

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1059 be amended to read as follows:

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:
3 "SECTION 1. IC 4-13.6-2-13 IS ADDED TO THE INDIANA
4 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
5 [EFFECTIVE JULY 1, 2012]: **Sec. 13. (a) The division may**
6 **designate a public works project as an SDVO small business**
7 **set-aside (as defined in IC 5-22-14.1-2) under rules adopted by the**
8 **department under IC 4-22-2.**
9 **(b) The following apply to rules adopted by the department**
10 **governing small business set-asides for public works projects:**
11 **(1) The rules are subject to the criteria for determining**
12 **whether a business is an SDVO small business under**
13 **IC 5-22-14.1-5.**
14 **(2) The rules must establish procedures for administering an**
15 **SDVO small business set-aside program for public works**
16 **projects that are substantially the same as the procedures**
17 **described in IC 5-22-14.1.**
18 SECTION 2. IC 5-22-14.1 IS ADDED TO THE INDIANA CODE
19 AS A **NEW CHAPTER TO READ AS FOLLOWS** [EFFECTIVE
20 JULY 1, 2012]:
21 **Chapter 14.1. Indiana Service Disabled Veteran Owned Small**
22 **Business Set-Aside Purchases**
23 **Sec. 1. As used in this chapter, "SDVO small business" means**
24 **a service disabled veteran owned small business that meets the**

1 requirements of section 5 of this chapter.

2 **Sec. 2.** As used in this chapter, "SDVO small business set-aside"
3 means a purchase in which the solicitation states that offers will be
4 accepted only by SDVO small businesses.

5 **Sec. 3.** As used in this chapter, "service disabled veteran" has
6 the meaning set forth in 15 U.S.C. 632(q)(1) as in effect January 1,
7 2011.

8 **Sec. 4.** As used in this chapter, "service disabled veteran owned
9 small business" means a small business concern owned and
10 controlled by a service disabled veteran (as defined in 15 U.S.C.
11 632(q)(2)) as in effect January 1, 2011.

12 **Sec. 5.** To qualify as an SDVO small business for purposes of
13 this chapter, a service disabled veteran owned small business must:

14 (1) be owned and controlled by a service disabled veteran who
15 is a resident of Indiana; and

16 (2) have a current verification as a service disabled veteran
17 owned small business under 38 CFR 74 et seq. by the United
18 States Department of Veterans Affairs Center of Veterans
19 Enterprise.

20 **Sec. 6. (a)** A state agency may identify as an SDVO small
21 business set-aside specific supplies or services for which a purchase
22 has been requested under this article.

23 (b) An SDVO small business must meet the requirements
24 provided in section 5 of this chapter at the time the solicitation for
25 the purchase is issued, and the public notice of the purchase must
26 state that the purchase is an SDVO small business set-aside.

27 **Sec. 7.** If a purchase is designated as an SDVO small business
28 set-aside, the solicitation must be confined to SDVO small
29 businesses.

30 **Sec. 8.** A purchasing agent may not designate a purchase as an
31 SDVO small business set-aside unless there is a reasonable
32 expectation that offers will be obtained from at least two (2) SDVO
33 small businesses capable of furnishing the desired supplies or
34 service at a fair and reasonable price.

35 **Sec. 9. (a)** Except as provided in subsection (b), each state
36 agency shall set a goal for participation by SDVO small businesses
37 of at least three percent (3%) of the overall dollar amount
38 expended each state fiscal year by the state agency for purchases.

39 (b) A state agency is not required to meet the goal described in
40 subsection (a) if the state agency:

41 (1) determines that the goal is not consistent with the goals of
42 delivering the supplies or services within a timely manner and
43 within the budgeted amount; or

44 (2) exercising financial prudence, determines that it is unable
45 to meet the goal established by subsection (a).

46 **Sec. 10.** A contract shall be awarded to the lowest responsible

1 and responsive offeror among the SDVO small businesses in
2 accordance with the rules of the Indiana department of
3 administration.

4 Sec. 11. If a purchasing agent determines that acceptance of the
5 lowest responsible and responsive offer will result in the payment
6 of an unreasonable price, the purchasing agent shall reject all
7 offers and may withdraw designation of the purchase as an SDVO
8 small business set-aside.

9 Sec. 12. A purchase from an SDVO small business under this
10 chapter is subject to:

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

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

15 Sec. 13. An SDVO small business may not receive a price
16 preference under IC 5-22-15-23 for purchases designated as an
17 SDVO small business set-aside under this chapter.

18 Sec. 14. The Indiana economic development corporation may
19 assist a state agency in doing any of the following:

- 20 (1) Compiling and maintaining a comprehensive list of SDVO
21 small businesses.
- 22 (2) Assisting SDVO small businesses in complying with the
23 procedures for bidding on governmental contracts.
- 24 (3) Examining requests from state agencies for the purchase
25 of supplies or services to help determine which purchases are
26 to be designated SDVO small business set-asides.
- 27 (4) Simplifying specifications and contract terms to increase
28 the opportunities for SDVO small business participation in
29 governmental contracts.

30 Sec. 15. (a) The Indiana department of administration shall
31 annually evaluate the progress of each state agency in meeting the
32 goal provided in section 9 of this chapter for the previous state
33 fiscal year.

34 (b) Beginning in 2012, after June 30 and before November 1 of
35 each year, the Indiana department of administration shall submit
36 a report to the governor and the legislative council (in an electronic
37 format under IC 5-14-6). The report must include:

- 38 (1) a list of each state agency that failed to meet the goal
39 established by section 9 of this chapter during the previous
40 state fiscal year; and
- 41 (2) for each state agency described in subdivision (1);
 - 42 (A) a summary of why the state agency failed to meet the
43 goal; and
 - 44 (B) what actions are being taken by the state agency to
45 meet the goal in the current state fiscal year.
- 46 (c) The Indiana department of administration shall post the

1 report described in subsection (b) on the department's Internet web
 2 site within thirty (30) days after it is submitted to the governor and
 3 the legislative council.

4 **Sec. 16. The Indiana department of administration shall adopt**
 5 **rules under IC 4-22-2 to implement this chapter.**

6 SECTION 3. IC 5-22-15-23 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 23. (a) **Except as**
 8 **provided in IC 5-22-14.1-13**, a governmental body shall give a fifteen
 9 percent (15%) preference for supplies to an Indiana small business (as
 10 defined in IC 5-22-14-1) that submits an offer for purchase under this
 11 article.

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

14 Page 2, after line 4, begin a new paragraph and insert:

15 "SECTION 5. [EFFECTIVE UPON PASSAGE] (a) **The Indiana**
 16 **department of administration may adopt temporary rules in the**
 17 **manner provided for the adoption of emergency rules under**
 18 **IC 4-22-2-37.1 to implement IC 4-13.6-2-13 and IC 5-22-14.1, as**
 19 **added by this act, and IC 5-22-15-23, as amended by this act.**

20 (b) **An emergency rule adopted under this SECTION expires on**
 21 **the earlier of:**

22 (1) **the date the Indiana department of administration adopts**
 23 **permanent rules under IC 4-22-2 to replace the emergency**
 24 **rules; or**

25 (2) **December 31, 2013.**

26 (c) **This SECTION expires January 1, 2014.**

27 SECTION 6. **An emergency is declared for this act."**

28 Renumber all SECTIONS consecutively.

(Reference is to HB 1059 as printed January 17, 2012.)

Representative Moseley