STATE OF NEW YORK

3033

2019-2020 Regular Sessions

IN SENATE

February 1, 2019

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, in relation to the effectiveness thereof; establishing a blue ribbon commission to study the minority and women-owned business enterprise program, and establishing a mentor-protege training program; and making an appropriation therefor; and providing for the repeal of certain provisions upon expiration thereof

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The opening paragraph of subdivision (h) of section 121 of chapter 261 of the laws of 1988, amending the state finance law and other laws relating to the New York state infrastructure trust fund, as amended by section 1 of part OOO of chapter 59 of the laws of 2018, is amended to read as follows:

The provisions of sections sixty-two through sixty-six of this act shall expire **and be deemed repealed** on December thirty-first, two thousand [~~nineteen~~] **twenty-four**, except that:

§ 2. 1. A blue ribbon commission is hereby established to examine, evaluate and make recommendations on the minority and women-owned business enterprise (hereinafter "MWBE") program. The commission shall be known as the MWBE blue ribbon commission. The subject areas to be examined by the commission shall include, but not be limited to, the following:

(a) the two thousand sixteen disparity study as specified in subdivision one of section three hundred twelve-a of the executive law;

(b) article fifteen-A of the executive law, and other related laws, rules and regulations and to make recommendations on changes to the laws that would result in more meaningful and robust MWBE participation on contracts;

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

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(c) the certification process, as specified in section three hundred fourteen of the executive law;

(d) how MWBE performance compares to the goals set by the program;

(e) how waivers are granted, as specified in subdivisions six and seven of section three hundred thirteen of the executive law;

(f) any barriers to businesses owned by a minority and/or woman from becoming MWBE certified, including but not limited to personal net worth and small business thresholds; and

(g) examining whether or not the scope of contracts with goals attached should be altered.

2. (a) The commission shall be composed of nine voting members. The members, each to serve a term of two years, shall be appointed as follows: three members shall be appointed by the governor, of which one member shall be from the MWBE community to serve as chair of the commission, one member shall be from the legal community with experience in MWBE program enforcement, and one member shall be a local government official from a local government with a local MWBE program; two members shall be appointed by the temporary president of the senate; two members shall be appointed by the speaker of the assembly; one member shall be appointed by the minority leader of the senate; and one member shall be appointed by the minority leader of the assembly.

(b) In addition to these voting members, the commission shall have six non-voting, ex officio members. The following government agencies or officials shall appoint one ex officio member each: the state comptroller; the executive director of the division of minority and women's business development; the chief diversity officer of the state; the metropolitan transportation authority; the dormitory authority of the state of New York; and the port authority of New York and New Jersey.

3. The commission shall meet at least six times. The meetings of the commission shall be held at the call of the chairperson or whenever five or more members so request. The locations of the meetings shall provide for practicable representation of different geographic areas of the state. The first meeting shall be within ninety days of the effective date of this section. A majority of the members of the commission shall constitute a quorum. Approval of any matter shall require the affirmative vote of a majority of the members voting thereon. Members may designate and authorize another person to act for him or her by proxy. Proxies shall be revocable at the pleasure of the member executing it.

4. The deliberations, meetings and other proceedings of the commission and any committee thereof shall be governed by article seven of the public officers law. Any one or more members may participate in a meeting by means of a conference telephone, conference video or similar communications equipment allowing all persons participating in the meeting to hear each other at the same time. Participation by such means shall constitute presence in person at a meeting. At any meetings of the commission conducted by means of a conference telephone, conference video or similar communications equipment, other than executive sessions, the public shall be given an opportunity to listen. If a meeting other than an executive session is to be conducted by means of a conference telephone, conference video or similar communications equipment, the public notice for the meeting shall inform the public that such equipment will be used, and identify the means by which the public may listen to such meeting.

5. The commission may form such advisory committees as it deems necessary, convenient, or desirable to advise and assist in performing the duties conferred by this act.

6. The commission shall hold at least four public hearings where members of the public shall be provided an opportunity to present oral and/or written testimony relevant to the commission's mission.

7. The members of the commission shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties pursuant to this act. The division of minority and women's business development shall staff the commission and the functions and duties shall be accomplished within available funds appropriated thereto.

8. The commission shall issue an interim report to the governor and the legislature of its findings, conclusions and recommendations one year after the effective date of this section and a final report two years after the effective date of this section, and shall submit with such reports such legislative proposals as it deems necessary to implement its recommendations.

§ 3. The empire state development corporation shall create a fund to promote, establish, and support mentor-protege training programs, and union transition training programs to assist non-union minority and women-owned business enterprises to perform as union contractors. The empire state development corporation shall distribute grants from such fund throughout the state, within each regional economic development council zone, and in proportion to the population of each zone. Such grants shall be eligible and distributed to organizations, including but not limited to, labor-affiliated organizations and community-based organizations through a noncompetitive grant program to be administered by the director of the minority and women's business division within the empire state development corporation. The empire state development corporation shall promulgate rules and regulations for the distribution of such grants, which shall require mentor businesses to demonstrate a tangible benefit to protege businesses.

§ 4. The sum of twenty-five million dollars ($25,000,000), or so much thereof as may be necessary, is hereby appropriated to the empire state development corporation out of any moneys in the state treasury in the general fund to create a fund to promote, establish, and support mentor-protege training programs and union transition training programs, not otherwise appropriated, and made immediately available, for the purpose of carrying out the provisions of section three of this act. Such moneys shall be payable on the audit and warrant of the comptroller on vouchers certified or approved by the empire state development corporation in the manner prescribed by law.

§ 5. This act shall take effect immediately; provided, however that sections two, three and four shall take effect on the thirtieth day after this act shall have become a law; provided, further, that section two of this act shall expire and be deemed repealed two years after such section takes effect. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such effective date.