

House Bill 3235

Sponsored by Representative SHIELDS

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Oregon Department of Administrative Services to conduct disparity studies to assess any discrimination and any resulting disparity between availability and use of disadvantaged, minority or women business enterprises in state public contracting.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to disadvantaged, minority or women business enterprises; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** (1) As used in this section, "disadvantaged business enterprise" and "mi-
5 nority or women business enterprise" have the meanings given those terms in ORS 200.005.

6 (2) The Oregon Department of Administrative Services shall conduct or contract for one
7 or more disparity studies to:

8 (a) Analyze and evaluate evidence of past or present discrimination based on race,
9 ethnicity or sex and the effects of such discrimination separately for each of the groups
10 presumed to be disadvantaged by the relevant federal, state or local law relating to public
11 contracting. In addition to empirical evidence, a study must include an assessment of any
12 anecdotal and complaint-based evidence of discrimination. Anecdotal evidence may include
13 evidence of discrimination and other barriers in obtaining bonding, insurance and financing
14 that result in disparities in business formation, business opportunities and earnings.

15 (b) Analyze the availability and capacity of disadvantaged, minority and women business
16 enterprises in targeted industries that provide goods or services to state contracting agen-
17 cies.

18 (c) Determine whether disparity exists between the availability of capable disadvantaged,
19 minority or women business enterprises and public contracts awarded to those enterprises.
20 The analysis must include whether such enterprises, and the disadvantaged, minority or
21 women owners of such enterprises, have been discriminated against and the effects of such
22 discrimination on the disparity found.

23 (3) The department may award one or more public contracts for the disparity studies.

24 (4) By January 1, 2009, the department shall submit one or more disparity study reports
25 to the Governor, the President of the Senate and the Speaker of the House of Represen-
26 tatives. Each report must incorporate all statistical and anecdotal data concerning disparity
27 between availability and use of disadvantaged, minority or women business enterprises in
28 each relevant market. Each report may include:

29 (a) An executive summary of findings and conclusions.

30 (b) A definition section, including a definition of all gender, racial and ethnic groups

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 considered in the disparity study.

2 (c) A section analyzing complaint data and recent legal cases for trends and other anecdotal evidence.

3 (d) An assumptions section, identifying all conditions that affect the analysis, particularly discussing:

4 (A) Any approaches used and support for the approach;

5 (B) The market area and regional breakdown used and the reasons for the breakdown; and

6 (C) Any contracts or other information that were or were not included in the analysis and the reasons for their inclusion or exclusion, as well as any limitations on the use of any data or proxies.

7 (e) A methodology section, describing the methodology used by the department or contractor in its data collection and evaluation, availability analysis, utilization analysis and anecdotal evidence. The department or contractor must take into account the complications of measuring potential disparity when prior use of race-conscious measures may have affected the statistics.

8 (f) A description of the data sources analyzed, including summaries of data.

9 (g) An availability analysis, utilization analysis, statistical disparity analysis, analysis of the contracting agency's purchasing policies and procedures and other anecdotal evidence that may affect disparity.

10 (h) A description of all methodologies used in arriving at the conclusions.

11 (i) A section that includes results, conclusions and recommendations.

12 (5) In assessing discrimination and any resulting disparity, the department or contractor may consider:

13 (a) The availability and actual use of disadvantaged, minority or women business enterprises in contracts of the department, contracts of state agencies that are subject to the procurement authority of the Director of the Oregon Department of Administrative Services and contracts of state agencies with independent procurement authority;

14 (b) Past private industry, governmental or union practices;

15 (c) The availability of bonding, insurance and financing;

16 (d) Studies and findings of governmental agencies and commissions;

17 (e) Lawsuits and other legal actions; and

18 (f) Other anecdotal and statistical evidence that may be appropriate.

19 **SECTION 2.** This 2007 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2007 Act takes effect on its passage.