# STATE OF NEW YORK

3943

2021-2022 Regular Sessions

# IN SENATE

February 1, 2021

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Procurement and Contracts

AN ACT to amend the executive law and the state finance law, in relation to encouraging the participation of minority and women-owned business enterprises in state contracts

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

Section 1. Subdivision 2-a of section 313 of the executive law is amended by adding a new paragraph (k) to read as follows:

**(k) require that each state contract avoids unnecessary and unjustified bundling of contract requirements that precludes minority and women-owned business enterprises' participation in procurements as prime contractors. For purposes of this paragraph, "unnecessary and unjustified" shall mean not required, not needed and with no legitimate reason.**

§ 2. Section 139-g of the state finance law is amended by adding a new subdivision (e) to read as follows:

**(e) require that each state contract avoids unnecessary and unjustified bundling of contract requirements that precludes small and certified women and minority-owned business' participation in procurements as prime contractors. For purposes of this subdivision, "unnecessary and unjustified" shall mean not required, not needed and with no legitimate reason.**

§ 3. Subdivision 4 of section 313 of the executive law, as amended by chapter 96 of the laws of 2019, is amended to read as follows:

4. In the implementation of this section, the contracting agency shall (a) consult the findings contained within the disparity study evidencing relevant industry specific disparities in the utilization of minority and women-owned businesses relative to their availability;

(b) implement a program that will enable the agency to evaluate each contract to determine the appropriate goal for participation by minority-owned business enterprises and women-owned business enterprises; **and**

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

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(c) [~~consider where practicable, the severability of construction projects and other bundled contracts; and~~

~~(d)~~] consider compliance with the requirements of any federal law concerning opportunities for minority and women-owned business enterprises which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of any such law duplicate or conflict with the provisions hereof and if such duplication or conflict exists, the contracting agency shall waive the applicability of this section to the extent of such duplication or conflict.

§ 4. This act shall take effect immediately; provided however, that the amendments to section 313 of the executive law made by sections one and three of this act shall not affect the repeal of such article and shall be deemed repealed therewith.