



February 12, 2013

## SENATE BILL No. 564

DIGEST OF SB 564 (Updated February 11, 2013 12:11 pm - DI 44)

**Citations Affected:** IC 4-13.6; IC 5-22.

**Synopsis:** Veterans preference on state contracts. 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: (1) compiling and maintaining a list of veteran owned small businesses; (2) assisting veteran owned small businesses to comply with procedures for bidding on state contracts; (3) helping determine which purchases of supplies or services should be designated as VOSB set-asides; and (4) simplifying specifications and contract terms to increase opportunities for VOSB participation in state contracts. Requires each state agency to set a VOSB participation goal of at least 5% of the overall dollar amount expended by the state agency each fiscal year for purchases. Excuses a state agency from  
(Continued next page)

**Effective:** July 1, 2013.

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**Delph, Paul, Mrvan**

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January 14, 2013, read first time and referred to Committee on Commerce, Economic Development & Technology.  
February 11, 2013, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

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SB 564—LS 7245/DI 109+



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meeting the goal under certain circumstances. Beginning in 2014, requires the Indiana department of administration to submit to the governor, the legislative council, the Indiana department of veterans' affairs, and the commission on military and veterans affairs, and to publish online, a report that identifies each state agency that failed to meet the goal in the past fiscal year, states the reason for each failure, and sets forth each agency's plan to meet the goal in the current fiscal year. Provides for the development of programs to encourage cities, counties, towns, townships, and private businesses to adopt the goal of having veteran owned small businesses participate in purchases involving at least 5% of the overall dollar amount expended for purchases each fiscal year.

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February 12, 2013

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. 564

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 under IC 5-22-14.1-4.**

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

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

17 **Chapter 14.1. Veteran Owned Small Business Set-Asides and**

SB 564—LS 7245/DI 109+



1 **Participation Goal**

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

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

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

11 **Sec. 4. To qualify as a VOSB for purposes of this chapter, a**  
 12 **veteran owned small business must:**

13 **(1) have a current verification as a veteran owned small**  
 14 **business concern under 38 CFR 74, et seq., by the Center of**  
 15 **Veterans Enterprise of the United States Department of**  
 16 **Veterans Affairs;**

17 **(2) be owned and controlled by one (1) or more veterans who**  
 18 **have been residents of Indiana for at least one (1) year before**  
 19 **making an offer for a VOSB set-aside or, in the case of a**  
 20 **corporation, have at least fifty-one percent (51 %) of the stock**  
 21 **of which is owned by one (1) or more veterans who have been**  
 22 **a resident of Indiana for at least one (1) year before making**  
 23 **an offer for a VOSB set-aside; and**

24 **(3) have its principal place of business located in Indiana.**

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

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

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

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

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

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**administration.**

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

- (1) shall reject all offers; and**
- (2) may withdraw designation of the purchase as a VOSB set-aside.**

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

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

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

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

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

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

**Sec. 11. (a) Except as provided in subsection (b), each state agency shall set a goal of participation by veteran owned small businesses in purchases involving at least five percent (5%) of the overall dollar amount expended each state fiscal year by the state agency for purchases.**

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

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

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

5           **(b) Beginning in 2014, after June 30 and before November 1 of**  
 6 **each year, the Indiana department of administration shall submit**  
 7 **a report to the governor, the Indiana department of veterans'**  
 8 **affairs, the commission on military and veterans affairs, and, in an**  
 9 **electronic format under IC 5-14-6, the legislative council. The**  
 10 **report must include:**

11           **(1) a list of each state agency that failed to meet the goal**  
 12 **described in section 11(a) of this chapter during the previous**  
 13 **state fiscal year; and**

14           **(2) for each state agency described in subdivision (1):**

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

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

19           **(c) The Indiana department of administration shall post the**  
 20 **report described in subsection (b) on the department's Internet**  
 21 **web site not later than thirty (30) days after the report is submitted**  
 22 **under subsection (b).**

23           **(d) The Indiana department of veterans' affairs shall post the**  
 24 **report described in subsection (b) on the department's Internet**  
 25 **web site not later than thirty (30) days after the report is submitted**  
 26 **by the Indiana department of administration.**

27           **Sec. 13. The Indiana economic development corporation, in**  
 28 **consultation with the Indiana department of administration, may**  
 29 **develop programs to encourage cities, counties, towns, townships,**  
 30 **and private businesses to adopt the goal for contracts with veteran**  
 31 **owned small businesses described in section 11(a) of this chapter.**

32           **Sec. 14. The Indiana department of administration may adopt**  
 33 **rules under IC 4-22-2, including emergency rules, adopted in the**  
 34 **manner provided under IC 4-22-2-37.1, to implement this chapter.**

35           **Sec. 15. Emergency rules adopted under section 14 of this**  
 36 **chapter expire on the earlier of:**

37           **(1) the date on which the Indiana department of**  
 38 **administration adopts permanent rules under IC 4-22-2 to**  
 39 **replace the emergency rules; or**

40           **(2) December 31, 2014.**

41           **SECTION 3. IC 5-22-15-23 IS AMENDED TO READ AS**  
 42 **FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 23. (a) Except as**

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1 **provided in IC 5-22-14.1-9**, a governmental body shall give a fifteen  
2 percent (15%) preference for supplies to an Indiana small business (as  
3 defined in IC 5-22-14-1) that submits an offer for purchase under this  
4 article.

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

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## COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Economic Development and Technology, to which was referred Senate Bill No. 564, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 3, line 31, delete "ten percent (10%)" and insert "**five percent (5%)**".

Page 4, line 7, after "governor," insert "**the Indiana department of veterans' affairs, the commission on military and veterans affairs, and,**".

Page 4, line 8, delete "and".

Page 4, delete line 20 and insert "**under subsection (b).**"

**(d) The Indiana department of veterans' affairs shall post the report described in subsection (b) on the department's Internet web site not later than thirty (30) days after the report is submitted by the Indiana department of administration."**

Page 4, line 29, delete "(a)".

Page 4, delete line 35.

and when so amended that said bill be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 564 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 6, Nays 1.

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