

**As Introduced**

**127th General Assembly  
Regular Session  
2007-2008**

**S. B. No. 282**

**Senator Kearney**

—

**A BILL**

To amend section 123.152 and to enact section 125.083 1  
of the Revised Code to generally require that 2  
state agencies set aside a certain amount of 3  
purchases for which only EDGE business enterprises 4  
may compete. 5

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 123.152 be amended and section 6  
125.083 of the Revised Code be enacted to read as follows: 7

**Sec. 123.152.** (A) As used in this section, "EDGE business 8  
enterprise" means a sole proprietorship, association, partnership, 9  
corporation, limited liability corporation, or joint venture 10  
certified as a participant in the encouraging diversity, growth, 11  
and equity program by the director of administrative services 12  
under this section of the Revised Code. 13

(B) The director of administrative services shall establish a 14  
business assistance program known as the encouraging diversity, 15  
growth, and equity program and shall adopt rules in accordance 16  
with Chapter 119. of the Revised Code to administer the program 17  
that do all of the following: 18

(1) Establish procedures by which a sole proprietorship, 19  
association, partnership, corporation, limited liability 20

corporation, or joint venture may apply for certification as an 21  
EDGE business enterprise; 22

(2) Except as provided in division (B)(14) of this section, 23  
establish agency procurement goals for contracting with EDGE 24  
business enterprises in the award of contracts under Chapters 25  
123., 125., and 153. of the Revised Code based on the availability 26  
of eligible program participants by region or geographic area, as 27  
determined by the director, and by standard industrial code or 28  
equivalent code classification. 29

(a) Goals established under division (B)(2) of this section 30  
shall be based on a percentage level of participation and a 31  
percentage of contractor availability. 32

(b) Goals established under division (B)(2) of this section 33  
shall be applied at the contract level, relative to an overall 34  
dollar goal for each state agency, in accordance with the 35  
following certification categories: construction, architecture, 36  
and engineering; professional services; goods and services; and 37  
information technology services. 38

(c) Goals established under division (B)(2) of this section 39  
shall be consistent with the set-aside requirements of section 40  
125.083 of the Revised Code. 41

(3) Establish a system of certifying EDGE business 42  
enterprises based on a requirement that the business owner or 43  
owners show both social and economic disadvantage based on the 44  
following, as determined to be sufficient by the director: 45

(a) Relative wealth of the business seeking certification as 46  
well as the personal wealth of the owner or owners of the 47  
business; 48

(b) Social disadvantage based on any of the following: 49

(i) A rebuttable presumption when the business owner or 50

owners demonstrate membership in a racial minority group or show	51
personal disadvantage due to color, ethnic origin, gender,	52
physical disability, long-term residence in an environment	53
isolated from the mainstream of American society, location in an	54
area of high unemployment;	55
(ii) Some other demonstration of personal disadvantage not	56
common to other small businesses;	57
(iii) By business location in a qualified census tract.	58
(c) Economic disadvantage based on economic and business size	59
thresholds and eligibility criteria designed to stimulate economic	60
development through contract awards to businesses located in	61
qualified census tracts.	62
(4) Establish standards to determine when an EDGE business	63
enterprise no longer qualifies for EDGE business enterprise	64
certification;	65
(5) Develop a process for evaluating and adjusting goals	66
established by this section to determine what adjustments are	67
necessary to achieve participation goals established by the	68
director;	69
(6) Establish a point system or comparable system to evaluate	70
bid proposals to encourage EDGE business enterprises to	71
participate in the procurement of professional design and	72
information technology services;	73
(7) Establish a system to track data and analyze each	74
certification category established under division (B)(2)(b) of	75
this section;	76
(8) Establish a process to mediate complaints and to review	77
EDGE business enterprise certification appeals;	78
(9) Implement an outreach program to educate potential	79
participants about the encouraging diversity, growth, and equity	80

program;	81
(10) Establish a system to assist state agencies in identifying and utilizing EDGE business enterprises in their contracting processes;	82 83 84
(11) Implement a system of self-reporting by EDGE business enterprises as well as an on-site inspection process to validate the qualifications of an EDGE business enterprise;	85 86 87
(12) Establish a waiver mechanism to waive program goals or participation requirements for those companies that, despite their best-documented efforts, are unable to contract with certified EDGE business enterprises;	88 89 90 91
(13) Establish a process for monitoring overall program compliance in which equal employment opportunity officers primarily are responsible for monitoring their respective agencies;	92 93 94 95
(14) Establish guidelines for state universities as defined in section 3345.011 of the Revised Code and the Ohio school facilities commission created in section 3318.30 of the Revised Code for awarding contracts pursuant to Chapters 153., 3318., and 3345. of the Revised Code to allow the universities and commission to establish agency procurement goals for contracting with EDGE business enterprises.	96 97 98 99 100 101 102
(C) Business and personal financial information and trade secrets submitted by encouraging diversity, growth, and equity program applicants to the director pursuant to this section are not public records for purposes of section 149.43 of the Revised Code, unless the director presents the financial information or trade secrets at a public hearing or public proceeding regarding the applicant's eligibility to participate in the program.	103 104 105 106 107 108 109
<b><u>Sec. 125.083.</u></b> (A) As used in this section, "EDGE business	110

enterprise" has the same meaning as in section 123.152 of the 111  
Revised Code. 112

(B) From the purchases that the department of administrative 113  
services is required by law to make through competitive selection, 114  
the director of administrative services shall select a number of 115  
such purchases, the aggregate value of which equals approximately 116  
fifteen per cent of the estimated total value of all such 117  
purchases to be made in the current fiscal year. The director 118  
shall set aside the purchases selected for competition only by 119  
EDGE business enterprises. The competitive selection procedures 120  
for such purchases set aside shall be the same as for all other 121  
purchases the department is required to make through competitive 122  
selection, except that only EDGE business enterprises shall be 123  
qualified to compete. 124

(C) To the extent that any agency of the state, other than 125  
the department of administrative services, the legislative and 126  
judicial branches, boards of elections, and the adjutant general, 127  
is authorized to make purchases, the agency shall set aside a 128  
number of purchases, the aggregate value of which equals 129  
approximately fifteen per cent of the aggregate value of such 130  
purchases for the current fiscal year for competition by EDGE 131  
business enterprises only. The procedures for such purchases shall 132  
be the same as for all other such purchases made by the agency, 133  
except that only EDGE business enterprises shall be qualified to 134  
compete. 135

(D) In the case of purchases set aside under division (B) or 136  
(C) of this section, if no bid is submitted by an EDGE business 137  
enterprise, the purchase shall be made according to usual 138  
procedures. The contracting agency shall from time to time set 139  
aside such additional purchases for which only EDGE business 140  
enterprises may compete, as are necessary to replace those 141

purchases previously set aside for which no EDGE business 142  
enterprises bid and to ensure that, in any fiscal year, the 143  
aggregate amount of contracts awarded to EDGE business enterprises 144  
will equal approximately fifteen per cent of the total amount of 145  
contracts awarded by the agency. 146

(E) The director may, in accordance with Chapter 119. of the 147  
Revised Code, adopt rules necessary for the implementation of this 148  
section. 149

(F) Nothing in this section precludes any EDGE business 150  
enterprise from competing for any other state purchases that are 151  
not specifically set aside for EDGE business enterprises. 152

(G) If an EDGE business enterprise is also qualified under 153  
section 125.081 of the Revised Code to compete as a minority 154  
business enterprise, a contract awarded by a state agency to the 155  
business enterprise pursuant to that section shall be considered, 156  
for purposes of this section, a contract awarded to an EDGE 157  
business enterprise. 158

(H) Any person who intentionally misrepresents self as 159  
owning, controlling, operating, or participating in an EDGE 160  
business enterprise for the purpose of obtaining contracts, 161  
subcontracts, or any other benefits under this section shall be 162  
guilty of theft by deception as provided for in section 2913.02 of 163  
the Revised Code. 164

**Section 2.** That existing section 123.152 of the Revised Code 165  
is hereby repealed. 166

**Section 3.** Sections 123.152 and 125.083 of the Revised Code, 167  
as amended or enacted by this act, shall first apply to purchases 168  
made in fiscal year 2009. 169