

By: Gallegos

S.B. No. 1196

A BILL TO BE ENTITLED

AN ACT

relating to administrative and contract provisions applicable to certain nonprofit corporations located in large counties.

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

SECTION 1. Chapter 22, Business Organizations Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. ADMINISTRATIVE AND CONTRACT PROVISIONS APPLICABLE TO CERTAIN NONPROFIT CORPORATIONS LOCATED IN LARGE COUNTIES

Sec. 22.451. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a nonprofit corporation:

(1) whose principal office is located in a county with a population of 3.3 million or more; and

(2) that contracts with a local government corporation.

Sec. 22.452. BOARD OF DIRECTORS TO REFLECT DIVERSITY OF CONSTITUENTS. An appointment to a board of directors of a nonprofit corporation described by Section 22.451 must be made with the intent to ensure that the board reflects the diversity of the constituency served by the nonprofit corporation.

Sec. 22.453. NONPROFIT CORPORATION SUBJECT TO OPEN RECORDS ACT. A nonprofit corporation described by Section 22.451 is subject to Chapter 552, Government Code, in the same manner as a governmental body.

Sec. 22.454. CONTRACTS FOR HISTORICALLY UNDERUTILIZED

1 BUSINESSES. (a) A nonprofit corporation described by Section  
2 22.451 shall make a reasonable effort to award contracts or  
3 subcontracts associated with a project it operates, maintains, or  
4 constructs to historically underutilized businesses.

5 (b) In this section, "historically underutilized business"  
6 means:

7 (1) a corporation formed for the purpose of making a  
8 profit in which at least 51 percent of all classes of the shares of  
9 stock or other equitable securities is owned, managed, and in daily  
10 operations controlled by one or more persons who have been  
11 historically underutilized because of their identification as  
12 members of certain groups, including African Americans, Hispanic  
13 Americans, women, Asian Pacific Americans, and Native Americans,  
14 who have suffered the effects of discriminatory practices or  
15 similar invidious circumstances over which they have no control;

16 (2) a sole proprietorship formed for the purpose of  
17 making a profit that is 100 percent owned and in daily operation is  
18 controlled by a person described by Subdivision (1);

19 (3) a partnership formed for the purpose of making a  
20 profit in which at least 51 percent of the assets and interest in  
21 the partnership are owned by one or more persons described by  
22 Subdivision (1) and who also have proportionate interest in the  
23 control, daily operation, and management of the partnership's  
24 affairs;

25 (4) a joint venture in which each entity in the joint  
26 venture is a historically underutilized business; or

27 (5) a supplier contract between a historically

1 underutilized business and a prime contractor under which the  
2 historically underutilized business is directly involved in the  
3 manufacture or distribution of the supplies or materials or  
4 otherwise warehouses and ships the supplies or materials.

5 SECTION 2. Section 22.454, Business Organizations Code, as  
6 added by this Act, applies only to a contract that is entered into  
7 on or after the effective date of this Act. A contract entered into  
8 before the effective date of this Act is governed by the law in  
9 effect on the date the contract was entered into, and the former law  
10 is continued in effect for that purpose.

11 SECTION 3. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2009.