

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

# HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1001 be amended to read as follows:

- 1 Page 99, between lines 24 and 25, begin a new paragraph and insert:
- 2 "SECTION 37. IC 4-13-16.5-2, AS AMENDED BY P.L.114-2010,
- 3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2011]: Sec. 2. (a) There is established a governor's
- 5 commission on minority and women's business enterprises. The
- 6 commission shall consist of the following members:
- 7 (1) A governor's designee, who shall serve as chairman of the
- 8 commission.
- 9 (2) The commissioner of the Indiana department of transportation,
- 10 or the economic opportunity director of the Indiana department of
- 11 transportation if the commissioner of the Indiana department of
- 12 transportation so designates.
- 13 (3) The chairperson of the board of the Indiana economic
- 14 development corporation or the chairperson's designee.
- 15 (4) The commissioner of the department.
- 16 (5) Nine (9) individuals with demonstrated capabilities in
- 17 business and industry, especially minority and women's business
- 18 enterprises, appointed by the governor from the following
- 19 geographical areas of the state:
- 20 (A) Three (3) from the northern one-third (1/3) of the state.
- 21 (B) Three (3) from the central one-third (1/3) of the state.
- 22 (C) Three (3) from the southern one-third (1/3) of the state.
- 23 (6) Two (2) members of the house of representatives, no more
- 24 than one (1) from the same political party, appointed by the

1 speaker of the house of representatives to serve in a nonvoting  
2 advisory capacity.

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

6 Not more than six (6) of the ten (10) members appointed or designated  
7 by the governor may be of the same political party. Appointed members  
8 of the commission shall serve four (4) year terms. A vacancy occurs if  
9 a legislative member leaves office for any reason. Any vacancy on the  
10 commission shall be filled in the same manner as the original  
11 appointment.

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

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

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

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

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

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

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

- 38 (1) Identify minority and women's business enterprises in the  
39 state.  
40 (2) Assess the needs of minority and women's business  
41 enterprises.  
42 (3) Initiate aggressive programs to assist minority and women's  
43 business enterprises in obtaining state contracts.  
44 (4) Give special publicity to procurement, bidding, and qualifying  
45 procedures.  
46 (5) Include minority and women's business enterprises on

- 1 solicitation mailing lists.
- 2 (6) Evaluate the competitive differences between qualified  
3 minority or women's nonprofit corporations and other than  
4 qualified minority or women's nonprofit corporations that offer  
5 similar services and make recommendation to the department on  
6 policy changes necessary to ensure fair competition among  
7 minority and women's business enterprises.
- 8 (7) Define the duties, goals, and objectives of the deputy  
9 commissioner of the department as created under this chapter to  
10 assure compliance by all state agencies, separate bodies corporate  
11 and politic, and state educational institutions with state and  
12 federal legislation and policy concerning the awarding of  
13 contracts (including, notwithstanding section 1(d) of this chapter  
14 or any other law, contracts of state educational institutions) to  
15 minority and women's business enterprises.
- 16 (8) Establish annual goals:
- 17 (A) for the use of minority and women's business enterprises;  
18 and
- 19 (B) derived from a statistical analysis of utilization study of  
20 state contracts (including, notwithstanding section 1(d) of this  
21 chapter or any other law, contracts of state educational  
22 institutions). ~~that are required to be updated every five (5)~~  
23 ~~years.~~
- 24 (9) Prepare a review of the commission and the various affected  
25 departments of government to be submitted to the governor and  
26 the legislative council on March 1 and October 1 of each year,  
27 evaluating progress made in the areas defined in this subsection.
- 28 (10) Ensure that the statistical analysis required under this  
29 section:
- 30 (A) is based on goals for participation of minority business  
31 enterprises established in *Richmond v. Croson*, 488 U.S. 469  
32 (1989);
- 33 (B) includes information on both contracts and subcontracts  
34 (including, notwithstanding section 1(d) of this chapter or any  
35 other law, contracts and subcontracts of state educational  
36 institutions); ~~and~~
- 37 (C) uses data on the combined capacity of minority and  
38 women's businesses enterprises in Indiana and not just  
39 regional data; **and**
- 40 **(D) is updated every five (5) years.**
- 41 (11) Establish annual goals for the use of minority and women's  
42 business enterprises for any contract that:
- 43 (A) will be paid for in whole or in part with state grant funds;  
44 and
- 45 (B) involves the use of real property of a unit (as defined in  
46 IC 4-4-32.2-9).

1 (g) The department shall direct contractors to demonstrate a good  
 2 faith effort to meet the annual participation goals established under  
 3 subsection (f)(11). The good faith effort shall be demonstrated by  
 4 contractors using the repository of certified firms created under section  
 5 3 of this chapter or a similar repository maintained by a unit (as defined  
 6 in IC 4-4-32.2-9).

7 (h) The department shall adopt rules of ethics under IC 4-22-2 for  
 8 commission members other than commission members appointed  
 9 under subsection (a)(6) or (a)(7).

10 (i) The department shall furnish administrative support and staff as  
 11 is necessary for the effective operation of the commission.

12 (j) The commission shall advise the department on developing a  
 13 statement, to be included in all applications for and agreements  
 14 governing grants made with state funds, stating the importance of the  
 15 use of minority and women's business enterprises in fulfilling the  
 16 purposes of the grant.

17 SECTION 38. IC 4-30-1-2 IS AMENDED TO READ AS  
 18 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 2. In construing this  
 19 article, it is the intent of the general assembly that the following  
 20 policies be carried out:

21 (1) That the lottery games be operated by the state lottery  
 22 commission, which is created by IC 4-30-3 as a separate body  
 23 politic and corporate from state government and should function  
 24 as much as possible as an entrepreneurial business enterprise.

25 (2) That the general assembly recognizes that the operation of a  
 26 lottery is a unique activity for state government and that policies  
 27 and procedures appropriate for the performance of other  
 28 governmental functions are not necessarily appropriate for the  
 29 operation of a lottery.

30 (3) That the lottery games be operated as a self-supporting  
 31 revenue raising operation.

32 (4) That the commission be accountable to the general assembly  
 33 and the people of Indiana through a system of audits and reports  
 34 and by complying with financial disclosure, open meetings, and  
 35 public record laws.

36 (5) That the commission ensure the equitable participation of  
 37 minorities and women in all phases of the lottery, including  
 38 instant game and on-line retailers and vendors. The commission  
 39 shall establish annual goals:

40 (A) for the use of minority and women's business enterprises  
 41 (as defined in IC 4-13-16.5-1 and IC 4-13-16.5-1.3) in  
 42 construction, professional services, other services, and  
 43 supplies; and

44 (B) derived from a statistical analysis of utilization study of  
 45 lottery contracts. ~~that are required to be updated every five (5)~~  
 46 ~~years.~~

1 The commission shall, in cooperation with the Indiana department  
2 of administration, adopt rules under IC 4-22-2 to ensure that the  
3 goals set under this subdivision are met.

4 (6) That lottery game advertising and promotion shall be  
5 consistent with the dignity and integrity of the state.

6 SECTION 39. IC 4-30-3-5 IS AMENDED TO READ AS  
7 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) The commission  
8 shall make a continuing study of the following:

9 (1) The lottery, in order to ascertain any amendments necessary  
10 to this article or to rules adopted under this article that could  
11 prevent any abuses in the administration of the lottery.

12 (2) The operation and administration of similar lottery laws in  
13 other states and of federal laws that may affect the lottery.

14 (3) The reaction of the public to existing and potential features of  
15 the lottery.

16 (b) **The commission shall ensure that the statistical analysis**  
17 **required under IC 4-30-1-2(5):**

18 (1) **is based on goals for participation of minority business**  
19 **enterprises established in Richmond v. Croson, 488 U.S. 469**  
20 **(1989);**

21 (2) **includes information on both contracts and subcontracts;**

22 (3) **uses data on the combined capacity of minority and**  
23 **women's businesses enterprises in Indiana and not just**  
24 **regional data; and**

25 (4) **is updated every five (5) years."**

26 Page 99, between lines 30 and 31, begin a new paragraph and insert:

27 "SECTION 41. IC 4-33-14-5 IS AMENDED TO READ AS  
28 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 5. (a) As used in this  
29 section, "goods and services" does not include the following:

30 (1) Utilities and taxes.

31 (2) Financing costs, mortgages, loans, or other debt.

32 (3) Medical insurance.

33 (4) Fees and payments to a parent or an affiliated company of an  
34 operating agent or the person holding an owner's license, other  
35 than fees and payments for goods and services supplied by  
36 nonaffiliated persons through an affiliated company for the use or  
37 benefit of the operating agent or the person holding the owner's  
38 license.

39 (5) Rents paid for real property or payments constituting the price  
40 of an interest in real property as a result of a real estate  
41 transaction.

42 (b) Notwithstanding any law or rule to the contrary, the commission  
43 shall establish annual goals for an operating agent or a person issued  
44 an owner's license:

45 (1) for the use of minority and women's business enterprises; and

46 (2) derived from a statistical analysis of utilization study of

1 licensee and operating agent contracts for goods and services. ~~that~~  
 2 ~~are required to be updated every five (5) years.~~

3 (c) An operating agent or a person holding an owner's license shall  
 4 submit annually to the commission a report that includes the following  
 5 information:

6 (1) The total dollar value of contracts awarded for goods or  
 7 services and the percentage awarded to minority and women's  
 8 business enterprises.

9 (2) The following information relating to each minority business  
 10 enterprise or women's business enterprise awarded a contract for  
 11 goods or services:

12 (A) The name.

13 (B) The address.

14 (C) The total dollar amount of the contract.

15 A record containing information described in this subsection is not  
 16 exempt from the disclosure requirements of IC 5-14-3-3 under  
 17 IC 5-14-3-4.

18 (d) An operating agent or a person holding an owner's license shall  
 19 make a good faith effort to meet the requirements of this section and  
 20 shall annually demonstrate to the commission that an effort was made  
 21 to meet the requirements.

22 (e) An operating agent or a person holding an owner's license may  
 23 fulfill not more than seventy percent (70%) of an obligation under this  
 24 chapter by requiring a vendor to set aside a part of a contract for  
 25 minority or women's business enterprises. Upon request, the licensee  
 26 or operating agent shall provide the commission with proof of the  
 27 amount of the set aside.

28 **(f) The commission shall ensure that the statistical analysis**  
 29 **required under subsection (b):**

30 **(1) is based on goals for participation of minority business**  
 31 **enterprises established in Richmond v. Croson, 488 U.S. 469**  
 32 **(1989);**

33 **(2) includes information on both contracts and subcontracts;**

34 **(3) uses data on the combined capacity of minority and**

- 1 **women's businesses enterprises in Indiana and not just regional**
- 2 **data; and**
- 3 **(4) is updated every five (5) years."**
- 4 Renumber all SECTIONS consecutively.  
(Reference is to HB 1001 as printed February 21, 2011.)

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Representative Reske