



H.B. 21

126th General Assembly
(As Introduced)

Reps. Miller, Skindell, Allen, Ujvagi, Brown, Beatty

BILL SUMMARY

- Requires firms that contract with the state to provide supplies or services, or that enter into public works contracts with the state to implement the MacBride Principles of Fair Employment with respect to their business activities in Northern Ireland.

CONTENT AND OPERATION

Contractor compliance with the MacBride Principles

Except as noted in the next paragraph, the bill states that, upon entering into a contract with a contracting authority of the state to provide supplies or services or upon entering into a public works contract with a contracting authority, a firm that has more than a 50% interest in that contract, and that either employs individuals in Northern Ireland or is the controlling shareholder of a corporation, business trust, association, or other business entity that employs individuals in Northern Ireland, 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 agree to take all lawful measures to implement the MacBride Principles if the firm is not doing so at the time the contract is awarded;

(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 supplies or services required by a contracting authority are not available from or cannot be provided, or the public works 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 calendar 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 workforce 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. "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).)

"Contracting authority" is defined as an officer, agency, institution, board, commission, or other authority of the state authorized to contract for supplies or services or public works (secs. 125.112(E)(2) and 153.592(E)(2)).

A "public works contract" means any contract awarded by a contracting authority for the construction, engineering, alteration, or repair of any public building, public highway, or other public work (sec. 153.592(E)(5) and R.C. 153.581, not in the bill).

Prospective application of the bill

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

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	01-25-05	p. 83

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