.

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

31 (6) All prime contractors shall be required to

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

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

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

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

23 (10) The Department of Management Services may adopt
24 rules to implement the provisions of this section.

25 (11) The Department of Management Services shall
26 maintain a listing of financial institutions willing to
27 participate in the Florida Minority Business Loan Program.

28 This list of financial institutions shall not be
29 exclusive. A minority business enterprise vendor who has a
30 working relationship with a financial institution is
31 encouraged to request that the financial institution apply to

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1 participate as a financial institution for the program.

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

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

6 And the title is amended as follows:

7 On page 7, line 21, through page 8, line 12, of the
8 amendment

9 remove: all of said lines

10

11 and insert:

12 An act relating to the Florida Minority
13 Business Loan Mobilization Program; creating s.
14 288.706, F.S.; providing legislative findings
15 and intent; creating the Florida Minority
16 Business Loan Mobilization Program for certain
17 purposes; providing for program administration
18 by the Department of Management Services;
19 authorizing state agencies to expend a certain
20 amount of a contract award to minority business
21 enterprises for certain purposes; authorizing
22 professional services vendors to apply for a
23 direct retainer from agencies of a percentage
24 of a base contract amount; specifying
25 procedures for certain minority business
26 enterprise performance contracts; providing for
27 working capital agreements and lines of credit;
28 providing requirements and limitations;
29 providing requirements for prime contractors;
30 providing agency requirements; authorizing the
31 Department of Management Services to adopt

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rules; authorizing the Department of Management Services to maintain a listing of participating financial institutions; providing an effective date.