

STATE OF NEW YORK

8284--B

2025-2026 Regular Sessions

IN SENATE

May 30, 2025

Introduced by Sens. BASKIN, CLEARE -- 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 -- recommitted to the Committee on Procurement and Contracts in accordance with Senate Rule 6, sec. 8 -- 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:

3 ARTICLE 16-B

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

7 Section 340. Definitions.

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

10 342. Post-construction compliance review board.

11 343. Penalties for non-compliance.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50 (e) an enterprise that is a small business which has a significant
51 business presence in the state, not dominant in its field and employs,
52 based on its industry, a certain number of persons as determined by the
53 director of the division of service-disabled veterans' business develop-
54 ment, but not to exceed three hundred, taking into consideration factors
55 which include, but are not limited to, federal small business adminis-

1 tration standards pursuant to 13 CFR part 121 and any amendments there-
2 to; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

47 2. Such rules and regulations shall apply to operating businesses that
48 are either:

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

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

54 3. Unless the operating business has a unionized workforce, at least
55 twenty-five percent of employees working on such construction project
56 shall be residents of disadvantaged zip codes, and the operating busi-

1 ness shall provide a living wage for employees. Where a New York state
2 collective bargaining union agreement has been agreed upon, the divi-
3 sion's guidelines for post-construction job creation shall be waived and
4 the division shall serve as an oversight to ensure job creation commit-
5 ments under such agreement are met.

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

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

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

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

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

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

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

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

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

32 (c) The community grant program shall be funded by the operating busi-
33 ness.

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

38 (e) The criteria for grants awarded pursuant to this section shall be
39 developed by a community needs assessment, which shall be funded by the
40 operating business. The community needs assessment shall be required to
41 hold a public comment process, prior to the assessment's finalization.

42 6. Where there is public land owned by a municipal or government enti-
43 ty or corporation within a two-mile radius of the operating business,
44 the division shall submit a data-driven assessment and suggested plan of
45 post-construction community commitments following two public hearings
46 held by the division within the municipality. Such plan shall be submit-
47 ted to the municipality for the purposes of community benefits to be
48 considered before land sale by the municipality, in the event the muni-
49 cipality sells the land to the operating business or its affiliates.

50 7. If the operating business terminates its operations before it has
51 fully distributed its community grants, the division shall be responsi-
52 ble for continuing the community grant program and making the necessary
53 distributions with state funding until the five percent of the state
54 investment threshold has been reached.

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

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

3 2. The board shall consist of seven members, five members shall be
4 appointed by the governor, one member shall be appointed by the senate
5 majority leader, and one member shall be appointed by the speaker of the
6 assembly. These appointments shall be six-year, non-consecutive terms.
7 The board shall have representation from at least seven of the ten
8 economic development regions as established under article eleven of the
9 economic development law: Capital Region, Western New York, New York
10 City, Central New York, and Long Island.

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

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

19 5. If the operating business is subject to a community benefit agree-
20 ment that legally mandates post-construction commitments, the rules and
21 regulations of the division established pursuant to section three
22 hundred forty-one of this article may be waived by a majority vote of
23 the board.

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

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

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

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

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

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