
SUBSTITUTE HOUSE BILL 1493

State of Washington

53rd Legislature

1993 Regular Session

By House Committee on Trade, Economic Development & Housing (originally sponsored by Representatives Wineberry, Forner, Shin, Sheldon, Leonard, Basich, Locke, J. Kohl, Morris and Anderson)

Read first time 03/03/93.

1 AN ACT Relating to minority and women-owned businesses; amending
2 RCW 43.31.085, 43.31.055, 39.19.030, 43.84.092, 43.31.091, and
3 43.31.092; adding a new section to chapter 43.210 RCW; adding a new
4 section to chapter 43.31 RCW; adding new sections to chapter 39.19 RCW;
5 adding a new chapter to Title 43 RCW; creating new sections; and making
6 appropriations.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** INTENT. It is the intent of the legislature
9 to combat discrimination in the economy.

10 (1) The legislature finds that discrimination is in part
11 responsible for:

12 (a) The disproportionately small percentage of the state's
13 businesses that are owned by minorities and women;

14 (b) The limited and unequal opportunity minority and women
15 entrepreneurs and business owners have to procure small business
16 financing; and

17 (c) The difficulty many minority and women-owned contracting
18 businesses have in securing bonds and contract work.

19 (2) The legislature further finds that:

1 (a) Many minority and women entrepreneurs and business owners lack
2 training in how to establish and operate a business. This lack of
3 training inhibits their competitiveness when they apply for business
4 loans, bonds, and contracts;

5 (b) Minorities and women are an increasingly expanding portion of
6 the population and work force. In order for these individuals to fully
7 contribute to the society and economy it is necessary to ensure that
8 minority and women entrepreneurs and business owners are provided an
9 equal opportunity to procure small business financing, bonds, and
10 contracts; and

11 (c) The growth of small businesses will have a favorable impact on
12 the Washington economy by creating jobs, increasing competition in the
13 marketplace, and expanding tax revenues. Access to financial markets,
14 bonds, and contracts by entrepreneurs and small business owners is
15 vital to this process. Without reasonable access to financing, bonds,
16 and contracts, talented and aggressive entrepreneurs and small business
17 owners are cut out of the economic system and the state's economy
18 suffers.

19 (3) Therefore, the legislature declares there to be a substantial
20 public purpose in providing technical assistance in the areas of
21 marketing, finance, and management, and access to capital resources,
22 bonds, and contracts, to help start or expand a minority or women-owned
23 business, and specifically to encourage and make possible greater
24 participation by minorities and women in international trade, public
25 works and construction, and public facility concessions. To accomplish
26 these purposes, it is the intent of the legislature to:

27 (a) Develop or contract for training courses in financing,
28 marketing, managing, accounting, and recordkeeping for a small business
29 and to make these programs available to minority and women
30 entrepreneurs and small business owners;

31 (b) Make public works and construction projects, public facility
32 concessions, and purchase of goods and services accessible to a greater
33 number of minority and women-owned businesses;

34 (c) Provide for the lending of nonstate funds to qualified minority
35 and women entrepreneurs and business owners in order to provide the
36 maximum practicable opportunity for innovative minority and women
37 entrepreneurs and business owners to compete for small business
38 financing; and

1 (d) Provide professional services assistance grants and bond
2 guarantees on behalf of qualified contractors in order to provide the
3 maximum practicable opportunity for minority and women-owned
4 contracting businesses to participate in the Washington state economy
5 by bidding and completing various public and private contracting jobs.

6 NEW SECTION. **Sec. 2.** DEFINITIONS. Unless the context clearly
7 requires otherwise, the definitions in this section apply throughout
8 this chapter.

9 (1) "Minority" means persons of color, including African-Americans,
10 Asian-Americans, Hispanic/Latino Americans, Native Americans, and
11 Aleutian and Pacific Islanders;

12 (2) "Minority and women-owned business" means any resident minority
13 business enterprise or women's business enterprise, certified as such
14 by the office of minority and women's business enterprises under
15 chapter 39.19 RCW, that complies with section 6(2) of this act.

16 I. EDUCATION AND TECHNICAL ASSISTANCE

17 **Sec. 3.** RCW 43.31.085 and 1989 c 430 s 2 are each amended to read
18 as follows:

19 **MARKETING, FINANCE, AND MANAGEMENT ASSISTANCE.** The business
20 assistance center shall:

21 (1) Serve as the state's lead agency and advocate for the
22 development and conservation of businesses.

23 (2) Coordinate the delivery of state programs to assist businesses.

24 (3) Provide comprehensive referral services to businesses requiring
25 government assistance.

26 (4) Serve as the business ombudsman within state government and
27 advise the governor and the legislature of the need for new legislation
28 to improve the effectiveness of state programs to assist businesses.

29 (5) Aggressively promote business awareness of the state's business
30 programs and distribute information on the services available to
31 businesses.

32 (6) Develop, in concert with local economic development and
33 business assistance organizations, coordinated processes that
34 complement both state and local activities and services.

35 (7) The business assistance center shall work with other federal,
36 state, and local agencies and organizations to ensure that business

1 assistance services including small business, trade services, and
2 distressed area programs are provided in a coordinated and cost-
3 effective manner.

4 (8) Provide or contract for technical assistance to minority and
5 women-owned business enterprises in a variety of areas, including, but
6 not limited to, marketing, finance, bidding and estimating assistance,
7 public contracting assistance, and management.

8 (9) In collaboration with the child care coordinating committee in
9 the department of social and health services, prepare and disseminate
10 information on child care options for employers and the existence of
11 the program. As much as possible, and through interagency agreements
12 where necessary, such information should be included in the routine
13 communications to employers from (a) the department of revenue, (b) the
14 department of labor and industries, (c) the department of community
15 development, (d) the employment security department, (e) the department
16 of trade and economic development, (f) the small business development
17 center, and (g) the department of social and health services.

18 ((+9)) (10) In collaboration with the child care coordinating
19 committee in the department of social and health services, compile
20 information on and facilitate employer access to individuals, firms,
21 organizations, and agencies that provide technical assistance to
22 employers to enable them to develop and support child care services or
23 facilities.

24 ((+10)) (11) Actively seek public and private money to support the
25 child care facility fund described in RCW 43.31.502, staff and assist
26 the child care facility fund committee as described in RCW 43.31.504,
27 and work to promote applications to the committee for loan guarantees,
28 loans, and grants.

29 **Sec. 4.** RCW 43.31.055 and 1985 c 466 s 6 are each amended to read
30 as follows:

31 EXPORT ASSISTANCE. The department shall assist in expanding the
32 state's role as a major international gateway for landing and
33 transshipping goods bound for domestic and foreign markets. The
34 department shall identify and work with Washington businesses,
35 especially women and minority-owned businesses and ethnic community-
36 based organizations, which can utilize state assistance to increase
37 domestic and foreign exports and are capable of increasing production
38 of goods and services, including but not limited to manufactured goods,

1 raw materials, services, and retail trade. The department shall
2 participate in trade and industry exhibitions both foreign and domestic
3 to promote and market state products and services. The department's
4 activities shall include, but not be limited to:

5 (1) Operating an active and vigorous effort to market the state's
6 products and services internationally, coordinated with private and
7 public international trade efforts throughout the state.

8 (2) Coordinating with the domestic and foreign export market
9 development activities of the state department of agriculture.

10 (3) Sending delegations to foreign countries and other states to
11 promote trade with Washington.

12 (4) Acting as a centralized location for the assimilation and
13 distribution of trade information.

14 (5) Identifying domestic and international markets in which
15 minority and women-owned businesses may have an advantage and providing
16 technical assistance to develop capacity for minority and women-owned
17 businesses to participate in international trade.

18 NEW SECTION. Sec. 5. A new section is added to chapter 43.210 RCW
19 to read as follows:

20 The small business export finance assistance center shall develop
21 a minority business export outreach program. The program shall provide
22 outreach services to minority businesses in Washington to inform them
23 of the importance of and opportunities in international trade, and to
24 inform them of the export assistance programs available to assist these
25 businesses to become exporters.

26 NEW SECTION. Sec. 6. A new section is added to chapter 43.31 RCW
27 to read as follows:

28 STANDARD COURSE OF INSTRUCTION. (1) The department of trade and
29 economic development shall contract with public and private agencies,
30 institutions, and organizations to establish a standard course of
31 instruction available to minority and women small business owners and
32 entrepreneurs. The instruction shall be intensive, practical training
33 courses in financing, marketing, managing, accounting, and
34 recordkeeping for a small business, with an emphasis on federal, state,
35 local, or private programs available to assist small businesses. The
36 business assistance center shall appoint professional instructors, with
37 practical knowledge and experience on how to start and operate a

1 business, to teach the courses. Instruction shall be offered in major
2 population centers throughout the state at times and locations which
3 are convenient for minority and women small business owners and
4 entrepreneurs.

5 (2) Upon successful completion of the training courses under
6 subsection (1) of this section, a business shall be eligible to
7 participate in the programs and assistance provided for in chapter ...,
8 Laws of 1993 (this act). This subsection shall not apply to those
9 certified and successfully engaged in business in Washington state for
10 five or more years.

11 II. FAIRNESS IN CONTRACTING AND CONCESSIONS

12 **Sec. 7.** RCW 39.19.030 and 1989 c 175 s 85 are each amended to read
13 as follows:

14 PARTICIPATION IN PUBLIC WORKS AND CONSTRUCTION. There is hereby
15 created the office of minority and women's business enterprises. The
16 governor shall appoint a director for the office, subject to
17 confirmation by the senate. The director may employ a deputy director
18 and a confidential secretary, both of which shall be exempt under
19 chapter 41.06 RCW, and such staff as are necessary to carry out the
20 purposes of this chapter.

21 The office shall consult with the minority and women's business
22 enterprises advisory committee to:

23 (1) Develop, plan, and implement programs to provide an opportunity
24 for participation by qualified minority and women-owned and controlled
25 businesses in public works and the process by which goods and services
26 are procured by state agencies and educational institutions from the
27 private sector;

28 (2) Develop a comprehensive plan insuring that qualified minority
29 and women-owned and controlled businesses are provided an opportunity
30 to participate in public contracts for public works and goods and
31 services;

32 (3) Identify barriers to equal participation by qualified minority
33 and women-owned and controlled businesses in all state agency and
34 educational institution contracts;

35 (4) Establish annual overall goals for participation by qualified
36 minority and women-owned and controlled businesses for each state

1 agency and educational institution to be administered on a contract-by-
2 contract basis or on a class-of-contracts basis;

3 (5) Require that each state agency adopt a plan, developed by each
4 agency in consultation with the director and the advisory committee, to
5 insure that minority and women-owned businesses are afforded the
6 maximum practicable opportunity to directly and meaningfully
7 participate in the execution of public contracts for public works and
8 construction. In order to achieve the established participation goals,
9 this plan shall include, but not be limited to, the agency contracting
10 directly with certified minority and women-owned businesses for public
11 works, construction, and goods and services;

12 (6) Develop and maintain a central minority and women's business
13 enterprise certification list for all state agencies and educational
14 institutions. No business is entitled to certification under this
15 chapter unless it meets the definition of small business concern as
16 established by the office. All applications for certification under
17 this chapter shall be sworn under oath;

18 ~~((+6))~~ (7) Develop, implement, and operate a system of monitoring
19 compliance with this chapter;

20 ~~((+7))~~ (8) Adopt rules under chapter 34.05 RCW, the Administrative
21 Procedure Act, governing: (a) Establishment of agency goals; (b)
22 development and maintenance of a central minority and women's business
23 enterprise certification program, including a definition of "small
24 business concern" which shall be consistent with the small business
25 requirements defined under section 3 of the Small Business Act, 15
26 U.S.C. Sec. 632, and its implementing regulations as guidance; (c)
27 procedures for monitoring and enforcing compliance with goals,
28 regulations, contract provisions, and this chapter; and (d) utilization
29 of standard clauses by state agencies and educational institutions, as
30 specified in RCW 39.19.050;

31 ~~((+8))~~ (9) Submit an annual report to the governor and the
32 legislature outlining the progress in implementing this chapter;

33 ~~((+9))~~ (10) Investigate complaints of violations of this chapter
34 with the assistance of the involved agency or educational institution;
35 and

36 ~~((+10))~~ (11) Cooperate and act jointly or by division of labor
37 with the United States or other states, and with political subdivisions
38 of the state of Washington and their respective minority, socially and
39 economically disadvantaged and women business enterprise programs to

1 carry out the purposes of this chapter. However, the power which may
2 be exercised by the office under this subsection permits investigation
3 and imposition of sanctions only if the investigation relates to a
4 possible violation of chapter 39.19 RCW, and not to violation of local
5 ordinances, rules, regulations, however denominated, adopted by
6 political subdivisions of the state.

7 NEW SECTION. **Sec. 8.** A new section is added to chapter 39.19 RCW
8 to read as follows:

9 If the office of minority and women-owned business enterprises
10 makes a finding that an agency is not in compliance with RCW
11 39.19.030(5), the office of financial management shall suspend the
12 agency's spending authority until the office of minority and women-
13 owned business enterprises makes a finding that the agency is in
14 compliance or the agency has developed a plan to achieve compliance
15 which is approved by the office of financial management and the office
16 of minority and women-owned business enterprises.

17 NEW SECTION. **Sec. 9.** A new section is added to chapter 39.19 RCW
18 to read as follows:

19 State agencies shall not require a performance bond for any
20 transportation or public works project that does not exceed twenty-five
21 thousand dollars.

22 III. LOAN FUND AND GUARANTEES

23 NEW SECTION. **Sec. 10.** DEFINITIONS. Unless the context clearly
24 requires otherwise, the definitions in this section apply throughout
25 sections 11 through 17 of this act.

26 (1) "Committee" means the Washington state minority and women-owned
27 businesses loan fund committee.

28 (2) "Department" means the department of community development.

29 (3) "Director" means the director of community development.

30 (4) "Fund" means the Washington state minority and women-owned
31 businesses loan fund.

32 NEW SECTION. **Sec. 11.** COMMITTEE ESTABLISHED. The director may
33 establish within the department of community development the Washington
34 state minority and women-owned businesses loan fund committee. The

1 committee shall have seven members. The director shall appoint the
2 members, subject to the following requirements:

3 (1) Three members shall be experienced in investment finance and
4 have skills in providing capital to new and innovative businesses,
5 starting and operating businesses, and providing professional services
6 to small or expanding businesses.

7 (2) Two members shall represent minority business enterprises.

8 (3) Two members shall represent women's business enterprises.

9 (4) Each member appointed by the director shall serve a term of
10 three years, except that of the seven members first appointed, two
11 shall serve two-year terms and two shall serve one-year terms. A
12 person appointed to fill a vacancy shall serve only the unexpired term
13 of the member replaced. A member is eligible for reappointment. A
14 member may be removed by the director only for cause.

15 (5) The director shall designate a committee member as committee
16 chairperson. The committee may select such other officers as it deems
17 appropriate. Four members of the committee constitute a quorum. Four
18 affirmative votes are necessary for the transaction of business or the
19 exercise of any power or function of the committee.

20 (6) Committee members serve without compensation, but are entitled
21 to reimbursement for actual and necessary expenses incurred in the
22 performance of official duties in accordance with RCW 43.03.050 and
23 43.03.060.

24 (7) Committee members are not liable to the state, to the fund, or
25 to any other person as a result of their activities, whether
26 ministerial or discretionary, except for willful dishonesty or
27 intentional violations of law.

28 NEW SECTION. **Sec. 12.** LOAN FUND ESTABLISHED. There is
29 established the Washington state minority and women-owned businesses
30 loan fund. The fund is an account in the state treasury. All loan
31 payments of principal and interest which are transferred under section
32 14 of this act shall be deposited into the account. Moneys in the
33 account may be spent without legislative appropriation for loans under
34 this chapter. However, any expenditures of these moneys shall conform
35 to federal law. No more than five percent of the fund balance may be
36 spent to administer the fund during the biennium. The department shall
37 make available for use by the committee an amount of federal funds
38 equal to the amount of state funds transferred or appropriated to the

1 department for purposes of supplementing the department's federal
2 funds.

3 NEW SECTION. **Sec. 13.** LENDING AUTHORITY ESTABLISHED. Subject to
4 the restrictions contained in this chapter, the committee is authorized
5 to approve applications of qualified business owners and qualified
6 entrepreneurs for loans or loan guarantees from the fund. Applications
7 approved by the committee under this chapter shall conform to
8 applicable federal requirements.

9 NEW SECTION. **Sec. 14.** LIMITATIONS ON LENDING AUTHORITY. (1) The
10 committee shall receive and approve loan and loan guarantee
11 applications on a monthly basis for each fiscal year. Department staff
12 shall process and assist in the preparation of applications. Each
13 application shall show in detail the nature of the business and the
14 purpose intended for the loan or guarantee. Each application shall
15 include a credit analysis of the business to receive the loan. The
16 committee chairperson may convene the committee on short notice to
17 respond to applications of an immediate nature.

18 (2) The committee may only approve an application providing a loan
19 or guarantee to a qualified business owner or qualified entrepreneur
20 that:

21 (a) Is intended to lead to the establishment of a new business or
22 improve an existing business;

23 (b) Would probably not be completed without the loan or guarantee
24 because other capital or financing at feasible terms is unavailable or
25 the return on investment is inadequate; and

26 (c) Provides adequate collateral as defined by rule by the
27 committee.

28 (3) The committee shall not approve any application which would
29 result in a loan in excess of seventy-five thousand dollars without the
30 director's approval. The committee may approve an application which
31 results in a loan of up to one hundred fifty thousand dollars if the
32 application is approved by the director.

33 (4) The committee shall fix the terms and rates pertaining to its
34 loans.

35 (5) To the extent permitted under federal law the committee shall
36 require applicants to provide for the transfer of all payments of
37 principal and interest on loans to the fund created under this chapter.

1 Under circumstances where the federal law does not permit the committee
2 to require such transfer, the committee shall give priority to
3 applicants who provide for the transfer.

4 (6) The committee shall prioritize available funds for loan
5 guarantees rather than loans when possible. The committee may enter
6 into agreements with other public or private lending institutions to
7 develop a joint loan guarantee program. If such a program is
8 developed, the committee may provide funds, in conjunction with the
9 other organizations, to operate the program. This subsection does not
10 preclude the committee from making individual loan guarantees.

11 NEW SECTION. **Sec. 15.** The committee may make grants of state
12 funds to local governments which qualify as entitlement communities
13 under federal law authorizing community development block grants.
14 These grants may only be made on the condition that the entitlement
15 community provide the committee assurances that the entitlement
16 community will:

17 (1) Spend the grant moneys for purposes and in a manner which
18 satisfies state constitutional requirements;

19 (2) Spend the grant moneys for purposes and in a manner which would
20 satisfy federal requirements; and

21 (3) Spend an amount equal to the state grant from the federal funds
22 received by the entitlement community for loans to minority and women-
23 owned businesses.

24 NEW SECTION. **Sec. 16.** OVERSIGHT. The committee shall keep
25 performance records on the loans and guarantees made and the successes
26 of the businesses that receive loans, and the committee shall develop
27 performance standards for judging the effectiveness of its lending
28 practices. The committee shall report to the fiscal committees in the
29 legislature each January.

30 NEW SECTION. **Sec. 17.** COMMITTEE SUPPORT. The department shall
31 provide adequate and appropriate staff to the committee. A record of
32 committee proceedings shall be maintained by the department. The
33 department is encouraged to work with local development organizations
34 to promote applications for loans by the fund. The department shall
35 also provide assistance to local development organizations and lending
36 organizations to identify viable projects for consideration by the

1 committee. The department shall adopt such rules as are appropriate
2 for the committee to carry out its authority under this chapter.

3 **Sec. 18.** RCW 43.84.092 and 1992 c 235 s 4 are each amended to read
4 as follows:

5 (1) All earnings of investments of surplus balances in the state
6 treasury shall be deposited to the treasury income account, which
7 account is hereby established in the state treasury.

8 (2) Monthly, the state treasurer shall distribute the earnings
9 credited to the treasury income account. The state treasurer shall
10 credit the general fund with all the earnings credited to the treasury
11 income account except:

12 (a) The following accounts and funds shall receive their
13 proportionate share of earnings based upon each account's and fund's
14 average daily balance for the period: The capitol building
15 construction account, the Cedar River channel construction and
16 operation account, the Central Washington University capital projects
17 account, the charitable, educational, penal and reformatory
18 institutions account, the common school construction fund, the county
19 criminal justice assistance account, the county sales and use tax
20 equalization account, the data processing building construction
21 account, the deferred compensation administrative account, the deferred
22 compensation principal account, the department of retirement systems
23 expense account, the Eastern Washington University capital projects
24 account, the federal forest revolving account, the industrial insurance
25 premium refund account, the judges' retirement account, the judicial
26 retirement administrative account, the judicial retirement principal
27 account, the local leasehold excise tax account, the local sales and
28 use tax account, the medical aid account, the municipal criminal
29 justice assistance account, the municipal sales and use tax
30 equalization account, the natural resources deposit account, the
31 perpetual surveillance and maintenance account, the public employees'
32 retirement system plan I account, the public employees' retirement
33 system plan II account, the Puyallup tribal settlement account, the
34 resource management cost account, the site closure account, the special
35 wildlife account, the state employees' insurance account, the state
36 employees' insurance reserve account, the state investment board
37 expense account, the state investment board commingled trust fund
38 accounts, the supplemental pension account, the teachers' retirement

1 system plan I account, the teachers' retirement system plan II account,
2 the University of Washington bond retirement fund, the University of
3 Washington building account, the volunteer fire fighters' relief and
4 pension principal account, the volunteer fire fighters' relief and
5 pension administrative account, the Washington judicial retirement
6 system account, the Washington law enforcement officers' and fire
7 fighters' system plan I retirement account, the Washington law
8 enforcement officers' and fire fighters' system plan II retirement
9 account, the Washington state minority and women-owned business loan
10 fund, the Washington state patrol retirement account, the Washington
11 State University building account, the Washington State University bond
12 retirement fund, and the Western Washington University capital projects
13 account. Earnings derived from investing balances of the agricultural
14 permanent fund, the normal school permanent fund, the permanent common
15 school fund, the scientific permanent fund, and the state university
16 permanent fund shall be allocated to their respective beneficiary
17 accounts. All earnings to be distributed under this subsection (2)(a)
18 shall first be reduced by the allocation to the state treasurer's
19 service fund pursuant to RCW 43.08.190.

20 (b) The following accounts and funds shall receive eighty percent
21 of their proportionate share of earnings based upon each account's or
22 fund's average daily balance for the period: The central Puget Sound
23 public transportation account, the city hardship assistance account,
24 the county arterial preservation account, the economic development
25 account, the essential rail assistance account, the essential rail
26 banking account, the ferry bond retirement fund, the grade crossing
27 protective fund, the high capacity transportation account, the highway
28 bond retirement fund, the highway construction stabilization account,
29 the highway safety account, the motor vehicle fund, the motorcycle
30 safety education account, the pilotage account, the public
31 transportation systems account, the Puget Sound capital construction
32 account, the Puget Sound ferry operations account, the recreational
33 vehicle account, the rural arterial trust account, the special category
34 C account, the state patrol highway account, the transfer relief
35 account, the transportation capital facilities account, the
36 transportation equipment fund, the transportation fund, the
37 transportation improvement account, and the urban arterial trust
38 account.

1 (3) In conformance with Article II, section 37 of the state
2 Constitution, no treasury accounts or funds shall be allocated earnings
3 without the specific affirmative directive of this section.

4 NEW SECTION. **Sec. 19.** The sum of five million dollars, or as much
5 thereof as may be necessary, is appropriated for the biennium ending
6 June 30, 1995, from the state building construction account to the
7 department of community development for the loan and loan guarantee
8 program established in this chapter.

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IV. BONDING ASSISTANCE

11 NEW SECTION. **Sec. 20.** DEFINITIONS. Unless the context clearly
12 requires otherwise, the definitions in this section apply throughout
13 sections 18 and 20 through 40 of this act.

14 (1) "Approved surety company" means a surety company approved by
15 the program supervisor for participation in providing direct bonding
16 assistance to qualified contractors.

17 (2) "Bond" means any bond or security required for bid, payment, or
18 performance of contracts.

19 (3) "Department" means the department of trade and economic
20 development.

21 (4) "Program" means the Washington state small business bonding
22 assistance program provided for in this chapter.

23 (5) "Program supervisor" means the program supervisor of the
24 Washington state small business bonding assistance program, or a person
25 duly authorized by the program supervisor to act on the program
26 supervisor's behalf.

27 (6) "Qualified contractor" means any resident minority business
28 enterprise or women's business enterprise, certified as such by the
29 office of minority and women's business enterprises under chapter 39.19
30 RCW and engaged in the contracting business, which has obtained a
31 certificate of accreditation from the Washington state small business
32 bonding assistance program.

33 NEW SECTION. **Sec. 21.** PROGRAM ESTABLISHED. There is established
34 within the department of trade and economic development the Washington
35 state small business bonding assistance program. The director of the
36 department shall appoint the program supervisor.

1 NEW SECTION. **Sec. 22.** PROGRAM SUPERVISOR'S DUTIES. The program
2 supervisor's primary duty is to assist resident minority and
3 women-owned small contracting businesses to acquire the managerial and
4 financial skills, standards, and assistance necessary to enable them to
5 obtain bid, payment, and performance bonds from surety companies for
6 either advertised or designated contracts. The program supervisor
7 shall implement the program by establishing a course of instruction as
8 set forth in section 27 of this act. The program supervisor shall
9 encourage surety companies and other private interests to help
10 implement this course of instruction to assist minority and women-owned
11 small contracting businesses.

12 NEW SECTION. **Sec. 23.** RULES. The program supervisor shall adopt
13 rules to implement the program set forth in this chapter. Such rules
14 shall include, but are not limited to, the following:

15 (1) The standards and procedures for determining the course content
16 and other requirements of the specialized course of instruction
17 provided for in section 27 of this act, including the standards to be
18 used to determine whether a certificate of accreditation should be
19 awarded pursuant to section 28 of this act;

20 (2) The standards to be used to determine whether a qualified
21 contractor has the need, level of capability, and is otherwise eligible
22 for professional services assistance as provided in this chapter;

23 (3) The standards to be used to determine the amount of
24 compensation which may be deducted by an approved surety company from
25 fees and charges and other amounts paid by a qualified contractor to
26 the company pursuant to a bond issued under section 34 of this act; and

27 (4) The terms and conditions under which the program supervisor may
28 guarantee a bond issued by an approved surety company, including the
29 actions and procedures which are required of the company in the event
30 of a default by the contractor.

31 NEW SECTION. **Sec. 24.** OUTSIDE ASSISTANCE. The following
32 departments, offices, and agencies shall, at the request of the program
33 supervisor, provide information, advice, and assistance to the program
34 supervisor:

35 (1) The department of general administration;

36 (2) The Washington state business assistance center;

37 (3) The office of the insurance commissioner;

1 (4) The Washington state economic development finance authority;
2 and
3 (5) The office of minority and women's business enterprises.

4 NEW SECTION. **Sec. 25.** OTHER ASSISTANCE. The program supervisor
5 shall seek information, advice, and assistance from regional minority
6 contractor organizations, and the United States small business
7 administration and any other appropriate organization or agency.

8 NEW SECTION. **Sec. 26.** ELIGIBILITY FOR BOND GUARANTEES. The
9 program supervisor, with the cooperation of the business assistance
10 center, shall require a contractor to be certified as a qualified
11 contractor before a bond guarantee can be issued on the contractor's
12 behalf.

13 NEW SECTION. **Sec. 27.** SPECIALIZED INSTRUCTION FOR SMALL
14 CONTRACTING BUSINESSES. The program supervisor shall work with the
15 business assistance center to modify the standard course of instruction
16 established in section 6 of this act in order to provide instruction
17 which is appropriate to the specific needs of contracting businesses.
18 This course of instruction shall be available to resident minority and
19 women small business contractors. The instruction shall be intensive,
20 practical training courses in financing, bidding for contracts,
21 managing, accounting, and recordkeeping for a contracting business,
22 with an emphasis on federal, state, local, or private programs
23 available to assist small contractors. The program supervisor shall
24 assist the business assistance center to appoint professional
25 instructors, with practical knowledge and experience in the field of
26 small business contracting, to teach those courses developed to meet
27 the specific needs of contracting businesses. Instruction shall be
28 offered in major population centers throughout the state at times and
29 locations which are convenient for people in the contracting business.

30 NEW SECTION. **Sec. 28.** ACCREDITATION OF SMALL CONTRACTING
31 BUSINESSES. Any resident minority or woman small business contractor
32 may select a key management employee or employees to attend any course
33 of instruction established under section 5 of this act. When the
34 records, maintained by the business assistance center, indicate that a
35 key management employee of a small contracting business has attended

1 all the courses offered, and has successfully completed any tests
2 required, the program supervisor shall award the small contracting
3 business a certificate of accreditation which acknowledges successful
4 completion of the courses. The program supervisor may also award a
5 certificate of accreditation if a review of the key management
6 employee's education, experience, and business history indicates that
7 the business already possesses the knowledge and skills offered through
8 the course of instruction, or if the key management employee
9 successfully completes all tests required of those who attend the
10 standard course of instruction.

11 NEW SECTION. **Sec. 29.** PROFESSIONAL SERVICES ASSISTANCE--GRANTS.
12 The program supervisor may provide assistance as described under
13 sections 30 through 33 of this act to qualified contractors. Any
14 qualified contractor seeking a grant for professional services
15 assistance must apply for such assistance.

16 The program supervisor may provide a grant of up to two thousand
17 five hundred dollars on behalf of a qualified contractor for the
18 acquisition of the professional services of certified public
19 accountants, construction management companies, or any other technical,
20 surety, financial, or managerial professionals. Such professionals may
21 assess or audit the operations, finances, bookkeeping, and
22 recordkeeping of the qualified contractor and make recommendations,
23 prepare statements and reports, and consult with and train the
24 qualified contractor's personnel in order to assist the qualified
25 contractor to obtain a bond for a particular contract and, over time,
26 enhance the competitiveness and self-sufficiency of the qualified
27 contractor. This assistance is only available to a qualified
28 contractor on a one-time basis.

29 NEW SECTION. **Sec. 30.** INITIAL EVALUATION. Based upon standards
30 established by the program supervisor, an initial evaluation of a
31 qualified contractor's application for professional services assistance
32 shall be performed by a program representative to determine whether the
33 applicant is eligible to receive a grant and whether the applicant has
34 sufficient capability to benefit from the grant, the level of such
35 capability, and the applicant's corresponding need for the types of
36 assistance provided for in section 29 of this act. After the initial

1 evaluation, applications shall be forwarded to the program supervisor
2 together with an initial evaluation statement.

3 NEW SECTION. **Sec. 31.** APPLICATION APPROVAL. If the program
4 supervisor determines that an applicant is a qualified contractor that
5 could benefit from professional services assistance the program
6 supervisor shall approve the application. If the application is
7 approved, the program supervisor has the authority to enter into an
8 agreement with the qualified contractor. Under the terms of this
9 agreement the qualified contractor shall abide by the program rules and
10 fully cooperate and comply with the advice and recommendations of the
11 program supervisor and any professionals rendering service pursuant to
12 section 29 of this act. The qualified contractor also agrees that a
13 failure to cooperate, comply, or abide by the rules may result in the
14 loss of services and the program supervisor's demand for reimbursement
15 of the grant. Upon agreement to these conditions by the qualified
16 contractor, the program supervisor shall provide a grant in an amount
17 deemed sufficient by the program supervisor to meet the needs of the
18 qualified contractor, but in no case may any single contractor receive
19 more than two thousand five hundred dollars in grant-related services
20 from the program.

21 NEW SECTION. **Sec. 32.** GRANT MONITORING. The program supervisor
22 shall administer all grants issued to assist qualified contractors and
23 shall monitor the performance of all grant recipients in order to
24 provide such further assistance as is necessary to ensure that all
25 program requirements are met and that the program's purpose is
26 fulfilled. However, nothing in this chapter should be construed to
27 restrict the rendering of program services to any qualified contractor
28 over and above the services provided by the grant.

29 NEW SECTION. **Sec. 33.** BOND GUARANTEE APPLICATIONS. If a
30 qualified contractor makes a bond application to an approved surety
31 company for a public or private contracting job, but fails to obtain
32 the bond because the contractor is unable to meet the requirements of
33 the surety company on such bonding contracts, for reasons other than
34 nonperformance, and if the approved surety company applies to the
35 program supervisor to have the bond issued by the program, then the

1 program supervisor may provide a bond guarantee of up to seventy-five
2 thousand dollars on behalf of the qualified contractor.

3 NEW SECTION. **Sec. 34.** BOND GUARANTEE APPROVAL. Upon receipt of
4 an approved surety company's application for a bond guarantee, the
5 program supervisor shall review the application in order to verify
6 that:

7 (1) The bond being sought by the qualified contractor is needed;

8 (2) The contracting job is within the qualified contractor's
9 capability to perform; and

10 (3) The qualified contractor has not been denied a bond due to
11 nonperformance.

12 Based upon subsections (1) through (3) of this section, the
13 program supervisor shall either approve or disapprove the application.
14 If the application is approved, the program supervisor has the
15 authority to enter into a contract with the approved surety company.
16 Under the terms of this contract the approved surety company shall
17 enter into a contract with, and issue the required bond to, the
18 qualified contractor at the standard fees and charges usually made by
19 the company for the type and amount of the bond issued. The bond
20 issued by the approved surety company shall be guaranteed by money in
21 the program fund. In return, the approved surety company agrees to
22 promptly remit to the program supervisor all fees, charges, or other
23 amounts collected by the company from the qualified contractor, except
24 for the standard fees and charges the program supervisor has agreed the
25 company may retain. The approved surety company also agrees to make a
26 reasonable, good faith effort to pursue and collect any claims it may
27 have against a qualified contractor who defaults on a bond guaranteed
28 by the program, including, but not limited to, the institution of legal
29 proceedings against the defaulting contractor, prior to collecting on
30 the guarantee.

31 NEW SECTION. **Sec. 35.** FUNDING. The funds used to provide
32 professional services grants, guarantee bonds, and to pay defaulted
33 bonds pursuant to sections 36 through 40 of this act shall be all the
34 money in the program fund not otherwise expended, encumbered, or
35 allocated for the purposes provided in this chapter. However, the full
36 faith and credit of the state of Washington shall not be used to secure

1 the bonds and the state's liability shall be limited to the money
2 appropriated by the legislature.

3 NEW SECTION. **Sec. 36.** PROGRAM FUND ESTABLISHED. The Washington
4 state small business bonding assistance program fund is created as a
5 special fund in the state treasury. Any amounts appropriated, donated,
6 or granted to the program shall be deposited and credited to the
7 program fund established in this section. All fees, charges, or other
8 amounts collected by the program supervisor from the issuance of bond
9 guarantees as provided in section 34 of this act shall be deposited
10 immediately upon receipt into the program fund. The money in the fund
11 shall be appropriated by the legislature to be used solely as provided
12 for in this chapter.

13 NEW SECTION. **Sec. 37.** FUND SUPPORT. The program supervisor shall
14 solicit funds and support from surety companies and other public and
15 private entities with an interest in assisting Washington's small
16 business contractors and may enter into agreements with such companies
17 and interests by which they provide funds to the program fund to be
18 matched with funds from nonstate sources.

19 NEW SECTION. **Sec. 38.** MATCHING FUNDS. Prior to the money being
20 placed in the state general fund, an amount equal to money received by
21 the program supervisor from surety companies as payment on performance
22 bonds guaranteed by the program pursuant to section 34 of this act
23 shall be credited to the program fund established in this chapter.

24 NEW SECTION. **Sec. 39.** UNEXPENDED FUNDS. All unexpended and
25 unencumbered money in the program fund at the end of the fiscal year
26 shall remain in the program fund. The money in the program fund shall
27 be invested by the state treasurer in the same manner as money in the
28 state general fund and interest earned on the investment of the money
29 shall be credited to the program fund.

30 NEW SECTION. **Sec. 40.** FUND USE RESTRICTIONS. The money in the
31 program fund shall only be used as follows:

32 (1) To pay the salary and related benefits of the program
33 supervisor provided for in this chapter;

1 (2) To be disbursed by the program supervisor to enable qualified
2 contractors to obtain services provided for in this chapter; and

3 (3) To guarantee bonds issued pursuant to sections 34 and 35 of
4 this act and to pay such bonds in the event of default by a qualified
5 contractor.

6 NEW SECTION. **Sec. 41.** The sum of one million dollars, or as much
7 thereof as may be necessary, is appropriated for the biennium ending
8 June 30, 1995, from discretionary federal funds, as determined by the
9 office of financial management, to the department of trade and economic
10 development for the bonding assistance program under this act.

11 V. MISCELLANEOUS

12 **Sec. 42.** RCW 43.31.091 and 1990 c 297 s 9 are each amended to read
13 as follows:

14 The business assistance center and its powers and duties shall be
15 terminated on June 30, (~~(1993)~~) 1995, as provided in RCW 43.31.092.
16 This termination is subject to the procedures required by chapter
17 43.131 RCW.

18 **Sec. 43.** RCW 43.31.092 and 1990 c 297 s 10 are each amended to
19 read as follows:

20 The following acts or parts of acts, as now existing or hereafter
21 amended, are each repealed, effective June 30, (~~(1994)~~) 1996:

- 22 (1) Section 2, chapter 348, Laws of 1987 and RCW 43.31.083;
23 (2) Section 11, chapter 466, Laws of 1985, section 3, chapter 348,
24 Laws of 1987, section 2, chapter 430, Laws of 1989 and RCW 43.31.085;
25 (3) Section 4, chapter 348, Laws of 1987 and RCW 43.31.087; and
26 (4) Section 5, chapter 348, Laws of 1987 and RCW 43.31.089.

27 NEW SECTION. **Sec. 44.** This chapter may be known and cited as the
28 omnibus minority and women-owned businesses assistance act.

29 NEW SECTION. **Sec. 45.** Sections 1, 2, 10 through 17, and 20
30 through 40 of this act shall constitute a new chapter in Title 43 RCW.

31 NEW SECTION. **Sec. 46.** CAPTIONS NOT LAW. Part headings and
32 section captions as used in this act do not constitute part of the law.

1 NEW SECTION. **Sec. 47.** If any provision of this act or its
2 application to any person or circumstance is held invalid, the
3 remainder of the act or the application of the provision to other
4 persons or circumstances is not affected.

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