
DIGEST

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HB 773 Engrossed

2026 Regular Session

Melerine

Abstract: Establishes a preference in public contracting (both Public Bid Law and the state Procurement Code) for supplies and services offered by certain providers.

Present law (R.S. 39:1604.4) establishes a procurement preference for supplies manufactured and services performed by individuals with disabilities through supported employment 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)