

HOUSE No. 3166

The Commonwealth of Massachusetts

PRESENTED BY:

Russell E. Holmes

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:	DATE ADDED:
<i>Russell E. Holmes</i>	<i>6th Suffolk</i>	<i>2/18/2021</i>
<i>Elizabeth A. Malia</i>	<i>11th Suffolk</i>	<i>3/3/2021</i>

HOUSE No. 3166

By Mr. Holmes of Boston, a petition (accompanied by bill, House, No. 3166) of Russell E. Holmes and Elizabeth A. Malia relative to diversity in public contracting. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 2717 OF 2019-2020.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

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 2014
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 2014 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 2014 Official Edition.

12 SECTION 2. Section 14C of said chapter 7 of the General Laws as so appearing in the
13 2014 Official Edition, is hereby amended by inserting after the last paragraph the following
14 paragraphs:-

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

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

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

29 SECTION 3. Section 22O of chapter 7 of the General Laws, as appearing in the 2014
30 Official Edition, is hereby amended by adding the following sentence:- The commonwealth shall
31 seek to achieve minority business enterprise and women business enterprise contracting goals

32 within state procurement that reflect the diverse racial, ethnic and gender makeup of the
33 commonwealth's population.

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

37 "Low income community", a municipality where the median household income is 65
38 percent or less than the statewide household median income. In the case of a municipality with
39 50,000 residents or more, low income community shall mean a geographically contiguous,
40 historically recognized neighborhood of 10,000-50,000 residents.

41 "Minority business enterprise", as used in this chapter shall be defined as it is in Section
42 58 of Chapter 7 of the General Laws, as appearing in the 2012 Official Edition.

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

45 SECTION 5. The definition of "Responsible" in section 44A of chapter 149 of the
46 General Laws, as so appearing, is hereby amended by adding the following words:- provided,
47 however, that in deliberating upon the responsibility of a bidder, a contracting public agency
48 shall consider a bidder's compliance with commitments made in previous bids or contract
49 documents with the Commonwealth, if any, including, but not limited to, the failure of a bidder,
50 contractor, or proposed subcontractor to comply with the commitments regarding the
51 employment of minority business enterprises and women business enterprises and regarding
52 workforce inclusion goals.

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

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

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

63 SECTION 7. Paragraph (1) of subsection (e) of section 44D½ of said section 149, as so
64 appearing, is hereby amended by adding the following clause:-

65 (viii) Joint Ventures, documentation demonstrating that the firm has formed an
66 association of not less than 2 businesses in which 1 of the businesses is a minority business
67 enterprise or a women business enterprise.

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

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

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

75 Section 44N. Data collection and disclosure

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

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

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