

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 319 Recertification of Minority Business Enterprises

SPONSOR(S): Carroll and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1480

| | REFERENCE | ACTION | ANALYST | STAFF DIRECTOR |
|----|--|---------------|-----------------|-----------------------|
| 1) | <u>Governmental Affairs Policy Committee</u> | <u></u> | <u>McDonald</u> | <u>Williamson</u> |
| 2) | <u>Economic Development & Community Affairs Policy Council</u> | <u></u> | <u></u> | <u></u> |
| 3) | <u></u> | <u></u> | <u></u> | <u></u> |
| 4) | <u></u> | <u></u> | <u></u> | <u></u> |
| 5) | <u></u> | <u></u> | <u></u> | <u></u> |

SUMMARY ANALYSIS

House Bill 319 extends the recertification requirement for minority business enterprises from at least annually to at least every two years. This change aligns the recertification period for these business enterprises with that of the service-disabled veteran business enterprises. Both business enterprise certifications are established within the Department of Management Services and are the responsibility of the Office of Supplier Diversity (OSD).

The change in the law creates a uniform recertification period for those business enterprises under the OSD. The change helps reduce barriers for minority business enterprise owners by allowing them more time for seeking growth and development opportunities rather than having to navigate a paper-intensive recertification process every two years versus annually. According to the OSD, streamlining the recertification process will enable its staff to increase assistance to both types of certified business enterprise owners in their business growth and development efforts.

As of February 25, 2009, there were a total of 4,726 certified minority business enterprises, excluding any minority service-disabled veterans business enterprise. The Service-Disabled Veteran Business Enterprise Opportunity Act took effect November 11, 2008, with one business being certified on that date and a total of 40 being certified as of February 25, 2009.

The fiscal impact of HB 319 is indeterminate, but positive, on both state government and the private sector. See "Fiscal Comments."

HB 319 takes effect July 1, 2009.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Department of Management Services (DMS) is responsible for the certification of a business as a certified minority business enterprise under chapter 287, F.S., and ss. 288.702-.706, F.S., or as a certified service-disabled veteran business enterprise under s. 295.187, F.S. Responsibility within the DMS for carrying out these functions is placed with the Office of Supplier Diversity (OSD). The OSD provides leadership and guidance to state agencies regarding use of such business vendors and is specifically required in s. 287.09451, F.S., to assist minority business enterprises in becoming suppliers of commodities, services, and construction to state government. The OSD works with both certified minority business enterprises and certified service-disabled veteran business enterprises to encourage strategic alliances with major corporations through matchmaking activities such as participation in regional workshops and seminars, trade shows, and corporate roundtables; to provide first tier referrals to state agencies for order and contract opportunities; to provide Mentor-Protégé opportunities for business development from corporations; to provide exclusive listing in an online directory; and to provide assistance with funding for eligible businesses through loan mobilization.¹

To receive recertification as a minority business enterprise or a service-disabled veteran business enterprise in the state, a business must meet the following requirements:²

- Be engaged in commercial transactions; and
- Operate a business in Florida; and
- Be at least 51 percent owned, managed and controlled by African-American, Hispanic-American, Asian-American, Native American, or American woman who are permanent residents of Florida and are United States citizens, for a minority business enterprise;³ or

¹ Department of Management Services, Office of Supplier Diversity Annual Report 2007-2008 at 6 (on file with the Governmental Affairs Policy Committee) hereinafter referred to as OSD Annual Report; Also, information found at http://dms.myflorida.com/oter_programs/office_of_supplier_diversity_osd/, last viewed February 28, 2009.

² Sections 288.703(2), F.S., and 295.187(3)(c), F.S.

³ Section 288.703, F.S., defines "minority person" as "a lawful, permanent resident of Florida who is: (a) An African American, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin. (b) A Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race. (c) An Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands prior to 1778. (d) A Native American, a person who has origins in any of the Indian Tribes of North America prior to 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services. (e) An American woman.

- Be at least 51 percent owned by one or more service-disabled veterans⁴ who are permanent residents of Florida and are United States citizens, and the management and daily business operations of which are controlled by one or more service-disabled veterans or, for a service-disabled veteran with a permanent and total disability, by the spouse or permanent caregiver of the veteran; and
- Be an independently owned and operated small business with a net worth of not more than \$5 million that employs 200 or fewer full-time employees or is recognized as a certified business by the federal government.

In fiscal year 2007-2008, there were 4,118 certified minority business enterprises statewide, an increase of 400 such business enterprises over FY 2006-2007. Only two counties, Glades and Holmes, had no certified minority business enterprises in FY 2007-2008.⁵ The Service-Disabled Veteran Business Enterprise Opportunity Act took effect November 11, 2008, with one business receiving certification on that date and a total of 40 being certified as of February 25, 2009.⁶ As of February 25, 2009, there were a total of 4,726 certified minority business enterprises, excluding any minority service-disabled veterans business enterprise.⁷

Proposed Changes

House Bill 319 amends s. 287.09451(4)(m), F.S., to extend the recertification requirement for minority business enterprises from at least annually to at least every two years. This change aligns the recertification period for these business enterprises with that of the service-disabled veteran business enterprises created in s. 295.187, F.S., in 2008. Both business enterprise certifications are established within the Department of Management Services and are the responsibility of the OSD.⁸

The change in the law creates a uniform recertification period for those business enterprises under the OSD.

The change helps reduce barriers for minority business enterprise owners by allowing them more time exploring growth and development opportunities rather than having to navigate a paper-intensive recertification process every two years versus annually. According to the OSD, streamlining the recertification process will enable its staff to increase assistance to both types of certified business enterprise owners in their business growth and development efforts.⁹

B. SECTION DIRECTORY:

Section 1. Amends s. 287.09451, F.S., to extend the period of recertification for minority business enterprises from at least annually to at least every 2 years.

Section 2. Provides an effective date of July 1, 2009.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

⁴ Section 295.187, F.S., defines "service-disabled veteran" as a veteran who is a permanent Florida resident with a service-connected disability of 10 percent or greater as determined by the United States Department of Veterans Affairs or who has been terminated from military service by reason of disability by the United States Department of Defense.

⁵ OSD Annual Report at 4.

⁶ Information received from Mr. Torey L. Alston, Executive Director, OSD, on February 25, 2009. Please note that of the 37 service-disabled veteran business enterprises, four were African American owned, one was African American and woman owned, one was Hispanic American owned, and one was Native American owned. (Information on file with the Governmental Affairs Policy Committee)

⁷ Ibid.

⁸ Sections 287.09451, F.S., and 295.187(7), F.S.

⁹ Department of Management Services analysis of HB 319, submitted February 11, 2009.

2. Expenditures:
Indeterminate. See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Because of the recertification process becoming biennial versus annual, there should be some positive economic impact on minority business enterprises through the reduction in paperwork required for recertification. This intensive paperwork and process reduction should allow businesses more time to spend on business development and expansion activities.

D. FISCAL COMMENTS:

According to the OSD there will be some savings in the reduced amount of paperwork required and in the staff time to process paperwork. The OSD also states that there will be no reduction in staff caused by a change in the recertification process. Staff will be used to assist in business development activities with an ever-increasing number of certified minority business enterprises and certified service-disabled veteran business enterprises.¹⁰

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

2. Other:
None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

Not applicable.

¹⁰Information received from Mr. Torey L. Alston, Executive Director, Office of Supplier Diversity, during a telephone conversation on February 25, 2009.