



February 17, 2015

HOUSE BILL No. 1019

DIGEST OF HB 1019 (Updated February 17, 2015 1:10 pm - DI 96)

Citations Affected: IC 4-13.5; IC 4-13.6; IC 5-1; IC 5-16; IC 5-23; IC 5-30; IC 8-1.5; IC 8-15.5; IC 8-15.7; IC 8-24; IC 16-22; IC 22-1; IC 35-44.2; IC 35-52; IC 36-1; IC 36-7; IC 36-7.5; IC 36-7.6; IC 36-9.

Synopsis: Common construction wage. Repeals the common construction wage statute. Repeals related statutes superseded by the repeal of the common construction wage statute. Makes conforming amendments.

Effective: July 1, 2015.

**Torr, Bosma, Brown T, Clere,
DeVon, Speedy, Cook, Ziemke,
Price, Lucas, Richardson**

January 6, 2015, read first time and referred to Committee on Employment, Labor and Pensions.
February 17, 2015, reported — Do Pass.

HB 1019—LS 6208/DI 97



February 17, 2015

First Regular Session of the 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

HOUSE BILL No. 1019

A BILL FOR AN ACT to amend the Indiana Code concerning public offices, officers, and employees.

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

1 SECTION 1. IC 4-13.5-1.5-13 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 13. ~~(a) An agreement~~
3 ~~or a contract under this chapter is subject to IC 5-16-7.~~

4 ~~(b) (a)~~ The contractor and each subcontractor engaged in installing
5 energy conservation measures under a guaranteed energy cost savings
6 contract shall keep full and accurate records indicating the names,
7 classifications, and work performed by each worker employed by the
8 respective contractor and subcontractor in connection with the work
9 together with an accurate record of the number of hours worked by
10 each worker and the actual wages paid.

11 ~~(c) (b)~~ The payroll records required to be kept under this section
12 must be open to inspection by an authorized representative of the
13 commission and the department of labor.

14 SECTION 2. IC 4-13.6-2-4 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. The division shall

HB 1019—LS 6208/DI 97



1 comply with this article and the following statutes in the administration
2 of public works contracts:

3 (1) IC 5-16-3.

4 (2) IC 5-16-6.

5 ~~(3) IC 5-16-7; if the estimated cost of the public works project is~~
6 ~~at least twenty-five thousand dollars (\$25,000):~~

7 ~~(4) (3) IC 5-16-8.~~

8 ~~(5) (4) IC 5-16-9.~~

9 SECTION 3. IC 4-13.6-8-8 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. ~~(a) An agreement or~~
11 ~~a contract under this chapter is subject to IC 5-16-7.~~

12 ~~(b) (a)~~ The contractor and each subcontractor engaged in installing
13 energy conservation measures under a guaranteed energy savings
14 contract shall keep full and accurate records indicating the names,
15 classifications, and work performed by each worker employed by the
16 respective contractor and subcontractor in connection with the work
17 and an accurate record of the number of hours worked by each worker
18 and the actual wages paid.

19 ~~(c) (b)~~ The payroll records required to be kept under this section
20 must be open to inspection by an authorized representative of the
21 department and the department of labor.

22 SECTION 4. IC 5-1-16-45, AS AMENDED BY P.L.113-2006,
23 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2015]: Sec. 45. ~~(a)~~ A county desiring to have a building
25 erected or renovated on land owned or to be acquired by the county
26 may sell that land or building to the authority. Before the sale may take
27 place, the county commissioners shall file a petition with the circuit
28 court of the county requesting the appointment of:

29 (1) one (1) disinterested freeholder of the county as an appraiser;
30 and

31 (2) two (2) disinterested appraisers licensed under IC 25-34.1;
32 who are residents of Indiana to determine the fair market value of the
33 land or building. One (1) of the appraisers described under subdivision
34 (2) must reside not more than fifty (50) miles from the land or building.
35 Upon appointment, the appraisers shall fix the fair market value of the
36 land or building and shall report that value within two (2) weeks from
37 the date of their appointment. The county may then sell the land or
38 building to the authority for an amount not less than the amount fixed
39 by the appraisers as the fair market value. The amount shall be paid in
40 cash upon delivery of the deed by the county to the authority. If a
41 cumulative building fund exists at the time of the sale, the proceeds
42 from the sale shall be placed in that fund. If a cumulative building fund



1 does not exist at the time of the sale, the proceeds from the sale shall
 2 be paid into the county hospital fund with the principal and interest on
 3 the fund to be used solely by the county hospital for the purposes set
 4 forth in IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal on July 1,
 5 1993). A sale of land or a building by a county to the authority shall be
 6 authorized by the board of commissioners by an order that shall be
 7 entered in the official records of the board. The deed shall be executed
 8 on behalf of the county by the board of county commissioners.

9 (b) ~~A contract entered into under this chapter for a public work (as~~
 10 ~~defined in IC 5-16-7-4) is subject to IC 5-16-7.~~

11 SECTION 5. IC 5-1-17-18, AS AMENDED BY P.L.1-2006,
 12 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2015]: Sec. 18. (a) Subject to subsection (h), the authority
 14 may issue bonds for the purpose of obtaining money to pay the cost of:

- 15 (1) acquiring real or personal property, including existing capital
 16 improvements;
- 17 (2) constructing, improving, reconstructing, or renovating one (1)
 18 or more capital improvements; or
- 19 (3) funding or refunding bonds issued under IC 36-10-8 or
 20 IC 36-10-9 or prior law.

21 (b) The bonds are payable from the lease rentals from the lease of
 22 the capital improvements for which the bonds were issued, insurance
 23 proceeds, and any other funds pledged or available.

24 (c) The bonds shall be authorized by a resolution of the board.

25 (d) The terms and form of the bonds shall either be set out in the
 26 resolution or in a form of trust indenture approved by the resolution.

27 (e) The bonds shall mature within forty (40) years.

28 (f) The board shall sell the bonds at public or private sale upon the
 29 terms determined by the board.

30 (g) All money received from any bonds issued under this chapter
 31 shall be applied to the payment of the cost of the acquisition or
 32 construction, or both, of capital improvements, or the cost of refunding
 33 or refinancing outstanding bonds, for which the bonds are issued. The
 34 cost may include:

- 35 (1) planning and development of the facility and all buildings,
 36 facilities, structures, and improvements related to it;
- 37 (2) acquisition of a site and clearing and preparing the site for
 38 construction;
- 39 (3) equipment, facilities, structures, and improvements that are
 40 necessary or desirable to make the capital improvement suitable
 41 for use and operations;
- 42 (4) architectural, engineering, consultant, and attorney's fees;



- 1 (5) incidental expenses in connection with the issuance and sale
 2 of bonds;
 3 (6) reserves for principal and interest;
 4 (7) interest during construction;
 5 (8) financial advisory fees;
 6 (9) insurance during construction;
 7 (10) municipal bond insurance, debt service reserve insurance,
 8 letters of credit, or other credit enhancement; and
 9 (11) in the case of refunding or refinancing, payment of the
 10 principal of, redemption premiums (if any) for, and interest on,
 11 the bonds being refunded or refinanced.
- 12 (h) The authority may not issue bonds under this chapter unless the
 13 authority first finds that the following conditions are met:
- 14 (1) Each contract or subcontract for the construction of a facility
 15 and all buildings, facilities, structures, and improvements related
 16 to that facility to be financed in whole or in part through the
 17 issuance of the bonds
- 18 ~~(A) requires payment of the common construction wage~~
 19 ~~required by IC 5-16-7; and~~
- 20 ~~(B)~~ requires the contractor or subcontractor to enter into a
 21 project labor agreement as a condition of being awarded and
 22 performing work on the contract.
- 23 (2) The capital improvement board and the authority have entered
 24 into a written agreement concerning the terms of the financing of
 25 the facility. This agreement must include the following
 26 provisions:
- 27 (A) Notwithstanding any other law, if the capital improvement
 28 board selected a construction manager and an architect for a
 29 facility before May 15, 2005, the authority will contract with
 30 that construction manager and architect and use plans as
 31 developed by that construction manager and architect. In
 32 addition, any other agreements entered into by the capital
 33 improvement board or a political subdivision served by the
 34 capital improvement board with respect to the design and
 35 construction of the facility will be reviewed by a selection
 36 committee consisting of:
- 37 (i) two (2) of the members appointed to the board of
 38 directors of the authority under section 7(a)(1) of this
 39 chapter, as designated by the governor;
- 40 (ii) the two (2) members appointed to the board of directors
 41 of the authority under section 7(a)(2) of this chapter; and
 42 (iii) the executive director of the authority.



1 The selection committee is not bound by any prior
2 commitments of the capital improvement board or the political
3 subdivision, other than the general project design, and will
4 approve all contracts necessary for the design and construction
5 of the facility.

6 (B) If before May 15, 2005, the capital improvement board
7 acquired any land, plans, or other information necessary for
8 the facility and the board had budgeted for these items, the
9 capital improvement board will transfer the land, plans, or
10 other information useful to the authority for a price not to
11 exceed the lesser of:

12 (i) the actual cost to the capital improvement board; or

13 (ii) three million five hundred thousand dollars
14 (\$3,500,000).

15 (C) The capital improvement board agrees to take any legal
16 action that the authority considers necessary to facilitate the
17 financing of the facility, including entering into agreements
18 during the design and construction of the facility or a sublease
19 of a capital improvement to any state agency that is then leased
20 by the authority to any state agency under section 26 of this
21 chapter.

22 (D) The capital improvement board is prohibited from taking
23 any other action with respect to the financing of the facility
24 without the prior approval of the authority. The authority is not
25 bound by the terms of any agreement entered into by the
26 capital improvement board with respect to the financing of the
27 facility without the prior approval of the authority.

28 (E) As the project financier, the Indiana finance authority (or
29 its successor agency) and the public finance director will be
30 responsible for selecting all investment bankers, bond counsel,
31 trustees, and financial advisors.

32 (F) The capital improvement board agrees to deliver to the
33 authority the one hundred million dollars (\$100,000,000) that
34 is owed to the capital improvement board, the consolidated
35 city, or the county having a consolidated city pursuant to an
36 agreement between the National Football League franchised
37 professional football team and the capital improvement board,
38 the consolidated city, or the county. This amount shall be
39 applied to the cost of construction for the stadium part of the
40 facility. This amount does not have to be delivered until a
41 lease is entered into for the stadium between the authority and
42 the capital improvement board.



1 (G) The authority agrees to consult with the staff of the capital
 2 improvement board on an as needed basis during the design
 3 and construction of the facility, and the capital improvement
 4 board agrees to make its staff available for this purpose.

5 (H) The authority, the county, the consolidated city, the capital
 6 improvement board and the National Football League
 7 franchised professional football team must commit to using
 8 their best efforts to assist and cooperate with one another to
 9 design and construct the facility on time and on budget.

10 (3) The capital improvement board and the National Football
 11 League franchised professional football team have entered into a
 12 lease for the stadium part of the facility that has been approved by
 13 the authority and has a term of at least thirty (30) years.

14 SECTION 6. IC 5-16-7 IS REPEALED [EFFECTIVE JULY 1,
 15 2015]. (Wage Scale of Contractors' and Subcontractors' Employees).

16 SECTION 7. IC 5-16-7.1 IS ADDED TO THE INDIANA CODE
 17 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 18 JULY 1, 2015]:

19 **Chapter 7.1. Effect of Repeal of Common Construction Wage**
 20 **Statute (IC 5-16-7)**

21 **Sec. 1. As used in this chapter, "common construction wage**
 22 **statute" refers to the following:**

23 (1) IC 5-16-7, as in effect on June 30, 2015.

24 (2) Any statute, as in effect on June 30, 2015, if IC 5-16-7 is
 25 applicable.

26 **Sec. 2. Notwithstanding the repeal of the common construction**
 27 **wage statute by legislation enacted in the 2015 regular session of**
 28 **the general assembly, the common construction wage statute**
 29 **applies to a public works contract awarded before July 1, 2015,**
 30 **and shall be enforced as if the common construction wage statute**
 31 **had not been repealed.**

32 SECTION 8. IC 5-23-3-3 IS REPEALED [EFFECTIVE JULY 1,
 33 2015]. ~~Sec. 3: If a governmental body enters into a BOT agreement that~~
 34 ~~involves the construction of a public facility with public funds under~~
 35 ~~this section, the operator or any contractor or subcontractor engaged in~~
 36 ~~the construction of that public facility shall pay the common~~
 37 ~~construction wage as determined under IC 5-16-7.~~

38 SECTION 9. IC 5-23-4-2 IS REPEALED [EFFECTIVE JULY 1,
 39 2015]. ~~Sec. 2: If a governmental body enters into an operating~~
 40 ~~agreement that involves the construction of a public facility with public~~
 41 ~~funds under this section, the operator or any contractor or subcontractor~~
 42 ~~engaged in the construction of that public facility shall pay the common~~



1 construction wage as determined under IC 5-16-7.

2 SECTION 10. IC 5-30-6-4, AS ADDED BY P.L.74-2005,
3 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2015]: Sec. 4. In addition to the design criteria package, a
5 request for proposals must include the following:

6 (1) Instructions.

7 (2) Proposal forms and schedules.

8 (3) General and special conditions.

9 (4) The basis for evaluation of proposals, including a description
10 of the selection criteria with the weight assigned to each criteria.

11 (5) A determination of the common construction wage made
12 under IC 5-16-7.

13 (6) (5) Any other instructions, documents, or information relevant
14 to the public project that the public agency considers relevant.

15 SECTION 11. IC 5-30-8-6 IS REPEALED [EFFECTIVE JULY 1,
16 2015]. Sec. 6: (a) A determination under IC 5-16-7-1(c) for a public
17 project to be constructed under a design-build contract shall be made
18 and filed with the public agency at least two (2) weeks before the date
19 fixed for submission of the qualitative proposal and the price proposal
20 under IC 5-30-6-5.

21 (b) If the committee appointed under IC 5-16-7-1(b) fails to act and
22 to file a determination under IC 5-16-7-1(c) within the time required by
23 this section, the public agency shall make the determination, and its
24 finding shall be final.

25 (c) The time periods set forth in this section apply to any
26 construction services provided for a public project to be constructed
27 under a design-build contract, instead of the time periods set forth in
28 IC 5-16-7-1(h) and IC 5-16-7-1(i).

29 SECTION 12. IC 8-1.5-2-27 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 27. (a) A municipality
31 may lease waterworks facilities from a not-for-profit corporation, a
32 public utility, a county, or a municipality. The term of the lease may not
33 exceed fifty (50) years. The lease must provide that the municipality
34 has an option to:

35 (1) renew the lease for a further term on like conditions; and

36 (2) purchase the waterworks facilities covered by the lease
37 contract with the terms and conditions of the purchase specified
38 in the lease.

39 (b) If the option to purchase the waterworks facilities covered by the
40 lease is exercised, the municipality, for the purpose of procuring money
41 to pay the purchase price, may issue and sell revenue bonds under other
42 laws governing the issuance and sale of waterworks revenue bonds for



1 additions and extensions to municipal waterworks.

2 (c) If the municipality has not exercised an option to purchase the
3 property covered by the lease at the expiration of the lease, and upon
4 the full discharge and performance by the municipality of its
5 obligations under the lease contract, the property covered by the lease
6 thereupon becomes the absolute property of the municipality, and the
7 lessor shall execute proper instruments conveying to the municipality
8 good and merchantable title thereto.

9 ~~(d) A waterworks facility leased under this section is subject to~~
10 ~~IC 5-16-7.~~

11 SECTION 13. IC 8-15.5-6-2, AS AMENDED BY P.L.205-2013,
12 SECTION 157, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2015]: Sec. 2. ~~(a)~~ Unless otherwise provided by
14 federal law or this section, the operator or any contractor or
15 subcontractor of the operator engaged in the construction of a project
16 is not required to comply with IC 4-13.6 or IC 5-16 concerning state
17 public works, IC 5-17 concerning purchases of materials and supplies,
18 or other statutes concerning procedures for procurement of public
19 works or personal property as a condition of being awarded and
20 performing work on the project.

21 ~~(b) IC 5-16-7 concerning the common construction wage applies to~~
22 ~~the following:~~

23 ~~(1) The operator or any contractor or subcontractor of the operator~~
24 ~~engaged in a project for the construction of the Hhiana~~
25 ~~Expressway, a limited access facility connecting Interstate~~
26 ~~Highway 65 in northwestern Indiana with an interstate highway~~
27 ~~in Hhinois.~~

28 ~~(2) The operator or any contractor or subcontractor of the operator~~
29 ~~engaged in the construction of a project that is the subject of a~~
30 ~~public-private agreement entered into after April 30, 2011.~~

31 SECTION 14. IC 8-15.7-6-2, AS AMENDED BY P.L.163-2011,
32 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2015]: Sec. 2. ~~(a)~~ Unless otherwise provided by federal law or
34 this section, the operator or any contractor or subcontractor of the
35 operator engaged in the construction of a project is not required to
36 comply with IC 4-13.6 or IC 5-16 concerning state public works,
37 IC 5-17 concerning purchases of materials and supplies, or other
38 statutes concerning procedures for procurement of public works or
39 personal property as a condition of being awarded and performing work
40 on the project.

41 ~~(b) IC 5-16-7 concerning the common construction wage applies to~~
42 ~~the following:~~



1 (1) The operator or any contractor or subcontractor of the operator
 2 engaged in a project for the construction of the Hhiana
 3 Expressway, a limited access facility connecting Interstate
 4 Highway 65 in northwestern Indiana with an interstate highway
 5 in Hhinois:

6 (2) The operator or any contractor or subcontractor of the operator
 7 engaged in the construction of a project that is the subject of a
 8 public-private agreement entered into after April 30, 2011:

9 SECTION 15. IC 8-24-9-1, AS ADDED BY P.L.182-2009(ss),
 10 SECTION 282, IS AMENDED TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2015]: Sec. 1. The district shall comply with
 12 ~~IC 5-16-7 (common construction wage)~~; IC 5-22 (public purchasing),
 13 IC 36-1-12 (public work projects), and any applicable federal bidding
 14 statutes and regulations.

15 SECTION 16. IC 16-22-6-37 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 37. (a) A county or the
 17 governing board of the hospital may remodel or construct an addition
 18 to a hospital building leased under this chapter.

19 (b) To provide funds for that purpose, the county may issue general
 20 obligation bonds or appropriate money from the county's general fund
 21 or other funds available for that purpose if the hospital building is
 22 owned by the county. The governing board of a hospital may use funds
 23 available to the board if the hospital building is owned by the county.

24 (c) ~~A contract entered into under this chapter for a public work (as~~
 25 ~~defined in IC 5-16-7-4) is subject to IC 5-16-7.~~

26 SECTION 17. IC 16-22-7-42 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 42. (a) The governing
 28 board of the hospital may remodel or construct an addition to a hospital
 29 building leased by the hospital under this chapter.

30 (b) To provide funds for that purpose, the county may issue general
 31 obligation aid bonds or the city hospital or city may appropriate money
 32 from the city hospital's or city's general fund or other funds available
 33 for that purpose if the hospital building is owned by the city hospital or
 34 city. The governing board of the hospital may use any funds available
 35 to the board if the hospital building is owned by the city.

36 (c) ~~A contract entered into under this chapter for a public work (as~~
 37 ~~defined in IC 5-16-7-4) is subject to IC 5-16-7.~~

38 SECTION 18. IC 22-1-1-16 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 16. The commissioner
 40 of labor and ~~his~~ **the commissioner's** authorized representative shall
 41 have the power and the authority to enter any place of employment for
 42 the purpose of collecting facts and statistics relating to the employment



1 of workers and of making inspections for the proper enforcement of all
 2 of the labor laws of ~~this state, including IC 5-16-7. No~~ **Indiana. An**
 3 employer or owner ~~shall~~ **may not** refuse to admit the commissioner of
 4 labor or ~~his~~ **the commissioner's** authorized representatives to ~~his~~ **the**
 5 **employer's or owner's** place of employment.

6 SECTION 19. IC 35-44.2-3-4 IS REPEALED [EFFECTIVE JULY
 7 1, 2015]. ~~Sec. 4: A person who commits a wage scale violation in a~~
 8 ~~state public works contract is subject to criminal prosecution under~~
 9 ~~IC 5-16-7-3.~~

10 SECTION 20. IC 35-44.2-3-5 IS REPEALED [EFFECTIVE JULY
 11 1, 2015]. ~~Sec. 5: A person who unlawfully divides a public works~~
 12 ~~project is subject to a civil action for an infraction under IC 5-16-7-6.~~

13 SECTION 21. IC 35-52-5-8 IS REPEALED [EFFECTIVE JULY 1,
 14 2015]. ~~Sec. 8: IC 5-16-7-3 defines a crime concerning wage rate of~~
 15 ~~contractor's and subcontractor's employees.~~

16 SECTION 22. IC 36-1-12-15 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. ~~(a) A contract by~~
 18 ~~the board for public work must conform to the wage scale provisions~~
 19 ~~of IC 5-16-7.~~

20 ~~(b)~~ A contract by the board for public work must conform with the
 21 antidiscrimination provisions of IC 5-16-6. The board may consider a
 22 violation of IC 5-16-6 a material breach of the contract, as provided in
 23 IC 22-9-1-10.

24 SECTION 23. IC 36-1-12.5-5, AS AMENDED BY P.L.99-2009,
 25 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2015]: Sec. 5. (a) The governing body may enter into an
 27 agreement with a public utility to participate in a utility efficiency
 28 program or enter into a guaranteed savings contract with a qualified
 29 provider to increase the political subdivision's billable revenues or
 30 reduce the school corporation's or the political subdivision's energy or
 31 water consumption, wastewater usage costs, or operating costs if, after
 32 review of the report described in section 6 of this chapter, the
 33 governing body finds:

34 (1) in the case of conservation measures other than those that are
 35 part of a project related to the alteration of a water or wastewater
 36 structure or system, that the amount the governing body would
 37 spend on the conservation measures under the contract and that
 38 are recommended in the report is not likely to exceed the amount
 39 to be saved in energy consumption costs and other operating costs
 40 over twenty (20) years from the date of installation if the
 41 recommendations in the report were followed;

42 (2) in the case of conservation measures that are part of a project



- 1 related to the alteration of a water or wastewater structure or
 2 system, that the amount the governing body would spend on the
 3 conservation measures under the contract and that are
 4 recommended in the report is not likely to exceed the amount of
 5 increased billable revenues or the amount to be saved in energy
 6 and water consumption costs, wastewater usage costs, and other
 7 operating costs over twenty (20) years from the date of
 8 installation if the recommendations in the report were followed;
 9 and
 10 (3) in the case of a guaranteed savings contract, the qualified
 11 provider provides a written guarantee as described in subsection
 12 (d)(3).
 13 (b) Before entering into an agreement to participate in a utility
 14 efficiency program or a guaranteed savings contract under this section,
 15 the governing body must publish notice under subsection (c)
 16 indicating:
 17 (1) that the governing body is requesting public utilities or
 18 qualified providers to propose conservation measures through:
 19 (A) a utility efficiency program; or
 20 (B) a guaranteed savings contract; and
 21 (2) the date, the time, and the place where proposals must be
 22 received.
 23 (c) The notice required by subsection (b) must:
 24 (1) be published in two (2) newspapers of general circulation in
 25 the county where the school corporation or the political
 26 subdivision is located;
 27 (2) be published two (2) times with at least one (1) week between
 28 publications and with the second publication made at least thirty
 29 (30) days before the date by which proposals must be received;
 30 and
 31 (3) meet the requirements of IC 5-3-1-1.
 32 (d) An agreement to participate in a utility efficiency program or
 33 guaranteed savings contract under this section must provide that:
 34 (1) in the case of conservation measures other than those that are
 35 part of a project related to the alteration of a water or wastewater
 36 structure or system, all payments, except obligations upon the
 37 termination of the agreement or contract before the agreement or
 38 contract expires, may be made to the public utility or qualified
 39 provider (whichever applies) in installments, not to exceed the
 40 lesser of twenty (20) years or the average life of the conservation
 41 measures installed from the date of final installation;
 42 (2) in the case of conservation measures that are part of a project



1 related to the alteration of a water or wastewater structure or
 2 system, all payments, except obligations upon the termination of
 3 the agreement or contract before the agreement or contract
 4 expires, may be made to the public utility or qualified provider
 5 (whichever applies) in installments, not to exceed the lesser of
 6 twenty (20) years or the average life of the conservation measures
 7 installed from the date of final installation;
 8 (3) in the case of the guaranteed savings contract:
 9 (A) the:
 10 (i) savings in energy and water consumption costs,
 11 wastewater usage costs, and other operating costs; and
 12 (ii) increase in billable revenues;
 13 due to the conservation measures are guaranteed to cover the
 14 costs of the payments for the measures; and
 15 (B) the qualified provider will reimburse the school
 16 corporation or political subdivision for the difference between
 17 the guaranteed savings and the actual savings; and
 18 (4) payments are subject to annual appropriation by the fiscal
 19 body of the school corporation or political subdivision and do not
 20 constitute an indebtedness of the school corporation or political
 21 subdivision within the meaning of a constitutional or statutory
 22 debt limitation.
 23 ~~(e) An agreement or a contract under this chapter is subject to~~
 24 ~~IC 5-16-7.~~
 25 SECTION 24. IC 36-7-12-20 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 20. (a) All tax revenues
 27 coming into possession of the economic development commission shall
 28 be deposited, held, and secured in accordance with the statutes relating
 29 to the handling and investing of public funds. The handling and
 30 expenditure of this money is subject to audit and supervision by the
 31 state board of accounts.
 32 (b) Contracts for construction and equipment of economic
 33 development or pollution control facilities need not be let in
 34 accordance with IC 5-16, IC 5-17, or any other statute relating to public
 35 contracts. ~~However, the construction of waterworks facilities financed~~
 36 ~~for the public purpose of providing reliable water service subject to~~
 37 ~~IC 5-16-7.~~
 38 (c) Any employee of the economic development commission
 39 authorized to receive, disburse, or in any other way handle money or
 40 negotiable securities of the commission shall execute a bond payable
 41 to the state, with surety to consist of a surety or guaranty corporation
 42 qualified to do business in the state. The bond must be in an amount



1 determined by the commission, and must be conditioned upon the
 2 employee's faithful performance of ~~his~~ **the employee's** duties and the
 3 accounting for all monies and property that may come into ~~his~~ **the**
 4 **employee's** hands or under ~~his~~ **the employee's** control. The cost of
 5 these bonds shall be paid by the commission.

6 SECTION 25. IC 36-7-14-12.3 IS REPEALED [EFFECTIVE JULY
 7 1, 2015]. ~~Sec. 12.3: IC 5-16-7 applies to:~~

8 (1) a person that enters into a contract with a redevelopment
 9 commission to perform construction work referred to in section
 10 12.2(a)(4); 12.2(a)(7); 12.2(a)(21); or 12.2(a)(22) of this chapter;
 11 and

12 (2) a subcontractor of a person described in subdivision (1);
 13 with respect to the construction work referred to in subdivision (1).

14 SECTION 26. IC 36-7.5-2-8, AS ADDED BY P.L.214-2005,
 15 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2015]: Sec. 8. (a) The development authority must comply
 17 with ~~IC 5-16-7 (common construction wage)~~; IC 5-22 (public
 18 purchasing), IC 36-1-12 (public work projects), and any applicable
 19 federal bidding statutes and regulations. An eligible political
 20 subdivision that receives a loan, a grant, or other financial assistance
 21 from the development authority or enters into a lease with the
 22 development authority must comply with applicable federal, state, and
 23 local public purchasing and bidding law and regulations. However, a
 24 purchasing agency (as defined in IC 5-22-2-25) of an eligible political
 25 subdivision may:

26 (1) assign or sell a lease for property to the development
 27 authority; or

28 (2) enter into a lease for property with the development authority;
 29 at any price and under any other terms and conditions as may be
 30 determined by the eligible political subdivision and the development
 31 authority. However, before making an assignment or sale of a lease or
 32 entering into a lease under this section that would otherwise be subject
 33 to IC 5-22, the eligible political subdivision or its purchasing agent
 34 must obtain or cause to be obtained a purchase price for the property
 35 to be subject to the lease from the lowest responsible and responsive
 36 bidder in accordance with the requirements for the purchase of supplies
 37 under IC 5-22.

38 (b) In addition to the provisions of subsection (a), with respect to
 39 projects undertaken by the authority, the authority shall set a goal for
 40 participation by minority business enterprises of fifteen percent (15%)
 41 and women's business enterprises of five percent (5%), consistent with
 42 the goals of delivering the project on time and within the budgeted



1 amount and, insofar as possible, using Indiana businesses for
 2 employees, goods, and services. In fulfilling the goal, the authority
 3 shall take into account historical precedents in the same market.

4 SECTION 27. IC 36-7.5-4-3, AS AMENDED BY P.L.1-2006,
 5 SECTION 573, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) ~~Subject to subsection (h)~~; The
 7 development authority may issue bonds for the purpose of obtaining
 8 money to pay the cost of:

9 (1) acquiring real or personal property, including existing capital
 10 improvements;

11 (2) acquiring, constructing, improving, reconstructing, or
 12 renovating one (1) or more projects; or

13 (3) funding or refunding bonds issued under this chapter or
 14 IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law.

15 (b) The bonds are payable solely from:

16 (1) the lease rentals from the lease of the projects for which the
 17 bonds were issued, insurance proceeds, and any other funds
 18 pledged or available; and

19 (2) except as otherwise provided by law, revenue received by the
 20 development authority and amounts deposited in the development
 21 authority fund.

22 (c) The bonds shall be authorized by a resolution of the
 23 development board.

24 (d) The terms and form of the bonds shall either be set out in the
 25 resolution or in a form of trust indenture approved by the resolution.

26 (e) The bonds shall mature within forty (40) years.

27 (f) The board shall sell the bonds only to the Indiana finance
 28 authority established by IC 4-4-11-4 upon the terms determined by the
 29 development board and the Indiana finance authority.

30 (g) All money received from any bonds issued under this chapter
 31 shall be applied solely to the payment of the cost of acquiring,
 32 constructing, improving, reconstructing, or renovating one (1) or more
 33 projects, or the cost of refunding or refinancing outstanding bonds, for
 34 which the bonds are issued. The cost may include:

35 (1) planning and development of equipment or a facility and all
 36 buildings, facilities, structures, equipment, and improvements
 37 related to the facility;

38 (2) acquisition of a site and clearing and preparing the site for
 39 construction;

40 (3) equipment, facilities, structures, and improvements that are
 41 necessary or desirable to make the project suitable for use and
 42 operations;



- 1 (4) architectural, engineering, consultant, and attorney's fees;
 2 (5) incidental expenses in connection with the issuance and sale
 3 of bonds;
 4 (6) reserves for principal and interest;
 5 (7) interest during construction;
 6 (8) financial advisory fees;
 7 (9) insurance during construction;
 8 (10) municipal bond insurance, debt service reserve insurance,
 9 letters of credit, or other credit enhancement; and
 10 (11) in the case of refunding or refinancing, payment of the
 11 principal of, redemption premiums (if any) for, and interest on,
 12 the bonds being refunded or refinanced.

13 ~~(h) The development authority may not issue bonds under this~~
 14 ~~article unless the development authority first finds that each contract~~
 15 ~~for the construction of a facility and all buildings, facilities, structures,~~
 16 ~~and improvements related to that facility to be financed in whole or in~~
 17 ~~part through the issuance of the bonds requires payment of the common~~
 18 ~~construction wage required by IC 5-16-7.~~

19 SECTION 28. IC 36-7.6-2-13, AS ADDED BY P.L.232-2007,
 20 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 21 JULY 1, 2015]: Sec. 13. (a) A development authority shall comply with
 22 ~~IC 5-16-7 (common construction wage);~~ IC 5-22 (public purchasing),
 23 IC 36-1-12 (public work projects), and any applicable federal bidding
 24 statutes and regulations. An eligible political subdivision that receives
 25 a loan, a grant, or other financial assistance from a development
 26 authority or enters into a lease with a development authority must
 27 comply with applicable federal, state, and local public purchasing and
 28 bidding laws and regulations. However, a purchasing agency (as
 29 defined in IC 5-22-2-25) of an eligible political subdivision may:

- 30 (1) assign or sell a lease for property to a development authority;
 31 or
 32 (2) enter into a lease for property with a development authority;
 33 at any price and under any other terms and conditions as may be
 34 determined by the eligible political subdivision and the development
 35 authority. However, before making an assignment or a sale of a lease
 36 or entering into a lease under this section that would otherwise be
 37 subject to IC 5-22, the eligible political subdivision or its purchasing
 38 agent must obtain or cause to be obtained a purchase price for the
 39 property to be subject to the lease from the lowest responsible and
 40 responsive bidder in accordance with the requirements for the purchase
 41 of supplies under IC 5-22.

42 (b) In addition to the provisions of subsection (a), with respect to



1 projects undertaken by a development authority, the development
 2 authority shall set a goal for participation by minority business
 3 enterprises and women's business enterprises. The goals must be
 4 consistent with:

5 (1) the participation goals established by the counties and
 6 municipalities that are members of the development authority;
 7 and

8 (2) the goals of delivering the project on time and within the
 9 budgeted amount and, insofar as possible, using Indiana
 10 businesses for employees, goods, and services.

11 SECTION 29. IC 36-7.6-4-3, AS ADDED BY P.L.232-2007,
 12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2015]: Sec. 3. (a) ~~Subject to subsection (h)~~; A development
 14 authority may issue bonds for the purpose of obtaining money to pay
 15 the cost of:

16 (1) acquiring real or personal property, including existing capital
 17 improvements;

18 (2) acquiring, constructing, improving, reconstructing, or
 19 renovating one (1) or more projects; or

20 (3) funding or refunding bonds issued under this chapter,
 21 IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law.

22 (b) The bonds are payable solely from:

23 (1) the lease rentals from the lease of the projects for which the
 24 bonds were issued, insurance proceeds, and any other funds
 25 pledged or available; and

26 (2) except as otherwise provided by law, revenue received by the
 27 development authority and amounts deposited in the development
 28 authority fund.

29 (c) The bonds must be authorized by a resolution of the
 30 development board of the development authority that issues the bonds.

31 (d) The terms and form of the bonds must either be set out in the
 32 resolution or in a form of trust indenture approved by the resolution.

33 (e) The bonds must mature within forty (40) years.

34 (f) A development board shall sell the bonds only to the Indiana
 35 bond bank established by IC 5-1.5-2-1 upon the terms determined by
 36 the development board and the Indiana bond bank.

37 (g) All money received from any bonds issued under this chapter
 38 shall be applied solely to the payment of the cost of acquiring,
 39 constructing, improving, reconstructing, or renovating one (1) or more
 40 projects, or the cost of refunding or refinancing outstanding bonds, for
 41 which the bonds are issued. The cost may include:

42 (1) planning and development of equipment or a facility and all



- 1 buildings, facilities, structures, equipment, and improvements
- 2 related to the facility;
- 3 (2) acquisition of a site and clearing and preparing the site for
- 4 construction;
- 5 (3) equipment, facilities, structures, and improvements that are
- 6 necessary or desirable to make the project suitable for use and
- 7 operations;
- 8 (4) architectural, engineering, consultant, and attorney's fees;
- 9 (5) incidental expenses in connection with the issuance and sale
- 10 of bonds;
- 11 (6) reserves for principal and interest;
- 12 (7) interest during construction;
- 13 (8) financial advisory fees;
- 14 (9) insurance during construction;
- 15 (10) municipal bond insurance, debt service reserve insurance,
- 16 letters of credit, or other credit enhancement; and
- 17 (11) in the case of refunding or refinancing, payment of the
- 18 principal of, redemption premiums (if any) for, and interest on the
- 19 bonds being refunded or refinanced.

20 (h) A development authority may not issue bonds under this article
 21 unless the development authority first finds that each contract for the
 22 construction of a facility and all buildings, facilities, structures, and
 23 improvements related to that facility to be financed in whole or in part
 24 through the issuance of the bonds requires payment of the common
 25 construction wage required by IC 5-16-7.

26 SECTION 30. IC 36-9-23-2 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. A municipality may:

- 28 (1) acquire, construct, improve, operate, and maintain sewage
- 29 works under this chapter;
- 30 (2) acquire, by gift, grant, purchase, condemnation, or otherwise,
- 31 all lands, rights-of-way, and other property that are necessary for
- 32 the sewage works;
- 33 (3) issue revenue bonds to pay the cost of acquiring, constructing,
- 34 and improving the sewage works and property; and
- 35 (4) lease sewage works from a person, an entity, a corporation, a
- 36 public utility, or a unit for a term not to exceed fifty (50) years.

37 A sewage works leased under this section is subject to IC 5-16-7.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1019, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1019 as introduced.)

HARMAN

Committee Vote: Yeas 8, Nays 4

