

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7029 PCB GAP 10-04 Certification of Minority Business Enterprises

SPONSOR(S): Governmental Affairs Policy Committee and Holder

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

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Governmental Affairs Policy Committee	11 Y, 0 N	McDonald	Williamson
1)	_____	_____	_____	_____
2)	_____	_____	_____	_____
3)	_____	_____	_____	_____
4)	_____	_____	_____	_____
5)	_____	_____	_____	_____

SUMMARY ANALYSIS

The bill deletes s. 287.0943(2), F.S., which provides for the establishment and responsibilities of the Minority Business Certification Task Force (Task Force). The Task Force is one of the statutorily created advisory groups attached to the Office of Supplier of Diversity within the Department of Management Services (DMS). The Task Force has fulfilled its statutory responsibility to propose uniform minority business certification criteria. DMS placed the criteria in the Florida Administrative Code 13 years ago. According to the Office of Supplier Diversity, the Task Force has not met in recent years, because use of reciprocal agreements (agreements to accept a business's certified minority enterprise status issued by other entities) ended in 2003.

Abolishing the Task Force was recommended by the Office of Program Policy Analysis & Government Accountability as part of its sunset review of DMS.

The statutory authority of the Florida Advisory Council on Small and Minority Business Development permits this group to assist the Office of Supplier Diversity regarding reciprocal agreements. In fact, the Council has already provided input and guidance on these issues to the Office of Supplier Diversity.

There is no fiscal impact associated with the abolishment of the non-operational Minority Business Certification Task Force.

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:

Background

Under the Florida Government Accountability Act,¹ most state agencies are subject to a "sunset" review process to determine whether the agency should be retained, modified, or abolished. During the 2010 Regular Session, among the departments that the Legislature will review is the Department of Management of Services.² Part of that review includes an examination of agency advisory committees.³

Two statutorily created advisory entities, the Florida Small and Minority Business Advisory Council and the Minority Business Certification Task Force, are assigned to the Office of Supplier Diversity within the Department of Management Services to assist in specified responsibilities.⁴

The Minority Business Certification Task Force (Task Force) was created in s. 287.0943, F.S., to propose uniform criteria and procedures by which participating entities and organizations can qualify businesses to participate in procurement or contracting programs as certified minority business enterprises.^{5,6} The primary purpose of the Task Force is to propose a final list of the criteria and procedures for consideration by the Secretary of DMS. The Task Force also is authorized to seek technical assistance from qualified providers of technical, business, and managerial expertise to ensure the reliability of the certification criteria developed.

The 19-member Task Force appointed by the Secretary of DMS is intended to be regionally balanced and comprised of officials representing governmental entities who administer programs to assist minority businesses procure or develop government-sponsored programs. Six organizations (Florida

¹ Sections 11.901-11.920, F.S.

² See s. 11.905, F.S.

³ See s. 11.906, F.S.

⁴ The Office of Supplier Diversity's function is to improve business and economic opportunities for Florida's minority, women, and service-disabled veteran business enterprises. To accomplish this goal the office's primary functions include certification of business enterprises, advocacy and outreach, and matchmaking activities. See the DMS website for information on the responsibilities of the office.

⁵ See Chapter 94-322, L.O.F.

⁶ Pursuant to s. 20.03(8), F.S., a task force created by specific statutory enactment is, by definition, limited to no more than 3 years, appointed to study a specific problem and recommend a solution or policy alternative with respect to the problem, and terminates upon the completion of its assignment."

League of Cities, Florida Association of Counties, Florida School Boards Association, Association of Special Districts, Florida Association of Minority Business Enterprise Officials, and Florida Association of Government Purchasing Officials) are authorized to appoint up to two members to the Task Force. The Office of Supplier Diversity within DMS appoints seven members, consisting of three representatives of minority business enterprises, two office representatives, and two at-large members. The chairperson of the Legislative Committee on Intergovernmental Relations or designee is to serve as an ex officio member.

The Task Force has fulfilled its statutory responsibility to propose uniform minority business certification criteria. DMS placed the criteria in the Florida Administrative Code 13 years ago.⁷ According to the Office of Supplier Diversity, the Task Force has not met in recent years primarily because the use of reciprocal agreements (agreements to accept a business's certified minority enterprise status issued by other entities) ended in 2003.⁸

Abolishing the Task Force was recommended by the Office of Program Policy Analysis & Government Accountability as part of its sunset review of DMS.

Effect of Proposed Change

The abolishment of the Minority Business Certification Task Force will have no effect since the statutory responsibility of the Task Force has been fulfilled, the Task Force has not been functional for several years, and the statutory authority of the Florida Advisory Council on Small and Minority Business Development permits the council to provide guidance and assistance to the Office of Supplier Diversity relating to the efforts of that office related to reciprocal agreements.⁹

B. SECTION DIRECTORY:

Section 1. Amends s. 287.0943, F.S., deleting provisions which established and referenced the Minority Business Certification Task Force.

Section 2. Provides a July 1, 2010 effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

⁷ Office of Program Policy Analysis & Government Accountability Sunset Review Report, p. 4, *Department of Management Services Advisory Committees Assessment*, Report No. 08-S11, published December 2008.

⁸ Information provided by Mr. Torey Alston, Executive Director, Office of Supplier Diversity, Department of Management Services on January 26, 2010.

⁹ According to the Office of Supplier Diversity, the office has begun reaching out to local governments for reciprocal agreements, now referred to as certification agreements. The office has already received some guidance from the Florida Advisory Council on Small and Minority Business Development relating to reciprocal agreements. Information provided by Mr. Torey Alston, Executive Director, Office of Supplier Diversity, Department of Management Services on January 26, 2010.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

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

On February 3, 2010, the Governmental Affairs Policy Committee adopted a strike-all amendment that did the following:

- Abolished the Minority Business Certification Task Force and references to the task force.
- Reinstated provisions of law related to the use of reciprocal agreements and criteria for such agreements, which were inadvertently removed in the proposed committee bill.
- Deleted unnecessary cross-reference changes due to the restructuring of s. 287.0943(2), F.S.