

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 4103 Certification of Minority Business Enterprises

**SPONSOR(S):** Burgin

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1112

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	11 Y, 0 N	Meadows	Williamson
2) State Affairs Committee	13 Y, 2 N	Meadows	Hamby

### SUMMARY ANALYSIS

The bill 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 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 over 14 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 2006.

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. 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.

The bill provides an effective date of July 1, 2012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

During the 2010 Regular Session, the Department of Management Services was among the departments that the Legislature reviewed under the Florida Government Accountability Act<sup>1, 2</sup>. The Florida Government Accountability 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.<sup>3</sup>

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 (DMS) to assist in specified responsibilities.<sup>4</sup>

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.<sup>5,6</sup> 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 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 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.<sup>7</sup>

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.<sup>8</sup> According to the Office of Supplier Diversity, the Task Force has not met in recent years primarily because the use

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 The Florida Government Accountability Act was repealed during the 2011 Regular Session.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

<sup>2</sup> See s. 11.905, F.S. (2010).

<sup>3</sup> See s. 11.906, F.S. (2010).

<sup>4</sup> 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.

<sup>5</sup> See chapter 94-322, L.O.F.

<sup>6</sup> 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."

<sup>7</sup> The Florida Legislative Committee on Intergovernmental Relations (LCIR) was not funded in the FY 2010-11 General Appropriations Act, and the Committee ceased operations on June 30, 2010.

<sup>8</sup> Office of Program Policy Analysis & Government Accountability Sunset Review Report, at 4, *Department of Management Services Advisory Committees Assessment*, Report No. 08-S11 (December 2008).

of reciprocal agreements (agreements to accept a business's certified minority enterprise status issued by other entities) ended in 2006.<sup>9</sup>

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 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 relating to the efforts of that office related to reciprocal agreements.<sup>10</sup>

#### **B. SECTION DIRECTORY:**

**Section 1.** Amends s. 287.0943, F.S., deleting provisions which establish and reference the Minority Business Certification Task Force.

**Section 2.** Provides an effective date of July 1, 2012.

## **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.

2. Expenditures:

None.

#### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

#### **D. FISCAL COMMENTS:**

None.

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<sup>9</sup> Information provided on November 21, 2011, by Mr. Thad Fortune, Certification Administrator (Senior Manager), Office of Supplier Diversity, DMS.

<sup>10</sup> 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 first provided on January 26, 2010, by Mr. Torey Alston, Executive Director, Office of Supplier Diversity, DMS. Mr. Alston is no longer with DMS. The information, in part, was confirmed by Mr. Thad Fortune, Certification Administrator, Office of Supplier Diversity on November 21, 2011. Mr. Fortune did state the renewal of use of the Task Force had been discussed; however, it had not been pursued by DMS.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable. The bill does not appear to affect county or municipal governments.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.