

HOUSE BILL No. 1077

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13-16.5-2; IC 21-18-16-8.

Synopsis: State educational institutions. Requires the governor's supplier diversity commission, the commission for higher education, and the state budget committee to review each state educational institution's annual report regarding certain supplier diversity requirements. Provides that if a state educational institution's annual report is not in compliance with certain supplier diversity requirements, the commission for higher education and the state budget committee shall reduce the amount provided to the state educational institution under the outcomes based funding formula by a certain percentage.

Effective: July 1, 2024.

Bartlett, King

January 8, 2024, read first time and referred to Committee on Education.



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.

HOUSE BILL No. 1077



A BILL FOR AN ACT to amend the Indiana Code concerning higher education.

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

1 SECTION 1. IC 4-13-16.5-2, AS AMENDED BY P.L.15-2020,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]: Sec. 2. (a) There is established a governor's
4 commission on supplier diversity. The commission shall consist of the
5 following members:
6 (1) A governor's designee, who shall serve as chairman of the
7 commission.
8 (2) The commissioner of the Indiana department of transportation,
9 or the economic opportunity director of the Indiana department of
10 transportation if the commissioner of the Indiana department of
11 transportation so designates.
12 (3) The chairperson of the board of the Indiana economic
13 development corporation or the chairperson's designee.
14 (4) The commissioner.
15 (5) Nine (9) individuals with demonstrated capabilities in
16 business and industry, especially minority business enterprises,
17 women's business enterprises, and veteran owned small



- 1 businesses, appointed by the governor from the following
 2 geographical areas of the state:
- 3 (A) Three (3) from the northern one-third (1/3) of the state.
 - 4 (B) Three (3) from the central one-third (1/3) of the state.
 - 5 (C) Three (3) from the southern one-third (1/3) of the state.
- 6 (6) Two (2) members of the house of representatives, no more
 7 than one (1) from the same political party, appointed by the
 8 speaker of the house of representatives to serve in a nonvoting
 9 advisory capacity.
- 10 (7) Two (2) members of the senate, no more than one (1) from the
 11 same political party, appointed by the president pro tempore of
 12 the senate to serve in a nonvoting advisory capacity.
- 13 (8) The deputy commissioner, who shall serve as a nonvoting
 14 member.
- 15 Not more than six (6) of the ten (10) members appointed or designated
 16 by the governor may be of the same political party. Appointed members
 17 of the commission shall serve four (4) year terms. A vacancy occurs if
 18 a legislative member leaves office for any reason. Any vacancy on the
 19 commission shall be filled in the same manner as the original
 20 appointment.
- 21 (b) Each member of the commission who is not a state employee is
 22 entitled to the following:
- 23 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
 - 24 (2) Reimbursement for traveling expenses and other expenses
 25 actually incurred in connection with the member's duties as
 26 provided under IC 4-13-1-4 and in the state travel policies and
 27 procedures established by the Indiana department of
 28 administration and approved by the budget agency.
- 29 (c) Each legislative member of the commission is entitled to receive
 30 the same per diem, mileage, and travel allowances established by the
 31 legislative council and paid to members of the general assembly
 32 serving on interim study committees. The allowances specified in this
 33 subsection shall be paid by the legislative services agency from the
 34 amounts appropriated for that purpose.
- 35 (d) A member of the commission who is a state employee but who
 36 is not a member of the general assembly is not entitled to any of the
 37 following:
- 38 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
 - 39 (2) Reimbursement for traveling expenses as provided under
 40 IC 4-13-1-4.
 - 41 (3) Other expenses actually incurred in connection with the
 42 member's duties.



1 (e) The commission shall meet at least four (4) times each year and
2 at other times as the chairman considers necessary.

3 (f) The duties of the commission shall include but not be limited to
4 the following:

5 (1) Identify minority business enterprises, women's business
6 enterprises, and veteran owned small businesses in the state.

7 (2) Assess the needs of minority business enterprises, women's
8 business enterprises, and veteran owned small businesses.

9 (3) Initiate aggressive programs to assist minority business
10 enterprises, women's business enterprises, and veteran owned
11 small businesses in obtaining state contracts.

12 (4) Give special publicity to procurement, bidding, and qualifying
13 procedures.

14 (5) Include minority business enterprises, women's business
15 enterprises, and veteran owned small businesses on solicitation
16 mailing lists.

17 (6) Evaluate the competitive differences between qualified
18 minority or women's nonprofit corporations and other than
19 qualified minority or women's nonprofit corporations and veteran
20 owned small businesses that offer similar services and make
21 recommendation to the department on policy changes necessary
22 to ensure fair competition among minority business enterprises,
23 women's business enterprises, and veteran owned small
24 businesses.

25 (7) Define the duties, goals, and objectives of the deputy
26 commissioner of the department as created under this chapter to
27 assure compliance by all state agencies, separate bodies corporate
28 and politic, and state educational institutions with state and
29 federal legislation and policy concerning the awarding of
30 contracts (including, notwithstanding section 1(d) of this chapter
31 or any other law, contracts of state educational institutions) to
32 minority business enterprises, women's business enterprises, and
33 veteran owned small businesses.

34 (8) Establish annual goals:

35 (A) for the use of minority and women's business enterprises;
36 and

37 (B) derived from a statistical analysis of utilization study of
38 state contracts (including, notwithstanding section 1(d) of this
39 chapter or any other law, contracts of state educational
40 institutions) that are required to be updated every five (5)
41 years.

42 (9) Prepare a review of the commission and the various affected



1 departments of government to be submitted to the governor and
 2 the legislative council on March 1 and October 1 of each year,
 3 evaluating progress made in the areas defined in this subsection.

4 (10) Ensure that the statistical analysis required under this
 5 section:

6 (A) is based on goals for participation of minority business
 7 enterprises established in *Richmond v. Croson*, 488 U.S. 469
 8 (1989);

9 (B) includes information on both contracts and subcontracts
 10 (including, notwithstanding section 1(d) of this chapter or any
 11 other law, contracts and subcontracts of state educational
 12 institutions); and

13 (C) uses data on the combined capacity of minority business
 14 enterprises, women's business enterprises, and veteran owned
 15 small businesses in Indiana and not just regional data.

16 (11) Establish annual goals for the use of minority business
 17 enterprises, women's business enterprises, and veteran owned
 18 small businesses for any contract that:

19 (A) will be paid for in whole or in part with state grant funds;
 20 and

21 (B) involves the use of real property of a unit (as defined in
 22 IC 4-4-32.2-9).

23 (12) Ensure compliance with the establishment and evaluation of
 24 the annual goal for veteran owned small businesses established in
 25 section 3.5 of this chapter.

26 **(13) Review each state educational institution's annual report**
 27 **required under section 4.5 of this chapter in conjunction with**
 28 **the commission for higher education established by**
 29 **IC 21-18-2-1 and the state budget committee, in accordance**
 30 **with IC 21-18-16-9.**

31 (g) The department shall direct contractors to demonstrate a good
 32 faith effort to meet the annual participation goals established under
 33 subsection (f)(11). The good faith effort shall be demonstrated by
 34 contractors using the repository of certified firms created under section
 35 3 of this chapter or a similar repository maintained by a unit (as defined
 36 in IC 4-4-32.2-9).

37 (h) The department shall adopt rules of ethics under IC 4-22-2 for
 38 commission members other than commission members appointed
 39 under subsection (a)(6) or (a)(7).

40 (i) The department shall furnish administrative support and staff as
 41 is necessary for the effective operation of the commission.

42 (j) The commission shall advise the department on developing a



1 statement, to be included in all applications for and agreements
2 governing grants made with state funds, stating the importance of the
3 use of minority business enterprises, women's business enterprises, and
4 veteran owned small businesses in fulfilling the purposes of the grant.

5 SECTION 2. IC 21-18-16-8 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2024]: **Sec. 8. (a) Not later than December 31, after the close of**
8 **each state fiscal year, the commission, in conjunction with the**
9 **governor's commission on supplier diversity established by**
10 **IC 4-13-16.5-2 and the state budget committee, shall review each**
11 **state educational institution's annual report required under**
12 **IC 4-13-16.5-4.5 regarding supplier diversity goals.**

13 **(b) If a state educational institution's annual report is not in**
14 **compliance with the requirements of IC 4-13-16.5-2, the**
15 **commission, in conjunction with the state budget committee, shall:**

16 **(1) determine the total percentage by which the state**
17 **educational institution fell short of the requirements of**
18 **IC 4-13-16.5-2; and**

19 **(2) reduce the state educational institution's distribution**
20 **under this chapter by the amount determined under**
21 **subdivision (1) for the following state fiscal year.**

