HOUSE BILL NO. 1435

AN ACT TO AMEND SECTION 57-69-5, MISSISSIPPI CODE OF 1972, TO DELETE THE PROVISION REQUIRING THAT IN DEVELOPING AND MAINTAINING A CENTRAL MINORITY BUSINESS ENTERPRISE CERTIFICATION LIST FOR STATE AGENCIES AND EDUCATIONAL INSTITUTIONS, THE OFFICE OF MINORITY BUSINESS ENTERPRISES OF THE MISSISSIPPI DEVELOPMENT AUTHORITY SHALL NOT CONSIDER SIZE OF BUSINESS OR LENGTH OF TIME IN BUSINESS AS A PREREQUISITE FOR INCLUSION ON THE LIST; TO AMEND SECTIONS 57-69-3 AND 57-69-7, MISSISSIPPI CODE OF 1972, TO REFLECT THE CHANGE OF THE NAME OF THE MISSISSIPPI DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT TO THE MISSISSIPPI DEVELOPMENT AUTHORITY; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 57-69-5, Mississippi Code of 1972, is amended as follows:

57-69-5. (1) There is hereby created the Office of Minority Business Enterprises of the Mississippi Development Authority under the Mississippi Development Authority. The Executive Director of the Mississippi Development Authority shall appoint an executive director for the office. The executive director may employ a staff subject to approval of the Executive Director of the Mississippi Development Authority as necessary to carry out the purposes of this office.

(2) The office shall perform the following:

(a) Develop, plan and implement programs to provide an opportunity for participation by qualified minority owned businesses in public works and the process by which goods and services are procured by state agencies and educational institutions from the private sector;

(b) Develop a comprehensive plan encouraging that qualified minority owned businesses are provided an opportunity to
participate in public contracts for public works and commodities and services;

(c) Identify barriers to equal participation by qualified minority owned businesses in all state agency and educational institution contracts;

(d) Develop and maintain a central minority business enterprise certification list for all state agencies and educational institutions;

(e) Adopt rules for the implementation of this chapter;

(f) Develop and maintain a central minority business enterprise certification program;

(g) Submit an annual report to the Governor and the Legislature outlining the progress and economic impact on the public and private sectors of implementing this chapter;

(h) Increase efforts to inform minority businesses of state government procurement procedures and policies;

(i) Serve as the principal advocate in the state on behalf of minority business enterprises and provide advice in the consideration of administrative requirements and legislation that affect minority business enterprises;

(j) Evaluate the effectiveness of efforts of state agencies and other entities to assist minority business enterprises and make appropriate recommendations to assist the development and strengthening of minority business enterprises;

(k) Determine the availability of financial and other resources to minority business enterprises and recommend methods for:

(i) Increasing the availability of equity capital and other forms of financial assistance to minority business enterprises;

(ii) Generating markets for the goods and services of minority business enterprises;
(iii) Providing more effective education, training and management and technical assistance to minority business enterprises; and

(iv) Providing assistance to minority business enterprises in complying with federal, state and local laws;

(l) Serve as a focal point for receiving complaints and suggestions concerning state government policies and activities that affect minority business enterprises;

(m) Develop and advocate proposals for changes in state policies and activities that adversely affect minority business enterprises;

(n) Provide to legislative committees and state agencies information on the effects of proposed policies or actions that affect minority business enterprises;

(o) Enlist the assistance of public and private agencies, businesses and other organizations in disseminating information about state programs and services that benefit minority business enterprises and information regarding means by which minority business enterprises can use those programs and services;

(p) Identify sources of financial assistance for minority business enterprises, match minority business enterprises with sources of financial assistance, and assist minority business enterprises with the preparation of applications for loans from governmental or private sources;

(q) Sponsor meetings, to the extent practicable in cooperation with public and private educational institutions, to provide training and disseminate information beneficial to minority business enterprises;

(r) Assist minority business enterprises in their dealings with federal, state and local governmental agencies and provide information regarding governmental requirements affecting minority business enterprises;
(s) Develop and implement programs to encourage governmental agencies, public sector business associations and other organizations to provide useful services to minority business enterprises;

(t) Use available resources within the state, such as minority business enterprise development centers, educational institutions and nonprofit associations, to coordinate the provision of management and technical assistance to minority business enterprises in a systematic manner;

(u) Publish newsletters, brochures and other documents containing information useful to minority business enterprises;

(v) Identify successful minority business enterprise assistance programs provided by other states and determine the feasibility of adapting those programs for implementation in Mississippi;

(w) Establish an outreach program to make the existence of the office known to minority business enterprises and potential clients throughout the state; and

(x) Identify potential business opportunities for minority business enterprises and develop programs to maximize those opportunities.

SECTION 2. Section 57-69-3, Mississippi Code of 1972, is amended as follows:

57-69-3. Unless the context requires otherwise, the following words shall have the following meanings for the purposes of this chapter:

(a) "Class of contract basis" means an entire group of contracts having a common characteristic.

(b) "Commercially useful function" means being responsible for execution of a contract or a distinct element of the work under a contract by actually performing, managing, and supervising the work involved.
"Contract" means all types of state agreements, regardless of what they may be called, for the purchase of supplies or services or for construction or major repairs. "Contract" includes the following:

(i) Awards and notices of award.

(ii) Contracts of a fixed price, cost, cost-plus-a-fixed-fee, or incentive types.

(iii) Contracts providing for the issuance of job or task orders.

(iv) Leases.

(v) Letter contracts.

(vi) Purchase orders.

(vii) Any supplemental agreements with respect to (i) through (vi) of this subparagraph.

"Contracting base" means the dollar amount of contracts for public works and procurement of goods and services awarded by a state agency or a state educational institution during a fiscal year.

"Contract by contract basis" means a single contract within a specific class of contracts.

"Contractor" means a party who enters into a contract to provide a state or educational institution with goods or services, including construction, or a subcontractor or sublessee of such a party.

"Director" means the Executive Director of the Office of Minority Business Enterprises of the Mississippi Development Authority.

"Educational institutions" means the state universities, vocational institutions, and any other state-supported educational institutions.

"Joint venture" means an association of two (2) or more persons or businesses to carry out a single business enterprise for profit for which purpose they combine their
property, capital, efforts, skills, and knowledge, and in which
they exercise control and share in profits and losses in
proportion to their contribution to the enterprise.

(j) "Minority" means a person who is a citizen or
lawful permanent resident of the United States and who is:

(i) Black: having origins in any of the black
racial groups of Africa.

(ii) Hispanic: of Mexican, Puerto Rican, Cuban,
Central or South American, or other Spanish or Portuguese culture
or origin regardless of race.

(iii) Asian American: having origins in any of
the original peoples of the Far East, Southeast Asia, the Indian
subcontinent, or the Pacific Islands.

(iv) American Indian or Alaskan Native: having
origins in any of the original peoples of North America.

(v) Female.

(k) "Minority business enterprise" or "minority owned
business" means a socially and economically disadvantaged small
business concern organized for profit performing a commercially
useful function which is owned and controlled by one or more
individuals or minority business enterprises certified by the
office, at least seventy-five percent (75%) of whom are resident
citizens of the State of Mississippi. For purposes of this
subparagraph, the term "socially and economically disadvantaged
small business concern" shall have the meaning ascribed to such
term under the Small Business Act (15 USCS, Section 637(a)). Owned
and controlled means a business in which one or more minorities or
minority business enterprises certified by the office own at least
fifty-one percent (51%) or in the case of a corporation at least
fifty-one percent (51%) of the voting stock and control at least
fifty-one percent (51%) of the management and daily business
operations of the business.
193  (l) "Office" means the Office of Minority Business
194 Enterprises of the Mississippi Development Authority.
195  (m) "Procurement" means the purchase, lease, or rental
196 of any goods or services.
197  (n) "Commodities" means the various items described in
198 Section 31-7-1(e).
199  (o) "Professional services" means all personal service
200 contracts utilized by state agencies and institutions.
201  (p) "Small business" means a small business as defined
202 by the Small Business Administration of the United States
203 government which for purposes of size eligibility or other factors
204 meets the applicable criteria set forth in Part 121 of Title 13 of
205 the Code of Federal Regulations as amended, and which has its
206 principal place of business in Mississippi.
207  (q) "State agency" includes the State of Mississippi
208 and all agencies, departments, offices, divisions, boards,
209 commissions, and correctional and other types of institutions.
210 "State agency" does not include the judicial or legislative
211 branches of government except to the extent that procurement or
212 public works for these branches is performed by a state agency.

SECTION 3. Section 57-69-7, Mississippi Code of 1972, is
amended as follows:

57-69-7. The Executive Director of the Mississippi
Development Authority shall certify minority business enterprises
that qualify as such. The director shall establish criteria by
which minority business enterprises may qualify for certification.

SECTION 4. This act shall take effect and be in force from
and after July 1, 2002.