

HOUSE No. 3165

The Commonwealth of Massachusetts

PRESENTED BY:

Russell E. Holmes

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the fair participation of minority and women-owned businesses on public construction projects.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>2/18/2021</i>

HOUSE No. 3165

By Mr. Holmes of Boston, a petition (accompanied by bill, House, No. 3165) of Russell E. Holmes relative to the fair participation of minority and women-owned businesses on public construction projects. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE [Refile Branch], NO. OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act relative to the fair participation of minority and women-owned businesses on public construction projects.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 6 of Chapter 7C of the Massachusetts General Laws is hereby
2 amended by adding the following new subsection:-

3 (h ½) The provisions of this section shall only apply to filed sub-bids procured under
4 section 44F of chapter 149 and trade contractor bids procured under section 8(a) of chapter
5 149A. For purposes of this section “applicable projects” shall mean any project procured by the
6 division of capital asset management and maintenance, the Massachusetts State College Building
7 Authority, the University of Massachusetts Building Authority, and the Massachusetts Port
8 Authority under sections 44A-J of chapter 149 or sections 1-12 of chapter 149A and any state
9 assisted building project with an overall estimated cost of \$5,000.000 or more and the provisions

10 of this section shall apply only to such filed sub-bid or CM at Risk trade packages. On
11 applicable projects only, the awarding authority may establish minority owned business
12 enterprise and women owned business enterprise participation goals for any of the filed sub-bid
13 classes of work under section 44F of chapter 149 and for any of the trade contractor classes of
14 work under section 8(a) of chapter 149A. The total minority owned business enterprise and for
15 women owned business enterprise participation goal set by the awarding authority for a
16 particular class of work shall not exceed 10 percent of the value of the filed sub-bid or trade
17 contractor work. Notwithstanding any general law or contractual provision to the contrary, on
18 applicable projects filed sub-bidders and trade contractors in the classes of work listed in section
19 44F of chapter 149 and referenced in section 8 of chapter 149 respectively shall be permitted to
20 meet the minority owned business enterprise and women owned business enterprise
21 participation goals by subcontracting out portions of the trade contractor work which the sub-
22 bidder or trade contractor is otherwise required by law to perform with employees on its own
23 payroll and/or portions of the trade work which is customarily performed by sub-trade
24 subcontractors within the trade. Provided, the total value of the trade work which the filed sub-
25 bidder or trade contractor is required by law to self-perform which the filed sub-bidder or trade
26 contractor subcontracts out to meet the minority owned business enterprise and women owned
27 business enterprise participation goal shall not exceed such goal by more than an additional 10
28 percent of the value of the filed sub-bidder or trade contractor's work. The commissioner shall
29 establish a good faith pre bid and post bid/pre-award waiver process for filed sub-bidders and
30 trade contractors requesting a reduction or waiver of a participation goal.

31 SECTION 2. Section 44F, subsection (1) (a) of Chapter 149 of the Massachusetts
32 General Laws is hereby amended by inserting after the third sentence in the first paragraph, the
33 following new sentence:-

34 Provided however, that a sub-bidder may subcontract out portions of its work in order to
35 meet MBE/WBE goals set on Division of Capital Asset Management and Maintenance,
36 Massachusetts State College Building Authority, University of Massachusetts Building
37 Authority, and Massachusetts Port Authority projects and on any state assisted project as set
38 forth in section 6(h1/2,) of chapter 7C.

39 SECTION 3. Section 8, subsection (g) (6) of Chapter 149A of the Massachusetts General
40 Laws is hereby amended by adding at the end thereof the following new sentence:-

41 Provided however, that a trade contractor may subcontract out portions of its work in
42 order to meet MBE/WBE goals set on Division of Capital Asset Management and Maintenance,
43 Massachusetts State College Building Authority, University of Massachusetts Building
44 Authority, and Massachusetts Port Authority projects and on any state assisted project as set
45 forth in section 6(h1/2)of chapter 7C.