

# LABOR AND WORKFORCE DEVELOPMENT

## Resolution LWD-17-13

### **A RESOLUTION CALLING ON STATE AND FEDERAL GOVERNMENT TO CONDUCT DISPARITY STUDIES TO ELIMINATE DISCRIMINATION IN CONTRACTING**

WHEREAS, it is the goal of the National Black Caucus of State Legislators (NBCSL) to continue to press for fairness and equality for minority-owned businesses in contract procurement at the national, state, and local levels;

WHEREAS, there is a history of discrimination against minority and female business owners in the award of public contracts in every state in the United States;

WHEREAS, minority- and women-owned business throughout the United States continue to suffer the present effects of past discrimination in the award of public contracts;

WHEREAS, the operation and maintenance of open, fair, and equitable procurement systems by federal, state, and local governments will benefit all businesses and citizens of every state;

WHEREAS, it is otherwise in the best interests of federal, state, and local governments to promote equal opportunity in the State's goods and services contracting;

WHEREAS, federal, state, and local governments have clear constitutional duties to prevent racial and gender based discrimination in purchasing and contracting by or on behalf of the State;

WHEREAS, in the case of the *City of Richmond v. J.A. Croson Company*, 488 U.S. 469, 103 L.Ed.2d 854, 109 S.Ct. 705 (1989), the United States Supreme Court set forth the legal standard that a state, county, or local government must satisfy to justify establishing and/or continuing a program aimed at increasing minority and female participation in the procurement process, in that such governments must utilize "race neutral" means to increase minority participation in contracting in the absence of a firm evidentiary basis for enacting "race-conscious" measures; and

WHEREAS, since the Supreme Court's decision in *City of Richmond v. Croson*, many state and local governments have authorized and conducted disparity studies to determine whether there is a compelling government interest in remedying current discrimination and/or the present effects of past discrimination with regard to contract procurement and related matters.

THEREFORE BE IT RESOLVED, the National Black Caucus of State Legislators urges (NBCSL) its members to introduce legislation in their respective jurisdictions requiring the state to conduct a minority and women-owned business utilization study, ascertaining, among other things, the number of state contracts awarded to minority- and women-owned businesses as compared to the number of businesses willing and able to provide the services set forth in the available state contracts;

BE IT FURTHER RESOLVED that NBCSL hereby recommends that its members introduce legislation in their respective jurisdictions requiring such state to allocate funds sufficient to conduct

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the above-referenced business utilization studies; and

BE IT FINALLY RESOLVED, that a copy of this resolution be transmitted to the President of the United States, Vice President of the United States, members of the United States House of Representatives and the United States Senate, and other federal and state government officials as appropriate.

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SPONSOR: Representative Larry J. Miller (TN)

Committee of Jurisdiction: Labor and Workforce Development Policy Committee

Certified by Committee Co-Chair: Senator Ron Rice (NJ)

Ratified in Plenary Session: Ratification Date is December 3, 2016

Ratification is certified by: Senator Catherine Pugh (MD), President