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# HOUSE BILL No. 1615

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-13-16.7.

**Synopsis:** State contracting goals for disabled veterans. Establishes the governor's commission on service disabled veteran small business. Provides that the commission must establish programs and set annual goals for the use of service disabled veteran small businesses in state contracts. Creates the office of deputy commissioner for service disabled veteran small business development within the department of administration. Requires the department of administration to adopt administrative rules to ensure that certain goals established by the commission are met.

**Effective:** July 1, 2009.

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January 16, 2009, read first time and referred to Committee on Veterans Affairs and Public Safety.

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First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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## HOUSE BILL No. 1615



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 4-13-16.7 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]:

4 **Chapter 16.7. Governor's Commission on Service Disabled**  
5 **Veteran Small Business**

6 **Sec. 1. As used in this chapter, "commission" refers to the**  
7 **governor's commission on service disabled veteran small business**  
8 **established by section 8 of this chapter.**

9 **Sec. 2. (a) As used in this chapter, "contract" means any**  
10 **contract awarded by a state agency for construction projects or the**  
11 **procurement of goods or services, including professional services.**

12 **(b) For purposes of this section, goods or services may not**  
13 **include the following when determining the total value of contracts**  
14 **for state agencies:**

- 15 **(1) Utilities.**
- 16 **(2) Health care services (as defined in IC 27-8-11-1(c)).**
- 17 **(3) Rent paid for real property or payments constituting the**



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price of an interest in real property as a result of a real estate transaction.

Sec. 3. As used in this chapter, "department" refers to the Indiana department of administration established by IC 4-13-1-2.

Sec. 4. As used in this chapter, "deputy commissioner" refers to the deputy commissioner for service disabled veteran small business development appointed under section 10 of this chapter.

Sec. 5. As used in this chapter, "separate body corporate and politic" refers to an entity established by the general assembly as a body corporate and politic.

Sec. 6. As used in this chapter, "service disabled veteran small business" means a small business concern owned and controlled by a service disabled veteran (as defined in 15 U.S.C. 632(q)(2)), as in effect on January 1, 2009.

Sec. 7. As used in this chapter, "state agency" refers to any authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative, department of state government.

Sec. 8. (a) There is established a governor's commission on service disabled veteran small business. The commission consists of the following members:

- (1) The governor's designee, who shall serve as chairperson of the commission.
- (2) The director of the Indiana department of veterans' affairs established by IC 10-17-1-2.
- (3) The chairperson of the board of the Indiana economic development corporation or the chairperson's designee.
- (4) The commissioner of the department.
- (5) Nine (9) individuals with demonstrated capabilities in business and industry, especially a service disabled veteran small business, appointed by the governor from the following geographical areas of the state:
  - (A) Three (3) from the northern one-third (1/3) of the state.
  - (B) Three (3) from the central one-third (1/3) of the state.
  - (C) Three (3) from the southern one-third (1/3) of the state.
- (6) Two (2) members of the house of representatives, who may not be members of the same political party, appointed by the speaker of the house of representatives to serve in a nonvoting, advisory capacity.
- (7) Two (2) members of the senate, who may not be members of the same political party, appointed by the president pro tempore of the senate to serve in a nonvoting, advisory

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capacity.  
Not more than six (6) of the ten (10) members appointed or designated by the governor may be of the same political party. Appointed members of the commission serve four (4) year terms. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy in a position on the commission shall be filled in the same manner as the position was originally filled under this subsection.

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

- (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- (2) Reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided under IC 4-13-1-4 and in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

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

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

- (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- (2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.
- (3) Other expenses actually incurred in connection with the member's duties.

(e) The commission shall meet at least four (4) times each year and at other times as the chairperson considers necessary.

Sec. 9. (a) The duties of the commission include but are not limited to the following:

- (1) Identify service disabled veteran small businesses in the state.
- (2) Assess the needs of service disabled veteran small businesses.
- (3) Initiate aggressive programs to assist service disabled

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- veteran small businesses in obtaining state contracts.
- (4) Give special publicity to procurement, bidding, and qualifying procedures.
- (5) Include service disabled veteran small businesses on solicitation mailing lists.
- (6) Define the duties, goals, and objectives of the deputy commissioner to assure compliance by all state agencies, separate bodies corporate and politic, and state educational institutions with state and federal legislation and policy concerning the awarding of contracts (including, notwithstanding section 2 of this chapter or any other law, contracts of state educational institutions) to a service disabled veteran small business.
- (7) Establish annual goals for the use of service disabled veteran small businesses that:
  - (A) are derived from a statistical analysis of utilization study of state contracts (including, notwithstanding section 2 of this chapter or any other law, contracts of state educational institutions); and
  - (B) shall be updated every five (5) years.
- (8) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council (in an electronic format under IC 5-14-6) on March 1 and October 1 of each year, evaluating progress made in the areas described in this subsection.
- (9) Ensure that the statistical analysis required under subdivision (7):
  - (A) is based on goals for the participation of service disabled veteran small businesses that are consistent with federal and state law;
  - (B) includes information on both contracts and subcontracts (including, notwithstanding section 2 of this chapter or any other law, contracts and subcontracts of state educational institutions); and
  - (C) uses data on the combined capacity of service disabled veteran small businesses in Indiana and not only regional data.
- (b) The department shall adopt rules of ethics under IC 4-22-2 for commission members other than commission members appointed under section 8(a)(6) and 8(a)(7) of this chapter.
- (c) The department shall furnish administrative support and

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1 staff as is necessary for the effective operation of the commission.

2 Sec. 10. (a) There is created in the department the office of  
3 deputy commissioner for service disabled veteran small business  
4 development. Upon consultation with the commission, the  
5 commissioner of the department, with the approval of the  
6 governor, shall appoint an individual who possesses demonstrated  
7 capability in business or industry, especially in service disabled  
8 veteran small businesses, to serve as deputy commissioner to work  
9 with the commission in the implementation of this chapter.

10 (b) The deputy commissioner shall do the following:

11 (1) Identify and certify service disabled veteran small  
12 businesses for state projects.

13 (2) Establish a central certification file.

14 (3) Periodically update the certification status of each service  
15 disabled veteran small business.

16 (4) Monitor progress in achieving the goals established under  
17 section 9(a)(7) of this chapter.

18 (5) Require all state agencies, separate bodies corporate and  
19 politic, and state educational institutions to report on planned  
20 and actual participation of service disabled veteran small  
21 businesses in contracts awarded by state agencies. The  
22 commissioner may exclude from the reports uncertified  
23 service disabled veteran small businesses.

24 (6) Determine and define opportunities for service disabled  
25 veteran small business participation in contracts awarded by  
26 all state agencies, separate bodies corporate and politic, and  
27 state educational institutions.

28 (7) Implement programs initiated by the commission under  
29 section 9 of this chapter.

30 (8) Perform other duties as defined by the commission or by  
31 the commissioner of the department.

32 Sec. 11. (a) Before January 1 of even-numbered years, the  
33 department shall determine whether, during the two (2) year  
34 period ending the previous July 1, the goals set under section  
35 9(a)(7) of this chapter have been met.

36 (b) The department shall adopt rules under IC 4-22-2 to ensure  
37 that the goals set under section 9(a)(7) of this chapter are met.

38 Sec. 12. The department may adopt rules under IC 4-22-2 to  
39 implement this chapter.

40 Sec. 13. (a) Notwithstanding any other law, the standards  
41 developed under this chapter apply to the determination and  
42 certification of a business as a service disabled veteran small

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business under Indiana law.

(b) Notwithstanding any other law, a certification of a business as a service disabled veteran small business under this chapter satisfies any Indiana law providing for or requiring the certification of a business as a service disabled veteran small business.

Sec. 14. For purposes of IC 5-14-3, materials containing:

- (1) personal financial information; or
- (2) confidential business information;

submitted by an applicant for certification as a service disabled veteran small business are confidential.

Sec. 15. (a) This section applies to a contractor whose offer designates a service disabled veteran small business to furnish any supplies or perform any work under the contract awarded to the contractor.

(b) As used in this section, "contract" refers to any of the following:

- (1) A contract for the purchase of supplies by a state agency.
- (2) A contract for the performance of services for a state agency.
- (3) A public works contract (as defined in IC 4-13.6-1-14).
- (4) A contract to perform professional services (as defined in IC 4-13.6-1-11) in connection with a public works contract.

(c) As used in this section, "contractor" refers to a person awarded a contract by a state agency.

(d) As used in this section, "offer" means a response to a solicitation. The term includes a bid, proposal, and quote.

(e) As used in this section, "solicitation" means the procedure by which a state agency invites persons to submit an offer to enter into a contract with the state agency. The term includes an invitation for bids, a request for proposals, and a request for quotes.

(f) Before beginning work on a contract, a contractor shall do the following:

- (1) Notify in writing each service disabled veteran small business designated in the contractor's offer that the contractor has been awarded the contract.
- (2) Give copies of each notification to the state agency that awarded the contract.

(g) If a contractor fails to comply with subsection (f), the awarding state agency may consider the failure a breach of contract and do any of the following:

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- 1           **(1) Cancel the contract.**
- 2           **(2) Collect from the contractor all funds paid to the**
- 3           **contractor under the contract.**
- 4           **(3) Exercise any of the state's rights set out in the contract.**
- 5           **(4) Use the failure as a basis for finding the contractor not**
- 6           **responsible when awarding other contracts.**
- 7           **Sec. 16. (a) The department shall adopt rules under IC 4-22-2 to**
- 8           **establish procedures to resolve grievances arising under this**
- 9           **chapter.**
- 10          **(b) The rules may include informal procedures to resolve**
- 11          **grievances.**
- 12          **(c) The procedures established under the rules must provide for**
- 13          **final resolution of grievances before either of the following:**
- 14           **(1) A panel of three (3) commission members. A panel formed**
- 15           **under this subdivision must consist of at least two (2)**
- 16           **commission members described in section 8(a)(5) of this**
- 17           **chapter.**
- 18           **(2) The commission. However, if the commission acts to**
- 19           **resolve a grievance under this subdivision, members of the**
- 20           **commission appointed under section 8(a)(6) and 8(a)(7) of this**
- 21           **chapter may not participate in the proceeding.**
- 22          **(d) The final resolution of grievances arising under this chapter**
- 23          **is subject to IC 4-21.5.**

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