

By: Miles

H.B. No. 2604

A BILL TO BE ENTITLED

AN ACT

1
2 relating to planning and administration of the state's historically
3 underutilized business program.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 2161.002(c), Government Code, is amended
6 to read as follows:

7 (c) In adopting rules to administer this chapter, the
8 commission shall adopt rules that are based on the results of the
9 "State of Texas Disparity Study, A Report to the Texas Legislature
10 in December of 2006 [as Mandated by H.B. 2626, 73rd Legislature,
11 December 1994]" (prepared by Mason Tillman Associates, Ltd.
12 [National Economic Research Associates, Inc.]). The commission
13 shall revise the rules in response to the findings of any updates of
14 the study that are prepared on behalf of the state.

15 SECTION 2. Sections 2161.123(d) and (e), Government Code,
16 are amended to read as follows:

17 (d) The commission and the state auditor shall cooperate to
18 develop procedures providing for random periodic monitoring of
19 state agency compliance with this section. The state auditor shall
20 report to the commission a state agency that is not complying with
21 this section. In determining whether a state agency is making a
22 good faith effort to comply, the state auditor shall consider
23 whether the agency:

24 (1) has adopted rules under Section 2161.003;

1 (2) has used the commission's directory under Section
2 2161.064 and other resources to identify historically
3 underutilized businesses that are able and available to contract
4 with the agency;

5 (3) made good faith, timely efforts to contact
6 identified historically underutilized businesses regarding
7 contracting opportunities; ~~and~~

8 (4) conducted its procurement program in accordance
9 with the good faith effort methodology set out in commission rules;
10 and

11 (5) established goals for contracting with
12 historically underutilized businesses in each procurement category
13 based on:

14 (A) scheduled fiscal year expenditures; and

15 (B) the availability of historically
16 underutilized businesses in each category as determined by rules
17 adopted under Section 2161.002.

18 (e) In conducting an audit of an agency's compliance with
19 this section or an agency's making of a good faith effort to
20 implement the plan adopted under this section, the state auditor
21 shall ~~[not]~~ consider the success or failure of the agency to
22 contract with historically underutilized businesses in accordance
23 with the agency's goals described by Subsection (d)(5) [in any
24 ~~specific quantity. The state auditor's review shall be restricted~~
25 ~~to the agency's procedural compliance with Subsection (d)]~~.

26 SECTION 3. This Act takes effect September 1, 2007.