

SECOND REGULAR SESSION

HOUSE BILL NO. 1755

92ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PARKER.

Read 1st time April 28, 2004, and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5040L.011

AN ACT

To amend chapter 37, RSMo, by adding thereto eight new sections relating to advancing minority-owned businesses.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 37, RSMo, is amended by adding thereto eight new sections, to be
2 known as sections 37.800, 37.803, 37.805, 37.810, 37.811, 37.815, 37.816, and 37.817, to read
3 as follows:

2 **37.800. Sections 37.800 to 37.817 shall be known and may be cited as the "The
Missouri Renewal Act of 2004".**

2 **37.803. There is hereby established in the office of administration the "Office of
Minority Affairs" to be headed by a director appointed by the governor with the advice
3 and consent of the senate.**

37.805. As used in sections 37.810 to 37.815 the following terms shall mean:

2 **(1) "Contract", any contract awarded by a state agency for construction projects
3 or the procurement of goods or services, including professional services;**

4 **(2) "Director", the director of the office of minority affairs created under section
5 37.800;**

6 **(3) "Mentor", an individual, partnership, corporation, or joint venture of any kind
7 that has been party to at least one contact and that meets the qualifications established by
8 the director for participation in the small and minority business mentor-protégée program;**

9 **(4) "Minority business", an individual, partnership, corporation, or joint venture
10 of any kind that is owned and controlled by one or more persons who are:**

11 **(a) United States citizens; and**

12 **(b) Members of a racial minority group;**

- 13 (5) "Office", the office of minority affairs created under section 37.800;
- 14 (6) "Owned and controlled", having:
 - 15 (a) Ownership of at least fifty-one percent of the enterprise, including corporate
 - 16 stock of a corporation;
 - 17 (b) Control over the management and day-to-day operations of the business; and
 - 18 (c) An interest in the capital, assets, and profits and losses of the business
 - 19 proportionate to the percentage of ownership;
- 20 (7) "Protégée", a small or minority business that meets the qualifications
- 21 established by the director for participation in the small and minority business mentor-
- 22 protégée program;
- 23 (8) "Racial minority group":
 - 24 (a) Blacks;
 - 25 (b) American Indians;
 - 26 (c) Hispanics;
 - 27 (d) Asian Americans; and
 - 28 (e) Other similar racial minority groups;
- 29 (9) "Small business", a corporation, partnership, sole proprietorship, or other
- 30 business entity including its affiliates that is independently owned and operated and
- 31 employs fifty or fewer full-time employees;
- 32 (10) "State agency", an authority, board, branch, commission, committee,
- 33 department, division, or other instrumentality of the executive branch of state government.

37.810. 1. The office shall implement a minority business reform program that
2 shall include:

- 3 (1) Proposing legislation requiring that ten percent of contracts be entered into
- 4 with small and minority businesses;
- 5 (2) Requiring potential contractors bidding on contracts to provide to the office a
- 6 list of any subcontractors that are minority businesses;
- 7 (3) Requesting proposals from small and minority businesses for increasing the
- 8 number of contracts awarded to small businesses and minority business enterprises;
- 9 (4) Inviting small and minority businesses to submit bids for construction projects
- 10 and the sale of goods or services, including professional services, to state agencies;
- 11 (5) Establishing a responsive procurement solicitation to include information about
- 12 small and minority business participation in state agency procurement of goods and
- 13 services.

14 2. The director shall have the power to promulgate rules to implement this section.
15 Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is

16 created under the authority delegated in this section shall become effective only if it
17 complies with and is subject to all of the provisions of chapter 536, RSMo, and, if
18 applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable
19 and if any of the powers vested with the general assembly under chapter 536, RSMo, to
20 review, to delay the effective date, or to disapprove and annul a rule are subsequently held
21 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted
22 after August 28, 2004, shall be invalid and void.

37.811. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

2 (1) The provisions of the new program authorized under section 37.810 shall
3 automatically sunset six years after the effective date of section 37.810 unless reauthorized
4 by an act of the general assembly; and

5 (2) If such program is reauthorized, the program authorized under section 37.810
6 shall automatically sunset twelve years after the effective date of the reauthorization of
7 section 37.810; and

8 (3) This section shall terminate on September first of the calendar year immediately
9 following the calendar year in which the program authorized under section 37.810 is
10 sunset.

37.815. 1. There is hereby established the "Small and Minority Business Mentor-
2 Protégée Program" to be administered by the office. The program shall facilitate a
3 voluntary mentor-protégée relationship between prime contractors and small and minority
4 businesses, and the office shall:

5 (1) Allow prime contractors to assist small and minority businesses in developing
6 the technical and business capabilities necessary to successfully compete for contracts;

7 (2) Match mentor and protégée businesses of the same field or product and same
8 geographic region;

9 (3) Maintain a list of mentors and protégées and identify potential mentors and
10 protégées;

11 (4) Contact mentors and protégées at least once every three months to obtain
12 information regarding the success of the program.

13 2. The commissioner of administration, the director of the department of
14 transportation, and the director of the department of economic development shall
15 designate an individual in their respective departments to assist the office in identifying
16 potential mentors and potential protégées for the list required under subdivision (3) of
17 subsection 1 of this section.

18 3. The director shall have the power to promulgate rules to implement this section
19 including rules establishing the qualifications for participation as a mentor or protégée in

20 the program. Any rule or portion of a rule, as that term is defined in section 536.010,
21 RSMo, that is created under the authority delegated in this section shall become effective
22 only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and,
23 if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are
24 nonseverable and if any of the powers vested with the general assembly under chapter 536,
25 RSMo, to review, to delay the effective date, or to disapprove and annul a rule are
26 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
27 proposed or adopted after August 28, 2004, shall be invalid and void.

37.816. Pursuant to section 23.253, RSMo, of the Missouri Sunset Act:

2 (1) The provisions of the new program authorized under section 37.815 shall
3 automatically sunset six years after the effective date of section 37.815 unless reauthorized
4 by an act of the general assembly; and

5 (2) If such program is reauthorized, the program authorized under section 37.815
6 shall automatically sunset twelve years after the effective date of the reauthorization of
7 section 37.815; and

8 (3) This section shall terminate on September first of the calendar year immediately
9 following the calendar year in which the program authorized under section 37.815 is
10 sunset.

37.817. 1. There is hereby established the "Council for Historically Underutilized
2 Businesses". The council shall consist of nine members:

3 (1) The director of the office of minority affairs who shall serve as chairperson;

4 (2) Six members appointed by the governor to represent the interests of small and
5 minority businesses;

6 (3) One member of the senate appointed by the president pro tem of the senate;

7 (4) One member of the house of representatives appointed by the speaker of the
8 house of representatives.

9
10 No more than four of the six members appointed by the governor shall be of the same
11 political party. Appointed members of the commission shall serve four-year terms, except
12 that of the initial appointments made by the governor, two shall be for two-year terms, two
13 shall be for three-year terms, and two shall be for four-year terms. A vacancy occurs if a
14 legislative member leaves office for any reason. Any vacancy on the commission shall be
15 filled in the same manner as the original appointment. To the extent possible, council
16 members shall represent the major geographic areas of the state.

17 2. The council shall serve in an advisory capacity to the office of minority affairs
18 on matters relating to minority businesses and provide other assistance and consultation

19 in this area as may be requested by the director of the office of minority affairs.

20 **3. Each member appointed by the governor shall receive as compensation a per**
21 **diem of up to thirty-five dollars for each day devoted to the affairs of the council and be**
22 **reimbursed for his or her actual and necessary expenses incurred in the discharge of his**
23 **or her official duties.**

24 **4. Each legislative member of the council is entitled to receive the same per diem,**
25 **mileage, and travel allowances paid to members of the general assembly serving on interim**
26 **committees. The allowances specified in this subsection shall be paid from the amounts**
27 **appropriated for that purpose.**

28 **5. The council shall meet at least three times each year and at other times as the**
29 **chairman deems necessary at a time and place fixed by the chairperson. A majority of the**
30 **members shall constitute a quorum.**

31 **6. The office of minority affairs and the office of the lieutenant governor shall**
32 **provide the primary staff support for the council. The council may seek additional staff**
33 **support from other state agencies that have expertise in minority business issues.**

34 **7. The council shall report to the governor its progress and achievements on or**
35 **before December thirty-first of each year.**