

SENATE No. 1568

The Commonwealth of Massachusetts

PRESENTED BY:

Sonia Chang-Diaz

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act to create equitable job access.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Sonia Chang-Diaz</i>	
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>James B. Eldridge</i>	
<i>Linda Dorcena Forry</i>	<i>12th Suffolk</i>
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>

SENATE No. 1568

By Ms. Chang-Diaz, a petition (accompanied by bill, Senate, No. 1568) of Sonia Chang-Diaz, Antonio F. D. Cabral, James B. Eldridge, Linda Dorcena Forry and other members of the General Court for legislation to create equitable job access. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act to create equitable job access.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of Chapter 7 of the General Laws, as appearing in the
2 2008 Official Edition, is hereby amended by inserting after the last paragraph the following
3 paragraphs:-

4 “Low income community”, a municipality where the median household
5 income is 65 percent or less than the statewide household median income. In the case of a
6 municipality with 50,000 residents or more, low income community shall mean a geographically
7 contiguous, historically recognized neighborhood of 10,000-50,000 residents.

8 “Minority business enterprise”, as used in this chapter shall be defined as it is
9 in Section 40 of Chapter 23A.

10 “Women business enterprise” as used in this chapter shall be defined as it is
11 in Section 40 of Chapter 23A.

12 SECTION 2. Chapter 7 of the General Laws, as appearing in the 2008
13 Official Edition, is hereby amended by inserting after Section 23B the following section:-

14 Section 23B ½ Contracting diversity goals

15 For the purposes of this chapter, it shall be the official goal of the
16 Commonwealth to achieve minority business enterprise and women business enterprise
17 contracting goals within state procurement that are reflective of the diverse racial, ethnic, and
18 gender make-up of the Commonwealth's population.

19 SECTION 3. Section 14C of Chapter 7 of the General Laws, as appearing in
20 the 2008 Official Edition, is hereby amended by inserting after the last paragraph the following
21 paragraphs:-

22 Within 150 calendar days of the effective date of this section, any entity
23 awarded a contract under the provisions of Chapter 7, shall provide written verification with
24 every invoice submitted to the awarding authority detailing the portion of the payment that will
25 be allocated to minority business enterprises and women business enterprises, and reporting the
26 racial, ethnic and gender make-up of the awardees' workforce in Massachusetts. The awardee
27 shall take necessary steps to prevent the disclosure of individually-identifying information about
28 employees on this report.

29 The executive office of administration and finance shall, within 90 calendar
30 days of the effective date of this section, promulgate a template reporting form, for optional use
31 by the awarding authority, to assist contractors in meeting the requirements of this section.

32 The awarding authority shall submit the report to the Massachusetts
33 Management and Reporting System (MMARS) within 30 calendar days of receiving it. The
34 Comptroller of the Commonwealth shall, within 120 of the effective date of this section, develop
35 appropriate fields within the MMARS for receiving this data.

36 The Comptroller shall, within 180 days of the effective date of this section,
37 develop a public reporting website, or area within an existing website administered by the Office
38 of the Comptroller, for the purposes of timely public disclosure of the data collected under this
39 section. Such website shall provide the data collected under this section in machine-readable
40 format and be searchable by the public to the project and vendor level. The Comptroller may
41 use, but not be limited to, the website of the Massachusetts Recovery and Reinvestment Office as
42 a guide in creating a user interface that is searchable to the project and vendor level. The
43 Comptroller shall transfer data received from awarding authorities through the MMARS into the
44 public website on at least a quarterly basis.

45 SECTION 4. Section 38F of Chapter 7 of the General Laws, as appearing in
46 the 2008 Official Edition, is hereby amended by inserting after the word “project”, in line 9, the
47 following text:-

48 , including evidence of the applicant’s ability to advance the Commonwealth’s
49 contracting and workforce inclusion goals as stated in Section 23B ½ of Chapter 7.

50 SECTION 5. Section 1 of Chapter 149 of the General Laws, as appearing in
51 the 2008 Official Edition, is hereby amended by inserting after the last paragraph, the following
52 paragraphs:-

53 “Low income community”, a municipality where the median household
54 income is 65 percent or less than the statewide household median income. In the case of a
55 municipality with 50,000 residents or more, low income community shall mean a geographically
56 contiguous, historically recognized neighborhood of 10,000-50,000 residents.

57 “Minority business enterprise”, as used in this chapter shall be defined as it is
58 in Section 40 of Chapter 23A.

59 “Women business enterprise” as used in this chapter shall be defined as it is
60 in Section 40 of Chapter 23A.

61 SECTION 6. Section 44A of Chapter 149 of the General Laws, as appearing
62 in the 2008 Official Edition, is hereby amended by striking out lines 12-16, and inserting in its
63 place thereof the following text:-

64 “Responsible” means demonstrably possessing the skill, ability and the
65 integrity necessary to faithfully perform the work called for by a particular contract, based upon
66 a determination of competent workmanship and financial soundness in accordance with the
67 provisions of section forty-four D of this chapter. In deliberating upon the responsibility of a
68 bidder, all contracting agencies shall give strong consideration to the bidder, contractor, or
69 proposed contractor’s ability to advance the Commonwealth’s contracting and workforce
70 inclusion goals as stated in Section 44A ½ of Chapter 149, and to any credible evidence or
71 reliable information about the bidder, contractor, or proposed contractor’s past or current work
72 performance, including, but not limited to, the failure of a bidder, contractor, or proposed
73 subcontractor to comply with the commitments made in their bidding or contract documents

74 regarding the employment of minority business enterprises and women business enterprises and
75 regarding workforce inclusion goals.

76 SECTION 7. Section 44A ½ in Chapter 149 of the General Laws, as
77 appearing in the 2008 Official Edition, is hereby amended by inserting after the last paragraph
78 the following paragraphs:-

79 (d) It shall be the goal of the Commonwealth to achieve minority business
80 enterprise and women business enterprise contracting goals and workforce participation goals on
81 state-funded design and construction contracts that are reflective of the diverse racial, ethnic, and
82 gender make-up of the Commonwealth's population.

83 (e) It shall be the goal of the Commonwealth that job creation on state-
84 funded construction contracts be targeted to members of the community in which a project is
85 physically located and that the workforce on that project reflect the demographic diversity of the
86 host community, when construction projects are located in low income communities.

87 SECTION 8. Section 44D.5 of chapter 149 of the General Laws as
88 appearing in the 2008 Official Edition, is hereby amended by inserting after line 92, the
89 following text:-

90 (viii) Joint Ventures, documentation demonstrating that the interested general
91 contractors have formed an association of two or more businesses in which one of the businesses
92 is a minority business enterprise or a women business enterprise as defined section 40 of chapter
93 23A of the General Laws.

94 SECTION 9. Section 44D.5 of chapter 149 of the General Laws as
95 appearing in the 2008 Official Edition, is hereby amended by inserting after line 110, the
96 following text:-

97 (iii) Evidence of the bidder, contractor, or proposed contractor's ability to
98 advance the Commonwealth's contracting and workforce inclusion goals as stated in Section
99 44A ½ of Chapter 149.

100 SECTION 10. Chapter 149 of the General Laws is hereby amended by
101 inserting after section 44M the following section:-

102 Section 44N. Data collection and disclosure

103 Within 150 calendar days of the effective date of this section, any entity
104 awarded a contract for construction by a state agency shall provide written verification with
105 every progress payment request (PPR) submitted to the awarding authority detailing the portion
106 of the payment that will be allocated to minority business enterprises and women business
107 enterprises respectively, as defined in Section 40 of Chapter 23A, and detailing the total number
108 of hours worked by all employees on that contract during the period covered by the PPR; and
109 including a breakdown of hours worked by workers' ZIP codes of residence, as well as a
110 breakdown of the number of hours worked by women and workers of color, respectively. The
111 reporting entity shall take necessary steps to prevent the disclosure of individually-identifying
112 information about employees on this report.

113 The executive office of administration and finance shall, within 90 calendar
114 days of the effective date of this section, promulgate a template reporting form, for optional use
115 by the awarding authority, to assist contractors in meeting the requirements of this section.

116 The awarding authority shall submit the report to the Massachusetts
117 Management and Reporting System (MMARS) within 30 calendar days of receiving it. The
118 Comptroller of the Commonwealth shall, within 120 of the effective date of this section, develop
119 appropriate fields within the MMARS for receiving this data.

120 The Comptroller shall, within 180 days of the effective date of this section,
121 develop a public reporting website, or area within an existing website administered by the Office
122 of the Comptroller, for the purposes of timely public disclosure of the data collected under this
123 section. Such website shall provide the data collected under this section in machine-readable
124 format and be searchable by the public to the project and vendor level. The Comptroller may
125 use, but not be limited to, the website of the Massachusetts Recovery and Reinvestment Office as
126 a guide in creating a user interface that is searchable to the project and vendor level. The
127 Comptroller shall transfer data received from awarding authorities through the MMARS into the
128 public website on at least a quarterly basis.