

HOUSE BILL No. 1257

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-22-13; IC 16-18-2-188.5; IC 16-32-2.

Synopsis: State use program. Changes references of "person with a severe disability" to "individual with a disability" in the public purchasing laws and the laws concerning the committee for the purchase of products and services of individuals with a disability (committee). Defines "individual with a disability". Amends the definition of "qualified agency". Provides that a governmental body's purchasing agent must determine if a product or service is within 10% of the fair market price. Requires the department of administration to provide quarterly reports to the committee. Adds a nonvoting member to the committee who represents a central coordinating agency. Amends the requirements for a state use products and services catalog. Requires the committee to contract with a central coordinating agency. Requires the committee to approve the removal of products from a quantity purchasing agreement before the removal.

Effective: July 1, 2018.

Heaton

January 11, 2018, read first time and referred to Committee on Government and Regulatory Reform.



Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1257

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

1 SECTION 1. IC 5-22-13-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. As used in this
3 chapter, "qualified agency" refers to a nonprofit agency for ~~persons~~
4 **individuals** with ~~severe~~ disabilities (**as defined by IC 16-32-2-1(a)**)
5 that meets all of the following conditions:

- 6 **(1) The agency is a nonprofit organization that is incorporated**
7 **in Indiana.**
- 8 ~~(1)~~ **(2)** The agency complies with Indiana laws governing private
9 nonprofit organizations.
- 10 ~~(2)~~ **(3)** The agency ~~is certified by the Wage and Hour Division~~
11 **complies with all the requirements** of the United States
12 Department of Labor.
- 13 ~~(3)~~ **(4)** The agency meets the standards adopted by the secretary
14 of family and social services.
- 15 ~~(4)~~ **(5)** The agency makes reports under IC 16-32-2-7.

16 SECTION 2. IC 5-22-13-5, AS AMENDED BY P.L.46-2007,
17 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2018]: Sec. 5. (a) Supplies and services purchased under this
2 chapter must:

3 (1) meet the specifications and needs of the purchasing
4 governmental body; and

5 (2) be purchased at a fair market price as described under
6 subsection (b).

7 (b) A fair market price under this section must cover for the
8 qualified agency the costs of raw materials, labor, overhead, and
9 delivery cost. In determining the fair market price, the purchasing agent
10 shall ~~use~~ **determine if the fair market price is within ten percent**
11 **(10%) of the average price estimates or quotes using** one (1) or
12 more of the following:

13 (1) Available information from reliable market sources.

14 (2) A market survey from a person designated by the committee.

15 (3) Previous contract prices.

16 (4) The range of bids from the most recent solicitation, including
17 a determination of:

18 (A) the median price of the bids;

19 (B) the average price of the bids; and

20 (C) any market conditions or specifications that have changed
21 since the most recent solicitation.

22 **(c) The Indiana department of administration shall provide**
23 **quarterly reports to the committee established under IC 16-32-2-2**
24 **concerning all state spending for products and services, as specified**
25 **by the committee.**

26 SECTION 3. IC 16-18-2-188.5 IS ADDED TO THE INDIANA
27 CODE AS A NEW SECTION TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2018]: **Sec. 188.5. "Individual with a**
29 **disability", for purposes of IC 16-32-2, has the meaning set forth**
30 **in IC 16-32-2-1(a).**

31 SECTION 4. IC 16-32-2-1 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) **As used in this**
33 **chapter, "individual with a disability" means an individual:**

34 **(1) who has a physical or mental impairment that**
35 **substantially limits one (1) or more major life activities;**

36 **(2) who has a record of a physical or mental impairment that**
37 **substantially limits one (1) or more major life activities; or**

38 **(3) who is regarded as having a physical or mental**
39 **impairment that substantially limits one (1) or more major**
40 **life activities.**

41 **(b) It is the purpose of this chapter to enhance employment**
42 **opportunities for persons individuals with severe disabilities by**



1 encouraging state agencies and units of local government to purchase
 2 products made by ~~persons and services provided by individuals~~ with
 3 ~~severe~~ disabilities ~~who are~~ employed by qualified nonprofit agencies.

4 SECTION 5. IC 16-32-2-2 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. There is created a
 6 committee for the purchase of products and services of ~~persons who are~~
 7 ~~so severely disabled by a physical or mental disability that the persons~~
 8 ~~cannot engage in normal competitive employment because of the~~
 9 ~~individuals with a~~ disability.

10 SECTION 6. IC 16-32-2-3, AS AMENDED BY P.L.141-2006,
 11 SECTION 86, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2018]: Sec. 3. The committee shall be composed of the
 13 following members:

14 (1) The director of the division of disability and rehabilitative
 15 services or the director's designee.

16 (2) The commissioner of the Indiana department of administration
 17 or the commissioner's designee.

18 (3) The executive director of the governor's planning council on
 19 people with disabilities.

20 (4) The director of the division of mental health and addiction or
 21 the director's designee.

22 (5) The commissioner of the state department of health or the
 23 commissioner's designee.

24 (6) Three (3) members appointed by the governor to represent the
 25 public at large.

26 **(7) A representative of the central coordinating agency**
 27 **described in section 7(8) of this chapter.**

28 SECTION 7. IC 16-32-2-6 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 6. **Except for the**
 30 **member serving on the committee under section 3(7) of this**
 31 **chapter**, all members of the committee are entitled to vote on issues
 32 before the committee.

33 SECTION 8. IC 16-32-2-7, AS AMENDED BY P.L.46-2007,
 34 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2018]: Sec. 7. The committee shall do the following:

36 (1) Request from any agency of the state or any unit of local
 37 government information concerning product specification and
 38 service requirements to enable the committee to carry out the
 39 intent of this chapter. The requested information shall be
 40 furnished to the executive secretary of the committee.

41 (2) Meet as often as necessary to carry out the purposes of this
 42 chapter. However, the committee shall meet at least quarterly.



1 (3) Request from each participating qualified nonprofit agency for
 2 **persons individuals** with ~~severe~~ disabilities a quarterly report that
 3 describes employment data and the volume of sales for each
 4 product or service sold under this chapter. These reports shall be
 5 made available to the Indiana department of administration.

6 (4) Establish the price for all products and services provided by
 7 **persons individuals** with ~~severe~~ disabilities and offered for sale
 8 to state agencies and units of local government under IC 5-22-13
 9 that the committee determines are suitable for use. The price fixed
 10 must recover for the qualified nonprofit agency for **persons**
 11 **individuals** with ~~severe~~ disabilities the cost of raw materials,
 12 labor, overhead, and delivery cost. The committee shall **annually**
 13 **review and** periodically revise the prices in accordance with
 14 changing cost factors and adopt necessary rules regarding
 15 specifications, time of delivery, and fair market price.

16 (5) Approve and prepare a ~~publication~~ **state use catalog** that:

17 (A) **contains a compilation of the products and services**
 18 **available through qualified agencies that have been**
 19 **approved by the committee and that are available for**
 20 **purchase; and**

21 (B) lists all products and services available from any qualified
 22 nonprofit agency for **persons individuals** with ~~severe~~
 23 disabilities that the committee determines are suitable for
 24 procurement.

25 The procurement ~~list~~ **state use catalog must be distributed**
 26 **annually by electronic mail, not later than thirty (30) days**
 27 **following the beginning of the state fiscal year** and revisions of
 28 the procurement ~~list~~ **state use catalog must be distributed**
 29 **quarterly** to all purchasing officers of state agencies and units of
 30 local government for purchase under IC 5-22-13.

31 (6) Encourage diversity in products and services provided by
 32 qualified nonprofit agencies for **persons individuals** with ~~severe~~
 33 disabilities and discourage unnecessary duplication or
 34 competition between facilities.

35 (7) Update the **procurement** state use catalog not less than every
 36 ninety (90) days starting January 1 of each year. The web based
 37 electronic version shall be considered the catalog of record.

38 (8) **Contract with a central coordinating agency that:**

39 (A) **is exempt from federal income taxation under Section**
 40 **501(c)(3) of the Internal Revenue Code;**

41 (B) **provides management services to organizations that**
 42 **provide employment services to individuals with**



1 **disabilities; and**
2 **(C) has a management service agreement with a statewide**
3 **trade association of providers that deliver services to**
4 **individuals with disabilities.**
5 **(9) Approve the removal of products from a quantity**
6 **purchasing agreement before the removal.**

