

BILL ANALYSIS

Senate Research Center
78R8845 PAM-D

S.B. 1475
By: West
State Affairs
4/15/2003
As Filed

DIGEST AND PURPOSE

Currently, Texas has a Historically Underutilized Business (HUB) program, in Section 2161 of the Government Code, which governs all state entities. Prior to the enactment of this legislation, many agencies had their own policies on contracting with minority-owned and women-owned businesses. As proposed, S.B. 1475 eliminates or updates the language in the agency statute and makes changes to the HUB statute.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 466.107, Government Code, as follows:

Sec. 466.107. New Heading: HISTORICALLY UNDERUTILIZED BUSINESSES. (a) Makes conforming changes.

(b) Defines “historically underutilized business.” Deletes former Subsection (c).

SECTION 2. Amends Section 2161.062, Government Code, by amending Subsection (e) and adding Subsection (f), as follows:

(e) Deletes language authorizing the procurement director of a state agency that exceeds \$10 billion to serve as the historically underutilized business coordinator for the agency. Authorizes the coordinator and the procurement director to serve under a financial director of the agency only if the financial director is responsible for procurement and general fiscal affairs of the agency.

(f) Requires the position classification officer and each state agency that employs a historically underutilized businesses coordinator to ensure that the positions of coordinator and procurement director are classified to titles in the position classification plan that are in the same salary group.

SECTION 3. Amends Subchapter B, Chapter 2161, Government Code, by adding Section 2161.067, as follows:

Sec. 2161.067. DUTY TO REPORT CERTAIN VIOLATIONS. Requires the Texas Building and Procurement Commission (TBPC) to report the alleged conduct to the prosecuting attorney in the county in which the alleged conduct occurred, if TBPC suspects that a person has committed an offense under Section 2161.231(a).

SECTION 4. Amends Section 2161.231(b), Government Code, to provide that an offense under this section is a felony punishable by imprisonment in the institutional division of the Texas Department of Criminal Justice for any term of not more than 10 years or less than two years and a fine of \$10,000. Deletes text that provided that an offense under this section is a third degree felony.

SECTION 5. Amends Subchapter E, Chapter 2161, Government Code, by adding Section 2161.232, as follows:

Sec. 2161.232. INVESTIGATION ACCOUNT. (a) Provides that the historically underutilized business investigation account is a separate account in the general revenue fund.

(b) Provides that the account consists of 50 percent of the amount of money collected from fines imposed under Section 2161.231(b)(2).

(c) Authorizes money in the account to be appropriated only to TBPC for the purpose of investigations by TBPC into whether a business qualifies as a historically underutilized business.

SECTION 6. Amends Section 6.03(b), Texas Racing Act (Article 179e, V.T.C.S.), to provide that documents submitted to TBPC are not subject to Chapter 552 (Public Information), Government Code. Requires TBPC, in reviewing and approving contracts under this subsection, to attempt to award contracts to historically underutilized businesses in an amount and manner consistent with Chapter 2161, Government Code, and rules adopted under that chapter.

SECTION 7. Repealer:

(1) Section 12.029 (Minority and Female-Owned Business Contracts), Agriculture Code.

(2) Section 55.03 (Minority-Owned and Women-Owned Businesses), Education Code.

(3) Sections 465.0081 (Disadvantaged Businesses), 493.012 (Historically Underutilized Businesses), 1231.086 (Annual Board Reports), and 1232.104(c) (Issuance of Obligations for Alternative Fuel Projects), Government Code.

(4) Sections 161.131 (Minority-Owned businesses) and 161.132 (Women-Owned Businesses), Natural Resources Code.

SECTION 8. Effective date: September 1, 2003.

SECTION 9. Makes the change in law made by this Act to Section 2161.231(b), Government Code prospective.