

TRAILBLAZING LEGISLATION: SENATE BILL 2610

BY RITA McNEIL DANISH



During 2018, the Illinois Senate introduced and considered a trailblazing piece of legislation, Senate Bill 2610. The bill, which passed in the Senate, and nearly passed in the House, required municipalities and counties that receive more than \$1 million of motor fuel tax funds to establish a minority contracting program. There were several amendments added while it was pending in the House, one of which suggested raising the threshold to more than \$2 million of motor fuel tax funds received. Ultimately, in November, consideration of the legislation was postponed in the House. It is anticipated that the bill will be re-introduced and re-considered at the beginning of 2019.

For many, the question is what does this mean for municipalities and counties, as well as, the minority and women-owned business community. Simply stated, S.B. 2610 would assist local governments in changing their economic development models to encourage growth for minority and women-owned businesses, and to create jobs. Before implementing such a program, the Courts have mandated that a disparity study first be conducted. A

disparity study is the tool utilized to advance the dialogue regarding the inequities and inform the development of new and innovative solutions.

Government agencies at the federal, state, and local level typically can commission disparity studies to examine the extent to which minority and women contractors are underutilized in public procurement. Well conducted disparity studies present information on actual contracting disparities experienced by minority and women businesses in a particular industry and geographic region, as well as, facilitate an investigation into the extent to which there is discrimination in the marketplace.

A disparity study is a comprehensive effort that analyzes a wealth of data pertaining to the legal, legislative, and contracting environment facing minority and women-owned businesses in a particular jurisdiction or when procuring contracts from a specific federal, state, or municipal agency. Disparity studies typically include an overview of the legal precedent that influences key methodologies,

computations, and evidence necessary to justify or support existing or proposed contracting programs, including those that are race conscious. In addition to the legal review, disparity studies typically include an overview of the rules, regulations, and ordinances that govern public contracting for a particular agency. In order to determine the extent to which disparities exist amongst different racial and ethnic groups and women, disparity studies compute numerical disparity ratios using agency procurement data, information on winning bidders, and a comprehensive analysis of actual and potential bidders to determine which firms are ready, willing, and able to bid on contracts. This information is used to determine utilization and availability, the two inputs of the disparity analysis.

Economic inclusion is a key component of an overarching goal of building a prosperous economy. Economic inclusion tools have achieved significant gains for low-income communities and multi-cultural communities. Assisting diverse entrepreneurs launch businesses and expand their existing operations presents a proven opportunity for inclusive job creation. Studies have shown that entrepreneurs of color are more likely to hire people of color and locate their firms in communities of color and, therefore, their growth leads directly to more job opportunities for the groups that need them the most. Further, these businesses will ultimately revitalize communities and bring tax revenues into the local economy. Minority-owned firms are also twice as likely to export, providing evidence that more diverse business ownership can help the nation connect to global markets and meet its goals to increase exports.

To maximize the opportunity for greater diversity, public sector leaders are challenged to remove the multiple barriers that prevent our communities of color from actively participating in the economy and implement progressive strategies that connect communities of color to economic opportunities. As a companion, economic inclusion tools need to be developed, implemented, and integrated into large scale job creation, economic development, and public investment strategies to connect women- and minority-owned businesses to economic and business opportunities. S.B. 2610 facilitates such an opportunity that ultimately benefits the municipalities, the counties, and the State.

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