

Calendar No. 482

114TH CONGRESS
2D SESSION**S. 2838**

To improve the HUBZone program.

IN THE SENATE OF THE UNITED STATES

APRIL 21, 2016

Mr. VITTER (for himself, Mr. PETERS, and Mrs. SHAHEEN) introduced the following bill; which was read twice and referred to the Committee on Small Business and Entrepreneurship

MAY 24, 2016

Reported by Mr. VITTER, with amendments

[Omit the part struck through and insert the part printed in *italic*]**A BILL**

To improve the HUBZone program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Small Business Trans-
5 forming America’s Regions Act of 2016”.

6 **SEC. 2. MODIFICATION TO THE HUBZONE PROGRAM.**

7 (a) IN GENERAL.—Section 3(p) of the Small Busi-
8 ness Act (15 U.S.C. 632(p)) is amended—

1 (1) in paragraph (1)—

2 (A) in subparagraph (E), by striking “or”
3 at the end;

4 (B) by redesignating subparagraph (F) as
5 subparagraph (G); and

6 (C) by inserting after subparagraph (E)
7 the following:

8 “(F) another qualified area designated by
9 the Administrator under section 31(d); or”; and

10 (2) in paragraph (4)(C), by striking “until the
11 later of” and all that follows and inserting “for the
12 7-year period following the date on which the census
13 tract or nonmetropolitan county ceased to be so
14 qualified.”.

15 (b) APPLICABILITY.—The amendment made by sub-
16 section (a)(2) shall apply to any census tract *or nonmetro-*
17 *politan county* that becomes a redesignated area under
18 section 3(p)(4)(C) of the Small Business Act (15 U.S.C.
19 632(p)(4)(C)) on or after the *date that is 3 years before*
20 *the* date of enactment of this Act.

21 (c) OTHER QUALIFIED AREAS.—Section 31 of the
22 Small Business Act (15 U.S.C. 657a) is amended—

23 (1) by redesignating subsection (d) as sub-
24 section (e); and

1 (2) by inserting after subsection (c) the fol-
 2 lowing:

3 “(d) OTHER QUALIFIED AREAS.—

4 “(1) DEFINITIONS.—In this subsection—

5 “(A) the term ‘governor’ means the chief
 6 executive of a State; and

7 “(B) the term ‘State’ means each of the
 8 several States, the District of Columbia, the
 9 Commonwealth of Puerto Rico, the Virgin Is-
 10 lands, Guam, the Commonwealth of the North-
 11 ern Mariana Islands, and American Samoa.

12 “(2) DESIGNATION.—A governor may petition
 13 the Administrator to designate 1 or more ~~census~~
 14 ~~tracts in the State of the governor as a HUBZone~~
 15 ~~if each tract~~ *nonmetropolitan counties in the State as*
 16 *a HUBZone if each nonmetropolitan county—*

17 “(A) has a median household income that
 18 is less than ~~70 percent~~ *90 percent* of the median
 19 household income of the State in which the
 20 ~~tract~~ *nonmetropolitan county* is located based
 21 on the most recent data available from the Bu-
 22 reau of the Census;

23 “(B) has an unemployment rate that is not
 24 less than 120 percent of the average unemploy-
 25 ment rate of the United States or of the State

1 in which the ~~tract~~ *nonmetropolitan county* is lo-
 2 cated, whichever is less, based on the most re-
 3 cent data available from the Department of
 4 Labor; or

5 “(C) meets other criteria determined by
 6 the Administrator.

7 “(3) PETITION.—With respect to a petition
 8 submitted by a governor to the Administrator under
 9 paragraph (2)—

10 “(A) the governor may submit not more
 11 than 1 petition in a fiscal year unless the Ad-
 12 ministrator determines that an additional peti-
 13 tion from the State of the governor is appro-
 14 priate;

15 “(B) the governor may not submit a peti-
 16 tion for more than 30 percent of the total num-
 17 ber of ~~census tracts~~ *nonmetropolitan counties* in
 18 the State of the governor; and

19 “(C) if the Administrator grants the peti-
 20 tion and designates 1 or more ~~census tracts~~
 21 *nonmetropolitan counties* as a HUBZone, the
 22 governor shall, not less frequently than annu-
 23 ally, submit data to the Administrator certi-
 24 fying that each ~~census tract~~ *nonmetropolitan*
 25 *county* continues to meet the criteria estab-

1 lishing the eligibility of the ~~tract~~ *nonmetropoli-*
 2 *tan county* under the HUBZone program.

3 “(4) PROCESS.—The Administrator shall estab-
 4 lish procedures to—

5 “(A) ensure that the Administration ac-
 6 cepts petitions under paragraph (2) from all
 7 States each fiscal year; and

8 “(B) provide technical assistance, before
 9 the filing of a petition under paragraph (2), to
 10 a governor who is interested in filing such a pe-
 11 tition.”.

12 **SEC. 3. FILING OF PETITIONS FOR RECONSIDERATION OF**
 13 **SIZE STANDARDS.**

14 (a) *DEFINITION.*—*In this section, the term “covered*
 15 *period” means the period beginning on November 25, 2015*
 16 *and ending on the effective date of the regulations estab-*
 17 *lishing procedures to implement section 3(a)(9) of the Small*
 18 *Business Act (15 U.S.C. 632(a)(9)).*

19 (b) *PETITIONS FOR RECONSIDERATION.*—

20 (1) *ACCEPTANCE OF APPLICATIONS.*—*Section*
 21 *3(a)(9)(A) of the Small Business Act (15 U.S.C.*
 22 *632(a)(9)(A)) is amended by striking “A person” and*
 23 *inserting “On or after the effective date of the regula-*
 24 *tions establishing procedures to implement this para-*
 25 *graph, a person”.*

(2) *COVERED PERIOD.*—Notwithstanding section 3(a)(9)(B) of the Small Business Act (15 U.S.C. 632(a)(9)(B)), a person filing a petition described in section 3(a)(9)(A) of that Act relating to a size standard that is revised, modified, or established during the covered period shall file the petition not later than 30 days after the effective date of the regulations establishing procedures to implement section 3(a)(9) of that Act.

SEC. 4. PAST PERFORMANCE CREDIT FOR SUBCONTRACTORS.

Section 8(d) of the Small Business Act (15 U.S.C. 637(d)) is amended by adding at the end the following:

“(17) *PAST PERFORMANCE CREDIT FOR CERTAIN SMALL BUSINESS SUBCONTRACTORS.*—

“(A) *IN GENERAL.*—A prime contractor for a covered contract, as that term is defined in paragraph (13)(A), shall provide a past performance rating for the Contractor Performance Assessment Rating System, the Past Performance Information Retrieval System, or any successor system for any subcontractor used by the prime contractor in performing the covered contract as part of the performance reporting by the prime contractor for the covered contract.

“(B) *TIME FOR COMPLETION.*—A prime contractor shall submit the past performance rating of a subcontractor not later than 14 days after the date of the completion of performance of the subcontract by the subcontractor.

“(C) *FAILURE TO ENTER INFORMATION.*—The failure of a prime contractor to enter the past performance rating of a subcontractor shall be considered when evaluating the past performance of the prime contractor.

“(D) *USE OF INFORMATION.*—A Federal agency shall use a past performance rating provided under subparagraph (A) for a subcontractor that is a small business concern in evaluating the past performance of the subcontractor for purposes of determining whether to award a prime contract to the subcontractor.”.

**SEC. 5. MEMBERSHIP OF THE ADMINISTRATOR OF THE
SMALL BUSINESS ADMINISTRATION ON THE
FEDERAL ACQUISITION REGULATORY COUN-
CIL.**

(a) *ADDITION OF ADMINISTRATOR OF SMALL BUSINESS ADMINISTRATION TO FEDERAL ACQUISITION REGULATORY COUNCIL.*—Section 1302(b)(1) of title 41, United States Code, is amended—

1 (1) in subparagraph (C), by striking “and” at
2 the end;

3 (2) in subparagraph (D), by striking the period
4 and inserting “; and”; and

5 (3) by adding at the end the following new sub-
6 paragraph:

7 “(E) the Administrator of the Small Busi-
8 ness Administration.”.

9 (b) CONFORMING AMENDMENTS.—Such title is further
10 amended—

11 (1) in section 1303(a)(1)—

12 (A) by striking “and the Administrator of
13 National Aeronautics and Space,” and inserting
14 “the Administrator of National Aeronautics and
15 Space, and the Administrator of the Small Busi-
16 ness Administration,”; and

17 (B) by striking “and the National Aero-
18 nautics and Space Act of 1958 (42 U.S.C. 2451
19 et seq.),” and inserting “the National Aero-
20 nautics and Space Act of 1958 (42 U.S.C. 2451
21 et seq.), and the Small Business Act (15 U.S.C.
22 631 et seq.),”; and

23 (2) in section 1121(d), by striking “and the Gen-
24 eral Services Administration” and inserting “the

- 1 *General Services Administration, and the Small*
- 2 *Business Administration”.*

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