

SECOND REGULAR SESSION

# SENATE BILL NO. 946

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR DIXON.

Read 1st time February 26, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6202S.011

## AN ACT

To repeal section 37.020, RSMo, and to enact in lieu thereof one new section relating to bidding for public contracts.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 37.020, RSMo, is repealed and one new section enacted  
2 in lieu thereof, to be known as section 37.020, to read as follows:

37.020. 1. As used in this section, the following words and phrases mean:

2 (1) "Certification", the determination, through whatever procedure is used  
3 by the office of administration, that a legal entity is a socially and economically  
4 disadvantaged small business concern for purposes of this section;

5 (2) "Department", the office of administration and any public institution  
6 of higher learning in the state of Missouri;

7 (3) "Minority business enterprise", a business that is:

8 (a) A sole proprietorship owned and controlled by a minority;

9 (b) A partnership or joint venture owned and controlled by minorities in  
10 which at least fifty-one percent of the ownership interest is held by minorities  
11 and the management and daily business operations of which are controlled by one  
12 or more of the minorities who own it; [or]

13 (c) A corporation or other entity whose management and daily business  
14 operations are controlled by one or more minorities who own it, and which is at  
15 least fifty-one percent owned by one or more minorities, or if stock is issued, at  
16 least fifty-one percent of the stock is owned by one or more minorities; **or**

17 **(d) A not-for-profit organization based in Missouri that is exempt**  
18 **from taxation under section 501(c)(3) of the Internal Revenue Code of**  
19 **1986, as amended, that can show the following:**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

20           **a. The organization's entire staff is comprised of at least twenty-**  
21 **five percent minorities or such staff is comprised of more than five**  
22 **percent greater than the average minority population of the geographic**  
23 **area that is served by the organization; and**

24           **b. The organization's staff that is classified as management or**  
25 **the twenty percent of the staff with the highest salaries is comprised**  
26 **of at least twenty percent minorities or such staff is comprised of a**  
27 **percentage that is greater than the average minority population of the**  
28 **geographic area that is served by the organization;**

29           (4) "Socially and economically disadvantaged individuals", individuals,  
30 regardless of gender, who have been subjected to racial, ethnic, or sexual  
31 prejudice or cultural bias because of their identity as a member of a group  
32 without regard to their individual qualities and whose ability to compete in the  
33 free enterprise system has been impaired due to diminished capital and credit  
34 opportunities as compared to others in the same business area. In determining  
35 the degree of diminished credit and capital opportunities the office of  
36 administration shall consider, but not be limited to, the assets and net worth of  
37 such individual;

38           (5) "Socially and economically disadvantaged small business concern", any  
39 small business concern:

40           (a) Which is at least fifty-one percentum owned by one or more socially  
41 and economically disadvantaged individuals; or, in the case of any publicly owned  
42 business, at least fifty-one percentum of the stock of which is owned by one or  
43 more socially and economically disadvantaged individuals; and

44           (b) Whose management and daily business operations are controlled by  
45 one or more of such individuals;

46           (6) "Women's business enterprise", a business that is:

47           (a) A sole proprietorship owned and controlled by a woman;

48           (b) A partnership or joint venture owned and controlled by women in  
49 which at least fifty-one percent of the ownership interest is held by women and  
50 the management and daily business operations of which are controlled by one or  
51 more of the women who own it; [or]

52           (c) A corporation or other entity whose management and daily business  
53 operations are controlled by one or more women who own it, and which is at least  
54 fifty-one percent owned by women, or if stock is issued, at least fifty-one percent  
55 of the stock is owned by one or more women; **or**

56           **(d) A not-for-profit organization based in Missouri that is exempt**  
57 **from taxation under section 501(c)(3) of the Internal Revenue Code of**  
58 **1986, as amended, that can show the following:**

59           **a. The organization's entire staff is comprised of at least fifty-**  
60 **five percent women; and**

61           **b. The organization's staff that is classified as management or**  
62 **the twenty percent of the staff with the highest salaries is comprised**  
63 **of at least forty-five percent women.**

64           2. The office of administration, in consultation with each department,  
65 shall establish and implement a plan to increase and maintain the participation  
66 of certified socially and economically disadvantaged small business concerns or  
67 minority business enterprises, directly or indirectly, in contracts for supplies,  
68 services, and construction contracts, consistent with goals determined after an  
69 appropriate study conducted to determine the availability of socially and  
70 economically disadvantaged small business concerns and minority business  
71 enterprises in the marketplace. Such study shall be completed by December 31,  
72 1991. The commissioner of administration shall appoint an oversight review  
73 committee to oversee and review the results of such study. The committee shall  
74 be composed of nine members, four of whom shall be members of business, three  
75 of whom shall be from staff of selected departments, one of whom shall be a  
76 member of the house of representatives, and one of whom shall be a member of  
77 the senate.

78           3. The goals to be pursued by each department under the provisions of  
79 this section shall be construed to overlap with those imposed by federal law or  
80 regulation, if any, shall run concurrently therewith and shall be in addition to the  
81 amount required by federal law only to the extent the percentage set by this  
82 section exceeds those required by federal law or regulations.

83           **4. Under no circumstances shall any bidder under this section be**  
84 **awarded more than five points for qualifying as a minority business**  
85 **enterprise or a women's business enterprise under this section, for a**  
86 **maximum award of ten points.**

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