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S.B. 105
134th General Assembly

Bill Analysis

Version: As Introduced

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SUMMARY

- Requires political subdivisions to accept a state Minority Business Enterprise (“MBE”) certification as proof that a person meets certain eligibility criteria for the purposes of comparable local programs and initiatives.

DETAILED ANALYSIS

Recognition of Minority Business Enterprise certificates

The bill permits a person who has been issued a Minority Business Enterprise (“MBE”) certificate by the Equal Employment Opportunity Coordinator (“Coordinator”) to present the certificate as evidence of eligibility to participate in programs and special initiatives designed by political subdivisions to increase minority participation in business opportunities.¹ The bill requires political subdivisions to defer to the Coordinator’s determination that an MBE certificate holder is part of an economically disadvantaged group, that the person owns or controls more than half of the business, and that the person’s interest in the capital, assets, and profits or losses of the business is proportionate to the person’s ownership interest.² Under current law, political subdivisions are not required to recognize MBE certificates issued by the Coordinator, although some subdivisions require applicants to obtain such a certificate before participating in local programs.³

The bill does not preclude subdivisions from having additional requirements that must be met by persons seeking consideration for minority business initiatives. For example, some

¹ R.C. 123.151(D)(1).

² R.C. 123.151(D)(2).

³ See, e.g., Akron Code of Ordinances, [Sec. 34.10](#).

subdivisions in Ohio require applicants to provide proof of residence in the subdivision or that they perform a commercially useful function.⁴ These additional requirements could remain in place under the bill.

The bill does not require political subdivisions to certify state-certified minority business enterprises under any comparable program. Rather, the bill requires political subdivisions with comparable programs to accept a state certification as evidence that the applicant is a member of the minority indicated on the state certification, and that the applicant meets the ownership and control requirements as indicated in the Revised Code. The municipal corporation must defer to those facts as determined by the state, but only those facts. An applicant to a minority business program in a political subdivision may still have to demonstrate that the applicant meets some other criteria not included on the state certification.

For example, City A has three criteria for participation in its minority business enterprise program. An applicant must prove membership in a particular minority, that the applicant meets ownership and control requirements that are identical to those in the Revised Code, and that the applicant is a resident of City A. If the applicant who is already a state-certified MBE presents the applicant's state certification to City A, then the applicant would only need to prove residence in City A to be certified in City A.

Continuing law requires state agencies and the Department of Administrative Services ("DAS") to set aside a number of purchases for competition only by MBEs. Generally, the value of the set-aside purchases must equal 15% of the aggregate value of total purchases for a fiscal year. An enterprise that desires to be certified as an MBE must submit its application to the Coordinator at DAS. MBE certifications are subject to continued compliance with the associated eligibility requirements. An MBE-certified enterprise must revise its application and information biennially.⁵

HISTORY

Action	Date
Introduced	03-02-21

S0105-I-134/ks

⁴ See, e.g., Cincinnati Code of Ordinances, [Sec. 324-1-M](#).

⁵ R.C. 123.151, 125.07, 125.08, and 125.081, not in the bill.