

# SENATE . . . . . No. 1617

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## 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 relative to equity in public contracting in honor of Bruce C. Bolling.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Sonia Chang-Diaz</i>	<i>Second Suffolk</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>
<i>Linda Dorcena Forry</i>	<i>First Suffolk</i>
<i>Mary S. Keefe</i>	<i>15th Worcester</i>
<i>James B. Eldridge</i>	<i>Middlesex and Worcester</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>

# SENATE . . . . . No. 1617

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By Ms. Chang-Diaz, a petition (accompanied by bill, Senate, No. 1617) of Sonia Chang-Diaz, Benjamin Swan, Linda Dorcena Forry, Mary S. Keefe and other members of the General Court for legislation relative to equity in public contracting in honor of Bruce C. Bolling. State Administration and Regulatory Oversight.

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## The Commonwealth of Massachusetts

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

An Act relative to equity in public contracting in honor of Bruce C. Bolling.

*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 2012  
2   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 income is 65  
5   percent or less than the statewide household median income. In the case of a municipality with  
6   50,000 residents or more, low income community shall mean a geographically contiguous,  
7   historically recognized neighborhood of 10,000-50,000 residents.

8           “Minority business enterprise”, as used in this chapter shall be defined as it is in Section  
9   58 of Chapter 7 of the General Laws, as appearing in the 2012 Official Edition.

10          “Women business enterprise” as used in this chapter shall be defined as it is in Section 58  
11   of Chapter 7 of the General Laws, as appearing in the 2012 Official Edition.

SECTION 2. Section 14C of said chapter 7 of the General Laws as so appearing in the 2012 Official Edition, is hereby amended by inserting after the last paragraph the following paragraphs:-

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

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

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

SECTION 3. Said chapter 7 of the General Laws, as so appearing in the 2012 Official Edition, is hereby amended by inserting after Section 23B the following section:-

Section 23B ½ Contracting diversity goals

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

SECTION 4. Section 1 of chapter 149 of the General Laws, as appearing in the 2012 Official Edition is hereby amended by inserting after the last paragraph the following paragraphs:-

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

“Minority business enterprise”, as used in this chapter shall be defined as it is in Section 58 of Chapter 7 of the General Laws, as appearing in the 2012 Official Edition.

“Women business enterprise” as used in this chapter shall be defined as it is in Section 58 of Chapter 7 of the General Laws, as appearing in the 2012 Official Edition.

SECTION 5. Section 44A of said chapter 149, as so appearing, is hereby amended by striking out lines 12-16, and inserting in its place thereof the following text:-

“Responsible” means demonstrably possessing the skill, ability and the integrity necessary to faithfully perform the work called for by a particular contract, based upon a determination of competent workmanship and financial soundness in accordance with the provisions of section forty-four D of this chapter. In deliberating upon the responsibility of a

bidder, all contracting agencies shall give strong consideration to the bidder, contractor, or proposed contractor's ability to advance the Commonwealth's contracting and workforce inclusion goals as stated in Section 44A ½ of Chapter 149, and to any credible evidence or reliable information about the bidder, contractor, or proposed contractor's past or current work performance, including, but not limited to, the failure of a bidder, contractor, or proposed subcontractor to comply with the commitments made in their bidding or contract documents regarding the employment of minority business enterprises and women business enterprises and regarding workforce inclusion goals.

SECTION 6. Section 44A½ of said chapter 149, as so appearing, is hereby amended by inserting after the last paragraph the following paragraphs:-

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

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

SECTION 7. Section 44D½ of said chapter 149, as so appearing, is hereby amended by inserting after line 92, the following text:-

(viii) Joint Ventures, documentation demonstrating that the interested general contractors have formed an association of two or more businesses in which one of the businesses is a

minority business enterprise or a women business enterprise as defined in Section 58 of Chapter 7 of the General Laws, as appearing in the 2012 Official Edition.

SECTION 8. Said section 44D½ of said chapter 149, as so appearing, is hereby amended by inserting after line 110, the following text:-

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

SECTION 9. Said chapter 149, as so appearing, is hereby amended by inserting after section 44M the following section:-

Section 44N. Data collection and disclosure

Within 150 calendar days of the effective date of this section, any entity awarded a contract for construction by a state agency shall provide written verification with every progress payment request (PPR) submitted to the awarding authority detailing the portion of the payment that will be allocated to minority business enterprises and women business enterprises respectively, as defined in Section 58 of Chapter 7, and detailing the total number of hours worked by all employees on that contract during the period covered by the PPR; and including a breakdown of hours worked by workers' ZIP codes of residence, as well as a breakdown of the number of hours worked by women and workers of color, respectively. The reporting entity shall take necessary steps to prevent the disclosure of individually-identifying information about employees on this report.

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

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