

SENATE ECONOMIC GROWTH, AGRICULTURE AND  
TOURISM COMMITTEE

STATEMENT TO

**SENATE, No. 75**

with committee amendments

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 19, 2002

The Senate Economic Growth, Agriculture and Tourism Committee reports favorably and with committee amendments Senate Bill No. 75.

This bill, as amended by the committee, establishes applicant status procedures and the respective documentation requirements for businesses who wish to be certified as a minority or women's business in order to qualify for certain State programs. Specifically, the bill sets forth the documentation necessary to determine a first-time applicant's eligibility for certification as a minority or women's business. Such documentation may include, but not be limited to: 1) the names and addresses of the owner, partners or shareholders, as applicable, and their representative shares of ownership; 2) the names and addresses of members of the board of directors, in the case of corporations; 3) the names and addresses of the officers of the business; 4) the number of shares of stock issued and outstanding, in the case of a corporation; 5) the articles of incorporation, bylaws, partnership agreements, or joint venture agreements, as applicable; 6) organizational charts; 7) an applicant's certificate of birth and motor vehicle driver's license; and 8) an affidavit certifying that the applicant is a minority business or women's business, as defined pursuant to section 2 of P.L.1986, c.195 (C.52:27H-21.18). A first-time applicant is not required to provide any personal federal or personal State income tax returns.

The amended bill allows a first-time applicant to apply for recertification as a minority business or women's business one year after the original certification was issued. In addition to the documentation provided by a first-time applicant, additional documentation necessary to determine the applicant's eligibility for recertification may include, but not be limited to: 1) the names and addresses of capital investors; 2) the capacity of the business to be bonded; 3) the affiliation of the business or any of its owners, officers or directors with any other business entity; 4) a representative list of prior and current clients; 5) major real and personal property holdings

of the business; 6) financial statements and balance sheets; 7) banking institutions with which the business is affiliated; 8) personal or corporate federal or State income tax returns; and 9) any other information deemed necessary to effectuate the purposes of the bill.

The amended bill requires that after a minority business or women's business has been recertified after first receiving initial certification, the certified minority business or certified women's business shall apply for recertification every five years and shall submit the same documentation required of first-time applicants who apply for recertification as a minority business or women's business one year after the original certification was issued.

The amended bill provides that where it is determined that a business has been certified as a minority business or women's business on the basis of false information knowingly supplied by the business and has been awarded a contract to which the business would not otherwise have been entitled under the State certification program, the State shall: 1) assess the business any difference between the contract amount and what the State's cost would have been if the contract had not been awarded in accordance with the provisions of the bill; 2) in addition to the amount due to the State, assess the business a penalty in an amount of not more than 10% of the amount of the contract involved; 3) order the business ineligible to transact any business with the State for a period of not less than 24 months; and 4) prior to any final determination, assessment or order under the certification program, afford the business an opportunity for a contested case hearing pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.). The bill further requires that all payments to the State required pursuant to this bill shall be deposited in the fund out of which the contract involved was awarded and that all payments to the State pursuant to the bill shall be deposited in the General Fund.

The committee amended the bill to: 1) establish the procedures for the submission of appropriate documents for first-time applicants, first-time applicants applying for recertification one year after the original certification, and businesses who were recertified after receiving initial certification and who apply for recertification every five years; 2) provide penalty procedures and penalties for businesses who knowingly supply false information in order to be certified under the State certification program; 3) provide that all payments required to be made to the State concerning the difference between the contract amount and what the State's cost would have been if the contract had not been awarded shall be deposited in the fund out of which the contract involved was awarded; and 4) provide that all penalty payments to the State assessed pursuant to the bill shall be deposited in the General Fund.

This bill was prefiled for introduction in the 2002-2003 session pending technical review. As reported, the bill includes the changes required by technical review which has been performed.