
HOUSE BILL 1493

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By Representatives Wineberry, Forner, Shin, Sheldon, Leonard, Basich, Locke, J. Kohl, Morris and Anderson

Read first time 01/29/93. Referred to Committee on Trade, Economic Development & Housing.

1 AN ACT Relating to minority and women-owned businesses; amending
2 RCW 43.31.085, 43.31.055, and 39.19.030; and adding a new chapter to
3 Title 43 RCW.

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

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

7 (1) The legislature finds that discrimination is in part
8 responsible for:

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

11 (b) The limited and unequal opportunity minority and women
12 entrepreneurs and business owners have to procure small business
13 financing; and

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

16 (2) The legislature further finds that:

17 (a) Many minority and women entrepreneurs and business owners lack
18 training in how to establish and operate a business. This lack of

1 training inhibits their competitiveness when they apply for business
2 loans, bonds, and contracts;

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

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

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

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

29 (b) Make public works and construction projects and public facility
30 concessions accessible to a greater number of minority and women-owned
31 businesses;

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

37 (d) Provide professional services assistance grants and bond
38 guarantees on behalf of qualified contractors in order to provide the
39 maximum practicable opportunity for minority and women-owned

1 contracting businesses to participate in the Washington state economy
2 by bidding and completing various public and private contracting jobs.

3 I. EDUCATION AND TECHNICAL ASSISTANCE

4 **Sec. 2.** RCW 43.31.085 and 1989 c 430 s 2 are each amended to read
5 as follows:

6 MARKETING, FINANCE, AND MANAGEMENT ASSISTANCE. The business
7 assistance center shall:

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

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

11 (3) Provide comprehensive referral services to businesses requiring
12 government assistance.

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

16 (5) Aggressively promote business awareness of the state's business
17 programs and distribute information on the services available to
18 businesses.

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

22 (7) The business assistance center shall work with other federal,
23 state, and local agencies and organizations to ensure that business
24 assistance services including small business, trade services, and
25 distressed area programs are provided in a coordinated and cost-
26 effective manner.

27 (8) Provide technical assistance to minority and women-owned
28 business enterprises in a variety of areas, including, but not limited
29 to, marketing, finance, and management.

30 (9) In collaboration with the child care coordinating committee in
31 the department of social and health services, prepare and disseminate
32 information on child care options for employers and the existence of
33 the program. As much as possible, and through interagency agreements
34 where necessary, such information should be included in the routine
35 communications to employers from (a) the department of revenue, (b) the
36 department of labor and industries, (c) the department of community
37 development, (d) the employment security department, (e) the department

1 of trade and economic development, (f) the small business development
2 center, and (g) the department of social and health services.

3 ~~((+9+))~~ (10) In collaboration with the child care coordinating
4 committee in the department of social and health services, compile
5 information on and facilitate employer access to individuals, firms,
6 organizations, and agencies that provide technical assistance to
7 employers to enable them to develop and support child care services or
8 facilities.

9 ~~((+10+))~~ (11) Actively seek public and private money to support the
10 child care facility fund described in RCW 43.31.502, staff and assist
11 the child care facility fund committee as described in RCW 43.31.504,
12 and work to promote applications to the committee for loan guarantees,
13 loans, and grants.

14 **Sec. 3.** RCW 43.31.055 and 1985 c 466 s 6 are each amended to read
15 as follows:

16 EXPORT ASSISTANCE. The department shall assist in expanding the
17 state's role as a major international gateway for landing and
18 transshipping goods bound for domestic and foreign markets. The
19 department shall identify and work with Washington businesses which can
20 utilize state assistance to increase domestic and foreign exports and
21 are capable of increasing production of goods and services, including
22 but not limited to manufactured goods, raw materials, services, and
23 retail trade. The department shall participate in trade and industry
24 exhibitions both foreign and domestic to promote and market state
25 products and services. The department's activities shall include, but
26 not be limited to:

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

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

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

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

36 (5) Identifying, when resources permit, domestic and international
37 markets in which minority and women-owned businesses may have an
38 advantage and providing technical assistance to those minority and

1 women-owned businesses with the capacity to participate in
2 international trade.

3 NEW SECTION. **Sec. 4.** STANDARD COURSE OF INSTRUCTION. The
4 department of trade and economic development may contract with
5 associate development organizations to establish a standard course of
6 instruction available to resident minority and women small business
7 owners and entrepreneurs. The instruction shall be intensive,
8 practical training courses in financing, marketing, managing,
9 accounting, and recordkeeping for a small business, with an emphasis on
10 federal, state, local, or private programs available to assist small
11 businesses. The business assistance center shall appoint professional
12 instructors, with practical knowledge and experience on how to start
13 and operate a business, to teach the courses. Instruction shall be
14 offered in major population centers throughout the state at times and
15 locations which are convenient for minority and women small business
16 owners and entrepreneurs.

17 II. FAIRNESS IN CONTRACTING AND CONCESSIONS

18 **Sec. 5.** RCW 39.19.030 and 1989 c 175 s 85 are each amended to read
19 as follows:

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

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

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

34 (2) Develop a comprehensive plan insuring that qualified minority
35 and women-owned and controlled businesses are provided an opportunity

1 to participate in public contracts for public works and goods and
2 services;

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

6 (4) Establish annual overall goals for participation by qualified
7 minority and women-owned and controlled businesses for each state
8 agency and educational institution to be administered on a contract-by-
9 contract basis or on a class-of-contracts basis;

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

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

25 ~~((+6+))~~ (7) Develop, implement, and operate a system of monitoring
26 compliance with this chapter;

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

38 ~~((+8+))~~ (9) Submit an annual report to the governor and the
39 legislature outlining the progress in implementing this chapter;

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

7 (5) The director shall designate a committee member as committee
8 chairperson. The committee may select such other officers as it deems
9 appropriate. Four members of the committee constitute a quorum. Four
10 affirmative votes are necessary for the transaction of business or the
11 exercise of any power or function of the committee.

12 (6) Committee members serve without compensation, but are entitled
13 to reimbursement for actual and necessary expenses incurred in the
14 performance of official duties in accordance with RCW 43.03.050 and
15 43.03.060.

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

20 NEW SECTION. **Sec. 8.** LOAN FUND ESTABLISHED. There is established
21 the Washington state minority and women-owned businesses loan fund.
22 The fund is an account in the state treasury. All loan payments of
23 principal and interest which are transferred under section 10 of this
24 act shall be deposited into the account. Moneys in the account may be
25 spent without legislative appropriation for loans under this chapter.
26 However, any expenditures of these moneys shall conform to federal law.
27 No more than five percent of the fund balance may be spent to
28 administer the fund during the biennium. The department shall make
29 available for use by the committee an amount of federal funds equal to
30 the amount of state funds transferred or appropriated to the department
31 for purposes of supplementing the department's federal funds.

32 NEW SECTION. **Sec. 9.** LENDING AUTHORITY ESTABLISHED. Subject to
33 the restrictions contained in this chapter, the committee is authorized
34 to approve applications of qualified business owners and qualified
35 entrepreneurs for loans from the fund. Applications approved by the
36 committee under this chapter shall conform to applicable federal
37 requirements.

1 NEW SECTION. **Sec. 10.** LIMITATIONS ON LENDING AUTHORITY. (1) The
2 committee shall receive and approve loan applications on a quarterly
3 basis for each fiscal year. Department staff shall process and assist
4 in the preparation of applications. Each application shall show in
5 detail the nature of the business and the purpose intended for the
6 loan. Each application shall include a credit analysis of the business
7 to receive the loan. The committee chairperson may convene the
8 committee on short notice to respond to applications of an immediate
9 nature.

10 (2) The committee may only approve an application providing a loan
11 to a qualified business owner or qualified entrepreneur that:

12 (a) Will likely lead to the establishment of a new business or
13 improve an existing business;

14 (b) Would probably not be completed without the loan because other
15 capital or financing at feasible terms is unavailable or the return on
16 investment is inadequate.

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

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

24 (5) To the extent permitted under federal law the committee shall
25 require applicants to provide for the transfer of all payments of
26 principal and interest on loans to the fund created under this chapter.
27 Under circumstances where the federal law does not permit the committee
28 to require such transfer, the committee shall give priority to
29 applicants who provide for the transfer.

30 NEW SECTION. **Sec. 11.** OVERSIGHT. The committee shall keep
31 performance records on the loans made and the successes of the
32 businesses that receive loans, and the committee shall develop
33 performance standards for judging the effectiveness of its lending
34 practices. The committee shall report to the fiscal committees in the
35 legislature each January.

36 NEW SECTION. **Sec. 12.** COMMITTEE SUPPORT. The department shall
37 provide adequate and appropriate staff to the committee. A record of

1 committee proceedings shall be maintained by the department. The
2 department is encouraged to work with local development organizations
3 to promote applications for loans by the fund. The department shall
4 also provide assistance to local development organizations and lending
5 organizations to identify viable projects for consideration by the
6 committee. The department shall adopt such rules as are appropriate
7 for the committee to carry out its authority under this chapter.

8 IV. MISCELLANEOUS

9 NEW SECTION. **Sec. 13.** CAPTIONS NOT LAW. Section headings as used
10 in this act do not constitute part of the law.

11 NEW SECTION. **Sec. 14.** This chapter may be known and cited as
12 the omnibus minority and women-owned businesses assistance act.

13 NEW SECTION. **Sec. 15.** Sections 1, 4, and 6 through 14 of this
14 act shall constitute a new chapter in Title 43 RCW.

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