**South Carolina General Assembly**

118th Session, 2009-2010

**H. 3861**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. J.H. Neal and Howard

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Introduced in the House on April 1, 2009

Currently residing in the House Committee on **Ways and Means**

Summary: Budget and Control Board

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

4/1/2009 House Introduced and read first time [HJ](file:///h:\HJ%20Archive\2009\04-01-09.docx)‑103

4/1/2009 House Referred to Committee on **Ways and Means** [HJ](file:///h:\HJ%20Archive\2009\04-01-09.docx)‑103

**VERSIONS OF THIS BILL**

[4/1/2009](file:///p:\pprever\2009-10\3861_20090401.docx)

**A** **BILL**

TO AMEND SECTION 11‑35‑35, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO SURETY BONDING REQUIREMENTS FOR BIDDERS ON A PUBLIC PROCUREMENT CONTRACT, SO AS TO DEFINE “HISTORICALLY UNDERUTILIZED BUSINESS”, TO PROVIDE THAT THE MATERIALS MANAGEMENT OFFICE OF THE STATE BUDGET AND CONTROL BOARD SHALL ESTABLISH A PROGRAM TO PROVIDE TECHNICAL ASSISTANCE TO A HISTORICALLY UNDERUTILIZED BUSINESS SEEKING A SURETY BOND, AND TO PROVIDE THAT THE MATERIALS MANAGEMENT OFFICE MAY CONTRACT FOR THE IMPLEMENTATION OF THE PROGRAM.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 11‑35‑35 of the 1976 Code, as added by Act 253 of 2002, is amended to read:

“Section 11‑35‑35. (A) If the State, or county, city, public service district, or other political subdivision of the State, or agency, department, institution, or other public entity of the State, enters into a procurement contract and requires the bidder to provide a surety bond to secure the bid or the performance or payment of the contract, the state political subdivision of the State, or public entity of the State may not exact that the surety bond be furnished by a particular surety company or through a particular agent or broker.

(B)(1) For purposes of this subsection:

(a) ‘Historically underutilized business’ means a small business that is a profit‑making corporation, sole proprietorship, partnership, or joint venture in which more than fifty percent of the shares of stock or other equitable securities are owned by one or more persons who are members of the following groups:

(i) Black American ‑ including all persons having origins of Black racial groups of Africa;

(ii) Hispanic American ‑ including all persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish/Portuguese culture or origin, regardless of race;

(iii) Asian Pacific American ‑ including persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Territories of the Pacific, or the Northern Marianas; and Subcontinent Asian American, which includes persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, or Nepal;

(iv) Native American ‑ including persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians; and

(v) Women ‑ including women of any ethnicity.

(b) ‘Small business’ means an entity that qualifies as a small business pursuant to 13 C.F.R. 121.

(2) The Materials Management Office of the State Budget and Control Board shall establish and offer a program to provide surety technical assistance for the benefit of historically underutilized businesses. The Materials Management Office may contract with insurance companies, surety companies, agents, or brokers to implement the program.”

SECTION 2. This act takes effect upon approval by the Governor.

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