
HOUSE BILL No. 1283

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13-16.5-1; IC 5-16; IC 5-22-15-23.

Synopsis: Minority procurement. Makes the following changes to the laws governing minority and women's business enterprises: (1) Restates an exception for certain goods and services. (2) Includes state educational institutions to coverage by the minority and women's business enterprises law. (3) Encourages state agencies to use construction managers. (4) Encourages the use of qualified minority and women's business enterprises for the state small business preference.

Effective: July 1, 2011.

Crawford

January 12, 2011, read first time and referred to Committee on Commerce, Small Business and 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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HOUSE BILL No. 1283



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 4-13-16.5-1, AS AMENDED BY P.L.114-2010,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 1. (a) The definitions in this section apply
4 throughout this chapter.

5 (b) "Commission" refers to the governor's commission on minority
6 and women's business enterprises established under section 2 of this
7 chapter.

8 (c) "Commissioner" refers to the deputy commissioner for minority
9 and women's business enterprises of the department.

10 (d) "Contract" means any contract awarded by a state agency or, as
11 set forth in section 2(f)(11) of this chapter, awarded by a recipient of
12 state grant funds, for construction projects or the procurement of goods
13 or services, including professional services. For purposes of this
14 subsection, "goods or services" ~~may not include~~ **excludes** the following
15 when determining the total value of contracts for state agencies:

- 16 (1) Utilities.
- 17 (2) Health care services (as defined in IC 27-8-11-1(c)) **that are**



- 1 **subject to consumer choice;**
- 2 (3) Rent paid for real property or payments constituting the price
- 3 of an interest in real property as a result of a real estate
- 4 transaction.
- 5 **The exclusions in this subsection do not apply to administrative**
- 6 **services relating to utilities, health care services, and rent.**
- 7 (e) "Contractor" means a person or entity that:
- 8 (1) contracts with a state agency; or
- 9 (2) as set forth in section 2(f)(11) of this chapter:
- 10 (A) is a recipient of state grant funds; and
- 11 (B) enters into a contract:
- 12 (i) with a person or entity other than a state agency; and
- 13 (ii) that is paid for in whole or in part with the state grant
- 14 funds.
- 15 (f) "Department" refers to the Indiana department of administration
- 16 established by IC 4-13-1-2.
- 17 (g) "Minority business enterprise" or "minority business" means an
- 18 individual, partnership, corporation, limited liability company, or joint
- 19 venture of any kind that is owned and controlled by one (1) or more
- 20 persons who are:
- 21 (1) United States citizens; and
- 22 (2) members of a minority group or a qualified minority nonprofit
- 23 corporation.
- 24 (h) "Qualified minority or women's nonprofit corporation" means a
- 25 corporation that:
- 26 (1) is exempt from federal income taxation under Section
- 27 501(c)(3) of the Internal Revenue Code;
- 28 (2) is headquartered in Indiana;
- 29 (3) has been in continuous existence for at least five (5) years;
- 30 (4) has a board of directors that has been in compliance with all
- 31 other requirements of this chapter for at least five (5) years;
- 32 (5) is chartered for the benefit of the minority community or
- 33 women; and
- 34 (6) provides a service that will not impede competition among
- 35 minority business enterprises or women's business enterprises at
- 36 the time a nonprofit applies for certification as a minority
- 37 business enterprise or a women's business enterprise.
- 38 (i) "Owned and controlled" means:
- 39 (1) if the business is a qualified minority nonprofit corporation, a
- 40 majority of the board of directors are minority;
- 41 (2) if the business is a qualified women's nonprofit corporation,
- 42 a majority of the members of the board of directors are women; or

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1 (3) if the business is a business other than a qualified minority or
 2 women's nonprofit corporation, having:
 3 (A) ownership of at least fifty-one percent (51%) of the
 4 enterprise, including corporate stock of a corporation;
 5 (B) control over the management and active in the day-to-day
 6 operations of the business; and
 7 (C) an interest in the capital, assets, and profits and losses of
 8 the business proportionate to the percentage of ownership.
 9 (j) "Minority group" means:
 10 (1) Blacks;
 11 (2) American Indians;
 12 (3) Hispanics; and
 13 (4) Asian Americans.
 14 (k) "Separate body corporate and politic" refers to an entity
 15 established by the general assembly as a body corporate and politic.
 16 (l) "State agency" refers to any authority, board, branch,
 17 commission, committee, department, division, or other instrumentality
 18 of the executive, including the administrative, department of state
 19 government, **or state educational institution.**
 20 SECTION 2. IC 5-16-1-7 IS AMENDED TO READ AS FOLLOWS
 21 [EFFECTIVE JULY 1, 2011]: Sec. 7. A board, a commission, a trustee,
 22 an officer, or agent must ~~establish as a goal that five percent (5%) of~~
 23 ~~the contracts awarded be let to minority business enterprises (as~~
 24 ~~defined in IC 4-13-16.5-1).~~ **use the goals established by the**
 25 **governor's commission on minority and women's business**
 26 **enterprises under IC 4-13-16.5-2 for participation of minority and**
 27 **women's business enterprises.**
 28 SECTION 3. IC 5-16-10-4 IS ADDED TO THE INDIANA CODE
 29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 30 1, 2011]: **Sec. 4. State agencies are encouraged to use construction**
 31 **managers for public works projects. A state agency using a**
 32 **construction manager is encouraged to use minority and women's**
 33 **business enterprises (as defined in IC 4-13-16.5) for public works**
 34 **projects under this article and IC 4-13.6.**
 35 SECTION 4. IC 5-22-15-23 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 23. (a) A governmental
 37 body shall give a fifteen percent (15%) preference for supplies to an
 38 Indiana small business (as defined in IC 5-22-14-1) that submits an
 39 offer for purchase under this article.
 40 (b) The governmental body may adopt rules to establish criteria to
 41 carry out this section.
 42 (c) **When applying the preference for Indiana small businesses**

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1 under this section, a governmental body is encouraged to use
2 minority and women's business enterprises covered under
3 IC 4-13-16.5.

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