

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 149

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

[H 2172]

Approved March 18, 2021

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.

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

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

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

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

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

7. Recommend appropriate legislative or executive actions.

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

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