



Phil Mullin

## *Bill Analysis*

Legislative Service Commission

### **H.B. 186**

124th General Assembly  
(As Introduced)

**Reps. Flannery, Callender, D. Miller, Sullivan, Rhine, Redfern, Latell,  
Woodard, Krupinski, Strahorn, Allen**

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#### **BILL SUMMARY**

- Requires firms that contract with the state to supply goods, render services, or construct public improvements to implement the MacBride Principles of Fair Employment with respect to their business activities in Northern Ireland.

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#### **CONTENT AND OPERATION**

##### **Contractor compliance with the MacBride Principles**

Except as noted in the next paragraph, the bill provides that, upon entering into a contract with a contracting authority for the supplying of materials, equipment, or supplies, for the rendering of services, or for the construction, alteration, or repair of a public building, a firm must do both of the following: (1) demonstrate to the contracting authority that the firm is taking all lawful measures to implement the MacBride Principles of Fair Employment with respect to the firm's business activities within Northern Ireland or make an agreement with the contracting authority that the firm will take all lawful measures to implement the MacBride Principles if the firm is not doing so at the time the contract is awarded and (2) permit independent monitoring of the firm's implementation of the MacBride Principles with respect to the firm's business activities within Northern Ireland (secs. 125.112(A) and 153.592(A)).

If the materials, equipment, supplies, or services required by a contracting authority are not available from or cannot be rendered by any person, or the construction, alteration, or repair of a public building required by a contracting authority cannot be completed by any person, at a comparable price or standard of quality other than by a firm that does not meet the requirements described above, the contracting authority may waive those requirements for the firm that does not meet them (secs. 125.112(D) and 153.592(D)).

### **Effect of failure to comply with the MacBride Principles**

A contracting authority must declare any firm that violates the requirements described above to be in default of the firm's contract with the contracting authority and subject to the contract's default remedies. If the firm fails to cure the default within 60 days after the contracting authority's declaration, it is ineligible to contract with the contracting authority for a two-year period from the declaration. On or before each April 1, a contracting authority must submit to the Governor a report listing every firm that it has declared to be in default within the preceding year. The contracting authority must make the report available to the public. (Secs. 125.112(B) and (C) and 153.592(B) and (C).)

### **Definitions**

#### **MacBride Principles of Fair Employment**

The bill defines the "MacBride Principles of Fair Employment" as actions and efforts to eliminate discrimination in employment practices that is based upon a person's race, color, national origin, ancestry, or religion, including actions and efforts an employer takes to do all of the following (secs. 125.112(E)(3) and 153.592(E)(3)):

- Increase the representation of individuals from underrepresented religious groups in the work force by making every reasonable, lawful effort to increase the number of those individuals in the employer's operation, including managerial, supervisory, administrative, clerical, and technical jobs.
- Take steps to promote adequate security for the protection of minority employees and applicants both at the workplace and while traveling to and from work, including making reasonable, good faith efforts to protect workers and applicants from intimidation and physical abuse.
- Ban provocative religious or political emblems from the workplace.
- Publicly advertise all job openings and make special recruiting efforts to attract applicants from underrepresented religious groups.
- Provide that layoff, recall, and termination procedures do not in practice favor particular religious groups by making reasonable, good faith efforts to ensure that those procedures do not affect a particular religious group disproportionately.

- Abolish job reservations, apprenticeship restrictions, and differential employment criteria that discriminate on the basis of religion, race, color, national origin, or ancestry.
- Develop training programs to prepare substantial numbers of current minority group members for skilled jobs, including the expansion of existing programs and the creation of new programs to train, upgrade, and improve the skills of minority employees.
- Establish procedures to assess, identify, and actively recruit minority employees with potential for further advancement.
- Appoint senior management staff members to oversee affirmative action efforts and the establishment of timetables to carry out affirmative actions principles.

**Other terms**

The bill defines "firm" as any individual, corporation, business trust, estate, trust, partnership, association, or other business entity that has more than a 50% interest in a contract covered by the bill and that either employs individuals, or that is the controlling shareholder (see the next paragraph) of a corporation, business trust, association, or other business entity that employs individuals, in Northern Ireland. "Firm" includes any successor firm or assignee of the rights to a contract. (Secs. 125.112(E)(1) and 153.592(E)(1).)

"Controlling shareholder" is defined as a shareholder of a corporation, business trust, association, or other business entity that owns the majority of shares in that entity, entitling that shareholder to vote a majority of the voting power in an election, or any shareholder owning 20% or more of the shares of a public corporation that, when added to other shares, may direct the voting power of the public corporation in an election. A "public corporation" is defined as a corporation whose shares are traded to and among the general public and for which no valid close corporation agreement exists. (Secs. 125.112(E)(4) and 153.592(E)(4).)

Finally, "contracting authority" is defined as an officer, agency, institution, board, commission, or other authority of the state authorized to contract for the

supplying of materials, equipment, or supplies or the rendering of services (secs. 125.112(E)(2) and 153.592(E)(2)).<sup>1</sup>

**Prospective application of the bill**

The bill's provisions apply only to contracts entered into on and after its effective date (Section 2).

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	03-27-01	p. 263

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<sup>1</sup> In section 153.592(E)(2), this definition probably instead should refer to an officer, agency, institution, board, commission, or authority of the state authorized to contract for "the construction, alteration, or repair of a public building."