

# HOUSE BILL No. 5337

February 10, 2016, Introduced by Reps. Cox, Barrett, Kosowski and Lucido and referred to the Committee on Military and Veterans Affairs.

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, and all other items as needed by state agencies for which  
5 the legislature has not otherwise expressly provided. If consistent  
6 with federal statutes, in all purchases made by the department, all  
7 other things being equal, preference shall be given to products  
8 manufactured or services offered by Michigan-based firms or by  
9 facilities with respect to which the operator is designated as a  
10 clean corporate citizen under part 14 of the natural resources and  
11 environmental protection act, 1994 PA 451, MCL 324.1401 to

1 ~~324.1427.~~**324.1429.** The department shall solicit competitive bids  
2 from the private sector whenever practicable to efficiently and  
3 effectively meet the state's needs. The department shall first  
4 determine that competitive solicitation of bids in the private  
5 sector is not appropriate before using any other procurement method  
6 for an 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 5% of its total expenditures for construction, goods, and  
9 services to qualified disabled veterans. The department may count  
10 toward its 5% 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 5% 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) As used in this section:

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

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

18 (c) "Veteran" means ~~a person~~ **AN INDIVIDUAL** who ~~served in the~~  
19 ~~army, air force, navy, marine corps, or coast guard and who was~~  
20 ~~discharged or released from his or her service with an honorable or~~  
21 ~~general discharge.~~ **MEETS BOTH OF THE FOLLOWING:**

22 (i) **IS A VETERAN AS DEFINED IN SECTION 1 OF 1965 PA 190, MCL**  
23 **35.61.**

24 (ii) **WAS RELEASED FROM HIS OR HER SERVICE WITH AN HONORABLE OR**  
25 **GENERAL DISCHARGE.**

26 Enacting section 1. This amendatory act takes effect 90 days  
27 after the date it is enacted into law.

1           Enacting section 2. This amendatory act does not take effect  
2 unless Senate Bill No.\_\_\_\_ or House Bill No. 5332 (request no.  
3 02698'15 \*) of the 98th Legislature is enacted into law.