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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

**S.B. 105**  
**134<sup>th</sup> General Assembly**

## Bill Analysis

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**Version:** As Passed by the Senate

**Primary Sponsors:** Sens. Sykes and Schuring

Prince Senayah, LSC Fellow

S. Ben Fogle, Attorney

### SUMMARY

- Requires political subdivisions to accept state certifications of minority business enterprises (“MBEs”), women-owned business enterprises (“WBEs”), and veteran-friendly business enterprises (“VBEs”) as proof that a person meets certain eligibility criteria for comparable local programs and initiatives.

### DETAILED ANALYSIS

#### Local recognition of state business certifications

The bill permits a person who has been issued a Minority Business Enterprise (“MBE”) certificate by the Equal Employment Opportunity Coordinator (“Coordinator”), a Women-owned Business Enterprise (“WBE”) certificate by the Director of Administrative Services, or a Veteran-friendly Business Enterprise (“VBE”) certificate by the Director of Administrative Services or the Director of Transportation to present the certificate as evidence of eligibility to participate in comparable local programs and special initiatives.

The bill does not preclude subdivisions from having additional requirements that must be met by persons seeking consideration for comparable local programs and initiatives. For example, some subdivisions in Ohio require applicants to provide proof of residence in the subdivision or that they perform a commercially useful function.<sup>1</sup> These additional requirements could remain in place under the bill. The bill also does not require political subdivisions to certify state-certified MBEs, WBEs, or VBEs under any comparable program. Rather, the bill requires political subdivisions with comparable programs to accept a state certification as evidence of certain business characteristics. The subdivision must defer to facts

<sup>1</sup> See, e.g., Cincinnati Code of Ordinances, [Sec. 324-1-M](#).

as determined by the state in connection with the state certification, but only those facts. An MBE, WBE, or VBE applicant to a comparable program in a political subdivision may still have to demonstrate that the applicant meets some other criteria not included on the state certification.<sup>2</sup>

### **MBEs**

In the case of an MBE, 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.<sup>3</sup>

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.<sup>4</sup>

### **WBEs**

In the case of a WBE, the bill requires political subdivisions to defer to the Director's determination that a person issued a WBE certificate is a woman, that the person owns and controls the business, and that the person has owned the business for at least one year.<sup>5</sup> Continuing law does not require state agencies or DAS to set aside a number of purchases for competition only by WBEs, but such businesses may be eligible to participate in the Encouraging Diversity, Growth, and Equity (EDGE) program which provides contract assistance, financial and bonding assistance, and management and technical assistance.<sup>6</sup>

### **VBEs**

Under continuing law, a business may be certified as a VBE if one of the following criteria applies:

- At least 10% of its employees are veterans or on active service;
- At least 51% of the applicant business is owned by veterans or persons on active service;

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<sup>2</sup> R.C. 9.318, 123.151, and 123.154.

<sup>3</sup> R.C. 123.151(D)(2).

<sup>4</sup> R.C. 123.151, 125.07, 125.08, and 125.081, none in the bill.

<sup>5</sup> R.C. 123.154(E)(2).

<sup>6</sup> R.C. 123.152 and Ohio Administrative Code (O.A.C.) 123:2-16, neither in the bill.

- If the applicant business is a corporation 51% of which is not owned by veterans or persons on active service, at least 51% of the board of directors are veterans or persons on active service; or
- The business is certified by the United States Department of Veterans Affairs as a Service-Disabled Veteran-Owned Small Business or a Veteran-Owned Small Business and the owner(s) of the business meets the definition of veteran as defined in the Ohio Administrative Code.<sup>7</sup>

The bill requires political subdivisions to defer to the Director's determination that a person issued a VBE certificate meets one or more of those criteria.<sup>8</sup> Continuing law provides preference or bonus points to certified companies that compete for state contracts.<sup>9</sup>

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## HISTORY

Action	Date
Introduced	03-02-21
Reported, S. Small Business and Economic Opportunity	05-12-21
Passed Senate (33-0)	06-02-21

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<sup>7</sup> O.A.C. 123:5-1-01, not in the bill.

<sup>8</sup> R.C. 9.318(C)(2).

<sup>9</sup> R.C. 9.318(B)(5); O.A.C. 123:5-1, not in the bill.