

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR

# SENATE BILL NO. 802

99TH GENERAL ASSEMBLY

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Reported from the Committee on General Laws, February 22, 2018, with recommendation that the Senate Committee Substitute do pass.

5440S.02C

ADRIANE D. CROUSE, Secretary.

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## AN ACT

To repeal section 37.020, RSMo, and to enact in lieu thereof one new section relating to women's and minority business enterprises.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 37.020, RSMo, is repealed and one new section enacted  
2 in lieu thereof, to be known as section 37.020, to read as follows:

37.020. 1. As used in this section, the following words and phrases mean:

2 (1) "Certification", the determination, through whatever procedure is used  
3 by the office of administration, that a legal entity is a socially and economically  
4 disadvantaged small business concern for purposes of this section;

5 (2) "Department", the office of administration and any public institution  
6 of higher learning in the state of Missouri;

7 (3) "Minority business enterprise", a business that is:

8 (a) A sole proprietorship owned and controlled by a minority;

9 (b) A partnership or joint venture owned and controlled by minorities in  
10 which at least fifty-one percent of the ownership interest is held by minorities  
11 and the management and daily business operations of which are controlled by one  
12 or more of the minorities who own it; or

13 (c) A corporation or other entity whose management and daily business  
14 operations are controlled by one or more minorities who own it, and which is at  
15 least fifty-one percent owned by one or more minorities, or if stock is issued, at  
16 least fifty-one percent of the stock is owned by one or more minorities;

17 (d) **A nonprofit corporation that:**

18 **a. Is exempt from federal income taxation under Section 501(c)(3)**

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 **of the Internal Revenue Code;**

20 **b. Is headquartered in Missouri;**

21 **c. Has been in continuous existence for at least five years;**

22 **d. The collective majority of the board of directors and officers**  
23 **of the corporation are minorities;**

24 **e. Has a board of directors that has been in compliance with all**  
25 **other requirements of this chapter for at least the previous five years;**  
26 **and**

27 **f. Is organized for charitable purposes;**

28 (4) "Socially and economically disadvantaged individuals", individuals,  
29 regardless of gender, who have been subjected to racial, ethnic, or sexual  
30 prejudice or cultural bias because of their identity as a member of a group  
31 without regard to their individual qualities and whose ability to compete in the  
32 free enterprise system has been impaired due to diminished capital and credit  
33 opportunities as compared to others in the same business area. In determining  
34 the degree of diminished credit and capital opportunities the office of  
35 administration shall consider, but not be limited to, the assets and net worth of  
36 such individual;

37 (5) "Socially and economically disadvantaged small business concern", any  
38 small business concern:

39 (a) Which is at least fifty-one percentum owned by one or more socially  
40 and economically disadvantaged individuals; or, in the case of any publicly owned  
41 business, at least fifty-one percentum of the stock of which is owned by one or  
42 more socially and economically disadvantaged individuals; and

43 (b) Whose management and daily business operations are controlled by  
44 one or more of such individuals;

45 (6) "Women's business enterprise", a business that is:

46 (a) A sole proprietorship owned and controlled by a woman;

47 (b) A partnership or joint venture owned and controlled by women in  
48 which at least fifty-one percent of the ownership interest is held by women and  
49 the management and daily business operations of which are controlled by one or  
50 more of the women who own it; [or]

51 (c) A corporation or other entity whose management and daily business  
52 operations are controlled by one or more women who own it, and which is at least  
53 fifty-one percent owned by women, or if stock is issued, at least fifty-one percent  
54 of the stock is owned by one or more women; **or**

- 55           **(d) A nonprofit corporation that:**  
56           **a. Is exempt from federal income taxation under Section 501(c)(3)**  
57 **of the Internal Revenue Code;**  
58           **b. Is headquartered in Missouri;**  
59           **c. Has been in continuous existence for at least five years;**  
60           **d. The collective majority of the board of directors and officers**  
61 **of the corporation are women;**  
62           **e. Has a board of directors that has been in compliance with all**  
63 **other requirements of this chapter for at least the previous five years;**  
64 **and**  
65           **f. Is organized for charitable purposes.**
- 66           2. The office of administration, in consultation with each department,  
67 shall establish and implement a plan to increase and maintain the participation  
68 of certified socially and economically disadvantaged small business concerns or  
69 minority business enterprises, directly or indirectly, in contracts for supplies,  
70 services, and construction contracts, consistent with goals determined after an  
71 appropriate study conducted to determine the availability of socially and  
72 economically disadvantaged small business concerns and minority business  
73 enterprises in the marketplace. The commissioner of administration shall  
74 appoint an oversight review committee to oversee and review the results of such  
75 study. The committee shall be composed of nine members, four of whom shall be  
76 members of business, three of whom shall be from staff of selected departments,  
77 one of whom shall be a member of the house of representatives, and one of whom  
78 shall be a member of the senate.
- 79           3. The goals to be pursued by each department under the provisions of  
80 this section shall be construed to overlap with those imposed by federal law or  
81 regulation, if any, shall run concurrently therewith and shall be in addition to the  
82 amount required by federal law only to the extent the percentage set by this  
83 section exceeds those required by federal law or regulations.

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