

HOUSE BILL No. 5986

December 2, 2014, Introduced by Reps. Driskell, Cochran, Irwin, Singh, Zemke, Barnett, Tlaib, Switalski and Geiss and referred to the Committee on Natural Resources.

A bill to amend 1984 PA 431, entitled
"The management and budget act,"
by amending section 261 (MCL 18.1261), as amended by 2012 PA 555.

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, **SERVICES, INCLUDING, SUBJECT TO SUBSECTION (12), RESPONSE**
5 **ACTIVITIES NECESSARY TO ADDRESS A RELEASE OF CRUDE OIL OR PETROLEUM**
6 **FROM A PIPELINE,** and all other items as needed by state agencies
7 for which the legislature has not otherwise expressly provided. If
8 consistent with federal statutes, in all purchases made by the
9 department, all other things being equal, preference shall be given
10 to products manufactured or services offered by Michigan-based

1 firms or by facilities with respect to which the operator is
2 designated as a clean corporate citizen under part 14 of the
3 natural resources and environmental protection act, 1994 PA 451,
4 MCL 324.1401 to ~~324.1427.~~ **324.1429**. The department shall solicit
5 competitive bids from the private sector whenever practicable to
6 efficiently and effectively meet the state's needs. The department
7 shall first determine that competitive solicitation of bids in the
8 private sector is not appropriate before using any other
9 procurement method for an acquisition.

10 (2) The department shall make all discretionary decisions
11 concerning the solicitation, award, amendment, cancellation, and
12 appeal of state contracts.

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

16 (a) Procurement of goods or services is necessary for the
17 imminent protection of public health or safety or to mitigate an
18 imminent threat to public health or safety, as determined by the
19 director or his or her designated representative.

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

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

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

1 (e) Procurement of goods or services is in response to a
2 declared state of energy emergency under 1982 PA 191, MCL 10.81 to
3 10.89.

4 (f) Procurement of goods or services is within a state
5 agency's purchasing authority delegated under subsection (4), and
6 the state agency has established policies or procedures approved by
7 the department to ensure that goods or services are purchased by
8 the state agency at fair and reasonable prices.

9 (4) The department may delegate its procurement authority to
10 other state agencies ~~within dollar limitations and for~~ designated
11 types of procurements **AND SUBJECT TO SPECIFIED COST LIMITATIONS**.
12 The department may withdraw delegated authority upon a finding that
13 a state agency did not comply with departmental procurement
14 directives.

15 (5) The department may enter into lease purchases or
16 installment purchases for periods not exceeding the anticipated
17 useful life of the items purchased unless otherwise prohibited by
18 law.

19 (6) The department shall issue directives for the procurement,
20 receipt, inspection, and storage of supplies, materials, and
21 equipment, and for printing and services needed by state agencies.
22 The department shall provide standard specifications and standards
23 of performance applicable to purchases.

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

1 (8) In awarding a contract under this section, the department
2 shall give a preference of up to 10% of the amount of the contract
3 to a qualified disabled veteran. If the qualified disabled veteran
4 otherwise meets the requirements of the contract solicitation and
5 with the preference is the lowest bidder, the department shall
6 enter into a procurement contract with the qualified disabled
7 veteran under this act. If 2 or more qualified disabled veterans
8 are the lowest bidders on a contract, all other things being equal,
9 the qualified disabled veteran with the lowest bid shall be awarded
10 the contract under this act.

11 (9) It is the goal of the department to award each year not
12 less than 5% of its total expenditures for construction, goods, and
13 services to qualified disabled veterans. The department may count
14 toward its 5% yearly goal described in this subsection that portion
15 of all procurement contracts in which the business entity that
16 received the procurement contract subcontracts with a qualified
17 disabled veteran. Each year, the department shall report to each
18 house of the legislature on all of the following for the
19 immediately preceding 12-month period:

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

22 (b) The number of qualified disabled veterans who entered into
23 procurement contracts with this state and the total value of those
24 procurement contracts.

25 (c) Whether the department achieved the goal described in this
26 subsection.

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

1 (10) Each year, the department shall review the progress of
2 all state agencies in meeting the 5% goal with input from statewide
3 veterans service organizations and from the business community,
4 including businesses owned by qualified disabled veterans, and
5 shall make recommendations to each house of the legislature
6 regarding continuation, increases, or decreases in the percentage
7 goal. The recommendations shall be based upon the number of
8 businesses that are owned by qualified disabled veterans and on the
9 continued need to encourage and promote businesses owned by
10 qualified disabled veterans.

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

15 **(12) THE DEPARTMENT SHALL INCLUDE THE FOLLOWING PROVISIONS IN**
16 **A WRITTEN CONTRACT FOR RESPONSE ACTIVITIES NECESSARY TO ADDRESS THE**
17 **RELEASE OF CRUDE OIL OR PETROLEUM FROM A PIPELINE:**

18 **(A) THE PERSON CONTRACTING TO PROVIDE RESPONSE ACTIVITIES**
19 **AGREES TO NOT KNOWINGLY HIRE OR CONTRACT WITH ANY BUSINESS ENTITY**
20 **THAT KNOWINGLY HIRES AN INDIVIDUAL WHO IS NOT AUTHORIZED UNDER**
21 **FEDERAL LAW TO WORK IN THE UNITED STATES.**

22 **(B) THE PERSON CONTRACTING TO PROVIDE RESPONSE ACTIVITIES**
23 **AGREES TO MAKE A GOOD-FAITH EFFORT TO EMPLOY OR CONTRACT WITH**
24 **MICHIGAN RESIDENTS IN CARRYING OUT ITS RESPONSIBILITIES UNDER THE**
25 **CONTRACT.**

26 (13) ~~(12)~~As used in this section:

27 (a) "Qualified disabled veteran" means a business entity that

1 is 51% or more owned by 1 or more veterans with a service-connected
2 disability.

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

6 (c) "Veteran" means a person who served in the army, air
7 force, navy, marine corps, or coast guard and who was discharged or
8 released from his or her service with an honorable or general
9 discharge.