SENATE DOCKET, NO. 1047 FILED ON: 1/18/2023

SENATE . . . . . No. 2028

The Commonwealth of Massachusetts

PRESENTED BY:

Liz Miranda

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:	
Liz Miranda	*Second Suffolk*	
Lydia Edwards	*Third Suffolk*	*2/8/2023*
Jason M. Lewis	*Fifth Middlesex*	*2/8/2023*
Rebecca L. Rausch	*Norfolk, Worcester and Middlesex*	*7/11/2023*

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SENATE . . . . . No. 2028

By Ms. Miranda, a petition (accompanied by bill, Senate, No. 2028) of Liz Miranda, Lydia Edwards and Jason M. Lewis for legislation relative to equity in public contracting in honor of Bruce C. Bolling. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *2018* OF 2021-2022.]

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Third General Court
(2023-2024)

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:

SECTION 1. Section 1 of chapter 7 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by adding the following definitions:-

"Low income community", a municipality where the median household income is 65 per cent 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 so appearing.

"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 so appearing.

SECTION 2. Section 14C of said chapter 7 of the General Laws, as so appearing, is hereby amended by inserting after subsection (h) the following subsections:-

(i) 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.

(j) 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.

(k) 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 days of the effective date of this section, develop appropriate fields within the MMARS for receiving this data.

SECTION 3. Section 22O of chapter 7 of the General Laws, as so appearing, is hereby amended by adding the following sentence:-

The commonwealth shall seek to achieve minority business enterprise and women business enterprise contracting goals within state procurement that reflect the diverse racial, ethnic and gender makeup of the commonwealth's population.

SECTION 4. Section 1 of chapter 149 of the General Laws, as so appearing, is hereby amended by adding the following definitions:-

"Low income community", a municipality where the median household income is 65 per cent 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 so appearing.

"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 so appearing.

SECTION 5. Section 44A of chapter 149 of the General Laws, as so appearing, is hereby amended by inserting after the word "chapter;" in line 17 the following sentence:- provided, however, that in deliberating upon the responsibility of a bidder, a contracting public agency shall consider a bidder's compliance with commitments made in previous bids or contract documents with the commonwealth, if any, including, but not limited to, the failure of a bidder, contractor, or proposed subcontractor to comply with the commitments 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 adding 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. Paragraph (1) of subsection (e) of section 44D½ of chapter 149, as so appearing, is hereby amended by adding the following sentence:-

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

SECTION 8. Paragraph (3) of subsection (e) of section 44D½ of chapter 149, as so appearing, is hereby amended by adding the following sentence:-

(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 44A½ of chapter 149.

SECTION 9. Said chapter 149, as so appearing, is hereby amended by adding 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.

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 days of the effective date of this section, develop appropriate fields within the MMARS for receiving this data.