

# HOUSE BILL No. 4197

February 1, 2007, Introduced by Reps. Gonzales, Clack, Polidori, Bieda, Hammon, Cushingberry, Kathleen Law, Ball, Valentine, Bennett, Rick Jones, Hopgood, Leland and Johnson and referred to the Committee on Health Policy.

A bill to amend 1984 PA 431, entitled  
"The management and budget act,"  
by amending section 261 (MCL 18.1261), as amended by 2006 PA 622.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 261. (1) The department shall provide for the purchase  
2 of, the contracting for, and the providing of supplies, materials,  
3 services, insurance, utilities, third party financing, equipment,  
4 printing, and all other items as needed by state agencies for which  
5 the legislature has not otherwise expressly provided. In all  
6 purchases made by the department, all other things being equal,  
7 preference shall be given to products manufactured or services  
8 offered by Michigan-based firms, if consistent with federal  
9 statutes. The department shall solicit competitive bids from the

1 private sector whenever practicable to efficiently and effectively  
2 meet the state's needs. The department shall first determine that  
3 competitive solicitation of bids in the private sector is not  
4 appropriate before it shall use any other procurement method for an  
5 acquisition.

6 (2) The department shall make all discretionary decisions  
7 concerning the solicitation, award, amendment, cancellation, and  
8 appeal of state contracts.

9 (3) The department shall utilize competitive solicitation for  
10 all purchases authorized under this act unless 1 or more of the  
11 following apply:

12 (a) Procurement of goods or services is necessary for the  
13 imminent protection of public health or safety or to mitigate an  
14 imminent threat to public health or safety, as determined by the  
15 director or his or her designated representative.

16 (b) Procurement of goods or services is for emergency repair  
17 or construction caused by unforeseen circumstances when the repair  
18 or construction is necessary to protect life or property.

19 (c) Procurement of goods or services is in response to a  
20 declared state of emergency or state of disaster under the  
21 emergency management act, 1976 PA 390, MCL 30.401 to 30.421.

22 (d) Procurement of goods or services is in response to a  
23 declared state of emergency under 1945 PA 302, MCL 10.31 to 10.33.

24 (e) Procurement of goods or services is in response to a  
25 declared state of energy emergency under 1982 PA 191, MCL 10.81 to  
26 10.89.

27 (f) Procurement of goods or services is within a state

1 agency's purchasing authority delegated under subsection (4), and  
2 the state agency has established policies or procedures approved by  
3 the department to ensure that goods or services are purchased by  
4 the state agency at fair and reasonable prices.

5 (4) The department may delegate its procurement authority to  
6 other state agencies within dollar limitations and for designated  
7 types of procurements. The department may withdraw delegated  
8 authority upon a finding that a state agency did not comply with  
9 departmental procurement directives.

10 (5) The department may enter into lease purchases or  
11 installment purchases for periods not exceeding the anticipated  
12 useful life of the items purchased unless otherwise prohibited by  
13 law.

14 (6) The department shall issue directives for the procurement,  
15 receipt, inspection, and storage of supplies, materials, and  
16 equipment, and for printing and services needed by state agencies.  
17 The department shall provide standard specifications and standards  
18 of performance applicable to purchases.

19 (7) The department may enter into a cooperative purchasing  
20 agreement with 1 or more other states or public entities for the  
21 purchase of goods, including, but not limited to, recycled goods,  
22 and services necessary for state programs.

23 (8) In awarding a contract under this section, the department  
24 shall give a preference of up to 10% of the amount of the contract  
25 to a qualified disabled veteran. If the qualified disabled veteran  
26 otherwise meets the requirements of the contract solicitation and  
27 with the preference is the lowest bidder, the department shall

1 enter into a procurement contract with the qualified disabled  
2 veteran under this act. If 2 or more qualified disabled veterans  
3 are the lowest bidders on a contract, all other things being equal,  
4 the qualified disabled veteran with the lowest bid shall be awarded  
5 the contract under this act.

6 (9) It is the goal of the department to award each year not  
7 less than 3% of its total expenditures for construction, goods, and  
8 services to qualified disabled veterans. The department may count  
9 toward its 3% yearly goal described in this subsection that portion  
10 of all procurement contracts in which the business entity that  
11 received the procurement contract subcontracts with a qualified  
12 disabled veteran. Each year, the department shall report to each  
13 house of the legislature on all of the following for the  
14 immediately preceding 12-month period:

15 (a) The number of qualified disabled veterans who submitted a  
16 bid for a state procurement contract.

17 (b) The number of qualified disabled veterans who entered into  
18 procurement contracts with this state and the total value of those  
19 procurement contracts.

20 (c) Whether the department achieved the goal described in this  
21 subsection.

22 (d) The recommendations described in subsection (10).

23 (10) Each year, the department shall review the progress of  
24 all state agencies in meeting the 3% goal with input from statewide  
25 veterans service organizations and from the business community,  
26 including businesses owned by qualified disabled veterans, and  
27 shall make recommendations to each house of the legislature

1 regarding continuation, increases, or decreases in the percentage  
2 goal. The recommendations shall be based upon the number of  
3 businesses that are owned by qualified disabled veterans and on the  
4 continued need to encourage and promote businesses owned by  
5 qualified disabled veterans.

6 (11) To assist the department in reaching the goal described  
7 in subsection (9), the governor shall recommend to the legislature  
8 changes in programs to assist businesses owned by qualified  
9 disabled veterans.

10 (12) BEGINNING OCTOBER 1, 2007, WHEN AWARDING A CONTRACT UNDER  
11 THIS SECTION TO CONTRACTORS THAT OPERATE PUBLIC CAFETERIAS IN STATE  
12 FACILITIES, STATE AGENCIES SHALL GIVE PREFERENCE TO THOSE  
13 CONTRACTORS THAT PROVIDE FOODS OF HIGHER NUTRITIONAL VALUE AND THAT  
14 DO NOT PROVIDE FOODS CONTAINING TRANS FATTY ACIDS FOR CONSUMPTION  
15 IN THE CAFETERIA.

16 (13) ~~(12)~~As used in this section:

17 (a) "Qualified disabled veteran" means a business entity that  
18 is 51% or more owned by 1 or more veterans with a service-connected  
19 disability.

20 (b) "Service-connected disability" means a disability incurred  
21 or aggravated in the line of duty in the active military, naval, or  
22 air service as described in 38 USC 101(16).

23 (c) "Veteran" means a person who served in the active  
24 military, naval, or air service and who was discharged or released  
25 from his or her service under conditions other than dishonorable.