

House _____ Amendment NO. _____

Offered By

1 AMEND House Bill No. 1792, Page 5, Section 37.005, Line 152, by inserting after all of said
2 section and line the following:

3
4 "37.020. 1. As used in this section, the following words and phrases mean:

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

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

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

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

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

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

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

26 (5) "Socially and economically disadvantaged small business concern", any small business
27 concern:

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

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1 individuals; and

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

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

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

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

9 (c) A corporation or other entity whose management and daily business operations are
10 controlled by one or more women who own it, and which is at least fifty-one percent owned by
11 women, or if stock is issued, at least fifty-one percent of the stock is owned by one or more women.

12 2. [The office of administration, in consultation with each department, shall establish and
13 implement a plan to increase and maintain the participation of certified socially and economically
14 disadvantaged small business concerns or minority business enterprises, directly or indirectly, in
15 contracts for supplies, services, and construction contracts, consistent with goals determined after an
16 appropriate study conducted to determine the availability of socially and economically
17 disadvantaged small business concerns and minority business enterprises in the marketplace. Such
18 study shall be completed by December 31, 1991. The commissioner of administration shall appoint
19 an oversight review committee to oversee and review the results of such study. The committee shall
20 be composed of nine members, four of whom shall be members of business, three of whom shall be
21 from staff of selected departments, one of whom shall be a member of the house of representatives,
22 and one of whom shall be a member of the senate.] The office of administration, in consultation with
23 each department, shall establish and implement a plan to increase and maintain the participation of
24 certified socially and economically disadvantaged small business concerns or minority business
25 enterprises, directly or indirectly, in contracts for supplies, services, and construction contracts,
26 consistent with goals determined after an appropriate study conducted to determine the availability
27 of socially and economically disadvantaged small business concerns and minority business
28 enterprises in the marketplace. Such study shall be completed by December 31, 2016. The
29 commissioner of administration shall appoint an oversight review committee to oversee and review
30 the results of such study. The committee shall be composed of nine members, four of whom shall be
31 members of business, three of whom shall be from staff of selected departments, one of whom shall
32 be a member of the house of representatives, and one of whom shall be a member of the senate.

33 3. The goals to be pursued by each department under the provisions of this section shall be
34 construed to overlap with those imposed by federal law or regulation, if any, shall run concurrently
35 therewith and shall be in addition to the amount required by federal law only to the extent the
36 percentage set by this section exceeds those required by federal law or regulations.

37 37.760. As used in sections 37.760 to 37.770 the following terms shall mean:

38 (1) "Agency", any state department or any division or branch thereof, or any bureau, board,
39 commission, institution, officer or office of the state of Missouri;

40 (2) "Commissioner", the commissioner of administration appointed under section 37.010;

41 (3) "Committee", the "Minority Business Enterprise and Women's Business Enterprise

1 Oversight Review Committee" created under section 37.762;

2 (4) "Department", the office of administration;

3 (5) "Minority business enterprise", the same meaning as such term is defined in section
4 37.020;

5 (6) "Women's business enterprise", the same meaning as such term is defined in section
6 37.020.

7 37.762. 1. There is hereby established the "Minority Business Enterprise and Women's
8 Business Enterprise Oversight Review Committee". The committee shall consist of seven members.
9 The governor shall appoint four members to the committee, two who shall represent the interests of
10 the minority community in this state, and two who shall represent the interests of business owners in
11 this state. The speaker of the house of representatives shall appoint one member of the committee
12 from the house of representatives. The president pro tem of the senate shall appoint one member
13 from the senate. The commissioner shall be an ex officio member of the committee.

14 2. The committee shall conduct a new study to ensure participation from socially and
15 economically disadvantaged minority or women's business enterprises. Such study shall be
16 completed by December 31, 2015.

17 37.764. Members of the committee shall not be compensated for their services, but they shall
18 be reimbursed for actual and necessary expenses incurred in the performance of their duties. The
19 members of the committee shall elect one member as chairperson and one member as vice
20 chairperson who shall serve as chairperson in the absence of the chairperson. Each member
21 appointed by the governor, speaker of the house of representatives, or the president pro tem of the
22 senate shall serve for a term of two years and may be reappointed by the governor, speaker of the
23 house of representatives, or the president pro tem of the senate for an additional term of two years.
24 The department shall provide staff to the committee and aid it in the performance of its duties.

25 37.766. The specific duties of the committee shall include, but not be limited to, the
26 following:

27 (1) Compiling a database of minority business enterprises and women's business enterprises,
28 certified under section 37.023, that have participated, directly or indirectly, in contracts for supplies,
29 services, and construction, with any agency of this state, and making such database available to all
30 agencies;

31 (2) Making recommendations to agencies for implementation of a system to alert minority
32 business enterprises and women's business enterprises, certified under section 37.023, of upcoming
33 contracts for supplies, services, and construction;

34 (3) Establishing requirements for parties to contracts with agencies for supplies, services, or
35 construction that need subcontractors to notify potential subcontractors who are minority business
36 enterprises and women's business enterprises, certified under section 37.023, of the party's need for a
37 subcontractor. Such requirements shall include, but need not be limited to:

38 (a) Written notification sent to the certified minority business enterprise or women's business
39 enterprise's principal place of business;

40 (b) Maintaining records of the notifications sent under paragraph (a) of this subdivision;

41 (4) Proposing sanctions, which may be adopted by the department, for parties failing to

1 comply with any requirements established under subdivision (3) of this section.

2 37.768. 1. The department shall enforce the requirements developed by the committee under
3 subdivision (3) of section 37.766.

4 2. The department shall promulgate rules to implement the provisions of this section. Any
5 rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority
6 delegated in this section shall become effective only if it complies with and is subject to all of the
7 provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
8 nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to
9 review, to delay the effective date, or to disapprove and annul a rule are subsequently held
10 unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after
11 August 28, 2014, shall be invalid and void.

12 37.770. Under section 23.253 of the Missouri sunset act:

13 (1) The provisions of the new program authorized under sections 37.760 to 37.768 shall
14 automatically sunset six years after the effective date of sections 37.760 to 37.768 unless
15 reauthorized by an act of the general assembly; and

16 (2) If such program is reauthorized, the program authorized under sections 37.760 to 37.768
17 shall automatically sunset twelve years after the effective date of the reauthorization of sections
18 37.760 to 37.768; and

19 (3) This section shall terminate on September first of the calendar year immediately
20 following the calendar year in which the program authorized under sections 37.760 to 37.768 is
21 sunset."; and

22
23 Further amend said bill by amending the title, enacting clause, and intersectional references
24 accordingly.