

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Budget Subcommittee on General Government Appropriations

BILL: SB 1112

INTRODUCER: Senator Altman

SUBJECT: Certification of Minority Business Enterprises

DATE: January 30, 2012

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|------------------|
| 1. | Philo | Hrdlicka | CM | Favorable |
| 2. | Betta | DeLoach | BGA | Favorable |
| 3. | | | | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

SB 1112 deletes provisions that provide for the establishment and responsibilities of the Minority Business Certification Task Force (task force). The task force is a statutorily created advisory group attached to the Office of Supplier Diversity within the Department of Management Services (DMS). The task force has fulfilled its statutory responsibility to propose uniform minority business certification criteria. The Florida Advisory Council on Small and Minority Business Development can pursue reciprocal agreements with other certification entities under its existing statutory authority, and has already provided input and guidance in this context to the Office of Supplier Diversity.

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

There is no fiscal impact associated with the abolishment of the non-operational task force.

This bill substantially amends s. 287.0943, F.S.

II. Present Situation:

During the 2010 Regular Session, the Department of Management Services was among the departments that the Legislature reviewed under the Florida Government Accountability Act.^{1,2}

¹ See ss. 11.901-11.920, F.S. (2010). The Florida Government Accountability Act was repealed during the 2011 Regular Session. See ch. 2011-34, L.O.F. (2011).

² See s. 11.905, F.S. (2010).

The act previously subjected most state agencies to a sunset review process to determine whether the agency should be retained, modified, or abolished. Part of that review included an examination of agency advisory committees.³

Two statutorily created advisory committees, the Florida Advisory Council on Small and Minority Business Development and the Minority Business Certification Task Force, are assigned to the Office of Supplier Diversity within the Department of Management Services (DMS) 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 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 is intended to be regionally balanced and primarily comprised of officials representing governmental entities who administer programs to assist minority businesses procure or develop government-sponsored programs. Six organizations (Florida 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 each authorized to appoint 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 task force has fulfilled its statutory responsibility to propose uniform minority business certification criteria. DMS placed the criteria in the Florida Administrative Code over 14 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 Although the Secretary of DMS wishes to reestablish reciprocal agreements with other certification entities, such as cities

³ See s. 11.906, F.S. (2010).

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

⁵ See ch. 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 "a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to that problem. Its existence terminates upon the completion of its assignment."

⁷ Office of Program Policy Analysis & Government Accountability Sunset Review Report, *Department of Management Services Advisory Committees Assessment*, Report No. 08-S11 (Dec. 2008) (OPPAGA Sunset Review Report), at 4 (available online at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/08-S11.pdf>, and on file with the Senate Commerce and Tourism Committee).

⁸ *Id.* This information was also confirmed by Mr. Thad Fortune, Certification Administrator (Senior Manager), Office of Supplier Diversity, DMS, via telephone on January 13, 2012.

and school districts, it is not necessary to reconvene the task force to pursue such agreements. Instead, the Florida Advisory Council on Small and Minority Business Development can pursue reciprocal agreements with other certification entities under its existing statutory authority to advise and assist DMS in this general context.⁹

Abolishing the task force was recommended by the Office of Program Policy Analysis & Government Accountability as part of its sunset review of DMS.¹⁰

III. Effect of Proposed Changes:

The bill abolishes the Minority Business Certification Task Force. Abolishment 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 in this context.¹¹

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

⁹ See s. 287.0947, F.S.; OPPAGA Sunset Review Report, at 4.

¹⁰ OPPAGA Sunset Review Report, at 4.

¹¹ 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. This information was confirmed by Mr. Thad Fortune at DMS via telephone on January 13, 2012. Mr. Fortune advised that the renewal of use of the task force had been discussed but not pursued by DMS.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.