

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6589**

**BILL NUMBER:** HB 1232

**NOTE PREPARED:** Dec 21, 2023

**BILL AMENDED:**

**SUBJECT:** Fair and Open Competition for Public Projects.

**FIRST AUTHOR:** Rep. Goodrich

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** The bill provides that a public agency may not do any of the following:

- (1) Require a potential bidder on a public works project to provide any information that the potential bidder considers confidential or proprietary as a requirement for the public agency finding the bidder to be a responsive or responsible bidder.
- (2) By rule, ordinance, or any other action relating to contracts for public works projects for which competitive bids are required impose any requirement that directly or indirectly restricts potential bidders to any predetermined class of bidders defined by experience on similar projects, size of company, union membership or requiring the use of union labor, or any other criteria.
- (3) 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 Date:** Upon passage.

**Explanation of State Expenditures:** The labor organization provision of the bill should not impact state expenditures as the state does not use project labor agreements on state public works projects or union affiliation in its bidder pre-qualifications.

The bill prohibits any requirement that restricts potential bidders to any predetermined class of bidders defined by experience on similar projects, size of company, union membership, or any other criteria. However, currently all contractors performing work for the state of Indiana on projects estimated to be in excess of \$150,000 must hold a valid Certificate of Qualification issued by the Public Works Certification Board. Certificates of Qualification are issued in a numbered classification system based on the type of work ("1623.01 Power Lines") or the type and scope of work ("1731.00 Electrical work in excess of \$1 M ...").

Each Notice to Bidders published on the Public Works Division website lists the specific classifications of certification required to bid on the project. It is unclear whether the current certification process would have to be reexamined if it is determined that these classifications of qualification create predetermined classes of bidders.

The bill applies to all state agencies, state educational institutions, and bodies corporate and politic created by statute. The bill does not apply to judicial or legislative departments or the Indiana Department of Transportation.

**Explanation of State Revenues:**

**Explanation of Local Expenditures:** The bill could have an indeterminate impact on expenditures for any local unit that currently uses project labor agreements in its public works projects.

The bill applies to counties, municipalities, townships, school corporations, certain conservancy districts, fire protection districts, departments of aviation, and airport authorities.

**Explanation of Local Revenues:**

**State Agencies Affected:** Agencies involved in public works projects.

**Local Agencies Affected:** Local units involved in public works projects.

**Information Sources:** Indiana Department Of Administration, Public Works Division: Application for Prequalification Certificate for Contractors, Subcontractors, and Joint Ventures; State Form 35153.

<https://www.in.gov/idoa/state-property-and-facilities/public-works/>

<https://www.in.gov/idoa/state-property-and-facilities/public-works/certification-board/>

<https://www.in.gov/idoa/state-property-and-facilities/public-works/general-forms-and-manuals/>

<https://indianalawreview.com/2016/02/19/union-based-bidding-restrictions-unresolved-issues/>

[https://library.municode.com/in/gary/codes/code\\_of\\_ordinances](https://library.municode.com/in/gary/codes/code_of_ordinances)

Project Labor Agreements, Congressional Research Service, June 28, 2012.

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