

# HOUSE . . . . . No. 2738

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## The Commonwealth of Massachusetts

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PRESENTED BY:

***Gloria L. Fox and Russell E. Holmes***

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*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 relative to the fair participation of minority and women-owned businesses on public construction projects.

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PETITION OF:

| NAME:                      | DISTRICT/ADDRESS:    | DATE ADDED:      |
|----------------------------|----------------------|------------------|
| <i>Gloria L. Fox</i>       | <i>7th Suffolk</i>   | <i>1/16/2015</i> |
| <i>Russell E. Holmes</i>   | <i>6th Suffolk</i>   | <i>2/2/2015</i>  |
| <i>Byron Rushing</i>       | <i>9th Suffolk</i>   | <i>8/15/2019</i> |
| <i>Tom Sannicandro</i>     | <i>7th Middlesex</i> | <i>8/15/2019</i> |
| <i>Evandro C. Carvalho</i> | <i>5th Suffolk</i>   | <i>8/15/2019</i> |
| <i>Carlos Gonzalez</i>     | <i>10th Hampden</i>  | <i>8/15/2019</i> |

# HOUSE . . . . . No. 2738

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By Representatives Fox of Boston and Holmes of Boston, a petition (accompanied by bill, House, No. 2738) of Gloria L. Fox and others relative to the participation of minority and women-owned businesses on public construction projects. State Administration and Regulatory Oversight.

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## The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court  
(2015-2016)

An Act relative to the fair participation of minority and women-owned businesses on public construction projects.

*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 6 of Chapter 7C of the Massachusetts General Laws is hereby  
2 amended by adding the following new subsection:-

3           (h ½) The provisions of this section shall only apply to filed sub-bids procured under  
4 section 44F of chapter 149 and trade contractor bids procured under section 8(a) of chapter  
5 149A. For purposes of this section “applicable projects” shall mean any project procured by the  
6 division of capital asset management and maintenance, the Massachusetts State College Building  
7 Authority, the University of Massachusetts Building Authority, and the Massachusetts Port  
8 Authority under sections 44A-J of chapter 149 or sections 1-12 of chapter 149A and any state  
9 assisted building project with an overall estimated cost of \$5,000.000 or more and the provisions  
10 of this section shall apply only to such filed sub-bid or CM at Risk trade packages. On  
11 applicable projects only, the awarding authority may establish minority owned business

enterprise and women owned business enterprise participation goals for any of the filed sub-bid classes of work under section 44F of chapter 149 and for any of the trade contractor classes of work under section 8(a) of chapter 149A. The total minority owned business enterprise and for women owned business enterprise participation goal set by the awarding authority for a particular class of work shall not exceed 10 percent of the value of the filed sub-bid or trade contractor work. Notwithstanding any general law or contractual provision to the contrary, on applicable projects filed sub-bidders and trade contractors in the classes of work listed in section 44F of chapter 149 and referenced in section 8 of chapter 149 respectively shall be permitted to meet the minority owned business enterprise and women owned business enterprise participation goals by subcontracting out portions of the trade contractor work which the sub-bidder or trade contractor is otherwise required by law to perform with employees on its own payroll and/or portions of the trade work which is customarily performed by sub-trade subcontractors within the trade. Provided, the total value of the trade work which the filed sub-bidder or trade contractor is required by law to self-perform which the filed sub-bidder or trade contractor subcontracts out to meet the minority owned business enterprise and women owned business enterprise participation goal shall not exceed such goal by more than an additional 10 percent of the value of the filed sub-bidder or trade contractor's work. The commissioner shall establish a good faith pre bid and post bid/pre-award waiver process for filed sub-bidders and trade contractors requesting a reduction or waiver of a participation goal.

SECTION 2. Section 44F, subsection (1) (a) of Chapter 149 of the Massachusetts General Laws is hereby amended by inserting after the third sentence in the first paragraph, the following new sentence:-

34            Provided however, that a sub-bidder may subcontract out portions of its work in order to  
35 meet MBE/WBE goals set on Division of Capital Asset Management and Maintenance,  
36 Massachusetts State College Building Authority, University of Massachusetts Building  
37 Authority, and Massachusetts Port Authority projects and on any state assisted project as set  
38 forth in section 6(h1/2,) of chapter 7C.

39            SECTION 3. Section 8, subsection (g) (6) of Chapter 149A of the Massachusetts General  
40 Laws is hereby amended by adding at the end thereof the following new sentence:-

41            Provided however, that a trade contractor may subcontract out portions of its work in  
42 order to meet MBE/WBE goals set on Division of Capital Asset Management and Maintenance,  
43 Massachusetts State College Building Authority, University of Massachusetts Building  
44 Authority, and Massachusetts Port Authority projects and on any state assisted project as set  
45 forth in section 6(h1/2)of chapter 7C.