

S. 1799

A. 4810

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

February 6, 2009

IN SENATE -- Introduced by Sen. HASSELL-THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

IN ASSEMBLY -- Introduced by M. of A. BRODSKY -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to establishing state agency goal submission procedure

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Section 310 of the executive law is amended by adding a new
2 subdivision 18 to read as follows:

3 18. "GOAL" SHALL MEAN THE AIM OF ENSURING THAT CERTIFIED
4 MINORITY-OWNED AND WOMEN-OWNED BUSINESS ENTERPRISES BE GIVEN THE OPPOR-
5 TUNITY FOR MEANINGFUL PARTICIPATION IN EMPLOYMENT ON AND IN THE PERFORM-
6 ANCE OF STATE CONTRACTS.

7 S 2. The executive law is amended by adding two new sections 315-a and
8 315-b to read as follows:

9 S 315-A. STATE AGENCY GOAL SUBMISSION PROCEDURE. ALL STATE AGENCIES
10 SHALL SUBMIT A GOAL PLAN PURSUANT TO THE FOLLOWING:

11 1. THE AGENCY GOAL PLAN SHALL BE SUBMITTED ANNUALLY IN SUCH FORM AS
12 MAY BE REQUIRED BY THE DIRECTOR, ON APRIL FIRST OF EACH YEAR BUT ONLY
13 AFTER CONDUCTING A PUBLIC MEETING OR A PUBLIC HEARING ON THE PROPOSED
14 GOAL PLAN, WITH STAKEHOLDERS, PRIOR TO THE SUBMISSION OF THE GOAL PLAN.

15 2. THE DIRECTOR SHALL NOTIFY THE STATE AGENCY IN WRITING AS TO WHETHER
16 ITS AGENCY GOAL PLAN IS ACCEPTED OR REJECTED BASED UPON A DETERMINATION
17 AS TO WHETHER THE PURPOSES OF THIS ARTICLE HAVE BEEN MET. IF THE DIREC-
18 TOR REJECTS AN AGENCY GOAL PLAN, THE NOTICE OF REJECTION SHALL STATE THE
19 REASONS FOR THE REJECTION AND ANY MODIFICATIONS TO THE AGENCY GOAL PLAN
20 WHICH WOULD RENDER THE PLAN ACCEPTABLE.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 3. A STATE AGENCY SHALL SUBMIT ITS AGENCY GOAL PLAN WITHIN THIRTY DAYS
2 OF RECEIPT OF A NOTICE OF REJECTION INCORPORATING RECOMMENDED MODIFICA-
3 TIONS OR STATING REASONS WHY MODIFICATIONS RECOMMENDED BY THE DIRECTOR
4 CANNOT BE INCORPORATED IN THE STATE AGENCY'S ANNUAL GOAL PLAN.

5 4. THE STATE AGENCY'S GOAL PLAN MAY BE, FROM TIME TO TIME, AMENDED BY
6 THE STATE AGENCY IN ACCORDANCE WITH THE AVAILABILITY OF FUNDS TO THE
7 STATE AGENCY IN A PARTICULAR FISCAL YEAR AND, UPON AMENDMENT, THE AGENCY
8 GOAL PLAN SHALL BE RESUBMITTED TO THE DIRECTOR FOR APPROVAL IN ACCORD-
9 ANCE WITH SUBDIVISIONS TWO AND THREE OF THIS SECTION.

10 5. ANY STATE AGENCY WITH A GOAL PLAN FOR EITHER MINORITY-OWNED OR
11 WOMEN-OWNED BUSINESS ENTERPRISE, OR BOTH, SUBMITTED WITH A GOAL OF LESS
12 THAN FIVE PERCENT MUST ISSUE AN EXPLANATORY MEMORANDUM DESCRIBING THE
13 RATIONALE FOR SUCH GOAL.

14 6. ANY STATE AGENCY SUBMITTING A GOAL PLAN WITH A GOAL LESS THAN THE
15 PREVIOUS YEAR'S GOAL SHALL CONVENE A PUBLIC HEARING NOT LESS THAN
16 FORTY-FIVE DAYS SUBSEQUENT TO THE SUBMISSION OF SUCH GOAL PLAN.

17 S 315-B. STATE AGENCY COMPLIANCE REPORTING. 1. STATE AGENCIES SHALL
18 SUBMIT A COMPLIANCE REPORT IN THE FORM AND MANNER REQUIRED BY THE DIREC-
19 TOR BY OCTOBER FIRST, TWO THOUSAND NINE, AND QUARTERLY THEREAFTER ON THE
20 FIFTEENTH DAY OF JANUARY, APRIL, JULY, AND OCTOBER OF EACH YEAR. THE
21 COMPLIANCE REPORT MAY INCLUDE, BUT IS NOT LIMITED TO, THE FOLLOWING
22 INFORMATION REGARDING STATE CONTRACTS AWARDED IN THE INTERVAL SINCE THE
23 LAST COMPLIANCE REPORT:

24 (A) THE NUMBER OF STATE CONTRACTS AWARDED, THE MAXIMUM DOLLAR AMOUNT
25 OBLIGATED PURSUANT TO THOSE CONTRACTS, AND TOTAL EXPENDITURES PURSUANT
26 TO ALL SUCH CONTRACTS;

27 (B) THE NUMBER OF STATE CONTRACTS AWARDED TO CERTIFIED MINORITY-OWNED
28 OR WOMEN-OWNED BUSINESS ENTERPRISES, THE MAXIMUM DOLLAR AMOUNT OBLIGATED
29 PURSUANT TO ALL THOSE CONTRACTS, AND THE TOTAL EXPENDITURES MADE PURSU-
30 ANT TO ALL SUCH CONTRACTS;

31 (C) THE NUMBER OF STATE CONTRACTS AWARDED WHICH INCLUDE A UTILIZATION
32 PLAN FOR BUSINESS PARTICIPATION BY CERTIFIED MINORITY-OWNED OR
33 WOMEN-OWNED BUSINESS ENTERPRISES, THE MAXIMUM AMOUNT OBLIGATED PURSUANT
34 TO THOSE CONTRACTS, AND THE TOTAL EXPENDITURE MADE TO ALL SUCH
35 CONTRACTS;

36 (D) THE NUMBER OF STATE CONTRACTS AWARDED UPON WHICH A WAIVER WAS
37 GRANTED FROM GOALS REQUIRED BY THE CONTRACTS FOR BUSINESS PARTICIPATION
38 BY CERTIFIED MINORITY-OWNED OR WOMEN-OWNED BUSINESS ENTERPRISES AND THE
39 MAXIMUM AMOUNT OBLIGATED PURSUANT TO THOSE CONTRACTS;

40 (E) THE NUMBER OF STATE CONTRACTS AWARDED WHICH REQUIRED GOALS FOR
41 EMPLOYMENT OF MINORITY GROUP MEMBERS AND WOMEN;

42 (F) THE NUMBER OF STATE CONTRACTS AWARDED FOR WHICH WAIVERS OF EMPLOY-
43 MENT GOALS REQUIRED BY THE CONTRACTS HAVE BEEN GRANTED;

44 (G) THE INFORMATION REQUIRED BY PARAGRAPHS (A) THROUGH (F) OF THIS
45 SUBDIVISION OF THE REPORTING QUARTER;

46 (H) A JUSTIFICATION OF ANY WAIVERS GRANTED PURSUANT TO PARAGRAPHS (D)
47 AND (F) OF THIS SUBDIVISION; AND

48 (I) A STATE AGENCY DETERMINATION OF WHETHER IT IS IN COMPLIANCE WITH
49 ITS GOAL PLAN BASED ON INFORMATION PROVIDED IN THE COMPLIANCE REPORT OR,
50 UPON A STATE AGENCY'S DETERMINATION THAT IT IS NOT IN COMPLIANCE WITH
51 ITS GOAL PLAN, A DESCRIPTION OF ACTIONS WHICH WILL BE TAKEN TO COMPLY
52 WITH THE STATE AGENCY GOAL PLAN.

53 2. IF THE COMPLIANCE REPORTS SUBMITTED BY STATE AGENCIES PURSUANT TO
54 THIS SECTION INDICATE THAT THE STATE AGENCY HAS BEEN OUT OF COMPLIANCE
55 FOR EIGHT CONSECUTIVE QUARTERS, THE DIRECTOR SHALL IMMEDIATELY CONDUCT
56 AN INVESTIGATION AS TO THE LACK OF COMPLIANCE. SUCH INVESTIGATION SHALL

1 INCLUDE, BUT NOT BE LIMITED TO, A PUBLIC HEARING JOINTLY CONVENED BY THE
2 OFFICE AND THE STATE AGENCY FOUND TO BE OUT OF COMPLIANCE.

3 S 3. This act shall take effect immediately; provided, however, that
4 the amendments to article 15-A of the executive law made by sections one
5 and two of this act shall not affect the expiration of such article and
6 shall be deemed to expire therewith.