STATE OF NEW YORK

5631

2023-2024 Regular Sessions

IN SENATE

March 9, 2023

Introduced by Sens. JACKSON, COMRIE, HOYLMAN-SIGAL, MYRIE, SALAZAR -- read twice and ordered printed, and when printed to be committed to the Committee on Cultural Affairs, Tourism, Parks and Recreation

AN ACT to amend the arts and cultural affairs law, the cannabis law, the economic development law, the correction law, the education law, the environmental conservation law, the executive law, the public authorities law, the transportation law, the facilities development corporation act, the New York state medical care facilities finance agency act and the New York state urban development corporation act, in relation to replacing instances of the words or variations of the words American Indian with the words Indigenous peoples or a variation thereof

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

Section 1. The opening paragraph of subparagraph (i) of paragraph (c) of subdivision 12 of section 3.07 of the arts and cultural affairs law, as amended by chapter 255 of the laws of 1988, is amended to read as follows:

In the performance of projects pursuant to this section, minority and women-owned business enterprises shall be given the opportunity for meaningful participation. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock or other voting interest is owned by citizens or permanent resident aliens who are Black, Hispanic, Asian, [~~American Indian~~] **Indigenous peoples**, Pacific Islander, or Alaskan native, and such ownership interest is real, substantial and continuing and has the authority to independently control the day to day business decisions of the entity for at least one year; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at

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

LBD09434-01-3

least fifty-one per centum of the stock to other voting interests of which is owned by citizens or permanent resident aliens who are women, and such ownership interest is real, substantial and continuing and has the authority to independently control the day to day business decisions of the entity for at least one year.

§ 2. Subparagraph (ii) of paragraph (b) of subdivision 5 of section 87 of the cannabis law is amended to read as follows:

(ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either [~~Indian~~] Indigenous or Hispanic origin, regardless of race;

§ 3. Subdivision 3 and paragraphs (b) and (d) of subdivision 4 of section 210 of the economic development law, as amended by chapter 669 of the laws of 2022, are amended to read as follows:

3. "Minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business at least fifty-one per centum of the stock of which is owned by, citizens or permanent resident noncitizens who are Black, Hispanic, Asian or [~~American Indian~~] Indigenous peoples, Pacific Islander or Alaskan Native where such ownership interest is real, substantial and continuing and where such persons have the authority to independently control the day-to-day business decisions of the entity.

(b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either [~~Indian~~] Indigenous peoples or Hispanic origin, regardless of race;

(d) [~~American Indian~~] Indigenous peoples or Alaskan Native persons having origins in any of the original peoples of North America.

§ 4. Subdivision 1 of section 29 of the correction law, as amended by chapter 322 of the laws of 2021, is amended to read as follows:

1. The department shall continue to collect, maintain, and analyze statistical and other information and data with respect to persons subject to the jurisdiction of the department, including but not limited to: (a) the number of such persons: placed in the custody of the department, assigned to a specific department program, accorded community supervision and declared delinquent, recommitted to a state correctional institution upon revocation of community supervision, or discharged upon maximum expiration of sentence; (b) the criminal history of such persons; (c) the social, educational, and vocational circumstances of any such persons; (d) the institutional and community supervision programs and the behavior of such persons; and, (e) the military background and circumstances, if such person served in the United States armed forces. Provided, however, in the event any statistical information on the ethnic background of the incarcerated individual population of a correctional facility or facilities is collected by the department, such statistical information shall contain, but not be limited to, the following ethnic categories: (i) Caucasian; (ii) Asian; (iii) [~~American Indian~~] Indigenous peoples; (iv) Afro-American/Black; and (v) Spanish speaking/Hispanic which category shall include, but not be limited to, the following subcategories consisting of: (1) Puerto Ricans; (2) Cubans; (3) Dominicans; and (4) other Hispanic nationalities.

§ 5. Paragraph a of subdivision 2 of section 341-a of the education law, as added by chapter 171 of the laws of 1987, is amended to read as follows:

a. The test subject's race or ethnicity, including the following groups: Black, White, [~~American Indian~~] Indigenous peoples, Asian, Hispanic or other;

§ 6. The opening paragraph of paragraph a of subdivision 1 of section 52-0113 of the environmental conservation law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

In the performance of projects pursuant to this article minority and women-owned business enterprises shall be given the opportunity for meaningful participation. The department or the office shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this article shall be construed to limit the ability of the department or office to assure that qualified minority and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian or [~~American Indian~~] **Indigenous peoples**, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year.

§ 7. Paragraph (b) of subdivision 8 of section 310 of the executive law, as amended by chapter 96 of the laws of 2019, is amended to read as follows:

(b) Hispanic/Latino persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either [~~Indian~~] **Indigenous** or Hispanic origin, regardless of race;

§ 8. Paragraph (b) of subdivision 6 of section 821 of the executive law, as added by chapter 96 of the laws of 2019, is amended to read as follows:

(b) Hispanic/Latino persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either [~~Indian~~] **Indigenous** or Hispanic origin, regardless of race;

§ 9. The opening paragraph of subdivision 3 of section 1020-v of the public authorities law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

In the performance of projects pursuant to this title, minority and women-owned business enterprises shall be given the opportunity for meaningful participation. The authority shall establish quantifiable standards and measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this title shall be construed to limit the ability of the authority to assure that qualified minority and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business

enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock or other voting interest is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian, [~~American Indian~~] **Indigenous peoples**, Pacific islander, or Alaskan native, and such ownership interest is real, substantial and continuing and has the authority to independently control the day to day business decisions of the entity for at least one year; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock to other voting interests of which is owned by citizens or permanent resident noncitizens who are women, and such ownership interest is real, substantial and continuing and has the authority to independently control the day to day business decisions of the entity for at least one year.

§ 10. Subdivision 3 of section 1045-x of the public authorities law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

3. Any contracting agency empowered to award contracts for design, construction, services or materials shall seek meaningful participation in the performance of contracts by minority business enterprises and shall establish measures and procedures to identify those contracts and items of work for which minority business enterprises may best bid to actively and affirmatively promote and assist their participation so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian, [~~American Indian~~] **Indigenous peoples** or women, and such ownership interest is real, substantial and continuing. The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

§ 11. Subdivision 3 of section 1048-x of the public authorities law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

3. Any contracting agency empowered to award contracts for design, construction, services or materials shall seek meaningful participation in the performance of contracts by minority business enterprises and shall establish measures and procedures to identify those contracts and items of work for which minority business enterprises may best bid to actively and affirmatively promote and assist their participation so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian, [~~American Indian~~] **Indigenous peoples** or women, and such ownership interest is real, substantial and continuing. The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

§ 12. Subdivision 3 of section 1115-x of the public authorities law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

3. Any contracting agency empowered to award contracts for design, construction, services or materials shall seek meaningful participation in the performance of contracts by minority business enterprises and shall establish measures and procedures to identify those contracts and items of work for which minority business enterprises may best bid to actively and affirmatively promote and assist their participation so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian, [~~American Indian~~] **Indigenous peoples** or women, and such ownership interest is real, substantial and continuing. The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

§ 13. Subdivision 3 of section 1197-q of the public authorities law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

3. The authority shall seek meaningful participation in the performance of contracts by minority business enterprises and shall establish measures and procedures to identify those contracts and items of work for which minority business enterprises may best bid to actively and affirmatively promote and assist their participation so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian, [~~American Indian~~] **Indigenous peoples** or women, and such ownership interest is real, substantial and continuing. The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

§ 14. Subdivision 3 of section 1199-v of the public authorities law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

3. Any contracting agency empowered to award contracts for design, construction, services or materials shall seek meaningful participation in the performance of contracts by minority business enterprises and shall establish measures and procedures to identify those contracts and items of work for which minority business enterprises may best bid to actively and affirmatively promote and assist their participation so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian, [~~American Indian~~] **Indigenous peoples** or women, and such ownership interest is real, substantial and continuing. The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

§ 15. Subparagraph (i) of paragraph (a) of subdivision 14 of section 1266-c of the public authorities law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

(i) In the performance of projects pursuant to this title minority and women-owned business enterprises shall be given the opportunity for meaningful participation. The authority provided for in this title shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this title shall be construed to limit the ability of the authority to assure that qualified minority and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian or [~~American Indian~~] **Indigenous peoples**, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this paragraph shall not be construed to limit the ability of any minority or women-owned business enterprise to bid on any contract.

§ 16. Section 1974-d of the public authorities law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

§ 1974-d. Contracts. In connection with development, construction, operations and maintenance contracts for projects of the authority, minority and women-owned business enterprises and minority group members and women shall be given the opportunity for meaningful participation. The authority shall establish measures and procedures to secure meaningful participation by minority and women-owned business enterprises on contracts for projects of the authority. Such measures and procedures shall also promote the employment of minority group members and women on such contracts. For the purposes thereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian or [~~American Indian~~] **Indigenous peoples**, and such ownership interest is real, substantial and continuing and "women-owned business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one percent of the stock of which is owned by citizens or permanent resident noncitizens who are women and such ownership interest is real, substantial and continuing. The provisions of this section shall not be construed to limit the ability of any minority or women-owned business enterprise to bid on any contract. In order to implement the requirements and objectives of this section in connection with such projects, the authority shall be responsible for monitoring compliance with the provisions hereof, providing advice on the availability of competitive

qualified minority and women-owned business enterprises to perform contracts proposed to be awarded, and making recommendations to improve the access of minority and women-owned business enterprises to these contracts.

§ 17. Subdivision 3 of section 2050-v of the public authorities law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

3. The agency in awarding contracts for design, construction, services or materials, shall seek meaningful participation in the performance of contracts by minority business enterprises and shall establish measures and procedures to identify those contracts and items of work for which minority business enterprises may best bid to actively and affirmatively promote and assist their participation so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian, [~~American Indian~~] **Indigenous peoples** or women, and such ownership interest is real, substantial and continuing. The provisions of this subdivision shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

§ 18. Subdivision 4 of section 2799-gggg of the public authorities law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

4. The corporation shall seek meaningful participation by minority business enterprises in the programs of the corporation and shall actively and affirmatively promote and assist their participation in the corporation's programs, so as to facilitate the award of a fair share of contracts to such enterprises. For purposes hereof, "minority business enterprise" shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of publicly owned business, at least fifty-one per centum of the stock of which is owned by, citizens or permanent resident noncitizens who are Black, Hispanic, Asian, [~~American Indian~~] **Indigenous peoples** or women, and such ownership interest is real, substantial and continuing.

§ 19. Subparagraph (ii) of paragraph (d) of subdivision 3 of section 2879 of the public authorities law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

(ii) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American of either [~~Indian~~] **Indigenous** or Hispanic origin, regardless of race;

§ 20. Paragraph a of subdivision 2 of section 428 of the transportation law, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

a. In the performance of transportation infrastructure renewal projects, minority and women-owned business enterprises shall be given the opportunity for meaningful participation. The governor shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the department's construction and procurement program for transportation infrastructure renewal projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this article shall be construed to limit the ability of the governor to

assure that qualified minority and women-owned business enterprises may participate in the transportation infrastructure renewal program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian or [~~American Indian~~] **Indigenous peoples**, and such ownership interest is real, substantial and continuing; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are women, and such ownership interest is real, substantial and continuing.

The provisions of this paragraph shall not be construed to limit the ability of any minority business enterprise to bid on any contract.

§ 21. Paragraph (a) of subdivision 1 of section 9-b of section 1 of chapter 359 of the laws of 1968, constituting the facilities development corporation act, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

(a) Minority and women-owned business enterprises shall be given the opportunity for meaningful participation in all contracts executed by the corporation pursuant to the provisions of this act other than contracts the cost of which is borne solely by a municipality or municipalities. The corporation shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this act shall be construed to limit the ability of the corporation to assure that qualified minority and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian or [~~American Indian~~] **Indigenous peoples**, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this paragraph shall not be construed to limit the ability of any minority or women-owned business enterprise to bid on any contract.

§ 22. Paragraph a of subdivision 1 of section 16-b of section 1 of chapter 392 of the laws of 1973, constituting the New York state medical care facilities finance agency act, as amended by chapter 669 of the laws of 2022, is amended to read as follows:

a. In the performance of projects pursuant to this act minority and women-owned business enterprises shall be given the opportunity for

meaningful participation. The agency shall establish measures and procedures to secure meaningful participation and identify those contracts and items of work for which minority and women-owned business enterprises may best bid to actively and affirmatively promote and assist their participation in the projects, so as to facilitate the award of a fair share of contracts to such enterprises; provided, however, that nothing in this act shall be construed to limit the ability of the agency to assure that qualified minority and women-owned business enterprises may participate in the program. For purposes hereof, minority business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are Black, Hispanic, Asian or [~~American Indian~~] **Indigenous peoples**, Pacific Islander or Alaskan natives and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year; and women-owned business enterprise shall mean any business enterprise which is at least fifty-one per centum owned by, or in the case of a publicly owned business, at least fifty-one per centum of the stock of which is owned by citizens or permanent resident noncitizens who are women, and such ownership interest is real, substantial and continuing and have the authority to independently control the day to day business decisions of the entity for at least one year.

The provisions of this paragraph shall not be construed to limit the ability of any minority or women-owned business enterprise to bid on any contract.

§ 23. Paragraphs (b) and (d) of subdivision 19 of section 3 of section 1 of chapter 174 of the laws of 1968 constituting the New York state urban development corporation act, as added by chapter 839 of the laws of 1987, is amended to read as follows:

(b) Hispanic persons of Mexican, Puerto Rican, Dominican, Cuban, Central or South American descent of either [~~Indian~~] **Indigenous** or Hispanic origin, regardless of race;

(d) [~~American Indian~~] **Indigenous peoples** or Alaskan Native persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification.

§ 24. This act shall take effect immediately, provided, however, that the amendments to subdivision 8 of section 310 of the executive law made by section seven of this act shall not affect the repeal of such section and shall be deemed repealed therewith; provided further that the amendments to subdivision 6 of section 821 of the executive law made by section eight of this act shall not affect the repeal of such section and shall be deemed repealed therewith.