

As Introduced

**130th General Assembly
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S. B. No. 136

Senator Tavares

Cosponsors: Senators Cafaro, Kearney

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A B I L L

To amend sections 123.152 and 3358.10 and to enact 1
sections 3354.161, 3355.121, and 3357.161 of the 2
Revised Code to require community colleges, state 3
community colleges, technical colleges, and 4
university branches to comply with minority 5
business enterprise set-aside requirements, and to 6
require the Director of Administrative Services to 7
establish guidelines for these entities and the 8
Northeast Ohio Medical University to establish 9
procurement goals for contracting with EDGE 10
business enterprises. 11

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

Section 1. That sections 123.152 and 3358.10 be amended and 12
sections 3354.161, 3355.121, and 3357.161 of the Revised Code be 13
enacted to read as follows: 14

Sec. 123.152. (A) As used in this section, ~~"EDGE;~~ 15

(1) "EDGE business enterprise" means a sole proprietorship, 16
association, partnership, corporation, limited liability 17
corporation, or joint venture certified as a participant in the 18
encouraging diversity, growth, and equity program by the director 19

of administrative services under this section of the Revised Code. 20

(2) "State institution of higher education" means any state 21
university or college as defined in division (A)(1) of section 22
3345.12 of the Revised Code, community college established under 23
Chapter 3354. of the Revised Code, state community college 24
established under Chapter 3358. of the Revised Code, university 25
branch established under Chapter 3355. of the Revised Code, or 26
technical college established under Chapter 3357. of the Revised 27
Code, and includes the applicable boards of trustees or, in the 28
case of a university branch district, any other managing 29
authority. 30

(B) The director of administrative services shall establish a 31
business assistance program known as the encouraging diversity, 32
growth, and equity program and shall adopt rules in accordance 33
with Chapter 119. of the Revised Code to administer the program 34
that do all of the following: 35

(1) Establish procedures by which a sole proprietorship, 36
association, partnership, corporation, limited liability 37
corporation, or joint venture may apply for certification as an 38
EDGE business enterprise; 39

(2) Except as provided in division (B)(14) of this section, 40
establish agency procurement goals for contracting with EDGE 41
business enterprises in the award of contracts under Chapters 42
123., 125., and 153. of the Revised Code based on the availability 43
of eligible program participants by region or geographic area, as 44
determined by the director, and by standard industrial code or 45
equivalent code classification. 46

(a) Goals established under division (B)(2) of this section 47
shall be based on a percentage level of participation and a 48
percentage of contractor availability. 49

(b) Goals established under division (B)(2) of this section 50

shall be applied at the contract level, relative to an overall 51
dollar goal for each state agency, in accordance with the 52
following certification categories: construction, architecture, 53
and engineering; professional services; goods and services; and 54
information technology services. 55

(3) Establish a system of certifying EDGE business 56
enterprises based on a requirement that the business owner or 57
owners show both social and economic disadvantage based on the 58
following, as determined to be sufficient by the director: 59

(a) Relative wealth of the business seeking certification as 60
well as the personal wealth of the owner or owners of the 61
business; 62

(b) Social disadvantage based on any of the following: 63

(i) A rebuttable presumption when the business owner or 64
owners demonstrate membership in a racial minority group or show 65
personal disadvantage due to color, ethnic origin, gender, 66
physical disability, long-term residence in an environment 67
isolated from the mainstream of American society, location in an 68
area of high unemployment; 69

(ii) Some other demonstration of personal disadvantage not 70
common to other small businesses; 71

(iii) By business location in a qualified census tract. 72

(c) Economic disadvantage based on economic and business size 73
thresholds and eligibility criteria designed to stimulate economic 74
development through contract awards to businesses located in 75
qualified census tracts. 76

(4) Establish standards to determine when an EDGE business 77
enterprise no longer qualifies for EDGE business enterprise 78
certification; 79

(5) Develop a process for evaluating and adjusting goals 80

established by this section to determine what adjustments are	81
necessary to achieve participation goals established by the	82
director;	83
(6) Establish a point system or comparable system to evaluate	84
bid proposals to encourage EDGE business enterprises to	85
participate in the procurement of professional design and	86
information technology services;	87
(7) Establish a system to track data and analyze each	88
certification category established under division (B)(2)(b) of	89
this section;	90
(8) Establish a process to mediate complaints and to review	91
EDGE business enterprise certification appeals;	92
(9) Implement an outreach program to educate potential	93
participants about the encouraging diversity, growth, and equity	94
program;	95
(10) Establish a system to assist state agencies in	96
identifying and utilizing EDGE business enterprises in their	97
contracting processes;	98
(11) Implement a system of self-reporting by EDGE business	99
enterprises as well as an on-site inspection process to validate	100
the qualifications of an EDGE business enterprise;	101
(12) Establish a waiver mechanism to waive program goals or	102
participation requirements for those companies that, despite their	103
best-documented efforts, are unable to contract with certified	104
EDGE business enterprises;	105
(13) Establish a process for monitoring overall program	106
compliance in which equal employment opportunity officers	107
primarily are responsible for monitoring their respective	108
agencies;	109
(14) Establish guidelines for state universities as defined	110

~~in section 3345.011 of the Revised Code~~ institutions of higher 111
education and the Ohio facilities construction commission created 112
in section 123.20 of the Revised Code for awarding contracts 113
pursuant to Chapters 153., 3318., and 3345. of the Revised Code to 114
allow the ~~universities~~ state institutions of higher education and 115
commission to establish agency procurement goals for contracting 116
with EDGE business enterprises. 117

(C) Business and personal financial information and trade 118
secrets submitted by encouraging diversity, growth, and equity 119
program applicants to the director pursuant to this section are 120
not public records for purposes of section 149.43 of the Revised 121
Code, unless the director presents the financial information or 122
trade secrets at a public hearing or public proceeding regarding 123
the applicant's eligibility to participate in the program. 124

Sec. 3354.161. In awarding contracts, the board of trustees 125
of a community college district shall set aside a percentage of 126
the contracts for competition by minority business enterprises 127
only as specified in division (B) of section 125.081 of the 128
Revised Code. 129

Sec. 3355.121. In awarding contracts, the managing authority 130
of the university branch district shall set aside a percentage of 131
the contracts for competition by minority business enterprises 132
only as specified in division (B) of section 125.081 of the 133
Revised Code. 134

Sec. 3357.161. In awarding contracts, the board of trustees 135
of a technical college district shall set aside a percentage of 136
the contracts for competition by minority business enterprises 137
only as specified in division (B) of section 125.081 of the 138
Revised Code. 139

Sec. 3358.10. Sections 3354.10, 3354.121, 3354.15, ~~and~~ 140
3354.16, and 3354.161 of the Revised Code apply to state community 141
college districts and their boards of trustees. 142

Section 2. That existing sections 123.152 and 3358.10 of the 143
Revised Code are hereby repealed. 144