

CREATE BIOBASED PRODUCT PURCHASING PROGRAM

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House Bill 4246

Sponsor: Rep. Paul Muxlow

Committee: Oversight

Complete to 9-15-14

A SUMMARY OF HOUSE BILL 4246 AS INTRODUCED 2-12-13

House Bill 4246 would amend the Management and Budget Act to require the creation of a Biobased Product Preference Program.

Under the bill, the director of the Department of Technology, Management, and Budget would have to establish a biobased product preference program no later than 180 days after the bill's effective date. The program would give purchasing preference to designated items that were composed of the highest percentage of biobased content practicable, or that complied with regulations adopted under federal law (at 42 USC 6914B-1) by the administrator of the U.S. Environmental Protection Agency.

As part of the program, the director would be required to adopt a policy that set minimum biobased content specifications for awarding contracts in a manner that ensured the biobased content of products was consistent with federal guidelines. The director would be required to maintain a list of products that qualify as designated items under the biobased product preference program. An agency could notify the director if, after assessing the functions of designated items, it determined none of them were functionally capable of meeting a specific need. Then the department or agency could proceed with the solicitation and purchase of a non-biobased product without the purchase constituting a failure to comply with the preference requirement.

Other exceptions to preference requirement

The bill would not apply to the purchase of motor vehicle fuel, heating oil, or electricity.

Further, the director could determine that the purchase of a biobased product was not possible if any of the following applied: the product was not available within a reasonable period of time; the product failed to meet performance standards; or, the price of the product was unreasonable (that is, it exceeded the price or fair market value of a substantially equivalent product). However, the director could set a percentage up to five percent by which the price of a designated biobased product could exceed the price or fair market value of a substantially equivalent non-biobased product without being considered unreasonable.

Vendor certification

Vendors would have to certify that their biobased products met the content requirements for the designated item, and upon request, would be required to provide the director with information to verify the biobased content of the product.

Rules

The bill requires that the director adopt rules in accordance with the Administrative Procedures Act that prescribing:

- The procedures for giving preference to biobased products.
- The purchasing policy the director adopted.
- The procedures and guidelines the director would use in determining the percentages by which the price of designated biobased products could exceed the price of fair market value of equivalent products.
- Other requirements or procedures necessary to implement the program.

Annual report

The director would be required to prepare and submit an annual report describing the number and type of biobased products purchased and the additional amount of money spent by the department and other state agencies. The report would be submitted to the governor, the Secretary of Senate, and the Speaker of the House of Representatives.

MCL 18.1101 et al

FISCAL IMPACT:

The bill would increase state administrative costs. The Department of Technology, Management, and Budget estimates that an additional analyst position at a total cost of about \$95,000 (salary plus fringes) annually would be needed to implement the bill as introduced, including drafting and administering rules, and creating and maintaining a biobased product list. In addition, to the extent preferred biobased products cost more than alternatives, the bill could increase costs of equipment, material, and supplies purchased by the state. The bill would have no fiscal impact on local units of government.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.