

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce Committee

BILL: SB 1480

INTRODUCER: Senator Lawson

SUBJECT: Recertification of Minority Business Enterprises

DATE: March 12, 2009

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	Wilson	GO	Favorable
2.	Hrdlicka	Cooper	CM	Favorable
3.	_____	_____	GA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill changes the minority business enterprise recertification process from requiring vendor recertification every year to requiring recertification every 2 years.

This bill amends s. 287.09451 of the Florida Statutes.

II. Present Situation:

The Office of Supplier Diversity (OSD) is established with the Department of Management Services to assist minority business enterprises (MBEs) in becoming suppliers of commodities, services, and construction to state government.¹ An MBE is defined as any small business concern organized to engage in commercial transactions that is domiciled in Florida, and is at least 51-percent-owned by minority persons.²

A “small business” is an independently owned and operated business concern that:

- Employs 200 or fewer permanent full-time employees; and
- Has a net worth of not more than \$5 million together with any affiliates (for sole proprietorships, net worth includes personal and business investments).³

¹ Section 287.09451(2), F.S.

² Section 288.703(2), F.S.

³ Section 288.703(1), F.S.

A “minority person” is a lawful, permanent Florida resident who is:⁴

- An African American, a person having origins in any of the black racial groups of the African Diaspora, regardless of cultural origin;
- A Hispanic American, a person of Spanish or Portuguese culture with origins in Spain, Portugal, Mexico, South America, Central America, or the Caribbean, regardless of race;
- An Asian American, a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands, including the Hawaiian Islands prior to 1778;
- A Native American, a person who has origins in any of the Indian Tribes of North America prior to 1835, upon presentation of proper documentation thereof as established by rule of the Department of Management Services; or
- An American woman.

OSD is directed, in part, “to provide a central minority business enterprise certification process which includes independent verification of status as a minority business enterprise.”⁵ As part of this charge, one of the duties of OSD is to certify MBEs pursuant to specified statutory criteria,⁶ and to recertify MBEs not less than once a year.⁷ Businesses interested in maintaining their certified status must complete the online recertification affidavit application, have it signed and notarized, and submitted to the OSD on or before the expiration of their current certification.⁸

OSD certified 4,118 minority business enterprises in FY 2007-08.⁹ Certification by OSD means that a business has already been vetted by a state agency for meeting the requirements of being a “minority business enterprise,” and this makes it easier to qualify for other state programs or to be considered for state contracts.¹⁰ Benefits of certification include:

- First tier referrals to state agencies for order and contract opportunities.
- Mentor-Protégé opportunities for business development guidance from established corporations.¹¹
- Exclusive listing of state-certified minority business enterprises in an online directory.¹²
- Participation at regional workshops and seminars, corporate roundtables, and the annual MatchMaker Conference and Trade Show.¹³

⁴ Section 288.703(3), F.S.

⁵ Section 287.09451(4)(g), F.S.

⁶ Sections 287.0943 and 287.09431, F.S., specify the requirements for certification as an MBE.

⁷ Section 287.09451(4)(m), F.S.

⁸ Section 287.09451(4)(m), F.S. See Recertification Information, at

http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/certification_1/recertification_information (last visited 3/12/2009).

⁹ Office of Supplier Diversity, Annual Report 2007-2008, pp. 6, 13, at

http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/publications/annual_reports (last visited 3/12/2009).

¹⁰ Office of Supplier Diversity, Annual Report 2007-2008, p. 7, at

http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/publications/annual_reports (last visited 3/12/2009).

¹¹ Mentor-Protégé, at

http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/programs_and_initiatives/mentor_protege_program_1 (last visited 3/12/2009).

¹² Online directory available at <https://vendorstrator.dms.myflorida.com/directory> (last visited 3/12/2009).

- Loan Mobilization to assist eligible businesses with funding.¹⁴
- Incentives for state agencies and universities to increase spending.

There was nearly \$3 billion in overall spending with minority business enterprises by state agencies, universities, and community colleges in FY 2007-08.

In 2008, the Florida Service-Disabled Veteran Business Enterprise Opportunity Act was signed into law.¹⁵ This act establishes a contracting preference for service-disabled veteran business enterprises, similar to MBEs. DMS is required to initially certify such businesses, and recertify them every 2 years.¹⁶

III. Effect of Proposed Changes:

The bill changes the minority business enterprise recertification process from requiring recertification every year to requiring recertification every 2 years. MBEs must recertify by affidavit every 2 years.

The bill provides an effective date of July 1, 2009.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹³ MatchMaker Conference and Trade Show, at http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/matchmaker_conference (last visited 3/12/2009).

¹⁴ Section 288.706, F.S. See The State of Florida's Loan Mobilization Program, at http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/programs_and_initiatives/loan_mobilization_program (last visited 3/12/2009).

¹⁵ Chapter 2008-155, L.O.F.

¹⁶ Section 295.187(5)(b), F.S.

B. Private Sector Impact:

Indeterminate. Vendors will need to recertify half as often, freeing them to engage in their core businesses operations.

C. Government Sector Impact:

Indeterminate. DMS stated that this change will create a uniform certification period for MBEs and service-disabled veteran business enterprises; this will allow DMS to streamline the certification process.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.