

2021 SPECIAL SESSION I

ENROLLED

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

- 2 An Act to amend and reenact § 2.2-1606 of the Code of Virginia, relating to the Department of Small
3 Business and Supplier Diversity; certification of small, women-owned, and minority-owned
4 businesses; right to appeal denial of initial certification.**

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-1606 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-1606. Powers of Director.

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

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

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

18 3. Assure the coordinated review of all proposed state training and technical assistance activities in
19 direct support of small, women-owned, and minority-owned business programs to ensure consistency
20 with program goals and to avoid duplication.

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

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

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

29 7. Recommend appropriate legislative or executive actions.

30 8. Adopt regulations to implement certification programs for small, women-owned, and
31 minority-owned businesses and employment services organizations, which regulations shall be exempt
32 from the Administrative Process Act (§ 2.2-4000 et seq.) pursuant to subdivision B 2 of § 2.2-4002.
33 Such certification programs shall allow applications for certification to be submitted by electronic means
34 as authorized by § 59.1-496 and the applicant to affix thereto his electronic signature, as defined in
35 § 59.1-480. Such certification programs shall deny certification to vendors from states that deny like
36 certifications to Virginia-based small, women-owned, or minority-owned businesses and employment
37 services organizations or that provide a preference for small, women-owned, or minority-owned
38 businesses and employment services organizations based in that state that is not available to
39 Virginia-based businesses. The regulations shall (i) establish minimum requirements for certification of
40 small, women-owned, and minority-owned businesses and employment services organizations; (ii)
41 provide a process for evaluating existing local, state, and private sector certification programs that meet
42 the minimum requirements; and (iii) mandate certification without any additional paperwork of any
43 small, women-owned, or minority-owned business that has obtained (a) certification under any federal
44 certification program or (b) certification under any other certification program that is determined to meet
45 the minimum requirements established in the regulations, and of any employment services organization
46 that has been approved by the Department for Aging and Rehabilitative Services. All employment
47 services organization certifications shall remain in effect until the Department is notified by the
48 Department for Aging and Rehabilitative Services that such organization is no longer approved. The
49 regulations shall also require as a prerequisite for approval that any out-of-state business applying for
50 certification in Virginia as a small, women-owned, or minority-owned business have the equivalent
51 certification in the business's state of origin. An out-of-state business located in a state that does not
52 have a small, women-owned, or minority-owned business certification program shall be exempt from the
53 requirements of this provision. *The regulations shall establish a process for businesses that are denied*
54 *initial certification as a small, women-owned, or minority-owned business to appeal such denial on the*
55 *basis that the Department made a mistake in denying the business's application for certification.*

56 9. Establish an interdepartmental board in accordance with § 2.2-1698 to assist the Director with

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57 information useful in promoting minority business activity.