

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1081

AN ACT to amend the Indiana Code concerning state offices and administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-13-16.5-1, AS AMENDED BY P.L.114-2010, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. (a) The definitions in this section apply throughout this chapter.

(b) "Commission" refers to the governor's commission on ~~minority and women's business enterprises~~ **supplier diversity** established under section 2 of this chapter.

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

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

- (1) Utilities.
- (2) Health care services (as defined in IC 27-8-11-1(c)).
- (3) Rent paid for real property or payments constituting the price of an interest in real property as a result of a real estate transaction.

(e) "Contractor" means a person or entity that:

HEA 1081



- (1) contracts with a state agency; or
- (2) as set forth in section 2(f)(11) of this chapter:
 - (A) is a recipient of state grant funds; and
 - (B) enters into a contract:
 - (i) with a person or entity other than a state agency; and
 - (ii) that is paid for in whole or in part with the state grant funds.

(f) "Department" refers to the Indiana department of administration established by IC 4-13-1-2.

(g) "Deputy commissioner" refers to the deputy commissioner for supplier diversity of the department.

~~(g)~~ **(h)** "Minority business enterprise" or "minority business" means an individual, partnership, corporation, limited liability company, or joint venture of any kind that is owned and controlled by one (1) or more persons who are:

- (1) United States citizens; and
- (2) members of a minority group or a qualified minority nonprofit corporation.

(i) "NGB-22" means the National Guard Report of Separation form or its predecessor or successor form.

~~(h)~~ **(j)** "Qualified minority or women's nonprofit corporation" means a corporation that:

- (1) is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code;
- (2) is headquartered in Indiana;
- (3) has been in continuous existence for at least five (5) years;
- (4) has a board of directors that has been in compliance with all other requirements of this chapter for at least five (5) years;
- (5) is chartered for the benefit of the minority community or women; and
- (6) provides a service that will not impede competition among minority business enterprises or women's business enterprises at the time a nonprofit applies for certification as a minority business enterprise or a women's business enterprise.

~~(i)~~ **(k)** "Owned and controlled" means:

- (1) if the business is a qualified minority nonprofit corporation, a majority of the board of directors are minority;
- (2) if the business is a qualified women's nonprofit corporation, a majority of the members of the board of directors are women; or
- (3) if the business is a business other than a qualified minority or women's nonprofit corporation, having:
 - (A) ownership of at least fifty-one percent (51%) of the



enterprise, including corporate stock of a corporation;
 (B) control over the management and active in the day-to-day operations of the business; and
 (C) an interest in the capital, assets, and profits and losses of the business proportionate to the percentage of ownership.

(j) **(l)** "Minority group" means:

- (1) ~~Blacks;~~ **African Americans;**
- (2) ~~American Indians;~~ **Native Americans;**
- (3) ~~Hispanics;~~ **Hispanic Americans;** and
- (4) Asian Americans.

(k) **(m)** "Separate body corporate and politic" refers to an entity established by the general assembly as a body corporate and politic.

(l) **(n)** "State agency" refers to any authority, board, branch, commission, committee, department, division, or other instrumentality of the executive, including the administrative, department of state government.

(o) **"Veteran" means an individual who:**

(1) has previously:

- (A) served on active duty in any branch of the armed forces of the United States or their reserves, in the national guard, or in the Indiana National Guard; and**
- (B) received an honorable discharge from service; or**

(2) is currently serving in:

- (A) any branch of the armed forces of the United States or their reserves;**
- (B) the national guard; or**
- (C) the Indiana National Guard.**

(p) **"Veteran owned small business" refers to a small business that:**

- (1) is independently owned and operated;**
- (2) is not dominant in its field of operation; and**
- (3) satisfies the criteria to be a veteran owned small business concern as specified in section 1.5 of this chapter.**

(q) **"Women's business enterprise" means a business that is one (1) of the following:**

- (1) A sole proprietorship owned and controlled by a woman.**
- (2) A partnership or joint venture owned and controlled by women in which:**

- (A) at least fifty-one percent (51%) of the ownership is held by women; and**
- (B) the management and daily business operations are controlled by at least one (1) of the women who owns the**



business.

(3) A corporation or other entity:

(A) whose management and daily business operations are controlled by at least one (1) of the women who owns the business; and

(B) that is at least fifty-one percent (51%) owned by women, or if stock is issued, at least fifty-one percent (51%) of the stock is owned by at least one (1) of the women.

(4) A qualified women's nonprofit corporation.

SECTION 2. IC 4-13-16.5-1.3 IS REPEALED [EFFECTIVE JULY 1, 2020]. Sec. 1.3: As used in this chapter, "women's business enterprise" means a business that is one (1) of the following:

(1) A sole proprietorship owned and controlled by a woman.

(2) A partnership or joint venture owned and controlled by women in which:

(A) at least fifty-one percent (51%) of the ownership is held by women; and

(B) the management and daily business operations are controlled by at least one (1) of the women who owns the business.

(3) A corporation or other entity:

(A) whose management and daily business operations are controlled by at least one (1) of the women who owns the business; and

(B) that is at least fifty-one percent (51%) owned by women; or if stock is issued, at least fifty-one percent (51%) of the stock is owned by at least one (1) of the women.

(4) A qualified women's nonprofit corporation as defined in section 1(h) of this chapter.

SECTION 3. IC 4-13-16.5-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 1.5. (a) A business qualifies as a small business for purposes of this section if the business is an Indiana small business concern owned and controlled by veterans, as defined in 15 U.S.C. 632(q)(3) as in effect January 1, 2013, or is an Indiana small business owned and operated by veterans and the business:**

(1) has:

(A) a current verification as a veteran owned small business concern under 38 CFR 74 et seq. by the Center of Veterans Enterprise of the United States Department of



Veterans Affairs; or

(B) a current certification as a veteran owned small business by the department;

(2) is owned and controlled by one (1) or more veterans or, in the case of a corporation, has at least fifty-one percent (51%) of the corporation's stock owned by one (1) or more veterans; and

(3) has its principal place of business located in Indiana.

(b) The Indiana economic development corporation may assist the department 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 the department for the purchase of supplies or services to help determine which purchases may be consistent with the goal described in section 3.5 of this chapter.

(4) Simplifying specifications and contract terms to increase the opportunities for veteran owned small businesses to participate in state contracts.

(c) The Indiana economic development corporation, in consultation with the department, may develop programs to encourage cities, counties, towns, townships, and private businesses to adopt the goal for contracts with veteran owned small businesses described in section 3.5 of this chapter.

(d) For purposes of this chapter, information submitted by an applicant for certification as a veteran owned small business that contains:

(1) personal financial information; or

(2) confidential business information;

is confidential.

(e) For purposes of this chapter, the following forms submitted by an applicant for certification as a veteran owned small business are confidential:

(1) DD 214 (as defined in IC 10-17-15-1).

(2) NGB-22.

(3) All forms submitted to verify current military or naval service status.

SECTION 4. IC 4-13-16.5-2, AS AMENDED BY P.L.114-2010, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. (a) There is established a governor's

HEA 1081



commission on ~~minority and women's business enterprises~~. **supplier diversity**. The commission shall consist of the following members:

- (1) A governor's designee, who shall serve as chairman of the commission.
- (2) The commissioner of the Indiana department of transportation, or the economic opportunity director of the Indiana department of transportation if the commissioner of the Indiana department of transportation so designates.
- (3) The chairperson of the board of the Indiana economic development corporation or the chairperson's designee.
- (4) The commissioner. ~~of the department.~~
- (5) Nine (9) individuals with demonstrated capabilities in business and industry, especially minority **business enterprises**, ~~and~~ women's business enterprises, **and veteran owned small businesses**, appointed by the governor from the following geographical areas of the state:
 - (A) Three (3) from the northern one-third (1/3) of the state.
 - (B) Three (3) from the central one-third (1/3) of the state.
 - (C) Three (3) from the southern one-third (1/3) of the state.
- (6) Two (2) members of the house of representatives, no more than one (1) from the same political party, appointed by the speaker of the house of representatives to serve in a nonvoting advisory capacity.
- (7) Two (2) members of the senate, no more than one (1) from the same political party, appointed by the president pro tempore of the senate to serve in a nonvoting advisory capacity.
- (8) The deputy commissioner, who shall serve as a nonvoting member.**

Not more than six (6) of the ten (10) members appointed or designated by the governor may be of the same political party. Appointed members of the commission shall serve four (4) year terms. A vacancy occurs if a legislative member leaves office for any reason. Any vacancy on the commission shall be filled in the same manner as the original appointment.

(b) Each member of the commission who is not a state employee is entitled to the following:

- (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- (2) Reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties as provided under IC 4-13-1-4 and in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

HEA 1081



(c) Each legislative member of the commission is entitled to receive the same per diem, mileage, and travel allowances established by the legislative council and paid to members of the general assembly serving on interim study committees. The allowances specified in this subsection shall be paid by the legislative services agency from the amounts appropriated for that purpose.

(d) A member of the commission who is a state employee but who is not a member of the general assembly is not entitled to any of the following:

- (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- (2) Reimbursement for traveling expenses as provided under IC 4-13-1-4.
- (3) Other expenses actually incurred in connection with the member's duties.

(e) The commission shall meet at least four (4) times each year and at other times as the chairman considers necessary.

(f) The duties of the commission shall include but not be limited to the following:

- (1) Identify minority **business enterprises, and women's business enterprises, and veteran owned small businesses** ~~business enterprises~~ in the state.
- (2) Assess the needs of minority **business enterprises, and women's business enterprises, and veteran owned small businesses.** ~~business enterprises.~~
- (3) Initiate aggressive programs to assist minority **business enterprises, and women's business enterprises, and veteran owned small businesses** ~~business enterprises~~ in obtaining state contracts.
- (4) Give special publicity to procurement, bidding, and qualifying procedures.
- (5) Include minority **business enterprises, and women's business enterprises, and veteran owned small businesses** ~~business enterprises~~ on solicitation mailing lists.
- (6) Evaluate the competitive differences between qualified minority or women's nonprofit corporations and other than qualified minority or women's nonprofit corporations **and veteran owned small businesses** that offer similar services and make recommendation to the department on policy changes necessary to ensure fair competition among minority **business enterprises, women's business enterprises, and veteran owned small businesses.** ~~business enterprises.~~
- (7) Define the duties, goals, and objectives of the deputy

HEA 1081



commissioner of the department as created under this chapter to assure compliance by all state agencies, separate bodies corporate and politic, and state educational institutions with state and federal legislation and policy concerning the awarding of contracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions) to minority **business enterprises, and women's business enterprises, and veteran owned small businesses.** ~~business enterprises.~~

(8) Establish annual goals:

(A) for the use of minority and women's business enterprises; and

(B) derived from a statistical analysis of utilization study of state contracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts of state educational institutions) that are required to be updated every five (5) years.

(9) Prepare a review of the commission and the various affected departments of government to be submitted to the governor and the legislative council on March 1 and October 1 of each year, evaluating progress made in the areas defined in this subsection.

(10) Ensure that the statistical analysis required under this section:

(A) is based on goals for participation of minority business enterprises established in *Richmond v. Croson*, 488 U.S. 469 (1989);

(B) includes information on both contracts and subcontracts (including, notwithstanding section 1(d) of this chapter or any other law, contracts and subcontracts of state educational institutions); and

(C) uses data on the combined capacity of minority **business enterprises, and women's businesses enterprises business enterprises, and veteran owned small businesses** in Indiana and not just regional data.

(11) Establish annual goals for the use of minority **business enterprises, and women's business enterprises, and veteran owned small businesses** for any contract that:

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

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

(12) Ensure compliance with the establishment and evaluation

HEA 1081



of the annual goal for veteran owned small businesses established in section 3.5 of this chapter.

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

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

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

(j) The commission shall advise the department on developing a statement, to be included in all applications for and agreements governing grants made with state funds, stating the importance of the use of minority **business enterprises, and women's business enterprises, and veteran owned small businesses** ~~business enterprises~~ in fulfilling the purposes of the grant.

SECTION 5. IC 4-13-16.5-3, AS AMENDED BY P.L.114-2010, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. (a) There is created in the department a deputy commissioner for ~~minority and women's business enterprise~~ **supplier diversity** development. Upon consultation with the commission, the commissioner of the department, with the approval of the governor, shall appoint an individual who possesses demonstrated capability in business or industry, especially in minority **business enterprises, or women's business enterprises, or veteran owned small businesses,** ~~business enterprises,~~ to serve as deputy commissioner to work with the commission in the implementation of this chapter.

(b) The deputy commissioner shall do the following:

- (1) Identify and certify minority **business enterprises, and women's business enterprises, and veteran owned small businesses** ~~business enterprises~~ for state projects.
- (2) Establish a central certification file.
- (3) Periodically update the certification status of each minority **business enterprise, or women's business enterprise, or veteran owned small business.** ~~business enterprise.~~
- (4) Monitor the progress in achieving the goals established under section 2(f)(8) and 2(f)(11) of this chapter.
- (5) Require all state agencies, separate bodies corporate and politic, and state educational institutions to report on planned and



actual participation of minority **business enterprises**, and women's **business enterprises**, and **veteran owned small businesses** ~~business enterprises~~ in contracts awarded by state agencies. The commissioner may exclude from the reports uncertified minority **business enterprises**, and women's **business enterprises**, and **veteran owned small businesses**. ~~business enterprises.~~

(6) Determine and define opportunities for minority, and women's, **and veteran owned** business participation in contracts awarded by all state agencies, separate bodies corporate and politic, and state educational institutions.

(7) Implement programs initiated by the commission under section 2 of this chapter.

(8) Perform other duties as defined by the commission or by the commissioner. ~~of the department.~~

SECTION 6. IC 4-13-16.5-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2020]: **Sec. 3.5. (a) The department shall adopt rules under IC 4-22-2 to do the following:**

(1) Increase contracting opportunities for Indiana veteran owned small businesses described in section 1.5 of this chapter with a goal to procure in each state fiscal year at least three percent (3%) of state contracts with Indiana veteran owned small businesses.

(2) Develop procurement policies and procedures to accomplish the goal described in subdivision (1), including guidelines to be followed by the department in conducting the department's procurement efforts.

(3) Implement section 1.5 of this chapter.

These procurement policies do not apply to a procurement of supplies and services to address immediate and serious government needs at a time of emergency, including a threat to the public health, welfare, or safety that may arise by reason of floods, epidemics, riots, acts of terrorism, major power failures, a threat proclaimed by the President of the United States or the governor, or a threat declared by the commissioner.

(b) The department shall annually evaluate its progress in meeting the goal described in this section for the previous state fiscal year. After June 30 and before November 1 of each year, the department shall submit a report to the governor, the Indiana department of veterans' affairs, and the interim study committee on public safety and military affairs established by IC 2-5-1.3-4



and the legislative council in an electronic format under IC 5-14-6.

The report must include:

- (1) the percentage goal obtained by the department during the previous state fiscal year; and
- (2) a summary of why the department failed to meet the goal and what actions are being taken by the department to meet the goal in the current state fiscal year.

(c) The department 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. 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 department.

SECTION 7. IC 4-13-16.5-8, AS ADDED BY P.L.228-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) This section applies to a contractor whose offer designated minority **business enterprises, businesses, or women's business enterprises, or veteran owned small businesses** ~~business enterprises~~ to furnish any supplies or perform any work under the contract awarded to the contractor.

- (b) As used in this section, "contract" refers to any of the following:
- (1) A contract for the purchase of supplies by a state agency.
 - (2) A contract for the performance of services for a state agency.
 - (3) A public works contract (as defined in IC 4-13.6-1-14).
 - (4) A contract to perform professional services (as defined in IC 4-13.6-1-11) in connection with a public works contract.

(c) As used in this section, "contractor" refers to a person awarded a contract by a state agency.

(d) As used in this section, "offer" means a response to a solicitation. The term includes a bid, proposal, and quote.

(e) As used in this section, "solicitation" means the procedure by which a state agency invites persons to submit an offer to enter into a contract with the state agency. The term includes an invitation for bids, a request for proposals, and a request for quotes.

(f) Before beginning work on a contract, a contractor shall do the following:

- (1) Notify in writing each minority business, ~~and~~ women's **business enterprise, and veteran owned small business enterprise** designated in the contractor's offer that the contractor has been awarded the contract.
- (2) Give copies of each notification to the state agency that awarded the contract.

HEA 1081



(g) If a contractor fails to comply with subsection (f), the awarding state agency may consider the failure a breach of contract and do any of the following:

- (1) Cancel the contract.
- (2) Collect from the contractor all funds paid to the contractor under the contract.
- (3) Exercise any of the state's rights set out in the contract.
- (4) Use the failure as a basis for finding the contractor not responsible when awarding other contracts.

SECTION 8. IC 4-13.6-2-12, AS ADDED BY P.L.133-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 12. The department shall offer instruction at least annually to:

- (1) small businesses (as defined in IC 5-22-14-1);
- (2) minority business enterprises (as defined in IC 4-13-16.5-1);
- ~~and~~
- (3) women's business enterprises (as defined in ~~IC 4-13-16.5-1.3~~);
- IC 4-13-16.5-1); and**
- (4) veteran owned small businesses (as defined in IC 4-13-16.5-1);**

with regard to bonding requirements and working with the surety industry to secure bonding for public works projects.

SECTION 9. IC 4-30-1-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 2. In construing this article, it is the intent of the general assembly that the following policies be carried out:

- (1) That the lottery games be operated by the state lottery commission, which is created by IC 4-30-3 as a separate body politic and corporate from state government and should function as much as possible as an entrepreneurial business enterprise.
- (2) That the general assembly recognizes that the operation of a lottery is a unique activity for state government and that policies and procedures appropriate for the performance of other governmental functions are not necessarily appropriate for the operation of a lottery.
- (3) That the lottery games be operated as a self-supporting revenue raising operation.
- (4) That the commission be accountable to the general assembly and the people of Indiana through a system of audits and reports and by complying with financial disclosure, open meetings, and public record laws.
- (5) That the commission ensure the equitable participation of minorities and women in all phases of the lottery, including

HEA 1081



instant game and on-line retailers and vendors. The commission shall establish annual goals:

(A) for the use of minority and women's business enterprises (as defined in IC 4-13-16.5-1) ~~and IC 4-13-16.5-1.3~~ in construction, professional services, other services, and supplies; and

(B) derived from a statistical analysis of utilization study of lottery contracts that are required to be updated every five (5) years.

The commission shall, in cooperation with the Indiana department of administration, adopt rules under IC 4-22-2 to ensure that the goals set under this subdivision are met.

(6) That lottery game advertising and promotion shall be consistent with the dignity and integrity of the state.

SECTION 10. IC 4-33-14-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 4. As used in this chapter, "women's business enterprise" has the meaning set forth in ~~IC 4-13-16.5-1.3~~. **IC 4-13-16.5-1.**

SECTION 11. IC 4-35-11-5, AS AMENDED BY P.L.87-2008, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 5. As used in this chapter, "women's business enterprise" has the meaning set forth in ~~IC 4-13-16.5-1.3~~. **IC 4-13-16.5-1.**

SECTION 12. IC 5-1.2-5-8, AS ADDED BY P.L.189-2018, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. (a) The authority shall consider economy of operation to the extent practicable in preparing and approving plans and specifications. The authority shall present plans and specifications for a state facility for approval to the department of administration and:

(1) if the state facility is designed to house the supreme court or court of appeals, the administrator of the supreme court for approval by the courts; and

(2) if the state facility is a correctional facility, the department of correction.

(b) After the plans and specifications have been approved by the authority under subsection (a), the authority shall advertise for and receive construction bids and award contracts to the best bidders in the same manner as required by law for the department of administration.

(c) With regard to participation by minority and women's business enterprises (as defined in IC 4-13-16.5-1), ~~and IC 4-13-16.5-1.3~~; the authority shall act in the same manner as required by law for the department of administration.

HEA 1081



SECTION 13. IC 5-22-14-0.5 IS REPEALED [EFFECTIVE JULY 1, 2020]. Sec. 0.5: As used in this chapter, "NGB-22" means the National Guard Report of Separation form or its predecessor or successor form.

SECTION 14. IC 5-22-14-1, AS AMENDED BY P.L.90-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 1. As used in this chapter, "small business" means a business that:

- (1) is independently owned and operated;
- (2) is not dominant in its field of operation; and
- (3) satisfies the criteria
 - (A) in the rules adopted under section 3 of this chapter. or
 - (B) to be a veteran owned small business concern as specified in section 3.5 of this chapter.

SECTION 15. IC 5-22-14-2.5 IS REPEALED [EFFECTIVE JULY 1, 2020]. Sec. 2.5: As used in this chapter, "veteran" means an individual who:

- (1) has previously:
 - (A) served on active duty in any branch of the armed forces of the United States or their reserves; in the national guard; or in the Indiana National Guard; and
 - (B) received an honorable discharge from service; or
- (2) is currently serving in:
 - (A) any branch of the armed forces of the United States or their reserves;
 - (B) the national guard; or
 - (C) the Indiana National Guard.

SECTION 16. IC 5-22-14-3.5 IS REPEALED [EFFECTIVE JULY 1, 2020]. Sec. 3.5: (a) A business qualifies as a small business for purposes of this chapter if the business is an Indiana small business concern owned and controlled by veterans, as defined in 15 U.S.C. 632(q)(3) as in effect January 1, 2013, or is an Indiana small business owned and operated by veterans (as defined in section 2.5 of this chapter) and the business:

- (1) has:
 - (A) a current verification as a veteran owned small business concern under 38 CFR 74, et seq.; by the Center of Veterans Enterprise of the United States Department of Veterans Affairs; or
 - (B) a current certification as a veteran owned small business by the Indiana department of administration;
- (2) is owned and controlled by one (1) or more veterans or; in the



case of a corporation; have at least fifty-one percent (51%) of the corporation's stock owned by one (1) or more veterans; and
 (3) has its principal place of business located in Indiana.

(b) The Indiana economic development corporation may assist the Indiana department of administration 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 the Indiana department of administration for the purchase of supplies or services to help determine which purchases may be consistent with the goal described in section 11(a) of this chapter.
- (4) Simplifying specifications and contract terms to increase the opportunities for veteran owned small businesses to participate in state contracts.

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

(d) For purposes of this chapter, information submitted by an applicant for certification as a veteran owned small business that contains:

- (1) personal financial information; or
- (2) confidential business information;

is confidential.

(e) For purposes of this chapter, the following forms submitted by an applicant for certification as a veteran owned small business are confidential:

- (1) DD 214 (as defined in IC 10-17-15-1).
- (2) NGB-22 (as defined in section 0.5 of this chapter).
- (3) All forms submitted to verify current military or naval service status.

SECTION 17. IC 5-22-14-11 IS REPEALED [EFFECTIVE JULY 1, 2020]. Sec. 11. (a) The Indiana department of administration shall adopt rules under IC 4-22-2 to do the following:

- (1) Increase contracting opportunities for Indiana veteran owned small businesses described in section 3.5 of this chapter with a goal to procure in each state fiscal year at least three percent (3%) of state contracts with Indiana veteran owned small businesses.
- (2) Develop procurement policies and procedures to accomplish

HEA 1081



the goal described in subdivision (1); including guidelines to be followed by the Indiana department of administration in conducting the department's procurement efforts.

(3) Implement IC 5-22-14-3.5.

These procurement policies do not apply to a procurement of supplies and services to address immediate and serious government needs at a time of emergency, including a threat to the public health, welfare, or safety that may arise by reason of floods, epidemics, riots, acts of terrorism, major power failures, a threat proclaimed by the President of the United States or the governor, or a threat declared by the commissioner of the Indiana department of administration.

(b) The Indiana department of administration shall annually evaluate its progress in meeting the goal described in this section for the previous state fiscal year. Beginning in 2014, after June 30 and before November 1 of each year, the Indiana department of administration shall submit a report to the governor, the Indiana department of veterans' affairs, and the interim study committee on public safety and military affairs established by IC 2-5-1.3-4 and the legislative council in an electronic format under IC 5-14-6. The report must include:

(1) the percentage goal obtained by the Indiana department of administration during the previous state fiscal year; and

(2) a summary of why the Indiana department of administration failed to meet the goal and what actions are being taken by the Indiana department of administration to meet the goal in the current state fiscal year.

(c) The Indiana department of administration 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. 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.

SECTION 18. IC 5-22-15-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 23. (a) A governmental body shall give a fifteen percent (15%) preference for supplies to:

(1) an Indiana small business (as defined in IC 5-22-14-1); or

(2) a veteran owned small business (as defined in IC 4-13-16.5-1);

that submits an offer for purchase under this article.

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

HEA 1081



SECTION 19. IC 5-28-20-8, AS ADDED BY P.L.4-2005, SECTION 34, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 8. As used in this chapter, "small business" has the meaning set forth in IC 5-22-14-1. The term includes:

- (1) an independently owned and operated business that is operating under a franchise from another business; **and**
- (2) **a veteran owned small business (as defined in IC 4-13-16.5-1).**

SECTION 20. IC 6-3.1-29-13, AS ADDED BY P.L.191-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 13. As used in this section, "women's business enterprise" has the meaning set forth in ~~IC 4-13-16.5-1.3.~~ **IC 4-13-16.5-1.**

SECTION 21. IC 8-25-4-7, AS ADDED BY P.L.153-2014, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. (a) As used in this section, "minority business enterprise" has the meaning set forth in IC 4-13-16.5-1.

(b) As used in this section, "veteran business enterprise" means a business enterprise that has a current verification as a veteran owned small business concern under 38 CFR 74 et seq. by the Center of Veterans Enterprise of the United States Department of Veterans Affairs.

(c) As used in this section, "women's business enterprise" has the meaning set forth in ~~IC 4-13-16.5-1.3.~~ **IC 4-13-16.5-1.**

(d) Except where 49 CFR 26 applies, the fiscal body of an eligible county or another person authorized to carry out a public transportation project under this chapter shall set a goal for participation by minority business enterprises, veteran business enterprises, and women's business enterprises in conformity with the goals established by the department of minority and women's business development of a consolidated city and the goals of the department of administration established under IC 5-22-14-11 **(before July 1, 2020) or IC 4-13-16.5-3.5 (after June 30, 2020)** for veteran business enterprises. The goals must be consistent with the goals of delivering the project on time and within the budgeted amount and, insofar as possible, using Indiana businesses for employees, goods, and services.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

HEA 1081

