

By the Council for Smarter Government and Representatives  
Kallinger, Holloway, Siplin, Harper and Bullard

1                                   A bill to be entitled  
2           An act relating to the Florida Minority  
3           Business Loan Mobilization Program; creating s.  
4           288.706, F.S.; providing legislative findings  
5           and intent; creating the Florida Minority  
6           Business Loan Mobilization Program for certain  
7           purposes; providing for program administration  
8           by the Department of Management Services;  
9           authorizing state agencies to disburse a  
10          certain amount of a contract award to assist  
11          certain minority business enterprise vendors in  
12          obtaining working capital financing;  
13          authorizing professional services vendors to  
14          apply for a specified percentage of a base  
15          contract amount; specifying procedures for the  
16          program; providing for working capital  
17          agreements and lines of credit; providing  
18          requirements and limitations; providing  
19          requirements for prime contract vendors;  
20          providing requirements for subcontract vendors;  
21          providing contracting state agency requirements  
22          and limitations; authorizing the department to  
23          adopt rules; requiring the department to  
24          maintain a listing of participating financial  
25          institutions; providing an effective date.

26  
27 Be It Enacted by the Legislature of the State of Florida:

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

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1           288.706 Florida Minority Business Loan Mobilization  
2 Program.--

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

12           (2) The Florida Minority Business Loan Mobilization  
13 Program is created to promote the development of minority  
14 business enterprises, as defined in s. 288.703(2), increase  
15 the ability of minority business enterprises to compete for  
16 state contracts, and sustain the economic growth of minority  
17 business enterprises in this state. The goal of the program is  
18 to assist minority business enterprises by facilitating  
19 working capital loans to minority business enterprises that  
20 are vendors on state agency contracts. The Department of  
21 Management Services shall administer the program.

22           (3) Notwithstanding ss. 215.422(14) and 216.181(16),  
23 under the Florida Minority Business Loan Mobilization Program,  
24 a state agency may disburse up to 10 percent of the base  
25 contract award amount to assist a minority business enterprise  
26 vendor that is awarded a state agency contract for goods or  
27 services in obtaining working capital financing as provided in  
28 subsection (5).

29           (4) In lieu of applying for participation in the  
30 Florida Minority Business Loan Mobilization Program, a  
31 minority business enterprise vendor awarded a state agency

1 contract for the performance of professional services may  
2 apply with that contracting state agency for up to 5 percent  
3 of the base contract award amount. The contracting state  
4 agency may award such advance in order to facilitate the  
5 performance of that contract.

6 (5) The following Florida Minority Business Loan  
7 Mobilization Program procedures apply to minority business  
8 enterprise vendors for contracts awarded by a state agency for  
9 construction or professional services or for the provision of  
10 goods or services:

11 (a) Upon receipt of an award of a prime contract or  
12 subcontract, a minority business enterprise vendor may seek to  
13 obtain working capital financing from a participating  
14 financial institution. The minority business enterprise vendor  
15 shall complete all the necessary requirements of the  
16 participating financial institution in order to obtain a  
17 working capital agreement. A minority business enterprise  
18 vendor shall only be entitled to participate in the program if  
19 a working capital agreement is established with a  
20 participating financial institution.

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

25 (c) The designated loan mobilization payment is that  
26 portion of the base contract award amount that is to be  
27 disbursed by the agency under this section. The actual amount  
28 of the designated loan mobilization payment shall be no less  
29 than \$5,000 and no greater than \$250,000. The amount of the  
30 designated loan mobilization payment shall be:

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1           1. No less than 5 percent and no more than 10 percent  
2 of the base contract award amount between the minority  
3 business enterprise prime contract vendor and the contracting  
4 state agency; or

5           2. No less than 5 percent and no more than 10 percent  
6 of the base contract award amount between a minority business  
7 enterprise subcontract vendor and a minority business  
8 enterprise or nonminority business enterprise prime contract  
9 vendor.

10           (d) The designated loan mobilization payment shall be  
11 disbursed pursuant to the working capital agreement and this  
12 subsection and shall be made payable by the contracting state  
13 agency to the minority business enterprise prime contract  
14 vendor and the participating financial institution using the  
15 tax identification number of the minority business enterprise  
16 vendor that is the debtor under the working capital agreement.

17           (e) The following procedures shall apply when the  
18 minority business enterprise is the prime contract vendor to  
19 the contracting state agency:

20           1. The provisions of ss. 215.422(14) and 216.181(16)  
21 do not apply to this paragraph.

22           2. For construction contracts, the designated loan  
23 mobilization payment shall be disbursed when:

24           a. The minority business enterprise prime contract  
25 vendor requests disbursement in the first application for  
26 payment.

27           b. The contracting state agency has issued a notice to  
28 proceed and has approved the first application for payment.

29           3. For contracts other than construction contracts,  
30 the designated loan mobilization payment shall be disbursed  
31 when:

1           a. The minority business enterprise prime contract  
2 vendor requests disbursement by letter delivered to the  
3 contracting state agency after the execution of the contract  
4 but prior to the commencement of work.

5           b. The contracting state agency has approved the  
6 minority business enterprise prime contract vendor's letter of  
7 request.

8           4. The designated loan mobilization payment may be  
9 paid by the contracting state agency prior to the commencement  
10 of work. In order to ensure that the contract time provisions  
11 do not commence until the minority business enterprise prime  
12 contract vendor has adequate working capital, the contract  
13 documents may provide that the contract shall commence at such  
14 time as the contracting state agency releases the designated  
15 loan mobilization payment to the minority business enterprise  
16 prime contract vendor and participating financial institution  
17 pursuant to the working capital agreement.

18           (f) The following procedures shall apply when the  
19 minority business enterprise is the subcontract vendor:

20           1. For purposes of this paragraph, the term "minority  
21 business enterprise subcontract vendor" is limited to  
22 subcontractors and suppliers to prime contract vendors that  
23 contract with a state agency.

24           2. A designated loan mobilization payment for a  
25 minority business enterprise subcontract vendor shall be made:

26           a. Upon approval by the contracting state agency of a  
27 letter from the minority business enterprise subcontract  
28 vendor and prime contract vendor that requests the designated  
29 loan mobilization payment and that indicates that the prime  
30 contract vendor is on notice of the request.

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1           b. Payable to the prime contract vendor, which shall  
2 pay these funds to the minority business enterprise  
3 subcontract vendor within 10 business days after the receipt  
4 of the funds from the state.

5           3. No prime contract vendor shall retain more than 5  
6 percent of the amount earned by a minority business enterprise  
7 subcontract vendor participating in this program, except that  
8 if the prime contract vendor is also participating in this  
9 program, the amount the prime contract vendor retains shall be  
10 subject to the provisions governing prime contract vendors.

11           (6) All prime contract vendors shall be required to  
12 incorporate the designated loan mobilization payment  
13 procedures in subcontract agreements or purchase orders with  
14 minority business enterprise vendors participating in this  
15 program and to cooperate in the release of designated loan  
16 mobilization payments to achieve the objective of providing  
17 working capital for minority business enterprise subcontract  
18 vendors.

19           (7) The contracting state agency shall encourage prime  
20 contract vendors to make weekly or biweekly payments to  
21 minority business enterprise subcontract vendors participating  
22 in this program.

23           (8) The contracting state agency shall monitor  
24 compliance with this section. Nothing contained in this  
25 section shall be construed to limit the contracting state  
26 agency's right to insist upon strict compliance with the  
27 requirements of the contract documents.

28           (9) The contracting state agency shall not be a party  
29 to a working capital agreement between a participating  
30 financial institution and a participating minority business  
31 enterprise vendor. The participating financial institution

1 shall notify the contracting state agency head of vendor  
2 program applications received by such institution.  
3 (10) The Department of Management Services may adopt  
4 rules to implement the provisions of this section.  
5 (11) The Department of Management Services shall  
6 maintain a listing of financial institutions willing to  
7 participate in the Florida Minority Business Loan Mobilization  
8 Program. This list of financial institutions shall not be  
9 exclusive. A minority business enterprise vendor who has a  
10 working relationship with a financial institution is  
11 encouraged to request that the financial institution apply to  
12 participate as a financial institution for the program.

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