

HOUSE BILL NO. 601
INTRODUCED BY V. SMALL-EASTMAN

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING A MINORITY AND WOMEN BUSINESS DEVELOPMENT OFFICE IN THE DEPARTMENT OF COMMERCE; PROVIDING GOALS; PROVIDING DEFINITIONS; REQUIRING CERTIFICATION OF SMALL BUSINESS DISADVANTAGED CONCERNS; REQUIRING THE OFFICE TO MAKE RECOMMENDATIONS ON STATE AND LOCAL GOVERNMENT PROCUREMENT POLICIES; PROVIDING THE DEPARTMENT OF COMMERCE WITH RULEMAKING AUTHORITY; EXPANDING THE DUTIES OF THE ECONOMIC DEVELOPMENT ADVISORY COUNCIL; EXPANDING DEPARTMENT OF COMMERCE DUTIES TO INCLUDE ASSISTANCE TO MINORITY AND WOMEN BUSINESSES; AND AMENDING SECTIONS 2-15-1820, 17-6-406, AND 90-1-105, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Minority and women business development office -- purpose. (1) There is a minority and women business development office within the department of commerce.

(2) The purpose of the office is to:

(a) work with the department of commerce to adopt rules to establish criteria for certification of minority businesses and women businesses as small business disadvantaged concerns;

(b) help minority businesses and women businesses in the state to access contracts under the Small Business Act of 1953, 15 U.S.C. 631, et seq.;

(c) work with small business development centers, the small business licensing coordination center, established in 30-16-201, and the small business compliance assistance advisory council, established in 75-2-106, to provide assistance to minority businesses and women businesses or other businesses that meet the criteria of a small business disadvantaged concern under the Small Business Act of 1953, 15 U.S.C. 631, et seq.;

(d) implement and manage a database system for reporting on the number and location of minority businesses and women businesses in the state;

(e) work with all state agencies to implement 2-18-111 and with the department of administration to implement 18-1-110;

(f) develop a quantitative methodology to monitor participation by number and by financial totals of

contracts entered into by minority businesses and women businesses with public employers, as defined in 39-31-103; and

(g) within the limits of 18-1-111, establish standards, goals, and procedures for public employers, as defined in 39-31-103, to use in developing procurement policies pursuant to the requirements of the Montana Procurement Act, Title 18, chapter 4.

NEW SECTION. Section 2. Definitions. For the purposes of [sections 1 through 4], the following definitions apply:

(1) "Minority business" means a sole proprietorship, a limited liability partnership, a limited liability company, or a corporation registered with the secretary of state's office in which at least 51% of the ownership, control, and active management is by one or more members of a language minority group, as defined under 42 U.S.C. 1973I.

(2) "Small business disadvantaged concern" is a business entity that meets:

(a) the eligibility requirements for a section 8(a) business development program, as provided in 13 CFR, part 124; and

(b) the size requirements set by the department of commerce by rule.

(3) "Women business" means a sole proprietorship, a limited liability partnership, a limited liability company, or a corporation registered with the secretary of state's office in which at least 51% of the ownership, control, and active management is by a woman or a group of women. A nonparticipation statement may be required of the spouse of any woman if that woman's participation is counted in the 51% ownership, control, and active management group.

NEW SECTION. Section 3. Certification -- report. (1) The minority and women business development office, established in [section 1], shall accept applications and certify eligible minority businesses and women businesses as small business disadvantaged concerns to help these businesses to obtain federal, state, or local procurement bids when applicable.

(2) Recommendations for state and local government procurement policies must be provided biennially to the governor, the legislature, and the economic development advisory council, established in 2-15-1820, by the minority and women business development office. Procurement recommendations made under this subsection may be only for minority businesses and women businesses certified as small business disadvantaged concerns.

NEW SECTION. Section 4. Rulemaking. The department of commerce may adopt rules to implement [sections 1 through 4] to:

- (1) clarify criteria for being considered as a minority business or as a small business disadvantaged concern; and
- (2) set the criteria for certification of minority businesses and women businesses as small business disadvantaged concerns.

Section 5. Section 2-15-1820, MCA, is amended to read:

"2-15-1820. Economic development advisory council. (1) There is an economic development advisory council.

(2) The council is composed of up to 19 members appointed as follows:

(a) 15 members appointed by the governor to include:

- (i) the director of the department of commerce;
- (ii) the chief business development officer provided for in 2-15-219, who serves as presiding officer of the council;
- (iii) one member from a Montana tribal government who represents a tribal economic development organization; and

(iv) up to 12 public members representing each geographic region covered by each of the regional development corporations certified by the department pursuant to 90-1-116; and

(b) (i) two representatives, including one from each party, appointed by the speaker of the house; and

(ii) two senators, including one from each party, appointed by the committee on committees.

~~(3) The governor is encouraged to appoint to the initial council two individuals who were members of the microbusiness advisory council immediately prior to its being abolished.~~

~~(4)~~(3) (a) Except as provided in subsection ~~(4)(b)~~ (3)(b), members of the council shall serve staggered 3-year terms subject to replacement at the discretion of the governor. The governor shall designate five of the initial members to serve 1-year terms and five of the initial members to serve 2-year terms.

(b) Legislative members must be appointed on or before the 10th day of each regular session of the legislature and shall serve until the convening of the next regular session of the legislature. If a vacancy on the council occurs during a legislative interim, that vacancy must be filled in the same manner as the original appointment.

~~(5)~~(4) Members of the council, other than legislative members, are not entitled to compensation for their

services except for reimbursement of expenses as provided in 2-18-501 through 2-18-503. Legislative members of the council are entitled to compensation pursuant to 5-2-302, which must be paid by the department of commerce.

~~(6)~~(5) The council shall:

(a) advise the department concerning the distribution of funds to certified regional development corporations for business development purposes in accordance with 90-1-116 and this section;

(b) advise the department regarding the creation, operation, and maintenance of the microbusiness finance program and the policies and operations affecting the certified microbusiness development corporations;

(c) advise the governor and the department on significant matters concerning economic development in Montana;

(d) prescribe allowable administrative expenses for which economic development funds may be used by certified regional development corporations; ~~and~~

(e) encourage certified regional development corporations to promote economic development on Indian reservations in their regions; and

(f) advise the governor and the department of commerce on state and local government procurement policies that may benefit minority businesses and women businesses, as defined in [section 2], in a way similar to provisions in 13 CFR, part 124.

~~(7)~~(6) The council is allocated to the department of commerce for administrative purposes only as provided in 2-15-121."

Section 6. Section 17-6-406, MCA, is amended to read:

"17-6-406. Microbusiness finance program -- powers and duties of department. There is a microbusiness finance program administered by the department. The department shall adopt rules to implement the provisions of this part, including but not limited to:

(1) establishing criteria and procedures for certifying microbusiness development corporations;

(2) establishing criteria and procedures to select from competing development loan applications and to award development loans to certified microbusiness development corporations;

(3) establishing criteria and procedures to be followed by certified microbusiness development corporations that administer revolving loan funds supported by the program;

(4) determining the amount and method of computation and payment of interest rates charged to recipients of development loans and specifying amortization schedules and other terms and conditions for

development loans as may be necessary;

(5) establishing criteria for determining nonperformance and declaring default in the administration of development loans and requiring the refund of defaulted development loan funds to the microbusiness development loan account;

(6) establishing criteria for satisfactory performance in development loan administration to determine eligibility for renewal of development loans or for additional development loans;

(7) establishing guidelines for maximum and minimum interest rates that may be charged by certified microbusiness development corporations on microbusiness loans; and

(8) dividing the state into not more than 12 multicounty service regions within each of which not more than one microbusiness development corporation may be funded at any time. However, a corporation that is funded as a statewide microbusiness development corporation under 17-6-408 may offer specialized services to constituents who meet the criteria of a small business disadvantaged concern under the Small Business Act of 1953, 15 U.S.C. 631, et seq., and as defined in [section 2] within regions [or within an Indian reservation] having a funded regional microbusiness development corporation. (Bracketed language terminates June 30, 2009--secs. 3, 4, Ch. 460, L. 2005.)"

Section 7. Section 90-1-105, MCA, is amended to read:

"90-1-105. Functions of department of commerce -- economic development. The department of commerce shall:

(1) provide coordinating services to aid state and local groups and Indian tribal governments in the promotion of new economic enterprises and conduct publicity and promotional activities in connection with new economic enterprises;

(2) collect and disseminate information regarding the advantages of developing agricultural, recreational, commercial, and industrial enterprises within this state;

(3) serve as an official state liaison between persons interested in locating new economic enterprises in Montana and state and local groups and Indian tribal governments seeking new enterprises;

(4) aid communities and Indian tribal governments interested in obtaining new business or expanding existing business;

(5) (a) study and promote means of expanding markets for Montana products; and

(b) provide training and assistance for Montana small businesses and entrepreneurs, including minority businesses and women businesses, as defined in [section 2], to expand markets for made-in-Montana products;

(6) encourage and coordinate public and private agencies or bodies in publicizing the facilities and attractions of the state;

(7) explore the use of cooperative agreements, as provided in Title 18, chapter 11, part 1, for the promotion and enhancement of economic opportunities on the state's Indian reservations; and

(8) assist the state-tribal economic development commission established in 90-1-131 in:

(a) identifying federal government and private sector funding sources for economic development on Indian reservations in Montana; and

(b) fostering and providing assistance to prepare, develop, and implement cooperative agreements, in accordance with Title 18, chapter 11, part 1, with each of the tribal governments in Montana. (Subsection (8) terminates June 30, 2009--secs. 3, 4, Ch. 460, L. 2005.)"

NEW SECTION. Section 8. Notification to tribal governments. The secretary of state shall send a copy of [this act] to each tribal government located on the seven Montana reservations and to the Little Shell Chippewa tribe.

NEW SECTION. Section 9. Codification instruction. [Sections 1 through 4] are intended to be codified as an integral part of Title 90, chapter 1, and the provisions of Title 90, chapter 1, apply to [sections 1 through 4].

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