

2022 Regular Session

HOUSE BILL NO. 457

BY REPRESENTATIVES CARPENTER, FREIBERG, GLOVER, LYONS, MARCELLE,  
AND STAGNI

PROCUREMENT: Provides relative to contracts awarded to socially and economically disadvantaged businesses in the city of Baton Rouge and the parish of East Baton Rouge

1 AN ACT

2 To enact R.S. 38:2233.4, relative to the city of Baton Rouge and the parish of East Baton  
3 Rouge; to provide relative to the procurement of goods and services; to provide  
4 relative to contracts awarded to socially and economically disadvantaged businesses;  
5 to authorize certain entities to set-aside a certain percentage of contracts to be  
6 awarded to such businesses; to provide relative to rules and regulations regarding the  
7 certification of socially and economically disadvantaged businesses; and to provide  
8 for related matters.

9 Notice of intention to introduce this Act has been published  
10 as provided by Article III, Section 13 of the Constitution of  
11 Louisiana.

12 Be it enacted by the Legislature of Louisiana:

13 Section 1. R.S. 38:2233.4 is hereby enacted to read as follows:

14 §2233.4. City of Baton Rouge/parish of East Baton Rouge; socially and  
15 economically disadvantaged businesses; procurement set-asides

16 A. Notwithstanding any other provision of law to the contrary, the governing  
17 authority of the city of Baton Rouge and parish of East Baton Rouge, referred to in  
18 this Section as the "city-parish", and any board, agency, or commission of the city-  
19 parish, through its respective fiscal officer or director of finance, may for each fiscal

1        year designate and set aside for awarding to socially and economically disadvantaged  
2        businesses an amount not less than ten percent of the value of anticipated local  
3        procurement of goods and services, including construction or doing of any public  
4        work, including alteration or repair. However, should the governing authority of the  
5        city-parish or any board, agency, or commission of the city-parish choose to set aside  
6        a greater amount, then nothing in this Section shall be construed to prohibit such  
7        set-aside levels above ten percent, but not to exceed twenty-five percent.

8                B. The procurement set-aside as provided by Subsection A of this Section  
9        may be divided into contract award units of economically feasible production runs  
10        in order to facilitate offers or bids from socially and economically disadvantaged  
11        businesses. In making the annual designation of procurement set-asides, an attempt  
12        may be made to vary the included procurements so that a variety of goods and  
13        services, including construction or doing of any public work, including alteration or  
14        repair, produced by different socially and economically disadvantaged businesses  
15        may be set aside each year. The failure to set aside particular procurements shall not  
16        be considered to prohibit or discourage socially and economically disadvantaged  
17        businesses from seeking the procurement award through the normal solicitation and  
18        bidding processes.

19                C.(1)(a) The governing authority of the city-parish shall adopt rules and  
20        regulations to implement the provisions of this Section. Such rules and regulations  
21        shall include procedures regarding the certification of socially and economically  
22        disadvantaged businesses. The procedure for determination of eligibility may  
23        include self-certification by a business if the governing authority retains the ability  
24        to verify a self-certification.

25                (b) No business shall be awarded a contract pursuant to the provisions of this  
26        Section unless it has met the certification requirements established by the governing  
27        authority of the city-parish.

28                (2) The rules and regulations adopted by the governing authority may also  
29        provide for the establishment of a contract procedure for the awarding of contracts

1 pursuant to this Section. The governing authority may adopt a requirement that the  
 2 prime contractor award a certain percentage, not to exceed twenty-five percent, of  
 3 the total dollar bid to socially and economically disadvantaged subcontractors. This  
 4 requirement may be waived if the prime contractor, after a good faith effort, is  
 5 unable to comply with the requirement.

6 D. If the governing authority of the city-parish, or any board, agency, or  
 7 commission of the city-parish, is unable to award all of its procurement set-asides  
 8 to socially and economically disadvantaged businesses, then the balance of the  
 9 procurement set-asides shall be awarded to other businesses in accordance with  
 10 existing solicitation, bid evaluations, and contract award provisions otherwise  
 11 provided by law.

12 E. All laws and rules pertaining to solicitations, bid evaluations, contract  
 13 awards, and other procurement matters shall apply to procurements set-aside for  
 14 socially and economically disadvantaged businesses as provided in this Section. If  
 15 a conflict exists with the provisions of this Section, the provisions of this Section  
 16 shall govern.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 457 Reengrossed

2022 Regular Session

Carpenter

**Abstract:** Authorizes the governing authority of the city of Baton Rouge and the parish of East Baton Rouge to set aside a certain percentage of contracts for goods and services, including construction, to be awarded to socially and economically disadvantaged businesses.

Present law generally authorizes every political subdivision in the state, through its respective fiscal officer or director of finance, to designate and set aside each fiscal year for awarding to minority businesses, an amount up to 10% of the value of anticipated local procurement of goods and services including construction. Provides that nothing in present law should be construed to prohibit the governing authority from setting aside an amount greater than 10%. Provides for eligibility and certification requirements.

Proposed law retains present law.

Present law provides an exception for the city of Shreveport and any board, agency, or commission of that city. Authorizes the entities to designate and set aside each fiscal year not less than 10% of the value of local procurement of goods and services including

construction for awarding to economically disadvantaged businesses. Provides for eligibility and certification requirements.

Proposed law retains present law.

Proposed law provides another exception for the city of Baton Rouge/parish of East Baton Rouge (city-parish). Authorizes the city-parish governing authority and any board, agency, or commission of the city-parish to designate and set aside not less than 10% and not more than 25% of the value of local procurement of goods and services, including construction or doing of public work for awarding to socially and economically disadvantaged businesses. Provides for eligibility and certification requirements.

Proposed law provides for division of contract awards into units to facilitate offers or bids from socially and economically disadvantaged businesses. Authorizes varying the goods and services designated for set-asides.

Proposed law requires the city-parish to adopt rules and regulations to implement proposed law. Requires certification as a socially and economically disadvantaged business by the city-parish governing authority. Authorizes establishment of a contract award procedure for such set-asides. Additionally authorizes adoption of a requirement that the prime contractor award a certain percentage, not to exceed 25%, of total dollar bids to economically disadvantaged subcontractors.

Proposed law requires the city-parish, or any board, agency, or commission of the city-parish to award the balance of procurement set-sides pursuant to present law solicitation, bid evaluations, and contract award provisions if they are unable to award all of their set-asides to socially and economically disadvantaged businesses.

(Adds R.S. 38:2233.4)

#### Summary of Amendments Adopted by House

##### The House Floor Amendments to the engrossed bill:

1. Cap the set-aside amount at 25% of the value of anticipated local procurement of goods and services.
2. Cap the amount that the prime contractor can set aside at 25% of the total dollar bid.