
HOUSE BILL No. 1353

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13-16.5.

Synopsis: State contracting practices. Requires the governor's commission on minority business development to adopt as a goal that 12% of contracts awarded by state agencies, bodies corporate and politic, and state educational institutions be awarded to minority business enterprises and that 7% of contracts awarded by state agencies, bodies corporate and politic, and state educational institutions be awarded to women's business enterprises. (Under current law the commission is required to adopt as a goal that 5% of state contracts be awarded to minority business enterprises.) Requires the Indiana department of administration to conduct a biennial study to determine whether during the previously concluded two year period the goals have been met. Requires the department to adopt rules to require that not fewer than 12% of contracts be awarded to minority business enterprises and not fewer than 7% of contracts be awarded to women's business enterprises if the goals have not been met. Requires the department to determine in the first study whether minority business enterprises and women's business enterprises historically have been excluded from the award of contracts.

Effective: July 1, 2000.

Crawford

January 11, 2000, read first time and referred to Committee on Commerce and Economic Development.

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Second Regular Session 111th General Assembly (2000)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1999 General Assembly.

HOUSE BILL No. 1353

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-13-16.5-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. As used in this
3 chapter:
4 "Commission" refers to the governor's commission on minority
5 business development established under section 2 of this chapter.
6 "Commissioner" refers to the deputy commissioner for minority
7 business development of the department of administration.
8 "Contract" means any contract awarded by a state agency for
9 construction projects or the procurement of goods or services,
10 including professional services.
11 "Minority business enterprise" or "minority business" means an
12 individual, partnership, corporation, limited liability company, or joint
13 venture of any kind that is owned and controlled by one (1) or more
14 persons who are:
15 (1) United States citizens; and
16 (2) members of a racial minority group.
17 "Owned and controlled" means having:



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- 1 (1) ownership of at least fifty-one percent (51%) of the enterprise,
 2 including corporate stock of a corporation;
 3 (2) control over the management and active in the day-to-day
 4 operations of the business; and
 5 (3) an interest in the capital, assets, and profits and losses of the
 6 business proportionate to the percentage of ownership.

7 "Racial minority group" means:

- 8 (1) Blacks;
 9 (2) American Indians;
 10 (3) Hispanics;
 11 (4) Asian Americans; and
 12 (5) other similar racial minority groups.

13 "State agency" refers to **any of the following:**

- 14 (1) An authority, board, branch, commission, committee,
 15 department, division, or other instrumentality of the executive,
 16 including the administrative, department of state government.
 17 (2) **An entity established by the general assembly as a body**
 18 **corporate and politic.**
 19 (3) **A state educational institution.**

20 SECTION 2. IC 4-13-16.5-1.3 IS ADDED TO THE INDIANA
 21 CODE AS A NEW SECTION TO READ AS FOLLOWS
 22 [EFFECTIVE JULY 1, 2000]: **Sec. 1.3. As used in this chapter,**
 23 **"women's business enterprise" means a business that is one (1) of**
 24 **the following:**

- 25 (1) **A sole proprietorship owned and controlled by a woman.**
 26 (2) **A partnership or joint venture owned and controlled by**
 27 **women in which:**
 28 (A) **at least fifty-one percent (51%) of the ownership is**
 29 **held by women; and**
 30 (B) **the management and daily business operations of**
 31 **which are controlled by at least one (1) of the women who**
 32 **own the business.**
 33 (3) **A corporation or other entity:**
 34 (A) **whose management and daily business operations are**
 35 **controlled by at least one (1) of the women who own the**
 36 **business; and**
 37 (B) **that is at least fifty-one percent (51%) owned by**
 38 **women, or if stock is issued, at least fifty-one percent**
 39 **(51%) of the stock is owned by at least one (1) of the**
 40 **women.**

41 SECTION 3. IC 4-13-16.5-2 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 2. (a) There is



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1 established a fourteen (14) member governor's commission on minority
 2 business development. The commission shall consist of the following
 3 members:

4 (1) A governor's designee, who shall serve as chairman of the
 5 commission.

6 (2) The commissioner of the Indiana department of transportation.

7 (3) The director of the department of commerce.

8 (4) The commissioner of the Indiana department of
 9 administration.

10 (5) Six (6) individuals with demonstrated capabilities in business
 11 and industry, especially racial minority business, appointed by the
 12 governor from the following geographical areas of the state:

13 (A) Two (2) from the northern one-third (1/3) of the state.

14 (B) Two (2) from the central one-third (1/3) of the state.

15 (C) Two (2) from the southern one-third (1/3) of the state.

16 (6) Two (2) members of the house of representatives, no more
 17 than one (1) from the same political party, appointed by the
 18 speaker of the house of representatives to serve in a nonvoting
 19 advisory capacity.

20 (7) Two (2) members of the senate, no more than one (1) from the
 21 same political party, appointed by the president pro tempore of
 22 the senate to serve in a nonvoting advisory capacity.

23 No more than four (4) of the seven (7) members appointed or
 24 designated by the governor may be of the same political party.
 25 Appointed members of the commission shall serve four (4) year terms.
 26 A vacancy occurs if a legislative member leaves office for any reason.
 27 Any vacancy on the commission shall be filled in the same manner as
 28 the original appointment.

29 (b) Each member of the commission who is not a state employee is
 30 entitled to the following:

31 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

32 (2) Reimbursement for traveling expenses and other expenses
 33 actually incurred in connection with the member's duties as
 34 provided under IC 4-13-1-4 and in the state travel policies and
 35 procedures established by the Indiana department of
 36 administration and approved by the budget agency.

37 (c) Each legislative member of the commission is entitled to receive
 38 the same per diem, mileage, and travel allowances established by the
 39 legislative council and paid to members of the general assembly
 40 serving on interim study committees. The allowances specified in this
 41 subsection shall be paid by the legislative services agency from the
 42 amounts appropriated for that purpose.



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1 (d) A member of the commission who is a state employee but who
 2 is not a member of the general assembly is not entitled to any of the
 3 following:

4 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

5 (2) Reimbursement for traveling expenses as provided under
 6 IC 4-13-1-4.

7 (3) Other expenses actually incurred in connection with the
 8 member's duties.

9 (e) The commission shall meet at least four (4) times each year and
 10 at other times as the chairman deems necessary.

11 (f) The duties of the commission shall include but not be limited to
 12 the following:

13 (1) Identify minority businesses **and women's business**
 14 **enterprises** in the state.

15 (2) Assess the needs of minority businesses **and women's**
 16 **business enterprises**.

17 (3) Initiate aggressive programs to assist minority businesses **and**
 18 **women's business enterprises** in obtaining state contracts.

19 (4) Give special publicity to procurement, bidding, and qualifying
 20 procedures.

21 (5) Include minority businesses **and women's business**
 22 **enterprises** on solicitation mailing lists.

23 (6) Define the duties, goals, and objectives of the deputy
 24 commissioner of the department of administration as created
 25 under this chapter to assure compliance by all state agencies with
 26 state and federal legislation and policy concerning the awarding
 27 of contracts to minority businesses **and women's business**
 28 **enterprises**.

29 (7) Establish as a ~~goal~~ **goals the following:**

30 (A) That at least ~~five~~ **twelve** percent (~~5%~~) (**12%**) of state
 31 contracts be ~~let~~ **awarded** to ~~racial~~ minority ~~businesses~~
 32 **business enterprises**.

33 (B) **That at least seven percent (7%) of state contracts be**
 34 **awarded to women's business enterprises.**

35 (8) Prepare a review of the commission and the various affected
 36 departments of government to be submitted to the governor and
 37 the legislative council on March 1 and October 1 of each year,
 38 evaluating progress made in the areas defined in this subsection.

39 (g) The department of administration shall furnish administrative
 40 support and staff as is necessary for the effective operation of the
 41 commission.

42 SECTION 4. IC 4-13-16.5-4 IS ADDED TO THE INDIANA CODE



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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2000]: **Sec. 4. (a) Before January 1 of even-numbered years, the**
3 **Indiana department of administration shall determine whether**
4 **during the most recently completed two (2) year period ending the**
5 **previous July 1, the following have occurred:**

6 (1) The goals set under section 2(f)(7) of this chapter have
7 been met.

8 (2) If rules have been adopted under subsection (b), the
9 requirements of the rules have been met.

10 (b) If the department determines that the goals set under section
11 2(f)(7) of this chapter have not been met, the department shall
12 adopt rules under IC 4-22-2 to require the following:

13 (1) That not fewer than twelve percent (12%) of contracts
14 awarded by the state be awarded to minority business
15 enterprises.

16 (2) That not fewer than seven percent (7%) of contracts
17 awarded by the state be awarded to women's business
18 enterprises.

19 The rules adopted by the department must provide that if a
20 business qualifies as both a minority business enterprise and a
21 women's business enterprise, a contract awarded to the business is
22 considered awarded to a minority business enterprise.

23 SECTION 5. [EFFECTIVE JULY 1, 2000] (a) The definitions in
24 IC 4-13-16.5 apply throughout this SECTION.

25 (b) As used in this SECTION, "department" refers to the
26 Indiana department of administration created by IC 4-13-1-2.

27 (c) Notwithstanding IC 4-13-16.5-4, as added by this act, the
28 department shall determine the following in the first study
29 conducted under IC 4-13-16.5-4, as added by this act:

30 (1) Whether minority business enterprises and women's
31 business enterprises historically have been excluded from the
32 award of state contracts.

33 (2) Whether during the period July 1, 1997, through June 30,
34 1999:

35 (A) fewer than twelve percent (12%) of contracts awarded
36 by the state have been awarded to minority business
37 enterprises; and

38 (B) fewer than seven percent (7%) of contracts awarded by
39 the state have been awarded to women's business
40 enterprises.

41 For purposes of this subsection, if a business qualifies as both a
42 minority business enterprise and a women's business enterprise, a

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1 contract awarded to the business is considered awarded to a
2 minority business enterprise.

3 (d) If the department determines that both subsection (c)(1) and
4 (c)(2) apply, the department shall adopt the rules required by
5 IC 4-13-16.5-4, as added by this act.

6 (e) A study begun by the department before July 1, 1999, that
7 considers substantially the same issues described in subsection (c)
8 satisfies this SECTION.

9 (f) This SECTION expires January 1, 2003.

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