

# STATE OF NEW YORK

8284--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 by private businesses operating in buildings and other structures that were constructed 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:

### ARTICLE 16-B

#### MWBE, SDVOB, SMALL BUSINESS AND MICROBUSINESS UTILIZATION FOR PRIVATE BUSINESSES OPERATING IN BUILDINGS CONSTRUCTED WITH STATE FUNDING

##### Section 340. Definitions.

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

342. Post-construction compliance review board.

343. Penalties for non-compliance.

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

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

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

(b) an enterprise in which such minority ownership is real, substantial and continuing;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

46 (e) an enterprise that is a small business which has a significant  
47 business presence in the state, not dominant in its field and employs,  
48 based on its industry, a certain number of persons as determined by the  
49 director of the division of service-disabled veterans' business develop-  
50 ment, but not to exceed three hundred, taking into consideration factors  
51 which include, but are not limited to, federal small business adminis-  
52 tration standards pursuant to 13 CFR part 121 and any amendments there-  
53 to; and

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

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

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

3 6. "Operating business" shall mean a private business operating in a  
4 building, facility or other structure that was constructed with state  
5 agency funding or operating on land leased from the state of New York.

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

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

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

15 (a) Black persons having origins in any of the Black African racial  
16 groups;

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

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

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

25 10. "State investment" shall mean the amount of state funding in the  
26 construction of a structure that is to be operated or is currently oper-  
27 ated by a private business. State investment includes, but is not limit-  
28 ed to, tax subsidies, land valuation, cash, or other state-financed  
29 funding.

30 § 341. State division of post-construction commitments and compliance.  
31 1. The empire state development corporation, in consultation with other  
32 state agencies including, but not limited to, the office of general  
33 services, the port authority of New York and New Jersey, and the depart-  
34 ment of state, shall develop a state division of post-construction  
35 commitments and compliance to create rules and regulations for private  
36 businesses operating in structures whose construction was state-funded  
37 or operating on land leased from the state of New York to have employ-  
38 ment goals and living wage requirements, annual minority and women-owned  
39 business enterprise, certified service-disabled veteran-owned business,  
40 small business and microbusiness utilization goals for maintenance and  
41 operations spending, and a community grant program.

42 2. Such rules and regulations shall apply to operating businesses that  
43 are either:

44 (a) operated by private companies in structures with a state invest-  
45 ment of one million dollars or more, including tax subsidies, land valu-  
46 ation, or construction investment; or

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

49 3. Unless the operating business has a unionized workforce, at least  
50 twenty-five percent of employees working on such construction project  
51 shall be residents of disadvantaged zip codes, and the operating busi-  
52 ness shall provide a living wage for employees. Where a New York state  
53 collective bargaining union agreement has been agreed upon, the divi-  
54 sion's guidelines for post-construction job creation shall be waived and  
55 the division shall serve as an oversight to ensure job creation commit-  
56 ments under such agreement are met.

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

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

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

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

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

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

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

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

24 (b) Grants awarded under such program shall be equal to at least five  
25 percent of the state investment in the construction of the structure in  
26 which the operating business is located.

27 (c) Such grant program shall have a public application process made  
28 available to nonprofit groups and agencies residing within the project  
29 municipality. Such application shall be made available both physically  
30 and electronically.

31 6. Where there is public land owned by a municipal or government enti-  
32 ty or corporation within a two-mile radius of the operating business,  
33 the division shall submit a data-driven assessment and suggested plan of  
34 post-construction community commitments following two public hearings  
35 held by the division within the municipality. Such plan shall be submit-  
36 ted to the municipality for the purposes of community benefits to be  
37 considered before land sale by the municipality.

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

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

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

47 3. The board shall meet quarterly to grade the post-construction  
48 compliance efforts of each operating business and determine if such  
49 operating business meets either the goals of the division or any commu-  
50 nity benefit agreement post-construction mandates.

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

55 5. If the operating business is subject to a community benefit agree-  
56 ment that legally mandates post-construction commitments, the rules and

1 regulations of the division established pursuant to section three  
2 hundred forty-one of this article may be waived by a majority vote of  
3 the board.

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

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

9 (a) withhold any pending state funds until the operating business is  
10 found by the board to be in compliance with the provisions of this arti-  
11 cle;

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

15 (c) seek liquidated damages for the pro-rata amount of state invest-  
16 ment.

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