

SENATE BILL No. 196

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13-16.5.

Synopsis: Supplier diversity. Amends the definition of "state agency" for purposes of the governor's commission on supplier diversity. Makes conforming changes.

Effective: July 1, 2024.

Taylor G

January 9, 2024, read first time and referred to Committee on Commerce and Technology.



Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

SENATE BILL No. 196

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

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

1 SECTION 1. IC 4-13-16.5-1, AS AMENDED BY P.L.15-2020,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 1. (a) The definitions in this section apply
4 throughout this chapter.
5 (b) "Commission" refers to the governor's commission on supplier
6 diversity established under section 2 of this chapter.
7 (c) "Commissioner" refers to the commissioner of the department.
8 (d) "Contract" means any contract awarded by a state agency or, as
9 set forth in section 2(f)(11) of this chapter, awarded by a recipient of
10 state grant funds, for construction projects or the procurement of goods
11 or services, including professional services. For purposes of this
12 subsection, "goods or services" may not include the following when
13 determining the total value of contracts for state agencies:
14 (1) Utilities.
15 (2) Health care services (as defined in IC 27-8-11-1(c)).
16 (3) Rent paid for real property or payments constituting the price
17 of an interest in real property as a result of a real estate



- 1 transaction.
- 2 (e) "Contractor" means a person or entity that:
- 3 (1) contracts with a state agency; or
- 4 (2) as set forth in section 2(f)(11) of this chapter:
- 5 (A) is a recipient of state grant funds; and
- 6 (B) enters into a contract:
- 7 (i) with a person or entity other than a state agency; and
- 8 (ii) that is paid for in whole or in part with the state grant
- 9 funds.
- 10 (f) "Department" refers to the Indiana department of administration
- 11 established by IC 4-13-1-2.
- 12 (g) "Deputy commissioner" refers to the deputy commissioner for
- 13 supplier diversity of the department.
- 14 (h) "Minority business enterprise" or "minority business" means an
- 15 individual, partnership, corporation, limited liability company, or joint
- 16 venture of any kind that is owned and controlled by one (1) or more
- 17 persons who are:
- 18 (1) United States citizens; and
- 19 (2) members of a minority group or a qualified minority nonprofit
- 20 corporation.
- 21 (i) "NGB-22" means the National Guard Report of Separation form
- 22 or its predecessor or successor form.
- 23 (j) "Qualified minority or women's nonprofit corporation" means a
- 24 corporation that:
- 25 (1) is exempt from federal income taxation under Section
- 26 501(c)(3) of the Internal Revenue Code;
- 27 (2) is headquartered in Indiana;
- 28 (3) has been in continuous existence for at least five (5) years;
- 29 (4) has a board of directors that has been in compliance with all
- 30 other requirements of this chapter for at least five (5) years;
- 31 (5) is chartered for the benefit of the minority community or
- 32 women; and
- 33 (6) provides a service that will not impede competition among
- 34 minority business enterprises or women's business enterprises at
- 35 the time a nonprofit applies for certification as a minority
- 36 business enterprise or a women's business enterprise.
- 37 (k) "Owned and controlled" means:
- 38 (1) if the business is a qualified minority nonprofit corporation, a
- 39 majority of the board of directors are minority;
- 40 (2) if the business is a qualified women's nonprofit corporation,
- 41 a majority of the members of the board of directors are women; or
- 42 (3) if the business is a business other than a qualified minority or



- 1 women's nonprofit corporation, having:
- 2 (A) ownership of at least fifty-one percent (51%) of the
- 3 enterprise, including corporate stock of a corporation;
- 4 (B) control over the management and active in the day-to-day
- 5 operations of the business; and
- 6 (C) an interest in the capital, assets, and profits and losses of
- 7 the business proportionate to the percentage of ownership.
- 8 (l) "Minority group" means:
- 9 (1) African Americans;
- 10 (2) Native Americans;
- 11 (3) Hispanic Americans; and
- 12 (4) Asian Americans.
- 13 (m) "Separate body corporate and politic" refers to an entity
- 14 established by the general assembly as a body corporate and politic.
- 15 (n) "State agency" refers to:
- 16 (1) any authority, board, branch, commission, committee,
- 17 department, division, or other instrumentality of the executive,
- 18 including the administrative, department of state government;
- 19 (2) **a separate body corporate and politic;**
- 20 (3) **a state educational institution; and**
- 21 (4) **the Indiana public retirement system established by**
- 22 **IC 5-10.5-2-1.**
- 23 (o) "Veteran" means an individual who:
- 24 (1) has previously:
- 25 (A) served on active duty in any branch of the armed forces of
- 26 the United States or their reserves, in the national guard, or in
- 27 the Indiana National Guard; and
- 28 (B) received an honorable discharge from service; or
- 29 (2) is currently serving in:
- 30 (A) any branch of the armed forces of the United States or
- 31 their reserves;
- 32 (B) the national guard; or
- 33 (C) the Indiana National Guard.
- 34 (p) "Veteran owned small business" refers to a small business that:
- 35 (1) is independently owned and operated;
- 36 (2) is not dominant in its field of operation; and
- 37 (3) satisfies the criteria to be a veteran owned small business
- 38 concern as specified in section 1.5 of this chapter.
- 39 (q) "Women's business enterprise" means a business that is one (1)
- 40 of the following:
- 41 (1) A sole proprietorship owned and controlled by a woman.
- 42 (2) A partnership or joint venture owned and controlled by



- 1 women in which:
- 2 (A) at least fifty-one percent (51%) of the ownership is held by
- 3 women; and
- 4 (B) the management and daily business operations are
- 5 controlled by at least one (1) of the women who owns the
- 6 business.
- 7 (3) A corporation or other entity:
- 8 (A) whose management and daily business operations are
- 9 controlled by at least one (1) of the women who owns the
- 10 business; and
- 11 (B) that is at least fifty-one percent (51%) owned by women,
- 12 or if stock is issued, at least fifty-one percent (51%) of the
- 13 stock is owned by at least one (1) of the women.
- 14 (4) A qualified women's nonprofit corporation.
- 15 SECTION 2. IC 4-13-16.5-2, AS AMENDED BY P.L.15-2020,
- 16 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 17 JULY 1, 2024]: Sec. 2. (a) There is established a governor's
- 18 commission on supplier diversity. The commission shall consist of the
- 19 following members:
- 20 (1) A governor's designee, who shall serve as chairman of the
- 21 commission.
- 22 (2) The commissioner of the Indiana department of transportation,
- 23 or the economic opportunity director of the Indiana department of
- 24 transportation if the commissioner of the Indiana department of
- 25 transportation so designates.
- 26 (3) The chairperson of the board of the Indiana economic
- 27 development corporation or the chairperson's designee.
- 28 (4) The commissioner.
- 29 (5) Nine (9) individuals with demonstrated capabilities in
- 30 business and industry, especially minority business enterprises,
- 31 women's business enterprises, and veteran owned small
- 32 businesses, appointed by the governor from the following
- 33 geographical areas of the state:
- 34 (A) Three (3) from the northern one-third (1/3) of the state.
- 35 (B) Three (3) from the central one-third (1/3) of the state.
- 36 (C) Three (3) from the southern one-third (1/3) of the state.
- 37 (6) Two (2) members of the house of representatives, no more
- 38 than one (1) from the same political party, appointed by the
- 39 speaker of the house of representatives to serve in a nonvoting
- 40 advisory capacity.
- 41 (7) Two (2) members of the senate, no more than one (1) from the
- 42 same political party, appointed by the president pro tempore of



- 1 the senate to serve in a nonvoting advisory capacity.
- 2 (8) The deputy commissioner, who shall serve as a nonvoting
- 3 member.
- 4 Not more than six (6) of the ten (10) members appointed or designated
- 5 by the governor may be of the same political party. Appointed members
- 6 of the commission shall serve four (4) year terms. A vacancy occurs if
- 7 a legislative member leaves office for any reason. Any vacancy on the
- 8 commission shall be filled in the same manner as the original
- 9 appointment.
- 10 (b) Each member of the commission who is not a state employee is
- 11 entitled to the following:
- 12 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- 13 (2) Reimbursement for traveling expenses and other expenses
- 14 actually incurred in connection with the member's duties as
- 15 provided under IC 4-13-1-4 and in the state travel policies and
- 16 procedures established by the Indiana department of
- 17 administration and approved by the budget agency.
- 18 (c) Each legislative member of the commission is entitled to receive
- 19 the same per diem, mileage, and travel allowances established by the
- 20 legislative council and paid to members of the general assembly
- 21 serving on interim study committees. The allowances specified in this
- 22 subsection shall be paid by the legislative services agency from the
- 23 amounts appropriated for that purpose.
- 24 (d) A member of the commission who is a state employee but who
- 25 is not a member of the general assembly is not entitled to any of the
- 26 following:
- 27 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- 28 (2) Reimbursement for traveling expenses as provided under
- 29 IC 4-13-1-4.
- 30 (3) Other expenses actually incurred in connection with the
- 31 member's duties.
- 32 (e) The commission shall meet at least four (4) times each year and
- 33 at other times as the chairman considers necessary.
- 34 (f) The duties of the commission shall include but not be limited to
- 35 the following:
- 36 (1) Identify minority business enterprises, women's business
- 37 enterprises, and veteran owned small businesses in the state.
- 38 (2) Assess the needs of minority business enterprises, women's
- 39 business enterprises, and veteran owned small businesses.
- 40 (3) Initiate aggressive programs to assist minority business
- 41 enterprises, women's business enterprises, and veteran owned
- 42 small businesses in obtaining state contracts.



- 1 (4) Give special publicity to procurement, bidding, and qualifying
 2 procedures.
- 3 (5) Include minority business enterprises, women's business
 4 enterprises, and veteran owned small businesses on solicitation
 5 mailing lists.
- 6 (6) Evaluate the competitive differences between qualified
 7 minority or women's nonprofit corporations and other than
 8 qualified minority or women's nonprofit corporations and veteran
 9 owned small businesses that offer similar services and make
 10 recommendation to the department on policy changes necessary
 11 to ensure fair competition among minority business enterprises,
 12 women's business enterprises, and veteran owned small
 13 businesses.
- 14 (7) Define the duties, goals, and objectives of the deputy
 15 commissioner of the department as created under this chapter to
 16 assure compliance by all state agencies ~~separate bodies corporate~~
 17 ~~and politic, and state educational institutions~~ with state and
 18 federal legislation and policy concerning the awarding of
 19 contracts (including, notwithstanding section 1(d) of this chapter
 20 or any other law, contracts of state educational institutions) to
 21 minority business enterprises, women's business enterprises, and
 22 veteran owned small businesses.
- 23 (8) Establish annual goals:
- 24 (A) for the use of minority and women's business enterprises;
 25 and
- 26 (B) derived from a statistical analysis of utilization study of
 27 state contracts (including, notwithstanding section 1(d) of this
 28 chapter or any other law, contracts of state educational
 29 institutions) that are required to be updated every five (5)
 30 years.
- 31 (9) Prepare a review of the commission and the various affected
 32 departments of government to be submitted to the governor and
 33 the legislative council on March 1 and October 1 of each year,
 34 evaluating progress made in the areas defined in this subsection.
- 35 (10) Ensure that the statistical analysis required under this
 36 section:
- 37 (A) is based on goals for participation of minority business
 38 enterprises established in *Richmond v. Croson*, 488 U.S. 469
 39 (1989);
- 40 (B) includes information on both contracts and subcontracts
 41 (including, notwithstanding section 1(d) of this chapter or any
 42 other law, contracts and subcontracts of state educational



- 1 institutions); and
 2 (C) uses data on the combined capacity of minority business
 3 enterprises, women's business enterprises, and veteran owned
 4 small businesses in Indiana and not just regional data.
 5 (11) Establish annual goals for the use of minority business
 6 enterprises, women's business enterprises, and veteran owned
 7 small businesses for any contract that:
 8 (A) will be paid for in whole or in part with state grant funds;
 9 and
 10 (B) involves the use of real property of a unit (as defined in
 11 IC 4-4-32.2-9).
 12 (12) Ensure compliance with the establishment and evaluation of
 13 the annual goal for veteran owned small businesses established in
 14 section 3.5 of this chapter.
 15 (g) The department shall direct contractors to demonstrate a good
 16 faith effort to meet the annual participation goals established under
 17 subsection (f)(11). The good faith effort shall be demonstrated by
 18 contractors using the repository of certified firms created under section
 19 3 of this chapter or a similar repository maintained by a unit (as defined
 20 in IC 4-4-32.2-9).
 21 (h) The department shall adopt rules of ethics under IC 4-22-2 for
 22 commission members other than commission members appointed
 23 under subsection (a)(6) or (a)(7).
 24 (i) The department shall furnish administrative support and staff as
 25 is necessary for the effective operation of the commission.
 26 (j) The commission shall advise the department on developing a
 27 statement, to be included in all applications for and agreements
 28 governing grants made with state funds, stating the importance of the
 29 use of minority business enterprises, women's business enterprises, and
 30 veteran owned small businesses in fulfilling the purposes of the grant.
 31 SECTION 3. IC 4-13-16.5-3, AS AMENDED BY P.L.15-2020,
 32 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2024]: Sec. 3. (a) There is created in the department a deputy
 34 commissioner for supplier diversity development. Upon consultation
 35 with the commission, the commissioner of the department, with the
 36 approval of the governor, shall appoint an individual who possesses
 37 demonstrated capability in business or industry, especially in minority
 38 business enterprises, women's business enterprises, or veteran owned
 39 small businesses, to serve as deputy commissioner to work with the
 40 commission in the implementation of this chapter.
 41 (b) The deputy commissioner shall do the following:
 42 (1) Identify and certify minority business enterprises, women's



- 1 business enterprises, and veteran owned small businesses for state
2 projects.
- 3 (2) Establish a central certification file.
- 4 (3) Periodically update the certification status of each minority
5 business enterprise, women's business enterprise, or veteran
6 owned small business.
- 7 (4) Monitor the progress in achieving the goals established under
8 section 2(f)(8) and 2(f)(11) of this chapter.
- 9 (5) Require all state agencies ~~separate bodies corporate and~~
10 ~~politic, and state educational institutions~~ to report on planned and
11 actual participation of minority business enterprises, women's
12 business enterprises, and veteran owned small businesses in
13 contracts awarded by state agencies. The commissioner may
14 exclude from the reports uncertified minority business enterprises,
15 women's business enterprises, and veteran owned small
16 businesses.
- 17 (6) Determine and define opportunities for minority, women's,
18 and veteran owned business participation in contracts awarded by
19 all state agencies. ~~separate bodies corporate and politic, and state~~
20 ~~educational institutions.~~
- 21 (7) Implement programs initiated by the commission under
22 section 2 of this chapter.
- 23 (8) Perform other duties as defined by the commission or by the
24 commissioner.

