SENATE DOCKET, NO. 1746 FILED ON: 1/18/2019

SENATE . . . . . No. 1809

The Commonwealth of Massachusetts

PRESENTED BY:

Nick Collins

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 diverse marketing programs.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
Nick Collins	*First Suffolk*	
Anne M. Gobi	*Worcester, Hampden, Hampshire and Middlesex*	*1/30/2019*
James B. Eldridge	*Middlesex and Worcester*	*2/1/2019*

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SENATE . . . . . No. 1809

By Mr. Collins, a petition (accompanied by bill, Senate, No. 1809) of Nick Collins, Anne M. Gobi and James B. Eldridge for legislation relative to diverse marketing programs. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the One Hundred and Ninety-First General Court
(2019-2020)

An Act relative to diverse marketing programs.

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

SECTION 1. Chapter 6 of the General Laws is hereby amended by adding the following section:-

Section 219. As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Affirmative marketing program", a program of race and gender conscious goals to promote equality in, and to encourage the participation of, minority-owned businesses and women-owned businesses in contracts for capital facility projects and the disposition of real property.

"Capital facility project", an undertaking by a state authority for the planning, acquisition, design, construction, demolition, installation, repair or maintenance of a capital facility.

"Design services", any of the following services provided by any designer, programmer, or construction manager in connection with any public building project:

(i) preparation of master plans, studies, surveys, soil tests, cost estimates or programs;

(ii) preparation of drawings, plans, or specifications, including, but not limited to, schematic drawings, preliminary plans and specifications, working plans and specifications or other administration of construction contracts documents;

(iii) supervision or administration of a construction contract;

(iv) construction management or scheduling.

"Disposition of real property", any disposition of real property by a state authority; provided that, for the purposes of this section, a disposition shall include, but shall not be limited to: (i) a lease of real property for the purpose of real estate development and (ii) the assignment of air rights.

"Minority", a person with a permanent residence in the United States who is American Indian, Black, African American, Cape Verdean, Western Hemisphere Hispanic, Aleut, Eskimo, or Asian.

"Minority-owned business", any real estate , contracting or subcontracting business, or businesses that supply the contractors and subcontractors which is beneficially owned by one or more minority persons as follows:

(i) the business must be at least 51 per cent owned by minority persons; in the case of a corporation having more than one class of stockholders, the ownership requirement must be met as to each class of stock;

(ii) the minority owners shall demonstrate that they have dominant control over management;

(iii) the business has not been established solely for the purpose of taking advantage of a special program which has been developed to assist minority businesses;

(iv) in the case of a joint venture between a minority business meeting the requirements of clauses (i) to (iii), inclusive, and a non-minority business, the joint venture shall be found to be a minority business if the minority business meeting the requirements of said clauses (i) to (iii), inclusive, shall have more than one-half control over management of the project bid upon and shall have the right to receive more than one-half of the profits deriving from that project.

"State authority", as defined in section 1 of chapter 29.

"Women-owned business", any real estate, contracting or subcontracting business which is beneficially owned by 1 or more women meeting the requirements in clauses (i) to (iv), inclusive, of the definition of minority business, except that the terms "women", "women owners", and "women-owned business", shall be substituted for the terms "minority" and "minority persons", "minority owners", and "minority business" appearing in the definition.

Each state authority shall establish an affirmative marketing program to ensure the fair participation of minority-owned and women-owned businesses for capital facility projects and the disposition of real property. The affirmative marketing program shall establish participation goals for minority-owned and women-owned business in the capital facility projects and the disposition of real property that are equal to or exceed the combined participation goals for minority-owned and women-owned businesses as established by the division of capital asset management and maintenance pursuant to section 6 of chapter 7C. The participation goals for

minority-owned business and women-owned business shall include, but shall not be limited to: (i) construction; (ii) design services; (iii) development; (iv) financing; (v) operation; and (vi) ownership. The affirmative marketing plan shall be included, at a minimum, in every request for proposal for capital facility projects and the disposition of real property.

All affirmative marketing program requirements shall apply to any lessee of land of a state authority. Any improvement by said lessee, including, but not limited to a building or other such structure, shall include an affirmative fair marketing plan.

SECTION 2. Section 6 of chapter 7C of the General Laws, as so appearing, is hereby amended by striking out the definition of "State assisted building project" and inserting in place thereof the following definition:-

"State assisted building project", a construction project undertaken by a political subdivision of the commonwealth or 2 or more subdivisions thereof for the planning, acquisition, design, construction, demolition, installation, repair or maintenance of a capital facility and whose costs are paid for, reimbursed, grant funded, or otherwise supported, in whole or in part, by the commonwealth; or any disposition of real property of a state agency; provided that, for the purposes of this section, a disposition shall include, but shall not be limited to: (i) a lease of real property for the purpose of real estate development and (ii) the assignment of air rights.

SECTION 3. Said chapter 6 of said chapter 7C, as so appearing, is hereby further amended by striking out the word "may", in line 84, and inserting in place thereof the following word:- shall.

SECTION 4. Said chapter 6 of said chapter 7C, as so appearing, is hereby further amended by adding the following subsection:-

(l) All affirmative marketing program requirements shall apply to any lessee of land of a state agency. Any improvement by said lessee, including, but not limited to a building or other such structure, shall include an affirmative fair marketing plan.