

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-270
SENATE BILL 907**

AN ACT REQUIRING THE SECRETARY OF ADMINISTRATION TO ADOPT RULES AND PROCEDURES TO CERTIFY HISTORICALLY UNDERUTILIZED BUSINESSES AND TO MAINTAIN A DATABASE OF THE BUSINESSES CERTIFIED.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-48 is amended by adding the following new subsection to read:

"§ 143-48. State policy; cooperation in promoting the use of small contractors, minority contractors, physically handicapped contractors, and women contractors; purpose; required annual reports.

(d1) The Secretary of Administration shall adopt rules and procedures for: (i) the certification of a business under this section as a historically underutilized business; and (ii) the creation and maintenance of a database of the businesses certified as historically underutilized businesses. The database shall be created and maintained by the Department of Administration, Office of Historically Underutilized Business, and shall include the necessary procedures and rules for certification under this section."

SECTION 2. G.S. 143-128.3 is amended by adding the following new subsection to read:

"§ 143-128.3. Minority business participation administration.

(e1) The Secretary shall adopt rules and procedures for: (i) the certification of a minority business contractor, as defined in G.S. 143-128.2(g), as a historically underutilized business; and (ii) the creation and maintenance of a database of the businesses certified as historically underutilized businesses. The database shall be created and maintained by the Department of Administration, Office of Historically Underutilized Business, and shall include the necessary procedures and rules for certification as a historically underutilized business."

SECTION 3. Article 8 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-128.4. Historically underutilized business defined.

(a) As used in this Chapter, the term "historically underutilized business" means a business that meets all of the following conditions:

(1) At least fifty-one percent (51%) of the business is owned by one or more persons who are members of at least one of the groups set forth in subsection (b) of this section, or in the case of a corporation, at least fifty-one percent (51%) of the stock is owned by one or more persons who are members of at least one of the groups set forth in subsection (b) of this section.

(2) The management and daily business operations are controlled by one or more owners of the business who are members of at least one of the groups set forth in subsection (b) of this section.

(b) To qualify as a historically underutilized business under this section, a business must be owned and controlled as set forth in subsection (a) of this section by

one or more citizens or lawful permanent residents of the United States who are members of one or more of the following groups:

- (1) Black. – A person having origins in any of the black racial groups of Africa.
- (2) Hispanic. – A person of Spanish or Portuguese culture having origins in Mexico, South or Central America, or the Caribbean islands, regardless of race.
- (3) Asian American. – A person having origins in any of the original peoples of the Far East, Southeast Asia, Asia, Indian continent, or Pacific islands.
- (4) American Indian. – A person having origins in any of the original Indian peoples of North America.
- (5) Female.
- (6) Disabled. – A person with a disability as defined in G.S. 168-1 or G.S. 168A-3.
- (7) Disadvantaged. – A person who is socially and economically disadvantaged as defined in 15 U.S.C. § 637."

SECTION 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 4th day of August, 2005.

s/ Beverly E. Perdue
President of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 4:19 p.m. this 12th day of August, 2005