
SENATE BILL No. 271

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13.6-2-13; IC 5-22.

Synopsis: State contracting with veterans. Authorizes a state agency to identify a particular purchase of supplies or services as a set-aside for which offers will be accepted only from veteran owned small businesses verified by the Center of Veterans Enterprise of the United States Department of Veterans Affairs as veteran owned small business concerns (VOSBs). Authorizes the public works division of the Indiana department of administration to designate certain public works projects as a set-aside for which offers will be accepted only from VOSBs. Provides that a veteran owned small business may not receive a small business price preference for a purchase designated as a VOSB set-aside. Provides that the Indiana economic development corporation may assist a state agency in compiling a list of veteran owned small businesses, helping veteran owned small businesses to comply with procedures for bidding on state contracts, helping to determine which purchases of supplies or services should be designated as VOSB set-asides, and simplifying specifications and contract terms to increase opportunities for VOSB participation in state contracts. Requires each state agency to set a goal of having veteran owned small businesses participate in purchases involving at least 3% of the overall dollar amount expended by the state agency each state fiscal year for purchases. Excuses a state agency from meeting the goal under certain circumstances. Requires the Indiana department of administration, beginning in 2014, to annually present a report to the governor and the legislative council that identifies each state agency that failed to meet the goal in the past state fiscal year, states why each of those state agencies failed to meet the goal, and states what each of the state agencies is doing to meet the goal in the current state fiscal year. Requires that the report be posted on the Indiana department of administration's Internet web site.

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Effective: July 1, 2013.

Arnold J

January 8, 2013, read first time and referred to Committee on Appropriations.



First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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SENATE BILL No. 271



A BILL FOR AN ACT to amend the Indiana Code concerning military and veterans.

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, 2013]: **Sec. 13. (a) The division may designate a public works
4 project as a VOSB set-aside (as defined in IC 5-22-14.1-3) under
5 rules adopted by the department under IC 4-22-2.**

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

8 **(1) The rules are subject to the determination of whether a
9 business qualifies as a VOSB (as defined in IC 5-22-14.1-2)
10 under IC 5-22-14.1-4.**

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

15 SECTION 2. IC 5-22-14.1 IS ADDED TO THE INDIANA CODE
16 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2013]:



1 **Chapter 14.1. Veteran Owned Small Business Set-Asides and**
2 **Participation Goal**

3 **Sec. 1. As used in this chapter, "veteran owned small business"**
4 **means a small business concern owned and controlled by veterans,**
5 **as defined in 15 U.S.C. 632(q)(3) as in effect January 1, 2013.**

6 **Sec. 2. As used in this chapter, "VOSB" means a veteran owned**
7 **small business that qualifies as a VOSB under section 4 of this**
8 **chapter.**

9 **Sec. 3. As used in this chapter, "VOSB set-aside" means a**
10 **purchase in which the solicitation states that offers will be accepted**
11 **only from a VOSB.**

12 **Sec. 4. To qualify as a VOSB for purposes of this chapter, a**
13 **veteran owned small business must have a current verification as**
14 **a veteran owned small business concern under 38 CFR 74, et seq.,**
15 **by the Center of Veterans Enterprise of the United States**
16 **Department of Veterans Affairs.**

17 **Sec. 5. (a) A state agency may identify a purchase of specific**
18 **supplies or services under this article as a VOSB set-aside. The**
19 **public notice of the purchase must state that the purchase is a**
20 **VOSB set-aside.**

21 **(b) If a purchase is designated as a VOSB set-aside, the**
22 **solicitation must be confined to VOSBs.**

23 **(c) To be an offeror for a VOSB set-aside, a veteran owned**
24 **small business must qualify as a VOSB under section 4 of this**
25 **chapter at the time the solicitation for the purchase is issued.**

26 **Sec. 6. A purchasing agent may not designate a purchase as a**
27 **VOSB set-aside unless there is a reasonable expectation that offers**
28 **will be obtained from at least two (2) VOSBs that are capable of**
29 **furnishing the desired supply or service at a fair and reasonable**
30 **price.**

31 **Sec. 7. (a) Except as provided in subsection (b), in a VOSB**
32 **set-aside, the state agency shall award the contract to the lowest**
33 **responsible and responsive offeror among the VOSBs that are**
34 **offerors, in accordance with the rules of the Indiana department of**
35 **administration.**

36 **(b) If a purchasing agent determines that awarding the contract**
37 **to the lowest responsible and responsive offeror among the VOSBs**
38 **that are offerors will result in the payment of an unreasonable**
39 **price, the purchasing agent:**

40 **(1) shall reject all offers; and**

41 **(2) may withdraw designation of the purchase as a VOSB**
42 **set-aside.**

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1 **Sec. 8. A purchase from a VOSB in a VOSB set-aside under this**
 2 **chapter is subject to:**

- 3 (1) all other provisions of this article; and
 4 (2) the rules of the Indiana department of administration.

5 **If there is a conflict between the laws described in subdivisions (1)**
 6 **and (2) and this chapter, this chapter governs.**

7 **Sec. 9. A VOSB may not receive a price preference under**
 8 **IC 5-22-15-23 for a purchase designated as a VOSB set-aside under**
 9 **this chapter.**

10 **Sec. 10. The Indiana economic development corporation may**
 11 **assist a state agency in doing any of the following:**

- 12 (1) Compiling and maintaining a comprehensive list of
 13 veteran owned small businesses.
 14 (2) Assisting veteran owned small businesses in complying
 15 with the procedures for bidding on state contracts.
 16 (3) Examining requests from state agencies for the purchase
 17 of supplies or services to help determine which purchases are
 18 to be designated as VOSB set-asides.
 19 (4) Simplifying specifications and contract terms to increase
 20 the opportunities for VOSB participation in state contracts.

21 **Sec. 11. (a) Except as provided in subsection (b), each state**
 22 **agency shall set a goal of participation by veteran owned small**
 23 **businesses in purchases involving at least three percent (3%) of the**
 24 **overall dollar amount expended each state fiscal year by the state**
 25 **agency for purchases.**

26 **(b) A state agency is excused from meeting the goal described in**
 27 **subsection (a) if:**

- 28 (1) the state agency determines that the goal described in
 29 subsection (a) is not consistent with the goals of receiving
 30 delivery of the supplies or services within a timely manner
 31 and within the budgeted amount; or
 32 (2) the state agency determines that, exercising financial
 33 prudence, it is unable to meet the goal described in subsection
 34 (a).

35 **Sec. 12. (a) The Indiana department of administration shall**
 36 **annually evaluate the progress of each state agency in meeting the**
 37 **goal described in section 11(a) of this chapter for the previous state**
 38 **fiscal year.**

39 **(b) Beginning in 2014, after June 30 and before November 1 of**
 40 **each year, the Indiana department of administration shall submit**
 41 **a report to the governor and the legislative council (in an electronic**
 42 **format under IC 5-14-6). The report must include:**

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1 (1) a list identifying each state agency that failed to meet the
 2 goal described in section 11(a) of this chapter during the
 3 previous state fiscal year; and
 4 (2) for each state agency described in subdivision (1):
 5 (A) a summary of why the state agency failed to meet the
 6 goal; and
 7 (B) what actions are being taken by the state agency to
 8 meet the goal in the current state fiscal year.
 9 (c) The Indiana department of administration shall post the
 10 report described in subsection (b) on the department's Internet
 11 web site not later than thirty (30) days after the report is submitted
 12 to the governor and the legislative council.
 13 Sec. 13. The Indiana department of administration may adopt
 14 rules under IC 4-22-2, including emergency rules under
 15 IC 4-22-2-37.1, to implement this chapter.
 16 Sec. 14. (a) Emergency rules adopted under section 13 of this
 17 chapter expire on the earlier of:
 18 (1) the date on which the Indiana department of
 19 administration adopts permanent rules under IC 4-22-2 to
 20 replace the emergency rules; or
 21 (2) December 31, 2014.
 22 (b) This section expires January 1, 2015.
 23 SECTION 3. IC 5-22-15-23 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 23. (a) **Except as**
 25 **provided in IC 5-22-14.1-9**, a governmental body shall give a fifteen
 26 percent (15%) preference for supplies to an Indiana small business (as
 27 defined in IC 5-22-14-1) that submits an offer for purchase under this
 28 article.
 29 (b) The governmental body may adopt rules to establish criteria to
 30 carry out this section.

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