

# SENATE BILL No. 502

April 30, 2009, Introduced by Senators ALLEN, GILBERT and STAMAS and referred to the Committee on Commerce and Tourism.

A bill to amend 1984 PA 431, entitled  
"The management and budget act,"  
by amending section 261 (MCL 18.1261), as amended by 2008 PA 133.

## 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~~

~~statutes~~ **A PREFERENCE OF 10% OF THE AMOUNT OF THE CONTRACT SHALL BE GRANTED TO A MICHIGAN BUSINESS CERTIFIED UNDER SECTION 268 OR TO ANY BUSINESS IF THE PRODUCTS IDENTIFIED IN THE BID ARE MADE, MANUFACTURED, OR GROWN IN THIS STATE.** The department shall solicit competitive bids from the private sector whenever practicable to efficiently and effectively meet the state's needs. The department shall first determine that competitive solicitation of bids in the private sector is not appropriate before it shall use any other procurement method for an acquisition.

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

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

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

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

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

(d) Procurement of goods or services is in response to a 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. The department may withdraw delegated  
12 authority upon a finding that a state agency did not comply with  
13 departmental procurement directives.

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

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

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

27 (8) In awarding a contract under this section, the department

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

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

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

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

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

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

27 (10) Each year, the department shall review the progress of

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

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

14 (12) As used in this section:

15 (A) "END-PRODUCT" MEANS THE ITEM SOUGHT BY A GOVERNMENTAL BODY  
16 OF THIS STATE AND DESCRIBED IN THE SOLICITATION, INCLUDING ALL  
17 COMPONENT PARTS, AND IN FINAL FORM READY FOR THE USE INTENDED BY  
18 THE GOVERNMENTAL BODY.

19 (B) "GROWN" MEANS PRODUCED, CULTIVATED, RAISED, OR HARVESTED  
20 TIMBER, AGRICULTURAL PRODUCE, OR LIVESTOCK ON THE LAND OR  
21 CULTIVATED, RAISED, CAUGHT, OR HARVESTED PRODUCTS OR FOOD FROM THE  
22 WATER, RESULTING IN AN END-PRODUCT THAT IS LOCALLY DERIVED FROM THE  
23 PRODUCT CULTIVATED, RAISED, CAUGHT, OR HARVESTED.

24 (C) "MADE" MEANS ASSEMBLED, FABRICATED, OR PROCESSED COMPONENT  
25 PARTS INTO A FINISHED END-PRODUCT, THE VALUE OF WHICH ASSEMBLY,  
26 FABRICATION, OR PROCESSING IS A SIGNIFICANT PORTION OF THE VALUE OF  
27 THE FINISHED END-PRODUCT.

1           (D) "MANUFACTURED" MEANS MADE OR PROCESSED RAW MATERIALS INTO  
2 A FINISHED END-PRODUCT.

3           (E) ~~(a)~~—"Qualified disabled veteran" means a business entity  
4 that is 51% or more owned by 1 or more veterans with a service-  
5 connected disability.

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

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