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# SENATE BILL No. 592

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-13-16.5.

**Synopsis:** Minority and women business contracts. Requires the governor's commission on minority and women's business enterprises to set goals for minority and women's business enterprise participation in state prime contracts and subcontracts.

**Effective:** Upon passage.

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### Breaux

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January 20, 2011, read first time and referred to Committee on Commerce & Economic Development.

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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. 592



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 4-13-16.5-2, AS AMENDED BY P.L.114-2010,  
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 2. (a) There is established a governor's  
4 commission on minority and women's business enterprises. The  
5 commission shall consist of the following members:  
6 (1) A governor's designee, who shall serve as chairman of the  
7 commission.  
8 (2) The commissioner of the Indiana department of transportation,  
9 or the economic opportunity director of the Indiana department of  
10 transportation if the commissioner of the Indiana department of  
11 transportation so designates.  
12 (3) The chairperson of the board of the Indiana economic  
13 development corporation or the chairperson's designee.  
14 (4) The commissioner of the department.  
15 (5) Nine (9) individuals with demonstrated capabilities in  
16 business and industry, especially minority and women's business  
17 enterprises, appointed by the governor from the following



- 1 geographical areas of the state:
- 2 (A) Three (3) from the northern one-third (1/3) of the state.
- 3 (B) Three (3) from the central one-third (1/3) of the state.
- 4 (C) Three (3) from the southern one-third (1/3) of the state.
- 5 (6) Two (2) members of the house of representatives, no more
- 6 than one (1) from the same political party, appointed by the
- 7 speaker of the house of representatives to serve in a nonvoting
- 8 advisory capacity.
- 9 (7) Two (2) members of the senate, no more than one (1) from the
- 10 same political party, appointed by the president pro tempore of
- 11 the senate to serve in a nonvoting advisory capacity.
- 12 Not more than six (6) of the ten (10) members appointed or designated
- 13 by the governor may be of the same political party. Appointed members
- 14 of the commission shall serve four (4) year terms. A vacancy occurs if
- 15 a legislative member leaves office for any reason. Any vacancy on the
- 16 commission shall be filled in the same manner as the original
- 17 appointment.
- 18 (b) Each member of the commission who is not a state employee is
- 19 entitled to the following:
  - 20 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
  - 21 (2) Reimbursement for traveling expenses and other expenses
  - 22 actually incurred in connection with the member's duties as
  - 23 provided under IC 4-13-1-4 and in the state travel policies and
  - 24 procedures established by the Indiana department of
  - 25 administration and approved by the budget agency.
- 26 (c) Each legislative member of the commission is entitled to receive
- 27 the same per diem, mileage, and travel allowances established by the
- 28 legislative council and paid to members of the general assembly
- 29 serving on interim study committees. The allowances specified in this
- 30 subsection shall be paid by the legislative services agency from the
- 31 amounts appropriated for that purpose.
- 32 (d) A member of the commission who is a state employee but who
- 33 is not a member of the general assembly is not entitled to any of the
- 34 following:
  - 35 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
  - 36 (2) Reimbursement for traveling expenses as provided under
  - 37 IC 4-13-1-4.
  - 38 (3) Other expenses actually incurred in connection with the
  - 39 member's duties.
- 40 (e) The commission shall meet at least four (4) times each year and
- 41 at other times as the chairman considers necessary.
- 42 (f) The duties of the commission shall include but not be limited to

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- 1 the following:
- 2 (1) Identify minority and women's business enterprises in the
- 3 state.
- 4 (2) Assess the needs of minority and women's business
- 5 enterprises.
- 6 (3) Initiate aggressive programs to assist minority and women's
- 7 business enterprises in obtaining state contracts.
- 8 (4) Give special publicity to procurement, bidding, and qualifying
- 9 procedures.
- 10 (5) Include minority and women's business enterprises on
- 11 solicitation mailing lists.
- 12 (6) Evaluate the competitive differences between qualified
- 13 minority or women's nonprofit corporations and other than
- 14 qualified minority or women's nonprofit corporations that offer
- 15 similar services and make recommendation to the department on
- 16 policy changes necessary to ensure fair competition among
- 17 minority and women's business enterprises.
- 18 (7) Define the duties, goals, and objectives of the deputy
- 19 commissioner of the department as created under this chapter to
- 20 assure compliance by all state agencies, separate bodies corporate
- 21 and politic, and state educational institutions with state and
- 22 federal legislation and policy concerning the awarding of
- 23 contracts (including, notwithstanding section 1(d) of this chapter
- 24 or any other law, contracts of state educational institutions) to
- 25 minority and women's business enterprises.
- 26 (8) Establish annual goals:
- 27 (A) for the use of minority and women's business enterprises;
- 28 and
- 29 (B) derived from a statistical analysis of utilization study of
- 30 state contracts (including, notwithstanding section 1(d) of this
- 31 chapter or any other law, contracts of state educational
- 32 institutions) that are required to be updated every five (5)
- 33 years.
- 34 (9) Prepare a review of the commission and the various affected
- 35 departments of government to be submitted to the governor and
- 36 the legislative council on March 1 and October 1 of each year,
- 37 evaluating progress made in the areas defined in this subsection.
- 38 (10) Ensure that the statistical analysis required under this
- 39 section:
- 40 (A) is based on goals for participation of minority business
- 41 enterprises established in *Richmond v. Croson*, 488 U.S. 469
- 42 (1989);

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1 (B) includes information on both contracts and subcontracts  
 2 (including, notwithstanding section 1(d) of this chapter or any  
 3 other law, contracts and subcontracts of state educational  
 4 institutions); and  
 5 (C) uses data on the combined capacity of minority and  
 6 women's businesses enterprises in Indiana and not just  
 7 regional data.

8 (11) Establish annual goals for the use of minority and women's  
 9 business enterprises for any contract, **both prime contracts and**  
 10 **subcontracts**, that:

11 (A) will be paid for in whole or in part with state grant funds;  
 12 and

13 (B) involves the use of real property of a unit (as defined in  
 14 IC 4-4-32.2-9).

15 **The goals established under this section must be based on the**  
 16 **most recent disparity studies available and related to the**  
 17 **state's procurement and contracting procedures.**

18 (g) The department shall direct contractors to demonstrate a good  
 19 faith effort to meet the annual participation goals established under  
 20 subsection (f)(11). The good faith effort shall be demonstrated by  
 21 contractors using the repository of certified firms created under section  
 22 3 of this chapter or a similar repository maintained by a unit (as defined  
 23 in IC 4-4-32.2-9).

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

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

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

34 SECTION 2. IC 4-13-16.5-5 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) The Indiana  
 36 department of administration may adopt rules under IC 4-22-2 to  
 37 implement this chapter.

38 (b) **On or before December 31, 2011, the governor's commission**  
 39 **on minority and women's business enterprises shall adopt rules**  
 40 **under IC 4-22-2 to establish the goals required under:**

41 (1) IC 4-13-16.5-2(f)(8); and

42 (2) IC 4-13-16.5-2(f)(11).

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1 **Rules adopted under this subsection must be based on the most**  
2 **recent disparity studies available and related to the state's**  
3 **procurement and contracting procedures.**  
4 **SECTION 3. An emergency is declared for this act.**

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