

THIRTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'04 JUL 29 P 4 :44

SENATE
S.B. No. 1550

RECEIVED BY: _____

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

It is in the public interest for business enterprises owned by minorities and women to participate in procurement contracts of all providers of telecommunications services. The opportunity in our free enterprise system by minorities and women is essential if this nation is to attain social and economic equality.

Business enterprises can be improved through the development by the providers of telecommunications services of substantial long-range and annual goals, which are supported by training and technical assistance, for the purchase to the maximum practicable extent of technology, equipment, supplies, services and materials from minority business enterprises. Procurement policies which include participation of business enterprises that are owned by minorities and women also benefit the communication industry and its consumers by encouraging the expansion of the number of suppliers for procurement, thereby encouraging competition among suppliers and promoting economic efficiency in the process.

Miriam Defensor Santiago
MIRIAM DEFENSOR SANTIAGO *of*

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AN ACT
THAT REQUIRES ALL PROVIDERS OF TELECOMMUNICATIONS SERVICES TO
ESTABLISH AND CARRY OUT PLANS FOR PROCUREMENT FROM
BUSINESSES OWNED BY MINORITIES AND WOMEN

*Be it enacted by the Senate and House of Representatives of the Philippines in
Congress assembled:*

SECTION 1. *Short Title.* - This Act shall be known as the "Telecommunications
Economic Opportunity Act."

SECTION 2. *Declaration of Policy.* - It is the policy of the State to encourage
and foster greater economic opportunity for business enterprises that are owned by
minorities and women.

SECTION 3. *Definition of Terms.* - For the purpose of this Act, the following
definitions apply:

(1) The term "business enterprise owned by minorities or women"
means—

(a) a business enterprise that is at least 51 percent owned by a person
or
persons who are minority persons or women; or

(b) in the case of any publicly owned business, at least 51 percent of
the stock of which is owned by one or more persons who are minority persons or women,

and whose management and daily business operations are controlled by one or more of those persons.

(2) The term "minority person" means persons who belong to indigenous cultural communities or group of persons not fully assimilated into the mainstream of social life on account of race, creed, or religion.

(3) The term "control" means exercising the power to make financial and policy decisions.

(4) The term "operate" means the active involvement in the day-to-day management of the business and not merely being officers or directors.

(5) The term "Commission" means the National Telecommunications Commission.

(6) The term "telecommunications service" means the offering, on a common carrier basis, of telecommunications facilities, or of telecommunications by means of such facilities. Such term does not include an information service.

SECTION 4. *Annual Plans Required.* –

(1) IN GENERAL – The Commission shall require each provider of telecommunications services to submit annually a detailed and verifiable plan for increasing its procurement from business enterprises that are owned by minorities or women in all categories of procurement in which minorities are under represented.

(2) CONTENTS OF PLANS – The annual plans required by paragraph (1) shall include (but not limited to) short and long-term progressive goals and timetables, technical assistance and training and shall, in addition to goals for direct contracting opportunities, include methods for encouraging both prime contractors and grantees to engage business enterprises that are owned by minorities and women in subcontracts in all categories in which minorities are under represented.

(3) IMPLEMENTATION REPORT – each provider of telecommunications services shall furnish an annual report to the Commission regarding

the implementation of programs established pursuant to this Act in such form as the Commission shall require, and at such time as the Commission shall annually designate.

SECTION 5. *Report to Congress.* – The Commission shall provide an annual report to Congress beginning in January 2005, on the progress of activities undertaken by each provider of telecommunications services regarding the implementation of activities pursuant to this Act to develop business enterprises that are owned by minorities or women. The report shall evaluate the accomplishments under this Act and shall recommend a program for enhancing the policy declared in this Act, together with such recommendations for legislation as it deems necessary or desirable to further that policy.

SECTION 6. *Regulation and Criteria for Determining Eligibility of Minority Business Enterprises for Procurement Contracts.* –

(1) IN GENERAL – The Commission shall establish regulations for implementing programs pursuant to this Act that will govern providers of telecommunications services and their affiliates.

(2) VERIFYING CRITERIA. – The Commission shall develop and publish regulations setting forth criteria for verifying and determining the eligibility of business enterprises that are owned by minorities or women for procurement.

(3) OUTREACH – The Commission's regulations shall require each provider of telecommunications services and its affiliates to develop and to implement an outreach program to inform and recruit business enterprises that are owned by minorities or women to apply for procurement contracts under this Act.

(4) ENFORCEMENT – The Commission shall establish and promulgate such regulations necessary to enforce the provisions of this Act.

SECTION 7. *Waiver Authority.* – The requirements laid down in the preceding section may be waived, in whole or in part, by the Commission with respect to a particular contract or subcontract in accordance with guidelines set forth in regulations

which the Commission shall prescribe when it determines the application of such regulations proven to result in undue hardship or unreasonable expense to a provider of telecommunications services.

SECTION 8. *False Representation of Business; Sanctions* –

(1) IN GENERAL – Any person corporation, through its directors, officers, or agents, which false represents the business as a business enterprise that is owned by minorities or women in the procurement or attempt to procure contracts from telephone operating companies and their affiliates pursuant to Section 6, shall be punished by a fine of not more than one hundred fifty thousand pesos (P150,000.00), or by imprisonment for a period not to exceed five (5) years of its directors, officers, or agents responsible for the false statements, or by both fine and imprisonment.

(2) HOLDING COMPANIES – Any provider of telecommunications services which falsely represents its annual report to the Commission or its implementation of its programs pursuant to Section 6 shall be subject to a fine of one million pesos (P1,000,000.00) and be subject to a penalty of up to five (5) years restriction from participation in lines of business activities provided for in this Act.

SECTION 9. *Discrimination Prohibited.* – No otherwise qualified business enterprise that is owned by minorities or women shall solely, by reason of its racial, ethnic, or gender composition be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in procuring contracts from telephone utilities.

SECTION 10. *Civil Actions Authorized.* – Whenever a qualified business enterprise that is owned by minorities or women has reasonable cause to believe that a provider of telecommunications services or its affiliate is engaged in a pattern or practice of resistance to the full compliance of any provision of this Act, the business enterprise may bring a civil action in the appropriate court against the provider of

telecommunications services or its affiliate requesting such monetary or injunctive relief, or both, as deemed necessary to ensure the full benefits of this Act.

SECTION 11. *Attorney's Fees and Costs.* - In any action or proceeding to enforce or charge a violation of a provision of this Act, the court, in its discretion, may allow the prevailing party reasonable attorney's fees and costs.

SECTION 12. *Separability Clause.* - If any provision or part thereof, is held invalid or unconstitutional, the remainder of the law of the provision not otherwise affected shall remain valid and subsisting.

SECTION 13. *Repealing Clause.* - Any law, presidential decree or issuance, executive order, letter of instruction, administrative order, rule or regulation contrary to, or inconsistent with, the provisions of this Act is hereby repealed, modified or amended accordingly.

SECTION 14. *Effectivity Clause.* - This Act shall take effect fifteen (15) days after its publication in at least two (2) newspapers of general circulation.

Approved.