

---

---

# SENATE BILL No. 168

---

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-13.6-2-13; IC 5-22-14.1; IC 5-22-15-23.

**Synopsis:** State contracting with disabled veterans. Authorizes a state agency to set aside certain contracts for supplies or services to service disabled veteran owned (SDVO) small businesses. Permits the department of administration to designate certain public works projects as an SDVO small business set-aside. Provides that to qualify for a set-aside contract, the SDVO small business must: (1) be owned and controlled by a service disabled veteran who is a resident of Indiana; and (2) have a current verification as an SDVO small business by the United States Department of Veterans Affairs Center of Veterans Enterprise. Provides, with certain exceptions, a state agency must set a goal for participation by SDVO small businesses of at least 3% of the overall dollar amount expended each state fiscal year by the state agency for purchases. Provides that the Indiana economic development corporation may assist a state agency by: (1) compiling a list of SDVO small business; (2) assisting an SDVO small business in complying with the procedures for bidding on governmental contracts; (3) examining requests from state agencies for the purchase of supplies or services to help determine which purchases are to be designated SDVO small business set-asides; and (4) simplifying specifications and contract terms to increase the opportunities for SDVO small business participation in governmental contracts. Requires the department of administration, beginning in 2012, to submit an annual report to the legislative council and the governor. Provides that a SDVO small business may not receive an Indiana small business price preference on purchases designated as an SDVO small business set-aside.

**Effective:** Upon passage; July 1, 2011.

---

---

**Arnold**

---

---

January 5, 2011, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

---

---

C  
o  
p  
y



First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

C  
o  
p  
y

## SENATE BILL No. 168



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

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

1 SECTION 1. IC 4-13.6-2-13 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2011]: **Sec. 13. (a) The division may designate a public works  
4 project as an SDVO small business set-aside (as defined in  
5 IC 5-22-14.1-2) under rules adopted by the department under  
6 IC 4-22-2.**

7 **(b) The following apply to rules adopted by the department  
8 governing small business set-asides for public works projects:**

9 **(1) The rules are subject to the criteria for determining  
10 whether a business is an SDVO small business under  
11 IC 5-22-14.1-5.**

12 **(2) The rules must establish procedures for administering an  
13 SDVO small business set-aside program for public works  
14 projects that are substantially the same as the procedures  
15 described in IC 5-22-14.1.**

16 SECTION 2. IC 5-22-14.1 IS ADDED TO THE INDIANA CODE  
17 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42

JULY 1, 2011]:

**Chapter 14.1. Indiana Service Disabled Veteran Owned Small Business Set-Aside Purchases**

**Sec. 1. As used in this chapter, "SDVO small business" means a service disabled veteran owned small business that meets the requirements of section 5 of this chapter.**

**Sec. 2. As used in this chapter, "SDVO small business set-aside" means a purchase in which the solicitation states that offers will be accepted only by SDVO small businesses.**

**Sec. 3. As used in this chapter, "service disabled veteran" has the meaning set forth in 15 U.S.C. 632(q)(1) as in effect January 1, 2011.**

**Sec. 4. As used in this chapter, "service disabled veteran owned 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 January 1, 2011.**

**Sec. 5. To qualify as an SDVO small business for purposes of this chapter, a service disabled veteran owned small business must:**

- (1) be owned and controlled by a service disabled veteran who is a resident of Indiana; and**
- (2) have a current verification as a service disabled veteran owned small business under 38 CFR 74 et seq. by the United States Department of Veterans Affairs Center of Veterans Enterprise.**

**Sec. 6. (a) A state agency may identify as an SDVO small business set-aside specific supplies or services for which a purchase has been requested under this article.**

**(b) An SDVO small business must meet the requirements provided in section 5 of this chapter at the time the solicitation for the purchase is issued, and the public notice of the purchase must state that the purchase is an SDVO small business set-aside.**

**Sec. 7. If a purchase is designated as an SDVO small business set-aside, the solicitation must be confined to SDVO small businesses.**

**Sec. 8. A purchasing agent may not designate a purchase as an SDVO small business set-aside unless there is a reasonable expectation that offers will be obtained from at least two (2) SDVO small businesses capable of furnishing the desired supplies or service at a fair and reasonable price.**

**Sec. 9. (a) Except as provided in subsection (b), each state agency shall set a goal for participation by SDVO small businesses of at least three percent (3%) of the overall dollar amount**

**C  
o  
p  
y**



1 expended each state fiscal year by the state agency for purchases.  
 2 (b) A state agency is not required to meet the goal described in  
 3 subsection (a) if the state agency:  
 4 (1) determines that the goal is not consistent with the goals of  
 5 delivering the supplies or services within a timely manner and  
 6 within the budgeted amount; or  
 7 (2) exercising financial prudence, determines that it is unable  
 8 to meet the goal established by subsection (a).  
 9 Sec. 10. A contract shall be awarded to the lowest responsible  
 10 and responsive offeror among the SDVO small businesses in  
 11 accordance with the rules of the Indiana department of  
 12 administration.  
 13 Sec. 11. If a purchasing agent determines that acceptance of the  
 14 lowest responsible and responsive offer will result in the payment  
 15 of an unreasonable price, the purchasing agent shall reject all  
 16 offers and may withdraw designation of the purchase as an SDVO  
 17 small business set-aside.  
 18 Sec. 12. A purchase from an SDVO small business under this  
 19 chapter is subject to:  
 20 (1) all other provisions of this article; and  
 21 (2) the rules of the Indiana department of administration.  
 22 If there is a conflict between the laws described in subdivisions (1)  
 23 and (2) and this chapter, this chapter governs.  
 24 Sec. 13. An SDVO small business may not receive a price  
 25 preference under IC 5-22-15-23 for purchases designated as an  
 26 SDVO small business set-aside under this chapter.  
 27 Sec. 14. The Indiana economic development corporation may  
 28 assist a state agency in doing any of the following:  
 29 (1) Compiling and maintaining a comprehensive list of SDVO  
 30 small businesses.  
 31 (2) Assisting SDVO small businesses in complying with the  
 32 procedures for bidding on governmental contracts.  
 33 (3) Examining requests from state agencies for the purchase  
 34 of supplies or services to help determine which purchases are  
 35 to be designated SDVO small business set-asides.  
 36 (4) Simplifying specifications and contract terms to increase  
 37 the opportunities for SDVO small business participation in  
 38 governmental contracts.  
 39 Sec. 15. (a) The Indiana department of administration shall  
 40 annually evaluate the progress of each state agency in meeting the  
 41 goal provided in section 9 of this chapter for the previous state  
 42 fiscal year.

C  
o  
p  
y



1           **(b) Beginning in 2012, after June 30 and before November 1 of**  
 2 **each year, the Indiana department of administration shall submit**  
 3 **a report to the governor and the legislative council (in an electronic**  
 4 **format under IC 5-14-6). The report must include:**

5           **(1) a list of each state agency that failed to meet the goal**  
 6 **established by section 9 of this chapter during the previous**  
 7 **state fiscal year; and**

8           **(2) for each state agency described in subdivision (1);**

9           **(A) a summary of why the state agency failed to meet the**  
 10 **goal; and**

11           **(B) what actions are being taken by the state agency to**  
 12 **meet the goal in the current state fiscal year.**

13           **(c) The Indiana department of administration shall post the**  
 14 **report described in subsection (b) on the department's Internet**  
 15 **web site within thirty (30) days after it is submitted to the governor**  
 16 **and the legislative council.**

17           **Sec. 16. The Indiana department of administration shall adopt**  
 18 **rules under IC 4-22-2 to implement this chapter.**

19           SECTION 3. IC 5-22-15-23 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 23. (a) **Except as**  
 21 **provided in IC 5-22-14.1-13**, a governmental body shall give a fifteen  
 22 percent (15%) preference for supplies to an Indiana small business (as  
 23 defined in IC 5-22-14-1) that submits an offer for purchase under this  
 24 article.

25           (b) The governmental body may adopt rules to establish criteria to  
 26 carry out this section.

27           SECTION 4. [EFFECTIVE UPON PASSAGE] (a) **The Indiana**  
 28 **department of administration may adopt emergency rules under**  
 29 **IC 4-22-2-37.1 to implement IC 4-13.6-2-13 and IC 5-22-14.1, as**  
 30 **added by this act, and IC 5-22-15-23, as amended by this act.**

31           **(b) An emergency rule adopted under this SECTION expires on**  
 32 **the earlier of:**

33           **(1) the date the Indiana department of administration adopts**  
 34 **permanent rules under IC 4-22-2 to replace the emergency**  
 35 **rules; or**

36           **(2) December 31, 2012.**

37           **(c) This SECTION expires January 1, 2013.**

38           SECTION 5. **An emergency is declared for this act.**

**C**  
**O**  
**P**  
**Y**

