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:

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

ARTICLE 16-B

MWBE, SDVOB, SMALL BUSINESS AND MICROBUSINESS UTILIZATION IN STATE-FUNDED CONSTRUCTION PROJECTS

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;

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

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

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(d) an enterprise authorized to do business in this state and independently owned and operated;

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

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

2. "Women-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 United States citizens or permanent resident noncitizens who are women;

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

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

(d) an enterprise authorized to do business in this state and independently owned and operated;

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

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

3. "Certified service-disabled veteran-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 service-disabled veterans;

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

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

(d) an enterprise authorized to do business in this state and is independently owned and operated;

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

(f) certified by the office of general services.

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

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

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

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

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

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

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

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

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

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

§ 341. State division of post-construction commitments and compliance. 1. The empire state development corporation, in consultation with other state agencies including, but not limited to, the office of general services, the port authority of New York and New Jersey, and the department of state, shall develop a state division of post-construction commitments and compliance to create rules and regulations for private businesses operating state-funded construction projects to have employment goals and living wage requirements, annual minority and women-owned business enterprise, certified service-disabled veteran-owned business, small business and microbusiness utilization goals for maintenance and operations spending, and a community grant program.

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

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

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

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

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

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

(ii) fifteen percent of such spending shall be with women-owned business enterprises;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) withhold any pending state funds until the construction project is found by the board to be in compliance with the provisions of this article;

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

(c) seek liquidated damages for the pro-rata amount of state investment in the construction project.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. 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 date.