

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

SESSION LAW 2007-392
SENATE BILL 320

AN ACT AUTHORIZING THE SECRETARY OF ADMINISTRATION TO DEVELOP AND ADMINISTER A STATEWIDE UNIFORM CERTIFICATION PROGRAM FOR HISTORICALLY UNDERUTILIZED BUSINESSES DOING BUSINESS WITH STATE DEPARTMENTS, AGENCIES, AND INSTITUTIONS, AND POLITICAL SUBDIVISIONS OF THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-48(d1) is repealed.

SECTION 2. Article 3 of Chapter 143 of the General Statutes is amended by adding the following new section to read:

"§ 143-48.4. Statewide uniform certification of historically underutilized businesses.

(a) In addition to the powers and duties provided in G.S. 143-49, the Secretary of Administration shall have the power, authority, and duty to:

(1) Develop and administer a statewide uniform program for: (i) the certification of a historically underutilized business, as defined in G.S. 143-128.4, for use by State departments, agencies, and institutions, and political subdivisions of the State; and (ii) the creation and maintenance of a database of the businesses certified as historically underutilized businesses.

(2) Adopt rules and procedures for statewide uniform certification of historically underutilized businesses.

(3) Provide for the certification of all businesses designated as historically underutilized businesses to be used by State departments, agencies, and institutions, and political subdivisions of the State.

(b) The Secretary of Administration shall seek input from State departments, agencies, and institutions, political subdivisions of the State, and any other entity deemed appropriate to determine the qualifications and criteria for statewide uniform certification of historically underutilized businesses.

(c) All State departments, agencies, and institutions, and political subdivisions of the State shall only use historically underutilized businesses listed in the database created in accordance with this section for minority business purposes."

SECTION 3. G.S. 143-128.3(e1) is repealed.

SECTION 4. G.S. 143-128.4 reads as rewritten:

"§ 143-128.4. Historically underutilized business defined; defined; statewide uniform certification.

(a) As used in this Chapter, the term "historically underutilized business" means a business that meets all of the following conditions:

(1) At least fifty-one percent (51%) of the business is owned by one or more persons who are members of at least one of the groups set forth in subsection (b) of this section, or in the case of a corporation, at least fifty-one percent (51%) of the stock is owned by one or more persons who are members of at least one of the groups set forth in subsection (b) of this section.

- (2) The management and daily business operations are controlled by one or more owners of the business who are members of at least one of the groups set forth in subsection (b) of this section.

(a1) As used in this Chapter, the term "minority business" means a historically underutilized business.

(b) To qualify as a historically underutilized business under this section, a business must be owned and controlled as set forth in subsection (a) of this section by one or more citizens or lawful permanent residents of the United States who are members of one or more of the following groups:

- (1) Black. – A person having origins in any of the black racial groups of Africa.
- (2) Hispanic. – A person of Spanish or Portuguese culture having origins in Mexico, South or Central America, or the Caribbean islands, regardless of race.
- (3) Asian American. – A person having origins in any of the original peoples of the Far East, Southeast Asia, Asia, Indian continent, or Pacific islands.
- (4) American Indian. – A person having origins in any of the original Indian peoples of North America.
- (5) Female.
- (6) Disabled. – A person with a disability as defined in G.S. 168-1 or G.S. 168A-3.
- (7) Disadvantaged. – A person who is socially and economically disadvantaged as defined in 15 U.S.C. § 637.

(c) In addition to the powers and duties provided in G.S. 143-49, the Secretary of Administration shall have the power, authority, and duty to:

- (1) Develop and administer a statewide uniform program for: (i) the certification of a historically underutilized business, as defined in this section, for use by State departments, agencies, and institutions, and political subdivisions of the State; and (ii) the creation and maintenance of a database of the businesses certified as historically underutilized businesses.
- (2) Adopt rules and procedures for the statewide uniform certification of historically underutilized businesses.
- (3) Provide for the certification of all businesses designated as historically underutilized businesses to be used by State departments, agencies, and institutions, and political subdivisions of the State.

(d) The Secretary of Administration shall seek input from State departments, agencies, and institutions, political subdivisions of the State, and any other entity deemed appropriate to determine the qualifications and criteria for statewide uniform certification of historically underutilized businesses.

(e) All State departments, agencies, and institutions, and political subdivisions of the State shall only use historically underutilized businesses listed in the database created in accordance with this section for minority business purposes."

SECTION 5. Except as otherwise provided in this section, this act becomes effective October 1, 2007. The Secretary of Administration shall develop a statewide uniform program and criteria for statewide uniform certification of historically underutilized businesses as provided in G.S. 143-48.4(a)(1) and (2), as enacted by Section 2 of this act, and G.S. 143-128.4(c)(1) and (2), as enacted by Section 4 of this act, no later than March 31, 2008. G.S. 143-48.4(c), as enacted by Section 2 of this act, and G.S. 143-128.4(e), as enacted by Section 4 of this act, become effective July 1, 2009.

In the General Assembly read three times and ratified this the 31st day of July, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 7:35 p.m. this 19th day of August, 2007