

HOUSE BILL No. 4100

January 23, 2007, Introduced by Rep. Wojno and referred to the Committee on Government Operations.

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

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

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

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

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

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

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

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

25 (e) Procurement of goods or services is in response to a
26 declared state of energy emergency under 1982 PA 191, MCL 10.81 to
27 10.89.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (12) BEGINNING JANUARY 1, 2008, AND EACH YEAR AFTER 2008, THE
12 DEPARTMENT SHALL REPORT TO EACH HOUSE OF THE LEGISLATURE ON THE
13 AMOUNT OF GOODS AND SERVICES PURCHASED BY ALL STATE AGENCIES IN THE
14 IMMEDIATELY PRECEDING FISCAL YEAR THAT WERE PURCHASED FROM AN
15 EXPATRIATED BUSINESS AND THE AMOUNT OF GOODS AND SERVICES PURCHASED
16 BY ALL STATE AGENCIES IN THE IMMEDIATELY PRECEDING FISCAL YEAR THAT
17 WERE MANUFACTURED OR PROVIDED BY AN INDIVIDUAL WHO IS NOT A CITIZEN
18 OF THE UNITED STATES, A LEGAL RESIDENT ALIEN OF THE UNITED STATES,
19 OR AN INDIVIDUAL WHO HOLDS A VALID VISA OF THE UNITED STATES.

20 (13) ~~(12)~~As used in this section:

21 (A) "EXPATRIATED BUSINESS" MEANS A CORPORATION OR AN AFFILIATE
22 OF THE CORPORATION THAT IS INCORPORATED IN A TAX HAVEN COUNTRY
23 AFTER DECEMBER 31, 2001, BUT THE UNITED STATES IS THE PRINCIPAL
24 MARKET FOR THE PUBLIC TRADING OF THE CORPORATION'S STOCK, AS
25 DETERMINED BY THE DIRECTOR.

26 (B) ~~(a)~~"Qualified disabled veteran" means a business entity
27 that is 51% or more owned by 1 or more veterans with a service-

1 connected disability.

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

5 (D) "TAX HAVEN COUNTRY" MEANS EACH OF THE FOLLOWING: BARBADOS,
6 BERMUDA, BRITISH VIRGIN ISLANDS, CAYMAN ISLANDS, COMMONWEALTH OF
7 THE BAHAMAS, CYPRUS, GIBRALTAR, ISLE OF MAN, THE PRINCIPALITY OF
8 LIECHTENSTEIN, THE PRINCIPALITY OF MONACO, AND THE REPUBLIC OF THE
9 SEYCHELLES.

10 (E) ~~(e)~~—"Veteran" means a person who served in the active
11 military, naval, or air service and who was discharged or released
12 from his or her service under conditions other than dishonorable.