

SENATE BILL No. 289

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-22-15.

Synopsis: State purchasing preferences. Establishes a 15% price preference for purchases by the state from American businesses. Changes the price preference for purchases by the state from Indiana businesses from a declining percentage scale based on cost to a constant: (1) 15% with respect to a business that is not an Indiana business but is an American business; and (2) 30% with respect to a business that is neither an Indiana business nor an American business.

Effective: July 1, 2011.

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January 6, 2011, read first time and referred to Committee on Tax and Fiscal Policy.

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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.

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SENATE BILL No. 289



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 5-22-15-20.3 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2011]: **Sec. 20.3. (a) This section applies only**
4 **to a contract awarded by a state agency.**
5 **(b) As used in this section, "American business" refers to any of**
6 **the following:**
7 **(1) A business whose principal place of business is located in**
8 **the United States.**
9 **(2) A business that pays a majority of its payroll (in dollar**
10 **volume) to citizens of the United States.**
11 **(3) A business that employs citizens of the United States as a**
12 **majority of its employees.**
13 **(c) The Indiana department of administration shall consult with**
14 **the Indiana economic development corporation in developing**
15 **criteria for determining whether a business is an American**
16 **business under subsection (b). The Indiana department of**
17 **administration may consult with the Indiana economic**



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development corporation or any other person that performs economic or business analysis to determine whether a particular business meets the requirements of this section and the criteria developed under this subsection.

(d) There is a price preference of fifteen percent (15%) for supplies purchased from an American business.

(e) Notwithstanding subsection (d), a contract shall be awarded to the lowest responsive and responsible offeror, regardless of the preference provided in this section, if that offeror is an American business.

(f) A business that wants to claim a preference provided under this section must do all of the following:

(1) State in the business's bid that the business claims the preference provided by this section.

(2) Provide the following information to the department:

(A) The location of the business's principal place of business. If the business claims the preference as an American business described in subsection (b)(1), the business must include a statement explaining the reasons the business considers the named location as its principal place of business.

(B) The amount of the business's total payroll and the amount of the business's payroll paid to citizens of the United States.

(C) The number of the business's employees and the number of the business's employees who are citizens of the United States.

SECTION 2. IC 5-22-15-20.5, AS AMENDED BY P.L.123-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 20.5. (a) This section applies only to a contract awarded by a state agency.

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

(1) A business whose principal place of business is located in Indiana.

(2) A business that pays a majority of its payroll (in dollar volume) to residents of Indiana.

(3) A business that employs Indiana residents as a majority of its employees.

(4) A business that makes significant capital investments in Indiana.

(5) A business that has a substantial positive economic impact on

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1 Indiana as defined by criteria developed under subsection (c).
 2 (c) The Indiana department of administration shall consult with the
 3 Indiana economic development corporation in developing criteria for
 4 determining whether a business is an Indiana business under subsection
 5 (b). The Indiana department of administration may consult with the
 6 Indiana economic development corporation to determine whether a
 7 particular business meets the requirements of this section and the
 8 criteria developed under this subsection.
 9 (d) There are the following price preferences for supplies purchased
 10 from an Indiana business.
 11 (1) ~~Five~~ **Fifteen** percent ~~(5%)~~ **(15%)** for a purchase expected by
 12 the state agency to be less than five hundred thousand dollars
 13 ~~(\$500,000)~~; **with respect to another business that is not an**
 14 **Indiana business but is an American business (as defined in**
 15 **section 20.3 of this chapter).**
 16 (2) ~~Three~~ **Thirty** percent ~~(3%)~~ **(30%)** for a purchase expected by
 17 the state agency to be at least five hundred thousand dollars
 18 ~~(\$500,000)~~ but less than one million dollars ~~(\$1,000,000)~~; **with**
 19 **respect to another business that is neither an Indiana business**
 20 **nor an American business (as defined in section 20.3 of this**
 21 **chapter).**
 22 (3) ~~One~~ percent ~~(1%)~~ for a purchase expected by the state agency
 23 to be at least one million dollars ~~(\$1,000,000)~~.
 24 (e) Notwithstanding subsection (d), a state agency shall award a
 25 contract to the lowest responsive and responsible offeror, regardless of
 26 the preference provided in this section, if:
 27 (1) ~~the~~ **that** offeror is an Indiana business; or
 28 (2) ~~the~~ **that** offeror is a business from a state bordering Indiana
 29 and the business's home state does not provide a preference to the
 30 home state's businesses more favorable than is provided by
 31 Indiana law to Indiana businesses.
 32 (f) A business that wants to claim a preference provided under this
 33 section must do all of the following:
 34 (1) State in the business's bid that the business claims the
 35 preference provided by this section.
 36 (2) Provide the following information to the department:
 37 (A) The location of the business's principal place of business.
 38 If the business claims the preference as an Indiana business
 39 described in subsection (b)(1), a statement explaining the
 40 reasons the business considers the location named as the
 41 business's principal place of business.
 42 (B) The amount of the business's total payroll and the amount

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1 of the business's payroll paid to Indiana residents.
2 (C) The number of the business's employees and the number
3 of the business's employees who are Indiana residents.
4 (D) If the business claims the preference as an Indiana
5 business described in subsection (b)(4), a description of the
6 capital investments made in Indiana and a statement of the
7 amount of those capital investments.
8 (E) If the business claims the preference as an Indiana
9 business described in subsection (b)(5), a description of the
10 substantial positive economic impact the business has on
11 Indiana.

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