

2026 Regular Session

HOUSE BILL NO. 773

BY REPRESENTATIVE MELERINE

PROCUREMENT: Establishes priorities and requirements for purchases by the state and participating local governments from certain providers including prison enterprises and nonprofits assisting persons with disabilities.

1 AN ACT

2 To amend and reenact R.S. 15:1157(A), R.S. 38:2261, and R.S. 39:1604.4, relative to public
3 contracts; to provide with respect to the purchase of goods and services from certain
4 providers; to provide for definitions; to provide with respect to qualifications,
5 administration, and application; to provide with respect to the powers and duties of
6 the office of state procurement; to provide with respect to the powers and duties of
7 the secretaries of the Louisiana Department of Health, the Department of
8 Corrections, and Louisiana Works; to provide for effectiveness; and to provide for
9 related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 15:1157(A) is hereby amended and reenacted to read as follows:

12 §1157. Sales of goods and services; contractual powers

13 A.(1) ~~Except as provided in Subparagraph (2) of this Paragraph, state~~
14 ~~agencies shall purchase, if available, goods and services from prison enterprises, or~~
15 ~~products manufactured in a certified Private Sector/Prison Industry Enhancement~~
16 ~~Program, if the prices are less than those of central purchasing.~~

17 (2) State ~~Notwithstanding any provision of law to the contrary, state~~ agencies
18 which operate a state prison may purchase, if available, ~~goods and services~~ a good
19 or service from ~~vendors~~ a vendor located in the parish in which the prison facility is

1 located, if the ~~prices are~~ price for the good or service is less than ~~those of central~~
 2 ~~purchasing or the price offered through prison enterprises,~~ enterprises or the lowest
 3 price for the good or service offered through a cooperative purchasing contract
 4 entered into by the office of state procurement at the time the good or service is
 5 contracted. ~~and the~~ For purchases pursuant to the provisions of this Paragraph, the
 6 ~~vendor meets~~ must also meet the requirements of the Hudson Initiative, as provided
 7 in R.S. 39:2001 et seq., or the Veteran Initiative, as provided in R.S. 39:2171 et seq.

8 ~~(3)~~ (2)(a) Goods and services from prison enterprises, or products
 9 manufactured in a certified Private Sector/Prison Industry Enhancement Program,
 10 may be sold to the governing authorities of parishes, municipalities, other political
 11 subdivisions, and public employees.

12 (b) Sales of manufactured products to public employees shall be priced at the
 13 current prison enterprises contract price or based on established and documented
 14 pricing methodologies.

15 ~~(4)~~(3)(a) Services shall be provided at a cost that is not less than the cost to
 16 the department for providing the services and not more than the lowest price for the
 17 service offered through a cooperative purchasing contract entered into by the office
 18 of state procurement at the time the prison enterprises service is contracted.
 19 Manufactured products shall be provided at a cost that is not less than the cost of the
 20 raw materials used to manufacture the product and not more than the lowest price for
 21 the product offered through a cooperative purchasing contract entered into by the
 22 office of state procurement at the time the prison enterprises product is contracted.
 23 If no equivalent cooperative purchasing contract for the service or product has been
 24 entered into by the office of state procurement at the time the prison enterprise
 25 service or product is to be contracted, then the cost for that good or service for that
 26 contract shall not exceed fifteen percent of fair market value for such good or
 27 service, as determined by the office of state procurement.

28 (b) If Notwithstanding the provisions of Subparagraph (a) of this Paragraph,
 29 if the manufactured product is deemed to be spoiled, overstocked, obsolete or

1 otherwise not salable at a cost equal to or greater than the raw material cost of the
2 manufactured product and can be documented as such, the director may authorize a
3 sale at less than the raw material cost. ~~Sales of manufactured products to public~~
4 ~~employees shall be priced at the current prison enterprises contract price or based on~~
5 ~~established and documented pricing methodologies.~~

6 * * *

7 Section 2. R.S. 38:2261 is hereby amended and reenacted to read as follows:

8 §2261. Preference for goods ~~manufactured~~, manufactured or services ~~performed~~,
9 performed by prison enterprises or individuals with disabilities through
10 ~~supported employment providers~~; non-applicability of competitive bidding
11 ~~requirements~~; coordinating council requirements

12 A. Every agency as defined in R.S. 39:1556 shall give a preference in its
13 purchasing practices to ~~goods manufactured~~ supplies and services ~~performed by~~
14 ~~individuals with disabilities through supported employment providers~~. qualifying for
15 a preference pursuant to R.S. 39:1604.4. The provisions of R.S. 39:1604.4 shall
16 apply to any such purchase.

17 B. The requirements for competitive bidding contained in Part II of this
18 Chapter shall be inapplicable to ~~cases in which an~~ any purchase by an agency as
19 defined in R.S. 39:1556 ~~uses goods manufactured, or services performed, by~~
20 ~~individuals with disabilities through supported employment providers, provided the~~
21 ~~goods manufactured or services performed are equal in quality and reasonable in the~~
22 ~~rate charged based upon those goods and services available from other providers.~~
23 made pursuant to the provisions of this Section.

24 ~~C. The State Use Council for the Purchase of Goods and Services Provided~~
25 ~~by Individuals with Disabilities established pursuant to R.S. 39:1604.4(B) shall~~
26 ~~coordinate and facilitate the carrying out of the provisions of this Section. The~~
27 ~~membership of this council shall be determined by the secretary of the Louisiana~~
28 ~~Department of Health.~~

1 D. For the purposes of this Section, ~~the following terms are defined as~~
2 follows:

3 (1) ~~"Goods manufactured and services performed by individuals with~~
4 ~~disabilities" shall have the meaning as defined in R.S. 39:1604.4(D).~~

5 (2) ~~"Individuals with disabilities" shall have the meaning as defined in R.S.~~
6 ~~39:1604.4(D).~~

7 (3) ~~"Supported employment provider" shall have the meaning as defined in~~
8 ~~R.S. 39:1604.4(D). the terms "services" and "supplies" shall have the same~~
9 ~~meanings as in R.S. 39:1556.~~

10 Section 3. R.S. 39:1604.4 is hereby amended and reenacted to read as follows:

11 §1604.4. Preference for goods manufactured, or services performed by prison
12 enterprises or individuals with ~~disabilities through supported employment~~
13 ~~providers; definitions; coordinating council~~ disabilities; definitions

14 A. ~~Every agency shall give a preference in its purchasing practices to goods~~
15 ~~manufactured and services performed by individuals with disabilities through~~
16 ~~supported employment providers, provided such goods manufactured or services~~
17 ~~performed are equal in quality and reasonable in the rate charged based upon those~~
18 ~~goods and services available from other providers.~~

19 B. ~~There is hereby created within the Louisiana Department of Health, the~~
20 ~~"State Use Council for the Purchase of Goods and Services Provided by Individuals~~
21 ~~with Disabilities", hereinafter referred to as "council", whose function shall be to~~
22 ~~coordinate and facilitate carrying out the provisions of this Section and the~~
23 ~~provisions of R.S. 38:2261.~~

24 (1) ~~The membership of the council shall be determined by the secretary of~~
25 ~~the Louisiana Department of Health.~~

26 (2) ~~The council shall have authority to designate and contract with a central~~
27 ~~nonprofit agency to assist supported employment providers in submitting~~
28 ~~applications for the selection of suitable goods and services, to facilitate the~~

1 allocation of orders among qualified supported employment providers, and otherwise
2 to assist the council in performing its functions.

3 ~~(3) The council shall solicit and evaluate competitive sealed proposals~~
4 ~~pursuant to R.S. 39:1595 at least every five years to designate and contract with a~~
5 ~~central nonprofit agency.~~

6 ~~C. The Louisiana Department of Health may adopt, promulgate, and enforce~~
7 ~~such rules and regulations as are necessary and appropriate to implement the~~
8 ~~provisions of this Section and the provisions of R.S. 38:2261. The regulations shall~~
9 ~~be promulgated in accordance with the Administrative Procedure Act, R.S. 49:950~~
10 ~~et seq.~~

11 ~~D. For the purposes of this Section, the following terms are defined as~~
12 ~~follows:~~

13 ~~(1) "Central nonprofit agency for individuals with disabilities" means an~~
14 ~~agency that:~~

15 ~~(a) Is incorporated under the Louisiana Nonprofit Corporation Law and~~
16 ~~operated in the interests of individuals with disabilities, and the income of which~~
17 ~~does not inure in whole or in part to the benefit of any shareholder or other private~~
18 ~~individual.~~

19 ~~(b) Complies with any applicable occupational health and safety standards~~
20 ~~provided by the statutes or regulations of this state and of the United States.~~

21 ~~(2) "Client" means an individual with a disability who is employed by a~~
22 ~~supported employment provider.~~

23 ~~(3) "Direct labor" means all labor involved in the manufacture of goods or~~
24 ~~the performance of services except for supervision, instruction, administration, and~~
25 ~~shipping.~~

26 ~~(4) "Goods manufactured and services performed by individuals with~~
27 ~~disabilities" means goods and services for which not less than forty percent of the~~
28 ~~man-hours of direct labor required for manufacture or performance is provided by~~
29 ~~individuals with disabilities.~~

1 ~~(5) "Individuals with disabilities" means individuals with a physical,~~
2 ~~behavioral, developmental, intellectual, sensory, mental, or addictive disorder which~~
3 ~~constitutes a substantial obstacle to their employment.~~

4 ~~(6) "Supported employment provider" means a nonprofit organization,~~
5 ~~program, or entity as defined by R.S. 12:201 et seq., which provides gainful,~~
6 ~~competitive, integrated employment, training, and rehabilitation services for~~
7 ~~individuals with disabilities in compliance with a central nonprofit agency for~~
8 ~~individuals with disabilities. In Fiscal Years 2019-2020 and 2020-2021, "supported~~
9 ~~employment provider" shall also include any sheltered workshop transitioning to a~~
10 ~~model of gainful, competitive, integrated employment, training, and rehabilitation~~
11 ~~services for individuals with disabilities.~~

12 A. To advance the social and economic goals of integrating the productivity
13 of incarcerated and disabled individuals into the state's workforce in order to
14 improve well-being and social outcomes, beginning January 1, 2027, preference shall
15 be given to certain providers in accordance with the provisions of this Section.
16 Procurement in accordance with the provisions of this Section shall be through
17 noncompetitive contract.

18 B. For the purposes of this Section, the following terms shall have the
19 following meanings:

20 (1) "Nonprofit" means a nonprofit organization chartered pursuant to Section
21 501(c) of the Internal Revenue Code.

22 (2) "Preferred source" means a vendor with a supply or service accorded
23 preference pursuant to the provisions of this Section and includes prison enterprises.

24 (3) "Prison enterprises" shall mean the program of production and labor
25 administered and offered through the Department of Public Safety and Corrections
26 pursuant to Part XIV of Chapter 7 of Title 15 of the Louisiana Revised Statutes of
27 1950.

28 (4) "Qualified nonprofit" means a nonprofit vendor selling a supply or
29 service pursuant to the provisions of this Section.

1 C. Subject to restrictions provided in this Section, in the awarding of
2 contracts by a using agency, preference shall be given to supplies produced and
3 services rendered by the following:

4 (1) The Department of Public Safety and Corrections through prison
5 enterprises.

6 (2) Any nonprofit for the blind.

7 (3) Any nonprofit for other severely disabled persons.

8 (4) Any nonprofit or nonprofit workshop for veterans.

9 D.(1) Beginning January 1, 2027, the state chief procurement officer, in
10 consultation with and using information provided by the Department of Public Safety
11 and Corrections, Louisiana Works, and the Louisiana Department of Health, shall
12 maintain and make available to prospective vendors, using agencies, and other
13 interested parties a list of supplies and services available from providers the
14 procurement of which would qualify for a preference pursuant to the provisions of
15 this Section.

16 (2) A supply or service shall only be eligible for a preference pursuant to the
17 provisions of this Section after formal addition to such list in accordance with the
18 provisions of this Paragraph. The list shall be revised as necessary to reflect the
19 additions and deletions of supplies and services. Any revision to this list shall be
20 submitted to the state chief procurement officer by the secretary of the Department
21 of Public Safety and Corrections, Louisiana Works, or the Louisiana Department of
22 Health.

23 E. Priority among preferred providers shall be as follows:

24 (1)(a) If a supply is available in the form, function, and utility required by a
25 using agency, then the supply shall be purchased first from prison enterprises within
26 the Department of Public Safety and Corrections.

27 (b) If a supply is available in the form, function, and utility required by a
28 using agency and the supply is not available pursuant to Subparagraph (a) of this

1 Paragraph, then the supply shall be purchased from an approved charitable nonprofit
2 for the blind or the facilitating entity identified in Subsection G of this Section.

3 (c) If a supply is not available pursuant to Subparagraphs (a) and (b) of this
4 Paragraph and is available in the form, function, and utility required by a using
5 agency from any other preferred source, then the supply shall be purchased from any
6 other preferred source or facilitating entity identified in Subsection G of this Section.

7 (d) If a supply is not available from a preferred source or facilitating entity
8 identified in Subsection G of this Section, then the supply shall be procured in
9 accordance with regular procurement procedures and methodologies as otherwise
10 required by this Chapter.

11 (2)(a) If a service is available in the form, function, and utility required by
12 a using agency, then the service shall be purchased first from prison enterprises.

13 (b) If a service is not available pursuant to Subparagraph (a) of this
14 Paragraph, then equal priority shall be accorded the services rendered and offered for
15 sale by other preferred sources in accordance with the following:

16 (i) A using agency shall make reasonable efforts to provide a notification
17 describing its requirements to those preferred sources, or to the facilitating entity
18 identified in Subsection G of this Section, which provides the required services as
19 indicated on the official public list maintained by the office of state procurement
20 pursuant to Subsection D of this Section.

21 (ii) If, within ten days of the notification required by Item (i) of this
22 Subparagraph, a preferred source or facilitating entity identified in Subsection G of
23 this Section submits a notice of intent to provide the service in the form, function,
24 and utility required, the service shall be procured from such source in accordance
25 with the provisions of this Section. If more than one preferred source or facilitating
26 entity identified in Subsection G of this Section submits a notice of intent and meets
27 the requirements, cost shall be the determining factor for purchase among the
28 preferred sources.

1 (iii) If, within ten days of the notification required by Item (ii) of this
2 Subparagraph, no preferred source or facilitating entity identified in Subsection G
3 of this Section indicates intent to provide the service, then the service shall be
4 procured in accordance with regular procurement procedures and methodologies as
5 otherwise required by this Chapter. No preference pursuant to the provisions of this
6 Section shall be accorded a preferred source in such a procurement.

7 F.(1) The prices to be charged for supplies produced or services provided by
8 prison enterprises shall be established in accordance with the provisions of R.S.
9 15:1151 et seq.

10 (2) Except as provided in Paragraph (1) of this Subsection, the price to be
11 charged for any supply produced or service provided by a preferred source or
12 facilitating entity identified in Subsection G of this Section shall not exceed the
13 lowest price for the supply or service, as applicable, offered through a cooperative
14 purchasing contract entered into by the office of state procurement at the time the
15 supply or service is procured. If no equivalent cooperative purchasing contract for
16 the supply or service has been entered into by the office of state procurement at the
17 time the supply or service is to be procured, then the cost for that supply or service
18 for that procurement shall not exceed fifteen percent of fair market value for the
19 supply or service, as determined by the office of state procurement.

20 (3)(a) A preferred source may procure a supply for a contract let though the
21 provisions of this Section through any of the following:

22 (i) A cooperative purchasing arrangement as provided in R.S. 39:1702 and
23 in accordance with any conditions set by the office of state procurement.

24 (ii) Prison enterprises.

25 (b) The preferred source shall accept sole responsibility for any payment due
26 the vendor for a procurement executed pursuant to the provisions of this Paragraph.

27 G. The secretary of the Louisiana Department of Health shall appoint a
28 nonprofit, other than the nonprofit representing the other disabled, to facilitate the
29 distribution of orders among qualified nonprofits for the blind. The secretary shall

providers. Further establishes the "State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities" to coordinate and facilitate such purchases. Proposed law repeals present law.

As more fully explained below, proposed law establishes a preference for supplies and services produced by certain providers and requires purchases from such providers in certain circumstances.

PRISON ENTERPRISES

Present law (R.S. 15:1151 et seq) establishes the prison enterprises program and authorizes the Department of Public Safety and Corrections (DPS&C) to engage in any agricultural, aquacultural, silvicultural, industrial enterprise, or service in accordance with present law.

Present law (R.S. 15:1157) requires state agencies to purchase, if available, goods and services from prison enterprises, or products manufactured in a certified Private Sector/Prison Industry Enhancement Program. Proposed law repeals present law; however, maintains the requirement to purchase supplies and service from prison enterprises as part of the Procurement Code, as explained in more detail below.

Present law authorizes state agencies that operate a state prison to purchase in certain circumstances goods and services from vendors located in the parish in which the prison facility is located. Proposed law retains present law.

Present law requires services to be provided at a cost that is not less than the cost to the department for providing the service and requires manufactured products to be provided at a cost that is not less than the cost of the raw materials used to manufacture the product. Proposed law retains present law and further caps the cost at the lowest price for such service or product, as applicable, offered through a cooperative purchasing contract entered into by the office of state procurement at the time the prison enterprises service is contracted. Proposed law further provides that if no equivalent cooperative purchasing contract for a service or product has been entered into by the office of state procurement at the time the prison enterprise service or product is to be contracted, then the cost for that good or service shall not exceed 15% of fair market value for such good or service, as determined by the office of state procurement.

Present law authorizes the director to sell at a price less than the raw material cost in certain circumstances. Further requires sales of manufactured products to public employees to be priced at the current prison enterprises contract price or based on established and documented pricing methodologies. Proposed law retains present law.

PUBLIC BID LAW

Present law (R.S. 38:2181 et seq.) establishes the Public Bid Law to govern the letting of contracts for the erection, construction, alteration, improvement, or repair of any public facility or land owned, used, or leased by a public entity.

Present law (R.S. 38:2261) requires every agency to give a preference in its purchasing practices to goods manufactured and services performed by individuals with disabilities through supported employment providers. Proposed law requires every agency to give a preference to supplies and services qualifying for a preference pursuant to proposed law (R.S. 39:1604.4). Present law defines "agency" to have the same meaning as in the Executive Reorganization Act (Title 36).

Present law exempts from the requirements of competitive bidding uses by an agency of goods manufactured or services performed by individuals with disabilities through supported employment providers, provided that the goods manufactured or services performed are equal in quality and reasonable in the rate charged based upon those goods and services available

from other providers. Proposed law exempts from the requirements of competitive bidding any purchase by an agency made pursuant to the provisions of proposed law.

Present law requires the State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities (R.S. 39:1604.4) to coordinate and facilitate the provisions of present law. Further requires the secretary of the La. Dept. of Health (LDH) to determine the membership of such council. Proposed law repeals present law.

PROCUREMENT CODE

Present law (R.S. 39:1551 et seq) establishes the La. Procurement Code to govern buying, purchasing, renting, leasing, or otherwise obtaining supplies, services, or major repairs by any governmental body of the state. Present law defines "governmental body" as any department, office, division, commission, council, board, bureau, committee, institution, agency, government corporation, or other establishment or official of the executive branch of state government. Present law further authorizes political subdivisions to participate in certain contracts let pursuant to present law.

Present law (R.S. 39:1604.4) establishes a preference for goods manufactured or services performed by individuals with disabilities through supported employment providers. Establishes the State Use Council for the Purchase of Goods and Services Provided by Individuals with Disabilities to coordinate and facilitate the carrying out of the provisions of present law. Requires LDH to promulgate rules as necessary to implement present law. Proposed law repeals present law.

Preferred sources and offerings

Proposed law establishes, beginning January 1, 2027, preferences for the following providers and authorizes procurement through noncompetitive contract for such providers:

- (1) Supplies produced and services rendered by DPS&C through prison enterprises.
- (2) Supplies produced and services rendered by any nonprofit for the blind.
- (3) Supplies produced and services rendered by any nonprofit for other severely disabled persons.
- (4) Supplies produced and services rendered by any nonprofit or nonprofit workshop for veterans.

Beginning Jan. 1, 2027, proposed law requires the state chief procurement officer, in consultation with and using information provided by DPS&C, La. Works, and LDH, to maintain and make available to prospective vendors, using agencies, and other interested parties a list of supplies and services available from providers the procurement of which would qualify for a preference pursuant to the provisions of this Section. Present law defines "using agency" to mean any governmental body of the state which utilizes any supplies, services, or major repairs purchased pursuant to the Procurement Code.

Proposed law authorizes procurement of a new or substantially different supply or service from a preferred source only after it has been formally added to the list in accordance with proposed law. Proposed law defines "preferred source" for the purposes of proposed law to mean a vendor with a supply or service accorded preference pursuant to the provisions of proposed law and includes prison enterprises.

Proposed law requires the list maintained by the state chief procurement officer to be revised as necessary to reflect additions and deletions proposed by the secretaries of DPS&C, La. Works, and LDH.

Hierarchy of preferences

Proposed law establishes a hierarchy of preferred sources pursuant to proposed law for the procurement of supplies as follows:

- (1) If a supply is available in the form, function, and utility required by the using agency, then requires the supply to be purchased first from prison enterprises.
- (2) If the supply cannot be obtained from prison enterprises and is available from an approved charitable nonprofit for the blind, then requires the supply to be purchased from such a nonprofit.
- (3) If the supply is not available from prison enterprises or an approved charitable nonprofit for the blind and is available from a qualified nonprofit for other severely disabled persons or a qualified nonprofit or workshop for veterans, then the supply shall be purchased from such a vendor.

Proposed law establishes a hierarchy of preferred sources pursuant to proposed law for the procurement of services as follows:

- (1) If a service is available in the form, function, and utility required by a using agency from prison enterprises, then the service shall be purchased from prison enterprises.
- (2) If the service is not available from prison enterprises, then equal priority shall be accorded the services rendered by qualified nonprofits for the blind and those for the other severely disabled, and by qualified nonprofits and workshops for veterans. Establishes guidelines for the procurement of the service.

Prices

Proposed law establishes guidelines for the prices for supplies and services procured pursuant to proposed law. Requires the prices charged for supplies produced or services rendered by prison enterprises be established pursuant to present law on prison enterprises (R.S. 15:1151 et seq.).

Proposed law prohibits the price for supplies and services procured from a preferred source or a facilitating entity to exceed the lowest price for that supply or service offered through a cooperative purchasing contract entered into by the office of state procurement at the time the supply or service is procured. Further provides that if no equivalent cooperative purchasing contract has been entered into by the office of state procurement at the time the supply or service is to be procured, then the cost for that supply or service for that procurement shall not exceed 15% of fair market value for the supply or service, as determined by the office of state procurement.

Proposed law authorizes a preferred source to procure a supply for a contract let pursuant to proposed law through a cooperative purchasing arrangement or prison enterprises, each as provided in present law. Requires the preferred source to accept sole responsibility for any payment due the vendor for such a procurement.

Facilitating entities

Proposed law requires the secretary of LDH to appoint one nonprofit to facilitate the distribution of orders among qualified nonprofits for the blind and one nonprofit, other than the one appointed to facilitate orders among nonprofits for the blind, to facilitate the distribution of orders among qualified nonprofits for the other disabled. Further requires the secretary of the La. Works to appoint a nonprofit, other than the ones appointed by the secretary of LDH, to facilitate the distribution of orders among qualified veterans' nonprofits and workshops.

Development of list

Proposed law (Section 3) requires the state chief procurement officer, in consultation with the secretaries of LDH, DPS&C, and La. Works, no later than Dec. 31, 2026, to prepare a list of all supplies and services that are available and are being provided as of that date for purchase by a using agency from those entities that would otherwise qualify as a preferred source pursuant to the provisions of proposed law.

APPLICABILITY

Proposed law (Section 5) restricts applicability to new procurements executed on and after Jan. 1, 2027.

Provisions regarding development of a list of supplies and services effective upon signature of the governor or lapse of time for gubernatorial action; all other provisions effective Jan. 1, 2027.

(Amends R.S. 15:1157(A), R.S. 38:2261, and R.S. 39:1604.4)