~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 31, 2021

**S. 644**

Introduced by Senator Scott

S. Printed 3/31/21--S.

Read the first time March 4, 2021.

**THE COMMITTEE ON FINANCE**

To whom was referred a Bill (S. 644) to amend Section 11‑35‑5270, Code of Laws of South Carolina, 1976, relating to the Division of Small and Minority Business, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, SECTION 1, page 1, by striking line 30 through line 36 and inserting:

/ “Section 11‑35‑5270. The Division of Small and Minority Business Contracting and Certification must be established within the ~~Department of Administration~~ State Fiscal Accountability Authority to assist the ~~Department of Administration~~ State Fiscal Accountability Authority and the Department of Revenue in carrying out the intent of this article. The responsibilities of the division include, but are not limited to, the following: /

Amend further, by striking SECTION 3 and inserting:

/ SECTION 3. A. Where the provisions of this act transfer duties, programs, or services of the Department of Administration to the State Fiscal Accountability Authority, the employees, authorized appropriations, and assets and liabilities of these divisions, services, and programs also are transferred to and become part of the State Fiscal Accountability Authority. All classified or unclassified personnel employed by the divisions, programs, services, or initiatives transferred from the Department of Administration, either by contract or by employment at will, become on July 1, 2021, employees of the State Fiscal Accountability Authority with the same compensation, classification, and grade level, as applicable. Before the transfer of the applicable divisions, programs, services, or initiatives of the Department of Administration pursuant to this act, these agencies and organizations shall cause all necessary actions to be taken to accomplish this transfer in accordance with state and federal laws and regulations.

B. Applicable regulations promulgated by the Department of Administration are continued and are considered to be promulgated by the State Fiscal Accountability Authority. Applicable contracts entered into by the Department of Administration are continued and are considered to be devolved upon the State Fiscal Accountability Authority at the time of the transfer. /

Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill transfers the Division of Small and Minority Business Contracting and Certification (division) from the Department of Administration (DOA) to the Commission for Minority Affairs (commission). The employees, authorized appropriations, and assets and liabilities of the division will be transferred to and become part of the commission. The transfer will occur on July 1, 2021.

Based on the FY 2021-22 base budget, DOA is receiving appropriations of $117,064 for 2 FTEs and $34,927 for operating expenses for a total of $151,991 in appropriations from the general fund for the division. This bill will have no expenditure impact on the general fund of DOA or the commission because the agencies can absorb the administrative costs associated with the transfer of the division within existing appropriations. The bill does not require a physical relocation of the division’s 2 FTEs to the commission’s offices. Should the agencies wish to relocate the employees, there may be additional costs.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 11‑35‑5270, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DIVISION OF SMALL AND MINORITY BUSINESS CONTRACTING AND CERTIFICATION IN THE DEPARTMENT OF ADMINISTRATION, SO AS TO TRANSFER THE DIVISION TO THE COMMISSION FOR MINORITY AFFAIRS; TO AMEND SECTION 1‑11‑10, AS AMENDED, RELATING TO THE COMPOSITION OF THE DEPARTMENT OF ADMINISTRATION, SO AS TO MAKE A CONFORMING CHANGE; TO PROVIDE VARIOUS NECESSARY PROVISIONS TO EFFECT THE TRANSFER; AND TO MAKE THE PROVISIONS OF THIS ACT EFFECTIVE JULY 1, 2021.

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

SECTION 1. Section 11‑35‑5270 of the 1976 Code is amended to read:

“Section 11‑35‑5270. The Division of Small and Minority Business Contracting and Certification must be established within the ~~Department of Administration~~ Commission on Minority Affairs to assist the ~~Department of Administration~~ commission and the Department of Revenue in carrying out the intent of this article. The responsibilities of the division include, but are not limited to, the following:

(1) assisting the chief procurement officers and governmental bodies in developing policies and procedures which will facilitate awarding contracts to small and minority firms;

(2) assisting the chief procurement officers in aiding small and minority‑owned firms and community‑based business in developing organizations to provide technical assistance to minority firms;

(3) assisting with the procurement and management training for small and minority firm owners;

(4) assisting in the identification of responsive small and minority firms;

(5) receiving and processing applications to be registered as a minority firm in accordance with Section 11‑35‑5230(B);

(6) revoking the certification of any firm that has been found to have engaged in any of the following:

(a) fraud or deceit in obtaining the certification;

(b) furnishing of substantially inaccurate or incomplete information concerning ownership or financial status;

(c) failure to report changes which affect the requirements for certification;

(d) gross negligence, incompetence, financial irresponsibility, or misconduct in the practice of his business; or

(e) wilful violation of any provision of this article.

(7) After a period of one year, the division may reissue a certificate of eligibility provided acceptable evidence has been presented to the commission that the conditions which caused the revocation have been corrected.”

SECTION 2. Section 1‑11‑10(A)(13) of the 1976 Code is amended to read:

“(13) ~~the Division of Small and Minority Business Contracting and Certification, as established pursuant to Article 21, Chapter 35, Title 11, formerly known as the Small and Minority Business Assistance Office~~ Reserved.”

SECTION 3. A. Where the provisions of this act transfer duties, programs, or services of the Department of Administration to the Commission for Minority Affairs, the employees, authorized appropriations, and assets and liabilities of these divisions, services, and programs also are transferred to and become part of the Commission for Minority Affairs. All classified or unclassified personnel employed by the divisions, programs, services, or initiatives transferred from the Department of Administration, either by contract or by employment at will, become on July 1, 2021, employees of the Commission for Minority Affairs with the same compensation, classification, and grade level, as applicable. Before the transfer of the applicable divisions, programs, services, or initiatives of the Department of Administration pursuant to this act, these agencies and organizations shall cause all necessary actions to be taken to accomplish this transfer in accordance with state and federal laws and regulations.

B. Applicable regulations promulgated by the Department of Administration are continued and are considered to be promulgated by the Commission for Minority Affairs. Applicable contracts entered into by the Department of Administration are continued and are considered to be devolved upon the Commission for Minority Affairs at the time of the transfer.

SECTION 4. The repeal or amendment by this act of any law, whether temporary, permanent, civil, or criminal, does not affect pending actions, rights, duties, or liabilities founded thereon, or alter, discharge, release, or extinguish any penalty, forfeiture, or liability incurred under the repealed or amended law, unless the repealed or amended provision shall so expressly provide. After the effective date of this act, all laws repealed or amended by this act must be taken and treated as remaining in full force and effect for the purpose of sustaining any pending or vested right, civil action, special proceeding, criminal prosecution, or appeal existing as of the effective date of this act and for the enforcement of rights, duties, penalties, forfeitures, and liabilities as they stood under the repealed or amended laws.

SECTION 5. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 6. This act takes effect July 1, 2021.

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