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HOUSE BILL NO. 1802

Offered January 13, 2025

Prefiled January 6, 2025

A *BILL to amend and reenact §§ 2.2-1605, 2.2-1606, and 2.2-1610 of the Code of Virginia, relating to Department of Small Business and Supplier Diversity; employment services organizations.*

Patron—Cohen

Referred to Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1605, 2.2-1606, and 2.2-1610 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1605. Powers and duties of Department.

A. The Department shall have the following powers and duties:

1. Coordinate as consistent with prevailing law the plans, programs, and operations of the state government that affect or may contribute to the establishment, preservation, and strengthening of small, women-owned, and minority-owned businesses *and employment services organizations*;

2. Promote the mobilization of activities and resources of state and local governments, businesses and trade associations, baccalaureate institutions of higher education, foundations, professional organizations, and volunteer and other groups towards the growth of *employment services organizations*, small businesses, and businesses owned by women and minorities, and facilitate the coordination of the efforts of these groups with those of state departments and agencies;

3. Establish a center for the development, collection, summarization, and dissemination of information that will be helpful to persons and organizations throughout the nation in undertaking or promoting procurement from small, women-owned, and minority-owned businesses *and employment services organizations*;

4. Consistent with prevailing law and availability of funds, and according to the Director's discretion, provide technical and management assistance to small, women-owned, and minority-owned businesses and defray all or part of the costs of pilot or demonstration projects that are designed to overcome the special problems of small, women-owned, and minority-owned businesses;

5. Advise the Small Business Financing Authority on the management and administration of the Small, Women-owned, and Minority-owned Business Loan Fund created pursuant to § 2.2-2311.1;

6. Implement any remediation or enhancement measure for small, women-owned, or minority-owned businesses *and employment services organizations* as may be authorized by the Governor pursuant to subsection C of § 2.2-4310 and develop regulations, consistent with prevailing law, for program implementation. Such regulations shall be developed in consultation with the state agencies with procurement responsibility and promulgated by those agencies in accordance with applicable law;

7. Receive and coordinate, with the appropriate state agency, the investigation of complaints that a business certified pursuant to this chapter has failed to comply with its subcontracting plan under subsection D of § 2.2-4310. If the Department determines that a business certified pursuant to this chapter has failed to comply with the subcontracting plan, the business shall provide a written explanation; and

8. Facilitate relationships between established businesses and start-up women-owned and minority-owned businesses by creating and administering a mentorship program under the provisions of § 2.2-1605.1.

B. In addition, the Department shall serve as the liaison between the Commonwealth's existing businesses and state government in order to promote the development of Virginia's economy. To that end, the Department shall:

1. Encourage the training or retraining of individuals for specific employment opportunities at new or expanding business facilities in the Commonwealth;

2. Develop and implement programs to assist small businesses in the Commonwealth in order to promote their growth and the creation and retention of jobs for Virginians;

3. Establish an industry program that is the principal point of communication between basic employers in the Commonwealth and the state government that will address issues of significance to business;

4. Make available to existing businesses, in conjunction and cooperation with localities, chambers of commerce, and other public and private groups, basic information and pertinent factors of interest and concern to such businesses;

5. Develop statistical reports on job creation and the general economic conditions in the Commonwealth; and

6. Annually review and provide feedback on SWaM plans. The review shall focus on strategies state

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59 agencies can use to improve SWaM spending, increase procurement of goods and services from SWaM
 60 businesses, and meet procurement goals outlined in SWaM plans. The Department shall encourage state
 61 agencies to integrate such strategies with all current and future procurements. The Department shall suggest
 62 strategies that may be more effective or changes to strategies that have not been effective. Upon request of a
 63 state agency, the Department shall meet with the state agency one-on-one to discuss its SWaM goals and
 64 strategies and advise it on effective strategies. The Department shall research and compile information that
 65 state agencies can use to increase SWaM spending and shall develop and publish guidance on how state
 66 agencies can implement these strategies.

67 C. All agencies of the Commonwealth shall assist the Department upon request and furnish such
 68 information and assistance as the Department may require in the discharge of its duties.

69 **§ 2.2-1606. Powers of Director.**

70 As deemed necessary or appropriate to better fulfill the duties of the Department, the Director may:

71 1. With the participation of other state departments and agencies, develop comprehensive plans and
 72 specific program goals for small, women-owned, and minority-owned business programs *and employment*
 73 *services organizations*; establish regular performance monitoring and reporting systems to assure that goals
 74 of state agencies and institutions are being achieved; and evaluate the impact of federal and state support in
 75 achieving objectives.

76 2. Employ the necessary personnel or subcontract, according to his discretion, with localities to
 77 supplement the functions of business development organizations.

78 3. Assure the coordinated review of all proposed state training and technical assistance activities in direct
 79 support of small, women-owned, and minority-owned business programs *and employment services*
 80 *organizations* to ensure consistency with program goals and to avoid duplication.

81 4. Convene, for purposes of coordination, meetings of the heads of departments and agencies, or their
 82 designees, whose programs and activities may affect or contribute to the purposes of this chapter.

83 5. Convene business leaders, educators, and other representatives of the private sector who are engaged in
 84 assisting the development of small, women-owned, and minority-owned business programs or who could
 85 contribute to their development for the purpose of proposing, evaluating, or coordinating governmental and
 86 private activities in furtherance of the objectives of this chapter.

87 6. Provide the managerial and organizational framework through which joint undertakings with state
 88 departments or agencies or private organizations can be planned and implemented.

89 7. Recommend appropriate legislative or executive actions.

90 8. Adopt regulations to implement certification programs for small, women-owned, and minority-owned
 91 businesses and employment services organizations, which regulations shall be exempt from the
 92 Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 2 of § 2.2-4002. Such certification
 93 programs shall allow applications for certification to be submitted by electronic means as authorized by §
 94 59.1-496 and the applicant to affix thereto his electronic signature, as defined in § 59.1-480. Such
 95 certification programs shall deny certification to vendors from states that deny like certifications to
 96 Virginia-based small, women-owned, or minority-owned businesses and employment services organizations
 97 or that provide a preference for small, women-owned, or minority-owned businesses and employment
 98 services organizations based in that state that is not available to Virginia-based businesses. The regulations
 99 shall (i) establish minimum requirements for certification of small, women-owned, and minority-owned
 100 businesses and employment services organizations; (ii) provide a process for evaluating existing local, state,
 101 and private sector certification programs that meet the minimum requirements; and (iii) mandate certification
 102 without any additional paperwork of any small, women-owned, or minority-owned business that has obtained
 103 (a) certification under any federal certification program or (b) certification under any other certification
 104 program that is determined to meet the minimum requirements established in the regulations, and of any
 105 employment services organization that has been approved by the Department for Aging and Rehabilitative
 106 Services. All employment services organization certifications shall remain in effect until the Department is
 107 notified by the Department for Aging and Rehabilitative Services that such organization is no longer
 108 approved. The regulations shall also require as a prerequisite for approval that any out-of-state business
 109 applying for certification in Virginia as a small, women-owned, or minority-owned business have the
 110 equivalent certification in the business's state of origin. An out-of-state business located in a state that does
 111 not have a small, women-owned, or minority-owned business certification program shall be exempt from the
 112 requirements of this provision. The regulations shall establish a process for businesses that are denied initial
 113 certification as a small, women-owned, or minority-owned business to appeal such denial on the basis that the
 114 Department made a mistake in denying the business's application for certification.

115 9. Establish an interdepartmental board in accordance with § 2.2-1608 to supply the Director with
 116 information useful in promoting minority business activity.

117 **§ 2.2-1610. Reports and recommendations; collection of data.**

118 The Director shall, from time to time, submit directly or through an assistant to the Governor his
 119 recommendations for legislation or other action as he deems desirable to promote the purposes of this

120 chapter.

121 The Director shall report, on or before November 1 of each year, to the Governor and the General
122 Assembly the identity of the state departments and agencies failing to submit annual progress reports on
123 small, women-owned, and minority-owned business *and employment services organizations* procurement
124 required by § 2.2-4310 and the nature and extent of such lack of compliance. The annual report shall include
125 recommendations on the ways to improve compliance with the provisions of § 2.2-4310 and such other
126 related matters as the Director deems appropriate. The Department shall include in its annual report
127 information on the progress of the mentorship program established under § 2.2-1605.1.

128 The Director, with the assistance of the Comptroller, shall develop and implement a systematic data
129 collection process that will provide information for a report to the Governor and General Assembly on state
130 expenditures to small, women-owned, and minority-owned businesses *and employment services*
131 *organizations* during the previous fiscal year.

132 An institution exercising authority granted under this section shall promptly make available to the
133 Department, upon request, copies of its procurement records, receipts, and transactions in regard to
134 procurement from small, women-owned, and minority-owned businesses in order for the Department to
135 ensure institution compliance with its approved reporting and certification criteria.

136 **2. That the Department of Small Business and Supplier Diversity shall amend 7VAC13 of the Virginia**
137 **Administrative Code to reflect the intent of the General Assembly to specifically reference**
138 **"employment services organizations" in the relevant regulations.**

INTRODUCED

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