



**Minority Business Enterprise Institute for Public Policy Position Statement:
Texas 86th Legislature HB1565 and HB3362
Proposed Expansion of Historically Underutilized Business Qualifications**

The Policy Issue

The State Affairs Committee of the Texas House of Representatives is currently considering two bills – HB1565 and HB3362 that would expand the definition of business owners who qualify for status as a Historically Underutilized Business (HUB) to include those with a “qualified disability”. The stated case for expanding the HUB certification requirements includes the position that Disabled Business Owners suffer from discrimination similar to those of current HUB populations.

While well intentioned, neither the available facts; nor the existing HUB certification standards and goal setting processes (which are based on Minority and Women Business Enterprise case law) support the creation of a “qualified disability” HUB classification.

Currently, to be eligible for certification as a Historically Underutilized Business (HUB) by the Office of the State Comptroller, a business must be at least 51% owned by Asian Pacific American, Black American, Hispanic American, Native American, American woman or a Service-Disabled Veteran.

Fact Check

- Under the existing certification requirements, disabled American women, ethnic minorities and Service Disabled Veterans met the HUB certification requirements.
- Under HB1565 and HB3362
 - the only new population to qualify for HUB certification would be disabled white males.
 - selective, subjective and variable HUB certification standards would be allowed, apparently without oversight from the Office of the State Comptroller, as individual physicians would be able to make the determination as to whether individuals “fit” the definition of disabled.
- The State of Texas does not have a Disparity Study to validate the underutilization of Disabled Business Owners.
- Disabled Business Owners as individuals currently enjoy the benefits and protections of the Texas Human Resource Code “TITLE 8. RIGHTS AND RESPONSIBILITIES OF PERSONS WITH DISABILITIES”, “CHAPTER 122. PURCHASING FROM PEOPLE WITH DISABILITIES” which is specifically applicable to people with disabilities.

Source: <https://statutes.capitol.texas.gov/Docs/HR/htm/HR.122.htm>



Conclusion

Increasing the number of firms eligible to compete as HUBs without increasing the HUB Goals does not create incremental procurement and contracting awards. It does, however, create increased competition for a limited pool of procurement and contracting opportunities. Such an outcome is not only counterintuitive, it is counterproductive in its effect on both the HUB populations certified under the existing standards and the Disabled Business Owner population.

Recommendation

After deliberation with its Partner Organizations across the state included on the Signatory page, the Minority Business Enterprise Institute for Public Policy supports the position of the following HUB/MBE advocacy organizations:

- National Minority Supplier Development Council
- Texas Association of African American Chambers of Commerce
- Texas Association of Mexican American Chambers of Commerce
- U.S. Hispanic Contractors Association

in recommending that neither HB1565 nor HB3362 be passed out of Committee by the House State Affairs Committee.

About the Minority Business Enterprise Institute for Public Policy

The Minority Business Enterprise Institute for Public Policy, a nonprofit, nonpartisan organization, is structured to educate and provide minority businesses and public/private sector buying entities with public policy resources and information on minority business issues and programs that support capacity building and the meaningful and sustainable inclusion of MBEs in contracting and other procurement opportunities.

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Partner Organizations

