

Chair Holvey, member of the Committee, I am Representative Lew Frederick, of House District 43, North and Northeast Portland, and I come here to tell you about House Bill 2667.

First I'm going to talk about the problems we are attempting to solve.

I've often cited the adage that when the economy sneezes, the Black community gets pneumonia. That's the saying, but it applies to all minority communities. In the construction contracting world, there are a number of explanations:

1. Large and established businesses, finding less in the way of large contracts, start going after smaller ones, leaving nothing for those who are elsewhere on the ladder.
2. Public agencies that let contracts have firms that they are accustomed to doing business with, and those firms are more likely to be notified, and be ready to respond when contracts become available.
3. While over the years several programs and policies have been put in place to ensure that the opportunity to build a business via public contracting is widely available, these programs are notoriously poorly audited, and anecdotes abound of abuses that result in no real opportunity for minority-owned, women-owned and emerging businesses.
4. When I brought forward a similar bill in 2011, but focused narrowly on American Recovery and Reinvestment Act contracts, the results were, frankly appalling.
 - It took over a month to get the data from Business Oregon.
 - MWESB vendors accounted for nine out of 166 Prime Vendors, 5.42%, and just 2.46% of the dollar value.
 - Of those who contracted with local governments under ARRA, just eight out of 2,696 were MWESB businesses, 0.3% of the vendors and 0.2% of the dollar value.

- After requesting more detail, I found out that only four of a total of 2,862 vendors were identified as minority-owned. Rounding up, that's .14% of the total. Not one of those was Black or Asian owned.

At the time I introduced that bill, Business Oregon argued that they didn't need a bill to compile this data, that they would get it to me right away. It took them a month to pull together partial data. It took another ten days to break it down. The information, when I finally got it, was appalling. Further, even after providing this information to me, there were claims made that it really isn't as bad as it looks... but no hard numbers to confirm that.

The thing is, I hear anecdotal accounts all the time of barriers that minority owned businesses encounter when trying to do business with the State. Whether we're talking about ODOT or Business Oregon or some other agency, business owners report problems with the proposal process, problems with pre-qualification, problems with the selection process, problems with sub-contracting and problems with monitoring. Some of them report reluctance to continue to spend time on what appears to be a futile effort making proposals. I even hear about shenanigans that businesses employ to circumvent participation goals and requirements. But I'm not accusing anybody of anything here; the point is to produce evidence one way or the other. What I am arguing is that there are entrenched ways of doing business that are widely believed to disadvantage businesses that are on the way up. If that is not the case, the data should bear that out. If it is, it shouldn't hide in our reluctance to look.

I proposed another bill, having to do with prompt pay for subcontractors on public projects. I found out that we had already passed such a bill. When I relayed that information to some of the business owners who had complained about delayed payments from prime contractors, they told me, "Sure, but if you try to use it you'll never get work again."

So, I think we do need a bill, and a mandate to examine our contracting practices in some detail. This is not just a matter of fairness. Business

people who describe these problems to me never fail to point out that they are not seeking an advantage, or a handout. They are looking for the opportunity to build their businesses, by completing work and providing good value. As policy makers, we need to know that the public gets good value, both in terms of work accomplished and of economic benefits, from its construction dollars.

There is another part of this bill. It concerns the environmental consequences of certain contracting practices. It asks the task force created by this bill to look at some of the costs that are not currently factored into contracting decisions. The bill doesn't make a finding, it asks the task force to do so. In summary, is there an opportunity to encourage *local* contracting by making the environmental costs of *transporting* goods, construction components and workers a part of the contract evaluation?

So here's what the bill does: It creates a task force. Then, it charges that task force to

- Study the current practices regarding awarding contracts to minority-owned, woman-owned and emerging small business.
- Evaluate whether subdividing large contracts into smaller procurements could help make contracts more accessible to minority-owned, woman-owned and emerging small businesses in the state, and help them build capacity.
- Study whether transportation associated with construction projects could be reduced, and whether that would help reduce the emission of greenhouse gases.
- Evaluate whether incorporating the environmental costs of transportation into the calculation of best value in comparing proposals is legally viable, and whether it would produce good value for the state overall.
- Investigate other ways to increase opportunities for local, minority-owned, woman-owned and emerging small businesses.
- Make its report no later than September 1, 2014.

The Urban League's State of Black Oregon report of 2009 cites "cumulative causation." We have to recognize that prosperity *is* cumulative. Many of the businesses that dominate in construction industries got their start in a very different competitive environment from what we have today, one in which the ladder of growth and capacity building was wide open ahead of them. Minority businesses aren't looking to leap to the top of that ladder, but they do want access to the rungs, and the opportunity to climb.

A lot of people talk about our economic needs using one word: Jobs. But that is not the whole story. "Jobs" does not describe an economy. Growing communities also need business and professional opportunities that increase capacity and economic activity at a neighborhood level. We need to increase both employment and the *quality* of employment. When the state spends money to do work that needs to be done, we need to make sure that our spending is good for our economy, at all levels, as well as good for the infrastructure we so badly need.