

HB1168_L.001

HOUSE COMMITTEE OF REFERENCE AMENDMENT

Committee on Transportation & Local Government.

HB21-1168 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, **add** part 15 to
4 article 1 of title 29 as follows:

5 PART 15
6 IDENTIFYING BARRIERS TO
7 HISTORICALLY UNDERUTILIZED BUSINESSES IN
8 LOCAL GOVERNMENT PROCUREMENT

9 **29-1-1501. Legislative declaration.** (1) THE GENERAL ASSEMBLY
10 HEREBY FINDS, DETERMINES, AND DECLARES THAT:

11 (a) IT IS IMPERATIVE THAT THE LOCAL GOVERNMENT
12 PROCUREMENT PROCESS BE FREE FROM BIAS SO THAT ALL QUALIFIED
13 PERSONS AND ENTITIES MAY COMPETE FOR LOCAL GOVERNMENT BUSINESS;

14 (b) A FAIR PROCUREMENT PROCESS NOT ONLY ENSURES JUSTICE
15 AND FAIRNESS IN LOCAL GOVERNMENT CONTRACTING BUT BROADENS THE
16 PROCUREMENT CONTRACTOR POOL, WHICH RESULTS IN EFFICIENCIES AND,
17 AS WARRANTED, PROMOTES THE GROWTH OF HISTORICALLY
18 UNDERUTILIZED BUSINESSES, THEREBY CREATING JOBS AND STIMULATING
19 THE LOCAL GOVERNMENT'S ECONOMY; AND

20 (c) ESTABLISHING A PILOT PROJECT TO IDENTIFY THE PERCEPTUAL
21 AND SUBSTANTIAL BARRIERS TO ENTRY FOR HISTORICALLY
22 UNDERUTILIZED BUSINESSES IN LOCAL GOVERNMENT PROCUREMENT IS THE
23 APPROPRIATE WAY TO START THIS CONVERSATION AT THE STATE
24 GOVERNMENT LEVEL.

25 **29-1-1502. Definitions.** AS USED IN THIS PART 15, UNLESS THE
26 CONTEXT OTHERWISE REQUIRES:

27 (1) "HISTORICALLY UNDERUTILIZED BUSINESS" MEANS A BUSINESS
28 THAT IS AT LEAST FIFTY-ONE PERCENT OWNED AND CONTROLLED, IN BOTH
29 THE MANAGEMENT AND DAY-TO-DAY BUSINESS DECISIONS, BY ONE OR
30 MORE INDIVIDUALS WHO ARE:

- 31 (a) UNITED STATES CITIZENS OR PERMANENT RESIDENTS; AND
32 (b) ONE OR MORE OF THE FOLLOWING:
33 (I) MEMBERS OF A RACIAL OR ETHNIC MINORITY GROUP;
34 (II) NON-HISPANIC CAUCASIAN WOMEN;
35 (III) PERSONS WITH PHYSICAL OR MENTAL DISABILITIES;
36 (IV) MEMBERS OF THE LESBIAN, GAY, BISEXUAL, AND
37 TRANSGENDER COMMUNITY; OR
38 (V) VETERANS.

39 (2) "LOCAL GOVERNMENT" MEANS ANY COUNTY, CITY AND
40 COUNTY, CITY, TOWN, OR SPECIAL DISTRICT, INCLUDING ANY COUNTY,

1 CITY AND COUNTY, CITY, OR TOWN THAT HAS ADOPTED A HOME RULE
2 CHARTER, AND ANY SCHOOL DISTRICT ORGANIZED AND EXISTING
3 PURSUANT TO ARTICLE 20 OF TITLE 22, BUT NOT INCLUDING A LOCAL
4 COLLEGE DISTRICT.

5 (3) "PERSONS WITH PHYSICAL OR MENTAL DISABILITIES" MEANS
6 PERSONS WHO:

7 (a) HAVE IMPAIRMENTS THAT SUBSTANTIALLY LIMIT ONE OR MORE
8 MAJOR LIFE ACTIVITIES;

9 (b) ARE REGARDED GENERALLY BY THE COMMUNITY AS HAVING
10 A DISABILITY; AND

11 (c) WHOSE DISABILITIES SUBSTANTIALLY LIMIT THEIR ABILITY TO
12 ENGAGE IN COMPETITIVE BUSINESS.

13 (4) "PROCUREMENT" MEANS ALL TYPES OF LOCAL GOVERNMENT
14 PURCHASING BY CONTRACT FOR CONSTRUCTION, PROFESSIONAL SERVICES,
15 GOODS, OR OTHER SERVICES.

16 (5) "PROGRAM" MEANS A HISTORICALLY UNDERUTILIZED BUSINESS
17 PREFERENCE PROGRAM FOR LOCAL GOVERNMENT PROCUREMENT.

18 (6) "RACIAL OR ETHNIC MINORITY GROUP" MEANS:

19 (a) AFRICAN AMERICAN PERSONS, MEANING INDIVIDUALS HAVING
20 ORIGINS IN ANY OF THE BLACK RACIAL GROUPS;

21 (b) HISPANIC AMERICAN PERSONS, INCLUDING PERSONS OF
22 MEXICAN, PUERTO RICAN, CUBAN, CENTRAL OR SOUTH AMERICAN, OR
23 OTHER SPANISH OR PORTUGUESE CULTURE OR ORIGIN, REGARDLESS OF
24 RACE;

25 (c) ASIAN AMERICAN PERSONS, INCLUDING PERSONS WHOSE
26 ORIGINS ARE FROM JAPAN, CHINA, TAIWAN, KOREA, VIETNAM, LAOS,
27 CAMBODIA, THE PHILIPPINES, SAMOA, THE UNITED STATES TERRITORIES
28 OF THE PACIFIC, OR THE NORTHERN MARIANA ISLANDS; OR PERSONS
29 WHOSE ORIGINS ARE FROM SUBCONTINENT ASIA, INCLUDING PERSONS
30 WHOSE ORIGINS ARE FROM INDIA, PAKISTAN, BANGLADESH, SRI LANKA,
31 BHUTAN, OR NEPAL; OR

32 (d) NATIVE AMERICAN PERSONS, INCLUDING PERSONS WHO ARE
33 AMERICAN INDIANS, ESKIMOS, ALEUTS, OR HAWAIIANS OF POLYNESIAN
34 DESCENT.

35 (7) "VETERANS" MEANS PERSONS WHO ACTIVELY SERVED IN THE
36 UNITED STATES ARMED FORCES AND WHO WERE DISCHARGED OR
37 RELEASED UNDER CONDITIONS OTHER THAN DISHONORABLE, IN
38 ACCORDANCE WITH U.S.C. TITLE 38, AS AMENDED. "VETERANS" INCLUDES
39 PERSONS SERVING OR WHO SERVED IN THE NATIONAL GUARD OR AS
40 RESERVISTS.

41 **29-1-1503. Identifying barriers to entry for historically**
42 **underutilized businesses in local government procurement - pilot**
43 **program.** (1) NO LATER THAN AUGUST 13, 2021, THE DEPARTMENT OF

1 LOCAL AFFAIRS SHALL ESTABLISH A PILOT PROGRAM TO HELP LOCAL
2 GOVERNMENTS IDENTIFY PERCEPTUAL AND SUBSTANTIAL BARRIERS TO
3 ENTRY FOR HISTORICALLY UNDERUTILIZED BUSINESSES IN LOCAL
4 GOVERNMENT PROCUREMENT. THE DEPARTMENT OF LOCAL AFFAIRS SHALL
5 ENSURE THAT THE LOCAL GOVERNMENTS THAT OPT IN TO THE PILOT
6 PROGRAM ARE REPRESENTATIVE OF THE LOCAL GOVERNMENTS THAT
7 INTERSECT THE RURAL, URBAN, AND SUBURBAN GEOGRAPHIES OF THE
8 STATE AND ARE REPRESENTATIVE OF THE VARYING TYPES OF LOCAL
9 GOVERNMENTS. THE PILOT PROGRAM MUST INCLUDE AT LEAST FIVE
10 DIVERSE LOCAL GOVERNMENTS.

11 (2) THE LOCAL GOVERNMENTS PARTICIPATING IN THE PILOT
12 PROGRAM SHALL:

13 (a) IDENTIFY PROGRAM IMPLEMENTATION NEEDS, SUCH AS LABOR
14 AND TECHNOLOGY;

15 (b) DETERMINE THE APPROPRIATE SIZE CONTRACTS THAT WOULD
16 BENEFIT FROM A PROGRAM;

17 (c) DETERMINE THE APPROPRIATE TYPE OF CONTRACTS THAT
18 WOULD BENEFIT FROM A PROGRAM, SUCH AS, CONSTRUCTION OR SERVICE
19 CONTRACTS, OR SHORT-TERM OR LONG-TERM CONTRACTS;

20 (d) ESTABLISH A REASONABLE THRESHOLD FOR THE AMOUNT OF A
21 LOCAL GOVERNMENT'S OPERATING BUDGET THAT SHOULD BE ALLOCATED
22 TO THE ESTABLISHMENT AND MAINTENANCE OF A PROGRAM;

23 (e) UNDERSTAND THE AVAILABLE PROGRAM SOFTWARE AND
24 COSTS;

25 (f) DETERMINE HOW CAN WE STANDARDIZE THE DATA ACROSS
26 LOCAL GOVERNMENTS TO BEING SUBMITTED TO THE STATE;

27 (g) DETERMINE THE REQUIRED MINIMUM PARTICIPATION GOALS OR
28 PARTICIPATION BENCHMARKS OF HISTORICALLY UNDERUTILIZED
29 BUSINESSES TO DETERMINE IF THE LOCAL GOVERNMENT'S PROGRAM IS
30 FAIR;

31 (h) DETERMINE WHICH TYPES OF HISTORICALLY UNDERUTILIZED
32 BUSINESSES, AS SPECIFIED IN SECTION 29-1-1502 (1)(b), APPEAR TO BE
33 MORE OR LESS IMPACTED;

34 (i) CREATE A SAMPLE PROGRAM THAT ALL LOCAL GOVERNMENTS
35 MAY USE AND ARTICULATE THE NECESSARY STEPS TO BUILD A PROGRAM;
36 AND

37 (j) HELP ARTICULATE PROGRAM GOALS AND TARGETS, SUCH AS
38 DETERMINING WHY A PROGRAM IS IMPORTANT FOR THE LOCAL
39 GOVERNMENT AND WHAT OUTCOMES THE LOCAL GOVERNMENTS WISH TO
40 SEE FROM PROGRAM IMPLEMENTATION.

41 (2) A PILOT PROGRAM PARTICIPANT MAY COLLABORATE WITH THE
42 DEPARTMENT OF LOCAL AFFAIRS AND THE GENERAL ASSEMBLY ON FUTURE
43 LEGISLATION REQUIRING LOCAL GOVERNMENTS TO ESTABLISH PROGRAMS.

1 (3) (a) IN JANUARY 2022, THE DEPARTMENT OF LOCAL AFFAIRS
2 SHALL REPORT ON THE PROGRESS OF THE PILOT PROJECT AS PART OF THE
3 DEPARTMENT'S PRESENTATION TO ITS COMMITTEE OF REFERENCE AT A
4 HEARING HELD PURSUANT TO SECTION 2-7-203 (2)(a) OF THE "STATE
5 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
6 (SMART) GOVERNMENT ACT".

7 (b) IN JANUARY 2023, THE DEPARTMENT OF LOCAL AFFAIRS SHALL
8 INCLUDE THE FINDINGS OF THE PILOT PROJECT AS PART OF THE
9 DEPARTMENT'S PRESENTATION TO ITS COMMITTEE OF REFERENCE AT A
10 HEARING HELD PURSUANT TO SECTION 2-7-203 (2)(a) OF THE "STATE
11 MEASUREMENT FOR ACCOUNTABLE, RESPONSIVE, AND TRANSPARENT
12 (SMART) GOVERNMENT ACT".

13 **SECTION 2. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly; except
16 that, if a referendum petition is filed pursuant to section 1 (3) of article V
17 of the state constitution against this act or an item, section, or part of this
18 act within such period, then the act, item, section, or part will not take
19 effect unless approved by the people at the general election to be held in
20 November 2022 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor."

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