

HOUSE BILL No. 1078

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-30; IC 5-32-1-5.

Synopsis: Public works projects. Provides that a contractor that employs 10 or more employees on a design-build public works project must provide its employees access to a training program applicable to the tasks to be performed in the normal course of the employee's employment with the contractor on the public project. Provides that a tier 1 or tier 2 contractor that employs 50 or more journeymen must participate in an apprenticeship or training program that meets certain standards. Requires design-builders and any member of a team working on a design-build public works project to comply with certain statutes. Provides that a public agency awarding a contract for a construction manager as constructor project may not take certain actions based on a bidder's, offeror's, or contractor's entering into, refusing to enter into, adhering to, or refusing to adhere to an agreement with a labor organization.

Effective: July 1, 2024.

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January 8, 2024, read first time and referred to Committee on Employment, Labor and Pensions.



Second Regular Session of the 123rd General Assembly (2024)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2023 Regular Session of the General Assembly.

HOUSE BILL No. 1078

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-30-5-3, AS ADDED BY P.L.74-2005, SECTION
2 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2024]: Sec. 3. (a) A potential design-builder responding to the request
4 for qualifications under section 2 of this chapter must submit a verified
5 statement of qualifications setting forth the qualifications of the
6 potential design-builder and team members, if applicable, and provide
7 the other information required by the request for qualifications.
8 (b) The verified statement of qualifications required under this
9 section must include the following:
10 (1) A listing of all prime contractors and architectural and
11 engineering firms that participate financially as part of the team.
12 (2) A statement that:
13 (A) the design-builder or the team members have completed
14 or demonstrated the experience, competency, capability, and
15 capacity to complete projects of similar size, scope, or
16 complexity; and
17 (B) proposed key personnel have sufficient experience and



- 1 training to competently manage and complete the design and
 2 construction of the project.
- 3 (3) A statement that the design-builder or team members have the
 4 licenses, registrations, and credentials required to design and
 5 construct the project, including information on the revocation or
 6 suspension of a license, credential, or registration.
- 7 (4) A statement that the design-builder has the capacity to obtain
 8 all required payment and performance bonding, liability
 9 insurance, and errors and omissions insurance.
- 10 (5) The experience modifier rate, the United States Occupational
 11 Safety and Health Administration total recordable case incident
 12 rate (TCIR) and days away, restricted or transferred case incident
 13 rate (DART) for the design-builder and each design build team,
 14 and the average United States Occupational Safety and Health
 15 Administration TCIR and DART rates for the industrial
 16 classification of the design-builder and each design-build team.
- 17 (6) A statement that the design-builder or the employees of the
 18 team performing construction services, including the employees
 19 of all subcontractors, ~~have completed or are enrolled in an~~
 20 ~~apprenticeship program certified by the United States Department~~
 21 ~~of Labor Bureau of Apprenticeship and Training: **comply with**~~
 22 ~~**IC 5-30-8-9, if applicable.**~~
- 23 (7) Information regarding any prior serious, repeat, willful, or
 24 criminal violation of the federal Occupational Safety and Health
 25 Act of 1970 and any equivalent violation under a state plan
 26 authorized under Section 18 of the federal act that has become a
 27 final order.
- 28 (8) Information concerning the debarment, disqualification, or
 29 removal of the design-builder or a team member from a federal,
 30 state, or local government public works project.
- 31 (9) Information concerning the bankruptcy or receivership of the
 32 design-builder or a team member.
- 33 SECTION 2. IC 5-30-8-8 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2024]: **Sec. 8. (a) The definitions set forth in IC 5-16-13-4 apply**
 36 **throughout this section.**
- 37 **(b) This section applies after June 30, 2024, only to a contractor**
 38 **that employs ten (10) or more employees.**
- 39 **(c) This section does not apply to a:**
 40 **(1) developer; or**
 41 **(2) general contractor;**
 42 **unless the developer or general contractor has at least one (1)**



1 direct employee who performs construction services.

2 (d) A contractor must provide access to a training program
3 applicable to the tasks to be performed in the normal course of the
4 employee's employment with the contractor.

5 (e) A contractor may comply with this section through any of
6 the following:

7 (1) An apprenticeship program.

8 (2) A program offered by Ivy Tech Community College of
9 Indiana.

10 (3) A program offered by Vincennes University.

11 (4) A program established by or for the contractor.

12 (5) A program offered by an entity sponsored by the United
13 States Department of Labor, Bureau of Apprenticeship and
14 Training.

15 (6) A program that results in the award of an industry
16 recognized portable certification.

17 (7) A program approved by the United States Department of
18 Transportation, Federal Highway Administration.

19 (8) A program approved by the Indiana department of
20 transportation.

21 (f) This subsection applies after June 30, 2024, to a tier 1 or tier
22 2 contractor that employs fifty (50) or more journeymen. The tier
23 or tier 2 contractor shall participate in an apprenticeship or
24 training program that meets the standards established by or
25 approved by any of the following:

26 (1) The United States Department of Labor, Bureau of
27 Apprenticeship and Training.

28 (2) The Indiana department of labor.

29 (3) The United States Department of Transportation, Federal
30 Highway Administration.

31 (4) The Indiana department of transportation.

32 SECTION 3. IC 5-30-8-9 IS ADDED TO THE INDIANA CODE
33 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
34 1, 2024]: **Sec. 9. The following apply to a design-builder and any
35 member of a team on a public project:**

36 (1) IC 22-5-1.7.

37 (2) A design-builder and any member of a team may not pay
38 cash to any individual employed for any work done by the
39 individual on a public project.

40 (3) A design-builder and any member of a team must be in
41 compliance with the federal Fair Labor Standards Act of
42 1938, as amended (29 U.S.C. 201-209) and IC 22-2-2-1



1 through IC 22-2-2-8.

2 (4) A design-builder and any member of a team must be in
3 compliance with IC 22-3-5-1 and IC 22-3-7-34.

4 (5) A design-builder and any member of a team must be in
5 compliance with IC 22-4-1 through IC 22-4-39.5.

6 (6) A design-builder and any member of a team must be in
7 compliance with IC 4-13-18-1 through IC 4-13-18-7.

8 SECTION 4. IC 5-32-1-5 IS ADDED TO THE INDIANA CODE
9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
10 1, 2024]: Sec. 5. (a) A public agency awarding a CMc contract for
11 a project may not in the bid specifications, project agreements, or
12 other contract documents do any of the following:

13 (1) Require a bidder, offeror, or contractor in any contractor
14 tier to enter into or adhere to an agreement with a labor
15 organization relating to the project or any public works
16 project.

17 (2) Prohibit a bidder, offeror, or contractor in any contractor
18 tier from entering into or adhering to an agreement with a
19 labor organization relating to the project or any public works
20 project.

21 (3) Discriminate against a bidder, offeror, or contractor in
22 any contractor tier for any of the following:

23 (A) Becoming or remaining a signatory to an agreement
24 with a labor organization relating to the project or any
25 public works project.

26 (B) Refusing to become or remain a signatory to an
27 agreement with a labor organization relating to the project
28 or any public works project.

29 (C) Adhering or refusing to adhere to an agreement with
30 a labor organization relating to the project or any public
31 works project.

32 (b) A public agency may not award a grant, tax abatement, or
33 tax credit that is conditioned upon a requirement that the person
34 awarded the grant, tax abatement, or tax credit include a term
35 described in subsection (a) in a CMc contract for the project that
36 is the subject of the grant, tax abatement, or tax credit.

37 (c) This section does not do any of the following:

38 (1) Prohibit a public agency from awarding a CMc contract,
39 grant, tax abatement, or tax credit to a bidder, offeror, or
40 contractor in any contractor tier that enters into or that is a
41 party to an agreement with a labor organization, if both of the
42 following apply:



- 1 **(A) Being or becoming a party or adhering to an**
2 **agreement with a labor organization is not a condition for**
3 **award of the CMc contract, grant, tax abatement, or tax**
4 **credit.**
- 5 **(B) The public agency does not discriminate against a**
6 **bidder, offeror, or contractor in the awarding of the CMc**
7 **contract, grant, tax abatement, or tax credit based upon**
8 **the bidder's, offeror's, or contractor's status as being or**
9 **becoming, or the willingness or refusal to become, a party**
10 **to an agreement with a labor organization.**
- 11 **(2) Prohibit a contractor in any contractor tier from**
12 **voluntarily entering into or complying with an agreement**
13 **entered into with a labor organization in regard to a CMc**
14 **contract with a public agency or funded in whole or in part**
15 **from a grant, tax abatement, or tax credit from a public**
16 **agency.**
- 17 **(3) Prohibit employers or other parties from entering into**
18 **agreements or engaging in any other activity protected by the**
19 **federal National Labor Relations Act (29 U.S.C. 151-169).**
- 20 **(4) Interfere with the labor relations of parties that are not**
21 **regulated under the federal National Labor Relations Act (29**
22 **U.S.C. 151-169).**
- 23 **(d) A public agency may exempt a particular project, CMc**
24 **contract, grant, tax abatement, or tax credit from the requirements**
25 **of any or all of the provisions of this section if the public agency**
26 **finds, after public notice and hearing, that special circumstances**
27 **require an exemption to avert an imminent threat to public health**
28 **or safety. A finding of special circumstances under this subsection**
29 **may not be based on the possibility or presence of a labor dispute**
30 **concerning:**
- 31 **(1) the use of contractors at any contractor tier that are not**
32 **signatories to, or otherwise do not adhere to, agreements with**
33 **one (1) or more labor organizations; or**
- 34 **(2) employees on the project who are not members of, or**
35 **affiliated with, a labor organization.**

