SENATE BILL NO. 2929

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
testification 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.
ST: Minority businesses, certification list; delete prohibition against considering size of business or length of time in business (MDA).

(1) "Office" means the Office of Minority Business Enterprises of the Mississippi Development Authority.

(m) "Procurement" means the purchase, lease, or rental of any goods or services.

(n) "Commodities" means the various items described in Section 31-7-1(e).

(o) "Professional services" means all personal service contracts utilized by state agencies and institutions.

(p) "Small business" means a small business as defined by the Small Business Administration of the United States government which for purposes of size eligibility or other factors meets the applicable criteria set forth in Part 121 of Title 13 of the Code of Federal Regulations as amended, and which has its principal place of business in Mississippi.

(q) "State agency" includes the State of Mississippi and all agencies, departments, offices, divisions, boards, commissions, and correctional and other types of institutions. "State agency" does not include the judicial or legislative branches of government except to the extent that procurement or 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.