



January 23, 2018

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## HOUSE BILL No. 1257

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DIGEST OF HB 1257 (Updated January 23, 2018 11:31 am - DI 87)

**Citations Affected:** IC 5-22; IC 16-18; IC 16-32.

**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. 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.

**Effective:** July 1, 2018.

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### Heaton, Porter, Karickhoff, Clere

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

January 23, 2018, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

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HB 1257—LS 6756/DI 77





January 23, 2018

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

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- 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 SECTION 3. IC 16-18-2-188.5 IS ADDED TO THE INDIANA  
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 24 [EFFECTIVE JULY 1, 2018]: **Sec. 188.5. "Individual with a**  
 25 **disability", for purposes of IC 16-32-2, has the meaning set forth**  
 26 **in IC 16-32-2-1(a).**
- 27 SECTION 4. IC 16-32-2-1 IS AMENDED TO READ AS  
 28 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 1. (a) **As used in this**  
 29 **chapter, "individual with a disability" means an individual:**
- 30 (1) **who has a physical or mental impairment that**  
 31 **substantially limits one (1) or more major life activities;**
  - 32 (2) **who has a record of a physical or mental impairment that**  
 33 **substantially limits one (1) or more major life activities; or**
  - 34 (3) **who is regarded as having a physical or mental**  
 35 **impairment that substantially limits one (1) or more major**  
 36 **life activities.**
- 37 (b) It is the purpose of this chapter to enhance employment  
 38 opportunities for ~~persons~~ **individuals** with ~~severe~~ disabilities by  
 39 encouraging state agencies and units of local government to purchase  
 40 products made by ~~persons~~ **and services provided by individuals** with  
 41 ~~severe~~ disabilities **who are** employed by qualified nonprofit agencies.
- 42 SECTION 5. IC 16-32-2-2 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2018]: Sec. 2. There is created a  
 2 committee for the purchase of products and services of ~~persons who are~~  
 3 ~~so severely disabled by a physical or mental disability that the persons~~  
 4 ~~cannot engage in normal competitive employment because of the~~  
 5 **individuals with a** disability.

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

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

12 (2) The commissioner of the Indiana department of administration  
 13 or the commissioner's designee.

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

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

18 (5) The commissioner of the state department of health or the  
 19 commissioner's designee.

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

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

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

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

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

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

39 (3) Request from each participating qualified nonprofit agency for  
 40 **persons individuals** with ~~severe~~ disabilities a quarterly report that  
 41 describes employment data and the volume of sales for each  
 42 product or service sold under this chapter. These reports shall be



1 made available to the Indiana department of administration.

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

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

13 **(A) contains a compilation of the products and services**  
 14 **available through qualified agencies that have been**  
 15 **approved by the committee and that are available for**  
 16 **purchase; and**

17 **(B) lists all products and services available from any qualified**  
 18 **nonprofit agency for persons individuals with severe**  
 19 **disabilities that the committee determines are suitable for**  
 20 **procurement.**

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

27 (6) Encourage diversity in products and services provided by  
 28 qualified nonprofit agencies for **persons individuals** with **severe**  
 29 **disabilities** and discourage unnecessary duplication or  
 30 competition between facilities.

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

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

35 **(A) is exempt from federal income taxation under Section**  
 36 **501(c)(3) of the Internal Revenue Code;**

37 **(B) provides management services to organizations that**  
 38 **provide employment services to individuals with**  
 39 **disabilities; and**

40 **(C) has a management service agreement with a statewide**  
 41 **trade association of providers that deliver services to**  
 42 **individuals with disabilities.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1257, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, delete lines 22 through 25.

Page 5, delete lines 5 through 6.

and when so amended that said bill do pass.

(Reference is to HB 1257 as introduced.)

MAHAN

Committee Vote: yeas 10, nays 1.

