

STATE OF NEW YORK

8284

2025-2026 Regular Sessions

IN SENATE

May 30, 2025

Introduced by Sen. BASKIN -- 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, in relation to the utilization of minority and women-owned business enterprises, service-disabled veteran-owned businesses, small businesses and microbusinesses in construction projects using state funding

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

1 Section 1. The executive law is amended by adding a new article 16-B
2 to read as follows:

3 ARTICLE 16-B

4 MWBE, SDVOB, SMALL BUSINESS AND MICROBUSINESS UTILIZATION

5 IN STATE-FUNDED CONSTRUCTION PROJECTS

6 Section 340. Definitions.

7 341. State division of post-construction commitments and compli-
8 ance.

9 342. Post-construction compliance review board.

10 343. Penalties for non-compliance.

11 § 340. Definitions. As used in this article, the following terms shall
12 have the following meanings:

13 1. "Minority-owned business enterprise" shall mean a business enter-
14 prise, including a sole proprietorship, partnership, limited liability
15 company or corporation that is:

16 (a) at least fifty-one percent owned by one or more minority group
17 members;

18 (b) an enterprise in which such minority ownership is real, substan-
19 tial and continuing;

20 (c) an enterprise in which such minority ownership has and exercises
21 the authority to control independently the day-to-day business decisions
22 of the enterprise;

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

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1 (d) an enterprise authorized to do business in this state and inde-
2 pendently owned and operated;

3 (e) an enterprise owned by an individual or individuals, whose owner-
4 ship, control and operation are relied upon for certification, with a
5 personal net worth that does not exceed fifteen million dollars, and
6 such other amount as the director shall set forth in regulations, as
7 adjusted annually on the first of January for inflation according to the
8 consumer price index of the previous year; and

9 (f) an enterprise that is a small business pursuant to subdivision
10 four of this section.

11 2. "Women-owned business enterprise" shall mean a business enterprise,
12 including a sole proprietorship, partnership, limited liability company
13 or corporation that is:

14 (a) at least fifty-one percent owned by one or more United States
15 citizens or permanent resident noncitizens who are women;

16 (b) an enterprise in which the ownership interest of such women is
17 real, substantial and continuing;

18 (c) an enterprise in which such women ownership has and exercises the
19 authority to control independently the day-to-day business decisions of
20 the enterprise;

21 (d) an enterprise authorized to do business in this state and inde-
22 pendently owned and operated;

23 (e) an enterprise owned by an individual or individuals, whose owner-
24 ship, control and operation are relied upon for certification, with a
25 personal net worth that does not exceed fifteen million dollars, and
26 such other amount as the director shall set forth in regulations, as
27 adjusted annually on the first of January for inflation according to the
28 consumer price index of the previous year; and

29 (f) an enterprise that is a small business pursuant to subdivision
30 four of this section.

31 3. "Certified service-disabled veteran-owned business enterprise"
32 shall mean a business enterprise, including a sole proprietorship, part-
33 nership, limited liability company or corporation that is:

34 (a) at least fifty-one percent owned by one or more service-disabled
35 veterans;

36 (b) an enterprise in which such service-disabled veteran ownership is
37 real, substantial, and continuing;

38 (c) an enterprise in which such service-disabled veteran ownership has
39 and exercises the authority to control independently the day-to-day
40 business decisions of the enterprise;

41 (d) an enterprise authorized to do business in this state and is inde-
42 pendently owned and operated;

43 (e) an enterprise that is a small business which has a significant
44 business presence in the state, not dominant in its field and employs,
45 based on its industry, a certain number of persons as determined by the
46 director of the divisions of service-disabled veterans' business devel-
47 opment, but not to exceed three hundred, taking into consideration
48 factors which include, but are not limited to, federal small business
49 administration standards pursuant to 13 CFR part 121 and any amendments
50 thereto; and

51 (f) certified by the office of general services.

52 4. "Small business" shall mean a business that is not dominant in its
53 field and has one hundred employees or less.

54 5. "Microbusiness" shall mean a business that is not dominant in its
55 field and has five or fewer employees.

1 6. "Operating business" shall mean a private business operating a
2 construction project with state agency funding or on land leased from
3 the state of New York.

4 7. "The division" shall mean the state division of post-construction
5 commitments and compliance established pursuant to section three hundred
6 forty-one of this article.

7 8. "The board" shall mean the post-construction compliance review
8 board established pursuant to section three hundred forty-two of this
9 article.

10 9. "Minority group member" shall mean a United States citizen or
11 permanent resident noncitizen who is and can demonstrate membership in
12 one of the following groups:

13 (a) Black persons having origins in any of the Black African racial
14 groups;

15 (b) Hispanic/Latino persons of Mexican, Puerto Rican, Dominican,
16 Cuban, Central or South American of either Indian or Hispanic origin,
17 regardless of race;

18 (c) Native American or Alaskan native persons having origins in any of
19 the original peoples of North America; or

20 (d) Asian and Pacific Islander persons having origins in any of the
21 Far East countries, South East Asia, the Indian subcontinent or the
22 Pacific Islands.

23 § 341. State division of post-construction commitments and compliance.

24 1. The empire state development corporation, in consultation with other
25 state agencies including, but not limited to, the office of general
26 services, the port authority of New York and New Jersey, and the depart-
27 ment of state, shall develop a state division of post-construction
28 commitments and compliance to create rules and regulations for private
29 businesses operating state-funded construction projects to have employ-
30 ment goals and living wage requirements, annual minority and women-owned
31 business enterprise, certified service-disabled veteran-owned business,
32 small business and microbusiness utilization goals for maintenance and
33 operations spending, and a community grant program.

34 2. Such rules and regulations shall apply to state-funded construction
35 projects that are either:

36 (a) operated by private companies and state-financed at one million
37 dollars or more, including tax subsidies, land valuation, or
38 construction investment; or

39 (b) operated by private companies that are leasing state-owned land or
40 property.

41 3. Unless the operating business has a unionized workforce at the
42 state-funded construction project, at least twenty-five percent of
43 employees working on such construction project shall be residents of
44 disadvantaged zip codes, and the operating business shall provide a
45 living wage for employees of such construction projects.

46 4. (a) An operating business shall utilize minority and women-owned
47 business enterprises, certified service-disabled veteran-owned busi-
48 nesses, small businesses and microbusinesses for such operating busi-
49 ness's annual spending on operations and maintenance, including but not
50 limited to vendors, supplies, catering and security, in accordance with
51 the following goals:

52 (i) fifteen percent of such spending shall be with minority-owned
53 business enterprises;

54 (ii) fifteen percent of such spending shall be with women-owned busi-
55 ness enterprises;

1 (iii) six percent of such spending shall be with certified service-
2 disabled veteran-owned businesses;

3 (iv) ten percent of such spending shall be with small businesses; and

4 (v) five percent of such spending shall be with microbusinesses.

5 (b) If an operating business utilizes minority and women-owned busi-
6 ness enterprises and certified service-disabled veteran-owned businesses
7 that are also small businesses, such operating business's spending with
8 such certified companies may count for up to half of the small business
9 spending goal for such year.

10 5. (a) There is hereby established within the division a community
11 grant program for the purpose of awarding grants to entities and
12 construction projects that address socio-economic disparities in the
13 municipality in which the operating business is located.

14 (b) Grants awarded under such program shall be equal to at least five
15 percent of state investment in such construction project.

16 (c) Such grant program shall have a public application process made
17 available to nonprofit groups and agencies residing within the project
18 municipality. Such application shall be made available both physically
19 and electronically.

20 6. Where there is public land owned by a municipal or government enti-
21 ty or corporation within a two-mile radius of the construction project,
22 the division shall submit a data-driven assessment and suggested plan of
23 post-construction community commitments following two public hearings
24 held by the division within the municipality. Such plan shall be submit-
25 ted to the municipality for the purposes of community benefits to be
26 considered before land sale by the municipality.

27 7. The division is hereby authorized to promulgate any rules and/or
28 regulations necessary to effectuate the provisions of this article.

29 § 342. Post-construction compliance review board. 1. The division
30 shall establish a post-construction compliance review board.

31 2. The board shall consist of five members to be appointed by the
32 governor and approved by the senate. The board shall have representation
33 from each of the following economic development regions as established
34 under article eleven of the economic development law: Capital Region,
35 Western New York, New York City, Central New York, and Long Island.

36 3. The board shall meet quarterly to grade the post-construction
37 compliance efforts of each operating business and determine if such
38 operating business's construction project meets either the goals of the
39 division or any community benefit agreement post-construction mandates
40 related to such construction project.

41 4. The division shall create an annual report outlining a quarterly
42 grade and a summary of the project's compliance efforts. Such report
43 shall be made available to the public by electronic, digital or physical
44 publication.

45 5. If a construction project has a community benefit agreement that
46 legally mandates post-construction commitments, the rules and regu-
47 lations of the division established pursuant to section three hundred
48 forty-one of this article may be waived by a majority vote of the board.

49 6. The board shall serve as a compliance officer for the enforcement
50 of such community benefit agreement.

51 § 343. Penalties for non-compliance. If an operating business is found
52 not to be in compliance with any provisions of this article, the divi-
53 sion shall have the authority to:

54 (a) withhold any pending state funds until the construction project is
55 found by the board to be in compliance with the provisions of this arti-
56 cle;

1 (b) prohibit the operating business and any of such operating busi-
2 ness's subsidiaries from receiving any state funding or tax incentives
3 for a period of five years; and/or

4 (c) seek liquidated damages for the pro-rata amount of state invest-
5 ment in the construction project.

6 § 2. This act shall take effect on the one hundred eightieth day after
7 it shall have become a law. Effective immediately, the addition, amend-
8 ment and/or repeal of any rule or regulation necessary for the implemen-
9 tation of this act on its effective date are authorized to be made and
10 completed on or before such date.