87R6156 MWC-D

By:  Shine H.B. No. 2246

A BILL TO BE ENTITLED

AN ACT

relating to companies in which employees have ownership interests through employee stock ownership plans.

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

SECTION 1.  Section 301.004, Business Organizations Code, is amended to read as follows:

Sec. 301.004.  AUTHORIZED PERSON. For purposes of this title, a person is an authorized person with respect to:

(1)  a professional association if the person is a professional individual; [~~and~~]

(2)  a [~~professional corporation or a~~] professional limited liability company if the person is a professional individual or professional organization; and

(3)  a professional corporation if the person is:

(A)  a professional individual;

(B)  a professional organization; or

(C)  an employee stock ownership plan, as described by Section 303.0015, established by the corporation.

SECTION 2.  Chapter 303, Business Organizations Code, is amended by adding Section 303.0015 to read as follows:

Sec. 303.0015.  AUTHORIZED PERSON. For purposes of this chapter, an employee stock ownership plan, as defined by Section 4975(e) of the Internal Revenue Code of 1986, established by a professional corporation, is an authorized person if:

(1)  all of the voting trustees of the plan are professional individuals who are licensed to provide at least one category of the professional services described in the corporation's certificate of formation; and

(2)  the ownership interests in the plan are not directly issued to any person other than the plan trust or a professional individual licensed to provide at least one category of the professional services described in the corporation's certificate of formation.

SECTION 3.  Chapter 481, Government Code, is amended by adding Subchapter CC to read as follows:

SUBCHAPTER CC. EMPLOYEE OWNERSHIP ASSISTANCE OFFICE

Sec. 481.451.  ESTABLISHMENT OF EMPLOYEE OWNERSHIP ASSISTANCE OFFICE. The employee ownership assistance office is an office within the Texas Economic Development and Tourism Office.

Sec. 481.452.  DUTIES. (a) The employee ownership assistance office shall establish and administer for businesses in this state:

(1)  an outreach and information dissemination program to foster increased awareness of employee stock ownership plans; and

(2)  a technical assistance program to assist businesses in determining the feasibility of establishing an employee stock ownership plan.

(b)  The employee ownership assistance office shall make available to businesses in this state information relating to obtaining assistance under the programs established under Subsection (a).

SECTION 4.  Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.454 to read as follows:

Sec. 2155.454.  PREFERENCE TO TEXAS EMPLOYEE-OWNED COMPANIES. (a) In this section, "employee-owned company" means a corporation in which a majority of the stock is held by an employee stock ownership plan, as defined by Section 4975(e), Internal Revenue Code of 1986.

(b)  The comptroller and all state agencies purchasing goods or services may give preference to an employee-owned company domiciled in this state if other considerations are equal.

SECTION 5.  Section 2161.001, Government Code, is amended by amending Subdivision (2) and adding Subdivisions (3-a) and (3-b) to read as follows:

(2)  "Historically underutilized business" means an entity with its principal place of business in this state that is:

(A)  a corporation formed for the purpose of making a profit in which 51 percent or more of all classes of the shares of stock or other equitable securities are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the corporation's control, operation, and management;

(B)  a sole proprietorship created for the purpose of making a profit that is completely owned, operated, and controlled by an economically disadvantaged person;

(C)  a partnership formed for the purpose of making a profit in which 51 percent or more of the assets and interest in the partnership are owned by one or more economically disadvantaged persons who have a proportionate interest and actively participate in the partnership's control, operation, and management;

(D)  a joint venture in which each entity in the venture is a historically underutilized business, as determined under another paragraph of this subdivision; [~~or~~]

(E)  a supplier contract between a historically underutilized business as determined under another paragraph of this subdivision and a prime contractor under which the historically underutilized business is directly involved in the manufacture or distribution of the goods or otherwise warehouses and ships the goods; or

(F)  an employee-owned company in which 51 percent or more of the ownership interests in the company, including interests determined under Section 2161.0013, are held by economically disadvantaged persons who have a proportionate interest and actively participate in the company's control, operation, and management, including as voting trustees of an employee stock ownership plan of the company.

(3-a)  "Employee-owned company" has the meaning assigned by Section 2155.454.

(3-b)  "Employee stock ownership plan" has the meaning assigned by Section 4975(e), Internal Revenue Code of 1986.

SECTION 6.  Subchapter A, Chapter 2161, Government Code, is amended by adding Section 2161.0013 to read as follows:

Sec. 2161.0013.  DETERMINING OWNERSHIP INTEREST IN EMPLOYEE-OWNED COMPANY. For purposes of determining the ownership interests in an employee-owned company, the allocated shares of stock in the account of a plan participant of an employee stock ownership plan of the company are considered to be owned by the plan participant.

SECTION 7.  Subchapter B, Chapter 2161, Government Code, is amended by adding Section 2161.0611 to read as follows:

Sec. 2161.0611.  RETENTION OF STATUS AS HISTORICALLY UNDERUTILIZED BUSINESS. If a business described by Section 2161.001(2)(A), (B), (C), or (D) is certified as a historically underutilized business and the business establishes an employee stock ownership plan that causes the business to lose status as a historically underutilized business or eligibility for recertification as a historically underutilized business, the business retains that status or eligibility for a period of not more than five years after the date the business establishes the plan.

SECTION 8.  Section 2161.125, Government Code, is amended to read as follows:

Sec. 2161.125.  CATEGORIZATION OF HISTORICALLY UNDERUTILIZED BUSINESSES. The comptroller, in cooperation with each state agency reporting under this subchapter, shall categorize each historically underutilized business included in a report under this subchapter by:

(1)  sex, race, and ethnicity; and

(2)  [~~by~~] whether the business qualifies as a historically underutilized business:

(A)  because it is owned or owned, operated, and controlled, as applicable, wholly or partly by one or more veterans as defined by 38 U.S.C. Section 101(2) who have suffered at least a 20 percent service-connected disability as defined by 38 U.S.C. Section 101(16); or

(B)  under Section 2161.001(2)(F).

SECTION 9.  Subchapter Z, Chapter 271, Local Government Code, is amended by adding Section 271.909 to read as follows:

Sec. 271.909.  PREFERENCE TO TEXAS EMPLOYEE-OWNED COMPANIES. (a) In this section:

(1)  "Employee-owned company" has the meaning assigned by Section 2155.454, Government Code.

(2)  "Local government" means a municipality, a county, or a special district.

(b)  In purchasing goods or services, a local government may give preference to an employee-owned company domiciled in this state if other considerations are equal.

SECTION 10.  This Act takes effect September 1, 2021.