

SENATE, No. 3427

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 9, 2021

Sponsored by:

Senator THOMAS H. KEAN, JR.

District 21 (Morris, Somerset and Union)

SYNOPSIS

Provides that disability-owned businesses be included in certain business development programs, direct loan programs, and certification processes; requires Chief Diversity Officer compile information on awarding of State contracts to disability-owned businesses.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the designation of disability-owned businesses
2 for certain State programs and monitoring, and amending various
3 parts of the statutory law.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. Section 32 of P.L.2019, c.153 (C.24:6I-25) is amended to
9 read as follows:

10 32. a. There is hereby established in the commission an Office
11 of Minority, Disabled Veterans, Disability-Owned, and Women
12 Medical Cannabis Business Development. The office shall be
13 under the immediate supervision of a director. The director of the
14 office shall be appointed by the Governor, and shall serve at the
15 pleasure of the appointing Governor during the Governor's term of
16 office and until a successor has been duly appointed and qualified.
17 Any vacancy in the directorship occurring for any reason other than
18 the expiration of the director's term of office shall be filled for the
19 unexpired term only in the same manner as the original
20 appointment. The director shall receive an annual salary as
21 provided by law which shall be at an amount not to exceed the
22 annual salary of the executive director of the commission.

23 b. (1) The office shall establish and administer, under the
24 direction of the commission, unified practices and procedures for
25 promoting participation in the medical cannabis industry by persons
26 from socially and economically disadvantaged communities,
27 including by prospective and existing ownership of minority
28 businesses, disability-owned businesses, and women's businesses,
29 as these terms are defined in section 2 of P.L.1986, c.195
30 (C.52:27H-21.18), and disabled veterans' businesses as defined in
31 section 2 of P.L.2015, c.116 (C.52:32-31.2), to be issued medical
32 cannabis cultivator, medical cannabis manufacturer, medical
33 cannabis dispensary, and clinical registrant permits. These unified
34 practices and procedures shall include the certification and
35 subsequent recertification at regular intervals of a business as a
36 minority or women's business, disability-owned business, or a
37 disabled veterans' business, in accordance with eligibility criteria
38 and a certification application process established by the
39 commission through regulation in consultation with the office.

40 (2) The office shall conduct advertising and promotional
41 campaigns, and shall disseminate information to the public, to
42 increase awareness for participation in the medical cannabis
43 industry by persons from socially and economically disadvantaged
44 communities. To this end, the office shall sponsor seminars and
45 informational programs, and shall provide information on its

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

Matter underlined thus is new matter.

1 Internet website, providing practical information concerning the
2 medical cannabis industry, including information on business
3 management, marketing, and other related matters.

4 c. (1) The office shall develop, recommend, and implement
5 policies, practices, protocols, standards, and criteria designed to
6 promote the formulation of medical cannabis business entities and
7 participation in the medical cannabis industry by persons from
8 socially and economically disadvantaged communities, including by
9 promoting applications for, and the issuance of, medical cannabis
10 cultivator, medical cannabis manufacturer, medical cannabis
11 dispensary, and clinical registrant permits to certified minority,
12 women's, disability-owned, and disabled veterans' businesses. The
13 office shall evaluate the effectiveness of these measures by
14 considering whether the measures have resulted in new medical
15 cannabis cultivator, medical cannabis manufacturer, and medical
16 cannabis dispensary permits being issued in accordance with the
17 provisions of subsection g. of section 12 of P.L.2019, c.153
18 (C.24:6I-7.2).

19 (2) The office shall periodically analyze the total number of
20 permits issued by the commission as compared with the number of
21 certified minority, women's, disability-owned, and disabled
22 veterans' businesses that submitted applications for, and that were
23 awarded, such permits. The office shall make good faith efforts to
24 establish, maintain, and enhance the measures designed to promote
25 the formulation and participation in the operation of medical
26 cannabis businesses by persons from socially and economically
27 disadvantaged communities consistent with the standards set forth
28 in paragraph (1) of this subsection, and to coordinate and assist the
29 commission with respect to its incorporation of these permitting
30 measures into the application and review process for issuing permits
31 under P.L.2009, c.307 (C.24:6I-1 et al.).

32 d. The office may review the commission's measures regarding
33 participation in the medical cannabis industry by persons from
34 socially and economically disadvantaged communities, and
35 minority, women's, disability-owned, and disabled veterans'
36 businesses, and make recommendations on relevant policy and
37 implementation matters for the improvement thereof. The office
38 may consult with experts or other knowledgeable individuals in the
39 public or private sector on any aspect of its mission.

40 e. The office shall prepare information regarding its activities
41 pursuant to this section concerning participation in the medical
42 cannabis industry by persons from socially and economically
43 disadvantaged communities, including medical cannabis business
44 development initiatives for minority, women's, disability-owned,
45 and disabled veterans' businesses participating in the medical
46 cannabis marketplace, to be incorporated by the commission into its
47 annual report submitted to the Governor and to the Legislature

1 pursuant to section 14 of P.L.2009, c.307 (C.24:6I-12).
2 (cf: P.L.2019, c.153, s.32)

3

4 2. Section 1 of P.L.2017, c.261 (C.34:1B-254) is amended to
5 read as follows:

6 1. As used in P.L.2017, c.261 (C.34:1B-254 et seq.):

7 "Authority" means the New Jersey Economic Development
8 Authority established by section 4 of P.L.1974, c.80 (C.34:1B-4).

9 "Qualified business" means a business that qualifies, under
10 criteria established by the authority, as a small, woman-owned,
11 disability-owned, or minority-owned New Jersey-based business,
12 manufacturer, redeveloper, or non-profit organization.

13 "Regional center" means an area designated as a "regional
14 center" in the State Development and Redevelopment Plan adopted
15 pursuant to the "State Planning Act," P.L.1985, c.398 (C.52:18A-
16 196 et al.).

17 "Urban center" means an area designated as an "urban center" in
18 the State Development and Redevelopment Plan adopted pursuant
19 to the "State Planning Act," P.L.1985, c.398 (C.52:18A-196 et al.).
20 (cf: P.L.2017, c.261, s.1)

21

22 3. Section 1 of P.L.1986, c.195 (C.52:27H-21.17) is amended
23 to read as follows:

24 1. The Legislature finds and declares that:

25 a. Historically, businesses owned by minorities, persons with
26 disabilities, and women have been small establishments offering
27 products and services and their participation in the nation's business
28 community has been disproportionate to their numbers in society as
29 a whole.

30 b. The opportunity for full participation in our free enterprise
31 system by minorities, persons with disabilities, and women is
32 essential if social and economic justice for them is to be attained,
33 and the functioning of our economy improved.

34 c. The role of government at the national, State and local levels
35 in encouraging the development of businesses owned by minorities,
36 persons with disabilities, and women has been recognized and is
37 developing at a rapid pace, with technical and financial assistance,
38 contract procurement, contract set-asides and other programs
39 designed to encourage development.

40 d. As a result, each year entrepreneurs in New Jersey spend an
41 average of \$5,000.00 to demonstrate that they qualify for these
42 programs designed to foster the growth and development of their
43 businesses, so that the public agencies administering the programs
44 can be certain that the businesses which benefit are bona fide
45 minority, disability-owned, or women's businesses.

46 e. A unified procedure for the certification of businesses
47 owned by minorities, persons with disabilities, and women,
48 administered by the State, for the purpose of certifying the

1 eligibility of the businesses for various State programs will
2 eliminate duplication of effort and improve efficiency, thereby
3 increasing productivity and reducing costs in the public and the
4 private sectors.

5 (cf: P.L.1986, c.195, s.1)

6
7 4. Section 2 of P.L.1986, c.195 (C.52:27H-21.18) is amended
8 to read as follows:

9 2. As used in this act:

10 a. "Control" means authority over the affairs of a business,
11 including, but not limited to, capital investment, property
12 acquisition, employee hiring, contract negotiations, legal matters,
13 officer and director selection, operating responsibility, financial
14 transactions and the rights of other shareholders or joint partners;
15 except that control shall not include absentee ownership, nor shall it
16 be deemed to exist where an owner or employee who is not a
17 minority, in the case of a minority business; an owner or employee
18 who is not a person with disabilities, in the case of a disability-
19 owned business, or a male owner or employee, in the case of a
20 women's business, is disproportionately responsible for the
21 operation of the business or for policy and contractual decisions.

22 b. **["Commissioner"** means the Secretary and Chief Executive
23 Officer of the New Jersey Commerce and Economic Growth
24 Commission created pursuant to section 3 of P.L.1998, c.44
25 (C.52:27C-63).**】** (Deleted by amendment, P.L. __, c. __) (pending
26 before the Legislature as this bill)

27 c. "Director" means the Director of the **【**Division of
28 Development for Small Businesses and Women's and Minority
29 Businesses in the New Jersey Commerce and Economic Growth
30 Commission created pursuant to section 3 of P.L.1998, c.44
31 (C.52:27C-63)**】** Division of Revenue and Enterprise Services in the
32 Department of the Treasury.

33 d. "Division" means the **【**Division of Development for Small
34 Businesses and Women's and Minority Businesses in the New
35 Jersey Commerce and Economic Growth Commission created
36 pursuant to section 3 of P.L.1998, c.44 (C.52:27C-63)**】** Division of
37 Revenue and Enterprise Services in the Department of the Treasury.

38 e. "Minority" means a person who is:

39 (1) Black, which is a person having origins in any of the black
40 racial groups in Africa; or

41 (2) Hispanic, which is a person of Spanish or Portuguese
42 culture, with origins in Mexico, South or Central America, or the
43 Caribbean Islands, regardless of race; or

44 (3) Asian-American, which is a person having origins in any of
45 the original peoples of the Far East, Southeast Asia, Indian
46 subcontinent, Hawaii, or the Pacific Islands; or

- 1 (4) American Indian or Alaskan native, which is a person having
2 origins in any of the original peoples of North America.
- 3 f. "Minority business" means a business which is:
- 4 (1) A sole proprietorship owned and controlled by a minority;
- 5 (2) A partnership or joint venture owned and controlled by
6 minorities in which at least 51% of the ownership interest is held by
7 minorities and the management and daily business operations of
8 which are controlled by one or more of the minorities who own it;
9 or
- 10 (3) A corporation or other entity whose management and daily
11 business operations are controlled by one or more minorities who
12 own it, and which is at least 51% owned by one or more minorities,
13 or, if stock is issued, at least 51% of the stock is owned by one or
14 more minorities.
- 15 g. "Public agency" means the State or any department, division,
16 agency, authority, board, commission or committee thereof.
- 17 h. "Woman" or "women" means a female or females, regardless
18 of race.
- 19 i. "Women's business" means a business which is:
- 20 (1) A sole proprietorship owned and controlled by a woman; or
- 21 (2) A partnership or joint venture owned and controlled by
22 women in which at least 51% of the ownership is held by women
23 and the management and daily business operations of which are
24 controlled by one or more women who own it; or
- 25 (3) A corporation or other entity whose management and daily
26 business operations are controlled by one or more women who own
27 it, and which is at least 51% owned by women, or, if stock is issued,
28 at least 51% of the stock is owned by one or more women.
- 29 j. "Applicant" means an individual or individuals, a sole
30 proprietor, partnership, joint venture or corporation that applies for
31 certification as a minority business, disability-owned business, or
32 women's business, in accordance with the provisions of P.L.1986,
33 c.195 (C.52:27H-21.17 et seq.).
- 34 k. "Disability" means a physical or mental disability that
35 substantially impairs a major life activity.
- 36 l. "Disability-owned business" means a business which is:
- 37 (1) A sole proprietorship owned and controlled by a person with
38 disabilities; or
- 39 (2) A partnership or joint venture owned and controlled by
40 persons with disabilities in which at least 51 percent of the
41 ownership is held by persons with disabilities and the management
42 and daily business operations of which are controlled by one or
43 more persons with disabilities who own it; or
- 44 (3) A corporation or other entity whose management and daily
45 business operations are controlled by one or more persons with
46 disabilities who own it, and which is at least 51 percent owned by
47 persons with disabilities, or, if stock is issued, at least 51 percent of

1 the stock is owned by one or more persons with disabilities.
2 (cf: P.L.2003, c.189, s.2)

3
4 5. Section 3 of P.L.1986, c.195 (C.52:27H-21.19) is amended
5 to read as follows:

6 3. Notwithstanding the provisions of any law, rule or regulation
7 to the contrary, the division shall have the exclusive authority
8 within State government to certify to public agencies the eligibility
9 of a business to bid on contracts as a "minority business,"
10 "disability-owned business," or "women's business" under any
11 program conducted by the public agency for which such
12 certification is so required. That certification by the division shall
13 be binding on the public agency.
14 (cf: P.L.1986, c.195, s.3)

15
16 6. Section 4 of P.L.1986, c.195 (C.52:27H-21.20) is amended
17 to read as follows:

18 4. The division shall establish a unified procedure for the
19 certification of a business as a minority business, disability-owned
20 business, or women's business, for the purpose of establishing
21 eligibility to bid on public contracts.

22 In establishing and administering the procedure required by this
23 section, the director shall insure that the application and
24 certification process is clear, concise, and, to the extent practicable,
25 does not require duplication of effort on the part of the applicant or
26 the division or the public agency administering the program. In
27 furtherance of these objectives, the director shall:

28 a. Establish criteria to be used to determine the status of a
29 business as a minority business, disability-owned business, or
30 women's business, as defined by section 2 of this act, which criteria,
31 to the extent not inconsistent with this act, shall conform to federal
32 law or regulations and criteria used by the division;

33 b. Provide a single form for application for certification, which
34 form shall be written in a simple, clear, understandable and easily
35 readable way, and include instructions as to the certification
36 procedure and any additional documents or information required to
37 be separately supplied by the applicant for a particular program;

38 c. Have the authority to require the payment of a single fee, to
39 be established by the director, to compensate the division for its
40 cost in administering the certification process;

41 d. Screen applicants to insure that businesses seeking
42 certification are not misrepresenting their status as minority
43 businesses, disability-owned businesses, or women's businesses, as
44 the case may be, and that the minority, disability-owned, or
45 women's business applicants are, in fact, in the control of members
46 of minority groups, persons with disabilities groups, or women, and
47 are not merely "fronts" for businesses controlled by persons other
48 than minorities, persons with disabilities, or women;

1 e. Monitor the status of certified businesses to insure continued
2 compliance with the criteria for certification and control by the
3 appropriate persons;

4 f. Compile, maintain and make available to the public agencies
5 lists of businesses certified as minority businesses, disability-owned
6 businesses, or women's businesses; and

7 g. Provide for dissemination of information to interested
8 parties, and the public at large, concerning the certification of
9 businesses as minority businesses, disability-owned businesses, or
10 women's businesses, as required by this act.

11 (cf: P.L.1986, c.195, s.4)

12
13 7. Section 5 of P.L.1986, c.195 (C.52:27H-21.21) is amended
14 to read as follows:

15 5. When the division's procedure for certification of a business
16 as a minority business, disability-owned business, or women's
17 business conflicts with a federal certification procedure that affects
18 a State project in which the federal government participates, the
19 federal certification procedure shall take precedence. Public
20 agencies shall identify those projects and shall notify the division.

21 (cf: P.L.1986, c.195, s.5)

22
23 8. Section 6 of P.L.1986, c.195 (C.52:27H-21.22) is amended
24 to read as follows:

25 6. The director may require of a first-time applicant for
26 certification as a minority business, disability-owned business, or
27 women's business the documentation that is necessary to determine
28 the applicant's eligibility for certification. Such documentation may
29 include, but not be limited to:

30 a. Names and addresses of the owner, partners or shareholders,
31 as applicable, and their representative shares of ownership;

32 b. Names and addresses of members of the board of directors,
33 in the case of corporations;

34 c. Names and addresses of the officers of the business;

35 d. Number of shares of stock issued and outstanding, in the
36 case of a corporation;

37 e. Articles of incorporation, bylaws, partnership agreements, or
38 joint venture agreements, as applicable;

39 f. Organizational charts;

40 g. An applicant's certificate of birth and motor vehicle driver's
41 license; and

42 h. An affidavit certifying that the applicant is a minority
43 business, disability-owned business, or women's business, as
44 defined pursuant to section 2 of P.L.1986, c.195 (C.52:27H-21.18).

45 The director shall not require an applicant to provide any
46 personal federal or personal State income tax returns.

47 (cf: P.L.2003, c.189, s.3)

1 9. Section 4 of P.L.2003, c.189 (C.52:27H-21.22a) is amended
2 to read as follows:

3 4. The director shall require a first-time applicant to apply for
4 recertification as a minority business, disability-owned business, or
5 women's business one year after the original certification was
6 issued. The director may require of the applicant the documentation
7 that is necessary to determine the applicant's eligibility for
8 recertification, including but not limited to:

9 a. Names and addresses of the owner, partners or shareholders,
10 as applicable, and their representative shares of ownership;

11 b. Names and addresses of members of the board of directors,
12 in the case of corporations;

13 c. Names and addresses of the officers of the business;

14 d. Names and addresses of capital investors;

15 e. Number of shares of stock issued and outstanding, in the
16 case of a corporation;

17 f. Articles of incorporation, bylaws, partnership agreements, or
18 joint venture agreements, as applicable;

19 g. The capacity of the business to be bonded;

20 h. The affiliation of the business or any of its owners, officers
21 or directors with any other business entity;

22 i. A representative list of prior and current clients;

23 j. Major real and personal property holdings of the business;

24 k. Financial statements and balance sheets;

25 l. Banking institutions with which the business is affiliated;
26 and

27 m. Organizational charts;

28 n. An applicant's certificate of birth and motor vehicle driver's
29 license;

30 o. Personal or corporate federal or State income tax returns;

31 p. An affidavit certifying that the applicant is a minority
32 business, disability-owned business, or women's business, as
33 defined in section 2 of P.L.1986, c.195 (C.52:27H-21.18); and

34 q. Any other information the director deems necessary to
35 effectuate the purposes of this act.

36 (cf: P.L.2003, c.189, s.4)

37

38 10. Section 5 of P.L.2003, c.189 (C.52:27H-21.22b) is amended
39 to read as follows:

40 5. After a minority business, disability-owned business, or
41 women's business has been recertified after first receiving initial
42 certification, the director shall require the certified minority
43 business, certified disability-owned business, or certified women's
44 business to apply for recertification every five years. The director
45 may require of the applicant the documentation that is necessary to
46 determine the applicant's eligibility for recertification, including but
47 not limited to:

- 1 a. Names and addresses of the owner, partners or shareholders,
2 as applicable, and their representative shares of ownership;
3 b. Names and addresses of members of the board of directors,
4 in the case of corporations;
5 c. Names and addresses of the officers of the business;
6 d. Names and addresses of capital investors;
7 e. Number of shares of stock issued and outstanding, in the
8 case of a corporation;
9 f. Articles of incorporation, bylaws, partnership agreements, or
10 joint venture agreements, as applicable;
11 g. The capacity of the business to be bonded;
12 h. The affiliation of the business or any of its owners, officers
13 or directors with any other business entity;
14 i. A representative list of prior and current clients;
15 j. Major real and personal property holdings of the business;
16 k. Financial statements and balance sheets;
17 l. Banking institutions with which the business is affiliated;
18 and
19 m. Organizational charts;
20 n. An applicant's certificate of birth and motor vehicle driver's
21 license;
22 o. Personal or corporate federal or State income tax returns;
23 p. An affidavit certifying that the applicant is a minority
24 business, disability-owned business, or women's business, as
25 defined in section 2 of P.L.1986, c.195 (C.52:27H-21.18); and
26 q. Any other information the director deems necessary to
27 effectuate the purposes of this act.
28 (cf: P.L.2003, c.189, s.5)

29
30 11. Section 7 of P.L.1986, c.195 (C.52:27H-21.23) is amended
31 to read as follows:

32 7. The **【commissioner】** State Treasurer shall report to the
33 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
34 19.1), the Legislature annually as to the status of the uniform
35 certification procedure required by this act, including any
36 recommendations for legislation which would enable the division to
37 more efficiently and effectively carry out its duties and
38 responsibilities under this act.
39 (cf: P.L.1986, c.195, s.7)

40
41 12. Section 8 of P.L.1986, c.195 (C.52:27H-21.24) is amended
42 to read as follows:

43 8. The **【commissioner】** State Treasurer shall promulgate the
44 rules and regulations he deems necessary to effectuate the purposes
45 of this act, pursuant to the "Administrative Procedure Act," P.L.
46 1968, c. 410 (C. 52:14B-1 et seq.).
47 (cf: P.L.1986, c.195, s.8)

1 13. Section 1 of P.L.2017, c.95 (C.52:32-18.1) is amended to
2 read as follows:

3 1. There is established in the Division of Purchase and Property
4 in the State Department of the Treasury a Chief Diversity Officer.
5 It shall be the duty of the Chief Diversity Officer to monitor the
6 State's public contracting process for the purpose of compiling
7 information on the awarding of contracts to minority-owned,
8 disability-owned, and women-owned business enterprises, the total
9 value of all contracts and the percentage of the value of those
10 contracts awarded to minority-owned, disability-owned, and
11 women-owned business enterprises.
12 (cf: P.L.2017, c.95, s.1)

13

14 14. This act shall take effect immediately.

15

16

17

STATEMENT

18

19 This bill provides that disability-owned businesses be included in
20 certain State programs, the certification process by the Division of
21 Revenue and Enterprise Services, and for monitoring by the Chief
22 Diversity Officer of the State.

23 The bill incorporates disability-owned businesses within the
24 Office of Minority, Disabled Veterans, and Women Medical
25 Cannabis Business Development

26 The bill incorporates disability-owned businesses into the
27 requirement that, when the New Jersey Economic Development
28 Authority (EDA) undertakes direct loans to certain qualified
29 businesses located in certain urban centers, the EDA include
30 disability-owned businesses within such an undertaking if the
31 business is unable to obtain funding from conventional sources.

32 The bill incorporates disability-owned businesses into the
33 certification process managed by the Division of Revenue and
34 Enterprise Services in the Department of the Treasury.

35 Finally, the bill incorporates disability-owned businesses within
36 the requirement that the Chief Diversity Officer of the State monitor
37 the State's public contracting process for the purpose of compiling
38 information on the awarding of contracts to minority-owned,
39 disability-owned, and women-owned business enterprises, the total
40 value of all contracts and the percentage of the value of those
41 contracts awarded to minority-owned, disability-owned, and
42 women-owned business enterprises.