



**S.B. 282**

127th General Assembly  
(As Introduced)

Sen. Kearney

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**BILL SUMMARY**

- Requires state agencies to set aside a certain amount of purchases for which only EDGE business enterprises may compete.

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**CONTENT AND OPERATION**

**Background: EDGE Program**

(R.C. 123.152)

The Director of Administrative Services is currently required to establish a business assistance program known as the "encouraging diversity, growth, and equity" (EDGE) program. Under that program, sole proprietorships, associations, partnerships, corporations, limited liability corporations, and joint ventures may be certified as "EDGE business enterprises" based on the business owner or owners social and economic disadvantage, as follows:

--Relative wealth of the business as well as the personal wealth of the owner or owners;

--Social disadvantage based on (1) a rebuttable presumption when the business owner or owners demonstrate membership in a racial minority group or show personal disadvantage, due to color, ethnic origin, gender, physical disability, long-term residence in an environment isolated from the mainstream of American society, or location in an area of high unemployment, (2) some other demonstration of personal disadvantage not common to other small businesses, or (3) by business location in a qualified census tract.

--Economic disadvantage based on economic and business size thresholds and eligibility criteria designed to stimulate economic development through contract awards to businesses located in qualified census tracts.

The Director is to establish agency procurement goals for contracting with EDGE business enterprises in the award of public works contracts, contracts for the purchase of supplies, equipment, and services, and public improvement contracts. These goals are based on the availability of eligible program participants by region or geographic area and by standard industrial code or equivalent code classification. The program includes a waiver mechanism for companies that, despite their best-documented efforts, are unable to contract with EDGE business enterprises.

**Agency set-asides for EDGE business enterprises**

(R.C. 123.152(B)(2)(c) and 125.083; Section 3)

**Overview**

The bill requires the Director of Administrative Services to select, from the purchases of supplies, equipment, and services that the Department of Administrative Services is required by law to make through competitive selection, a number of those purchases the aggregate value of which equals approximately 15% of the estimated total value of all such purchases to be made in the current fiscal year. The selected purchases must be set aside for competition only by EDGE business enterprises. The competitive selection procedures for the purchases are to be the same as for all other purchases the Department is required to make through competitive selection, except that only EDGE business enterprises are qualified to compete for them.

To the extent that any other state agency (other than the legislative and judicial branches, boards of elections, and the adjutant general) is authorized to make purchases, that agency also must select the same value of purchases to set aside for competition by EDGE business enterprises only. Otherwise, the procedures for the purchases are to be the same as for all other purchases made by the agency.

The bill first applies to purchases made in fiscal year 2009.

**Participation**

If no bid for a set-aside purchase is submitted by an EDGE business enterprise, the purchase is to be made according to usual procedures. The contracting agency must, however, set aside additional purchases to ensure that, in any fiscal year, the aggregate amount of contracts awarded to EDGE business enterprises will equal approximately 15% of the total amount of contracts awarded by the agency.

**Other state purchases; relationship to EDGE Program**

An EDGE business enterprise is not precluded from competing for any other state purchases that are not specifically set aside for such businesses. If an EDGE business enterprise also qualifies as a "minority business enterprise"<sup>1</sup> for purposes of the existing minority business enterprise set-aside program (R.C. 125.081), a contract awarded to the business enterprise pursuant to that program is to be considered a contract awarded to an EDGE business enterprise for purposes of the bill.

The bill also states that the agency procurement goals established by the Director for purposes of the EDGE program (see above) must be consistent with the set-aside requirements of the bill.

**Intentional misrepresentation**

If a person intentionally misrepresents themselves as owning, controlling, operating, or participating in an EDGE business enterprise for the purpose of obtaining contracts, subcontracts, or any other benefits under the bill, that person is guilty of theft by deception (R.C. 2913.02).

**Rule-making authority**

The Director is authorized to adopt rules necessary for the implementation of the bill. The rules must be adopted in accordance with the Administrative Procedure Act (R.C. Chapter 119.).

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**HISTORY**

ACTION	DATE
Introduced	01-29-08

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<sup>1</sup> "Minority business enterprise" is defined as an individual who is a United States citizen and owns and controls a business, or a partnership, corporation, or joint venture of any kind that is owned and controlled by United States citizens, which citizen or citizens are residents of Ohio and are members of one of the following economically disadvantaged groups: Blacks or African Americans, American Indians, Hispanics or Latinos, and Asians. (R.C. 122.71.)