



April 8, 2015

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# ENGROSSED HOUSE BILL No. 1019

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DIGEST OF HB 1019 (Updated April 7, 2015 11:39 am - DI 120)

**Citations Affected:** IC 4-13.5; IC 4-13.6; IC 5-1; IC 5-16; IC 5-23; IC 5-30; IC 5-32; IC 8-1.5; IC 8-15.5; IC 8-15.7; IC 8-24; IC 16-22; IC 22-1; IC 22-5; IC 35-43; 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 and public works. Repeals the common construction wage statute. Repeals related statutes superseded by the repeal of the common construction wage statute. Increases the "small project" cap for a public works project from \$150,000 to \$300,000. Unless required by federal or state law, prohibits a public  
(Continued next page)

**Effective:** July 1, 2015.

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

(SENATE SPONSORS — YODER, KRUSE, BASSLER, SMITH J,  
SCHNEIDER, MILLER PETE)

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January 6, 2015, read first time and referred to Committee on Employment, Labor and Pensions.

February 17, 2015, reported — Do Pass.

February 19, 2015, read second time, ordered engrossed. Engrossed.

February 23, 2015, read third time, passed. Yeas 55, nays 41.

SENATE ACTION

February 25, 2015, read first time and referred to Committee on Tax & Fiscal Policy.

April 7, 2015, amended, reported favorably — Do Pass.

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EH 1019—LS 6208/DI 97



## Digest Continued

agency from establishing, mandating, or otherwise requiring a wage scale or wage schedule for a public works project. Provides that the following apply to all public works projects: (1) Provides that a public works contract may not be structured other than in four contractor tiers. (2) Provides that each prime contractor on a public works project must perform at least 15% of the total contract price with its own labor, services, or materials. (3) Requires each contractor in each contractor tier to maintain general liability insurance. (4) Requires each contractor in each contractor tier to be qualified by the department of administration or the department of transportation before doing any work on a public works project. (5) Requires certain employees of a public works contract to be "e-verified". (6) Provides that a contractor on a public works project may not pay its employees in cash. (7) Requires a contractor to comply with certain federal and Indiana laws relating to labor. (8) Requires a prime contractor on a public works project that employs 10 or more employees to maintain an ongoing training program for its employees. (9) Requires that the payroll and related records of a contractor in any contractor tier must be preserved by the contractor for 3 years after completion of the project work and be open to inspection by the department of workforce development. Provides that a public agency may conduct an in-person inspection of the information contained in the quarterly wage reports submitted to the department of workforce development for a contractor in any contractor tier working a public works project owned by the public agency. Provides that a person who discloses any information obtained during an inspection commits a Class B misdemeanor. Provides that a public agency that finds a contractor in violation of these requirements may find the contractor to be not responsible for a period of not more than 48 months. Provides that a person aggrieved by a determination that the person is not responsible may file a petition for judicial review of that determination. Provides that a person who falsely classifies an employee under certain statutes commits worker's compensation fraud. Provides for classification of this crime at various levels. Makes conforming amendments.



April 8, 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.

## ENGROSSED HOUSE BILL No. 1019

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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

**EH 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 **(5) IC 5-16-13.**

10 **(6) IC 5-16-14.**

11 SECTION 3. IC 4-13.6-4-10 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) A contractor  
13 having a contract with the division for a public works project may enter  
14 into a subcontract with a value of one hundred fifty thousand dollars  
15 (\$150,000) or more, involving the performance of any part of the  
16 public work upon which the contractor may be engaged only if the  
17 subcontractor has been properly qualified under the terms of this  
18 chapter for the work subcontracted.

19 (b) A contractor that enters into a public works contract with an  
20 estimated cost of one hundred fifty thousand dollars (\$150,000) or  
21 more must complete at least **twenty fifteen percent (20%) (15%)** of the  
22 work (measured in dollars of the total contract price) with its own  
23 forces. The director may determine whether a contractor has completed  
24 at least **twenty fifteen percent (20%) (15%)** of the work with its own  
25 forces, and this determination is final and conclusive.

26 (c) The director may find a contractor violating this section to be in  
27 breach of the contract and may employ any legal remedies or  
28 administrative remedies that the department may prescribe by rule or  
29 in the contract documents. The division may develop contract  
30 provisions that assure compliance by contractors with this section and  
31 provide for remedies if a contractor breaches these provisions.

32 SECTION 4. IC 4-13.6-5-4, AS AMENDED BY P.L.172-2011,  
33 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
34 JULY 1, 2015]: Sec. 4. (a) If the estimated cost of a public works  
35 project is less than **one three hundred fifty thousand dollars**  
36 **(\$150,000), (\$300,000)**, the division may perform the public work  
37 without awarding a public works contract under section 2 of this  
38 chapter. In performing the public work, the division may authorize use  
39 of equipment owned, rented, or leased by the state, may authorize  
40 purchase of materials in the manner provided by law, and may  
41 authorize performance of the public work using employees of the state.

42 (b) The workforce of a state agency may perform a public work



- 1 described in subsection (a) only if:
- 2 (1) the workforce, through demonstrated skills, training, or
- 3 expertise, is capable of performing the public work; and
- 4 (2) for a public works project under subsection (a) whose cost is
- 5 estimated to be more than one hundred thousand dollars
- 6 (\$100,000), the agency:
- 7 (A) publishes a notice under IC 5-3-1 that:
- 8 (i) describes the public work that the agency intends to
- 9 perform with its own workforce; and
- 10 (ii) sets forth the projected cost of each component of the
- 11 public work as described in subsection (a); and
- 12 (B) determines at a public meeting that it is in the public
- 13 interest to perform the public work with the agency's own
- 14 workforce.
- 15 A public works project performed by an agency's own workforce must
- 16 be inspected and accepted as complete in the same manner as a public
- 17 works project performed under a contract awarded after receiving bids.
- 18 (c) If a public works project involves a structure, an improvement,
- 19 or a facility under the control of an agency, the agency may not
- 20 artificially divide the project to bring any part of the project under this
- 21 section.
- 22 (d) If a public works project involves a structure, improvement, or
- 23 facility under the control of the department of natural resources, the
- 24 department of natural resources may purchase materials for the project
- 25 in the manner provided by law and without a contract being awarded,
- 26 and may use its employees to perform the labor and supervision, if:
- 27 (1) the department of natural resources uses equipment owned or
- 28 leased by it; and
- 29 (2) the division of engineering of the department of natural
- 30 resources estimates the cost of the public works project will be
- 31 less than ~~one three hundred fifty thousand dollars (\$150,000).~~
- 32 **(\$300,000).**
- 33 (e) If a public works project involves a structure, improvement, or
- 34 facility under the control of the department of correction, the
- 35 department of correction may purchase materials for the project in the
- 36 manner provided by law and use inmates in the custody of the
- 37 department of correction to perform the labor and use its own
- 38 employees for supervisory purposes, without awarding a contract, if:
- 39 (1) the department of correction uses equipment owned or leased
- 40 by it; and
- 41 (2) the estimated cost of the public works project using employee
- 42 or inmate labor is less than the greater of:



1 (A) fifty thousand dollars (\$50,000); or

2 (B) the project cost limitation set by IC 4-13-2-11.1.

3 All public works projects covered by this subsection must comply with  
4 the remaining provisions of this article, and all plans and specifications  
5 for the public works project must be approved by a licensed architect  
6 or engineer.

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

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

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

20 SECTION 6. IC 5-1-16-45, AS AMENDED BY P.L.113-2006,  
21 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2015]: Sec. 45. ~~(a)~~ A county desiring to have a building  
23 erected or renovated on land owned or to be acquired by the county  
24 may sell that land or building to the authority. Before the sale may take  
25 place, the county commissioners shall file a petition with the circuit  
26 court of the county requesting the appointment of:

27 (1) one (1) disinterested freeholder of the county as an appraiser;  
28 and

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



1 the fund to be used solely by the county hospital for the purposes set  
 2 forth in IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal on July 1,  
 3 1993). A sale of land or a building by a county to the authority shall be  
 4 authorized by the board of commissioners by an order that shall be  
 5 entered in the official records of the board. The deed shall be executed  
 6 on behalf of the county by the board of county commissioners.

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

9 SECTION 7. IC 5-1-17-18, AS AMENDED BY P.L.1-2006,  
 10 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2015]: Sec. 18. (a) Subject to subsection (h), the authority  
 12 may issue bonds for the purpose of obtaining money to pay the cost of:

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

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

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

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

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

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

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

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



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





- 1 subdivision, other than the general project design, and will  
2 approve all contracts necessary for the design and construction  
3 of the facility.
- 4 (B) If before May 15, 2005, the capital improvement board  
5 acquired any land, plans, or other information necessary for  
6 the facility and the board had budgeted for these items, the  
7 capital improvement board will transfer the land, plans, or  
8 other information useful to the authority for a price not to  
9 exceed the lesser of:
- 10 (i) the actual cost to the capital improvement board; or  
11 (ii) three million five hundred thousand dollars  
12 (\$3,500,000).
- 13 (C) The capital improvement board agrees to take any legal  
14 action that the authority considers necessary to facilitate the  
15 financing of the facility, including entering into agreements  
16 during the design and construction of the facility or a sublease  
17 of a capital improvement to any state agency that is then leased  
18 by the authority to any state agency under section 26 of this  
19 chapter.
- 20 (D) The capital improvement board is prohibited from taking  
21 any other action with respect to the financing of the facility  
22 without the prior approval of the authority. The authority is not  
23 bound by the terms of any agreement entered into by the  
24 capital improvement board with respect to the financing of the  
25 facility without the prior approval of the authority.
- 26 (E) As the project financier, the Indiana finance authority (or  
27 its successor agency) and the public finance director will be  
28 responsible for selecting all investment bankers, bond counsel,  
29 trustees, and financial advisors.
- 30 (F) The capital improvement board agrees to deliver to the  
31 authority the one hundred million dollars (\$100,000,000) that  
32 is owed to the capital improvement board, the consolidated  
33 city, or the county having a consolidated city pursuant to an  
34 agreement between the National Football League franchised  
35 professional football team and the capital improvement board,  
36 the consolidated city, or the county. This amount shall be  
37 applied to the cost of construction for the stadium part of the  
38 facility. This amount does not have to be delivered until a  
39 lease is entered into for the stadium between the authority and  
40 the capital improvement board.
- 41 (G) The authority agrees to consult with the staff of the capital  
42 improvement board on an as needed basis during the design



1 and construction of the facility, and the capital improvement  
2 board agrees to make its staff available for this purpose.

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

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

12 SECTION 8. IC 5-16-1-1.5, AS AMENDED BY P.L.6-2012,  
13 SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
14 JULY 1, 2015]: Sec. 1.5. (a) The governing board of any state  
15 educational institution, acting on behalf of said institution, may  
16 purchase materials in the manner provided by law and perform any  
17 work by means of its own employees and owned or leased equipment  
18 in the construction, rehabilitation, extension, maintenance or repair of  
19 any building, structure, improvement, or facility, of said institutions,  
20 without awarding a contract therefor, whenever the cost of such work  
21 shall be estimated to be less than ~~one three~~ hundred ~~forty~~ thousand  
22 dollars (~~\$150,000~~): **(\$300,000)**.

23 (b) The workforce of a state educational institution may perform a  
24 public work described in subsection (a) only if:

25 (1) the workforce, through demonstrated skills, training, or  
26 expertise, is capable of performing the public work; and

27 (2) for a public work project under subsection (a) whose cost is  
28 estimated to be more than one hundred thousand dollars  
29 (\$100,000), the state educational institution:

30 (A) publishes a notice under IC 5-3-1 that:

31 (i) describes the public work that the state educational  
32 institution intends to perform with its own workforce; and

33 (ii) sets forth the projected cost of each component of the  
34 public work as described in subsection (a); and

35 (B) determines at a public meeting that it is in the public  
36 interest to perform the public work with the state educational  
37 institution's own workforce.

38 A public work project performed by a state educational institution's  
39 own workforce must be inspected and accepted as complete in the  
40 same manner as a public work project performed under a contract  
41 awarded after receiving bids.

42 (c) If a public work project involves a structure, an improvement, or



1 a facility under the control of a state educational institution, the state  
2 educational institution may not artificially divide the project to bring  
3 any part of the project under this section.

4 SECTION 9. IC 5-16-7 IS REPEALED [EFFECTIVE JULY 1,  
5 2015]. (Wage Scale of Contractors' and Subcontractors' Employees).

6 SECTION 10. IC 5-16-7.1 IS ADDED TO THE INDIANA CODE  
7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
8 JULY 1, 2015]:

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

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

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

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

16 **Sec. 2. Notwithstanding the repeal of the common construction**  
17 **wage statute by legislation enacted in the 2015 regular session of**  
18 **the general assembly, the common construction wage statute**  
19 **applies to a public works contract awarded before July 1, 2015,**  
20 **and shall be enforced as if the common construction wage statute**  
21 **had not been repealed.**

22 SECTION 11. IC 5-16-7.2 IS ADDED TO THE INDIANA CODE  
23 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
24 JULY 1, 2015]:

25 **Chapter 7.2. Wage Scales for Public Works Projects**

26 **Sec. 1. (a) This chapter applies to a public works contract**  
27 **awarded by a public agency after June 30, 2015.**

28 **(b) This chapter does not apply to contracts awarded by the**  
29 **Indiana department of transportation when IC 8-23-9 applies.**

30 **Sec. 2. As used in this chapter, "applicable public works statute"**  
31 **refers to whichever of the following statutes is applicable to public**  
32 **works projects of the public agency:**

33 (1) IC 4-13.6.

34 (2) This article.

35 (3) IC 36-1-12.

36 (4) Any other statute applicable to the public works projects  
37 of the public agency.

38 **Sec. 3. As used in this chapter "public agency" has the meaning**  
39 **set forth in IC 5-30-1-11.**

40 **Sec. 4. As used in this chapter, "public works project" refers to**  
41 **a construction project governed by an applicable public works**  
42 **statute.**



1           **Sec. 5. Unless federal or state law provides otherwise, a public**  
 2 **agency may not:**

- 3           **(1) establish;**  
 4           **(2) mandate; or**  
 5           **(3) otherwise require;**

6 **a wage scale or wage schedule for a public works contract awarded**  
 7 **by the public agency.**

8           SECTION 12. IC 5-16-13 IS ADDED TO THE INDIANA CODE  
 9 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2015]:

11           **Chapter 13. Requirements for Contractors on Public Works**  
 12 **Projects**

13           **Sec. 1. (a) This chapter applies only to a public works contract**  
 14 **awarded after June 30, 2015.**

15           **(b) The requirements described in this chapter are in addition**  
 16 **to requirements for contractors stated in the applicable public**  
 17 **works statute. The provisions of an applicable public works statute**  
 18 **shall be construed consistently with this chapter, but to the extent**  
 19 **an applicable public works statute is inconsistent with this chapter,**  
 20 **the provisions of this chapter govern.**

21           **(c) A provision of an invitation for bids, request for proposals,**  
 22 **or a public works contract inconsistent with this chapter is void.**

23           **Sec. 2. As used in this chapter, "applicable public works statute"**  
 24 **refers to whichever of the following statutes is applicable to public**  
 25 **works projects of the public agency:**

- 26           **(1) IC 4-13.6.**  
 27           **(2) This article.**  
 28           **(3) IC 36-1-12.**  
 29           **(4) Any other statute applicable to the public works projects**  
 30 **of the public agency.**

31           **Sec. 3. As used in this chapter, "contractor" refers generally to**  
 32 **a contractor in any contractor tier.**

33           **Sec. 4. As used in this chapter, "contractor tier" refers**  
 34 **collectively to the following classes of contractors on a public**  
 35 **works project:**

36           **(1) "Tier 1 contractor" includes each person that has a**  
 37 **contract with the public agency to perform some part of the**  
 38 **work on, supply some of the materials for, or supply a service**  
 39 **for, a public works project. A person included in this tier is**  
 40 **also known as a "prime contractor" or a "general**  
 41 **contractor".**

42           **(2) "Tier 2 contractor" includes each person that has a**



1 contract with a tier 1 contractor to perform some part of the  
 2 work on, supply some of the materials for, or supply a service  
 3 for, a public works project. A person included in this tier is  
 4 also known as a "subcontractor".

5 (3) "Tier 3 contractor" includes each person that has a  
 6 contract with a tier 2 contractor to perform some part of the  
 7 work on, supply some of the materials for, or supply a service  
 8 for, a public works project. A person included in this tier is  
 9 also known as a "sub-subcontractor".

10 (4) "Lower tier contractor" includes each person that has a  
 11 contract with a tier 3 contractor or lower tier contractor to  
 12 perform some part of the work on, supply some of the  
 13 materials for, or supply a service for, a public works project.  
 14 A person included in this tier is also known as a "lower tier  
 15 subcontractor".

16 **Sec. 5.** As used in this chapter, "public agency" has the meaning  
 17 set forth in IC 5-30-1-11.

18 **Sec. 6.** As used in this chapter, "public works project" refers to  
 19 a construction project governed by an applicable statute.

20 **Sec. 7.** The substance of the provisions of this chapter must be  
 21 stated or incorporated by reference in each public works contract.

22 **Sec. 8.** A public works project may not be structured other than  
 23 in the contractor tier structure.

24 **Sec. 9.** Each tier 1 contractor must contribute in:

- 25 (1) work performed by the tier 1 contractor's employees;
- 26 (2) materials supplied directly by the tier 1 contractor;
- 27 (3) services supplied directly by the tier 1 contractor's
- 28 employees; or
- 29 (4) any combination of subdivisions (1) through (3);

30 at least fifteen percent (15%) of the total contract price of the  
 31 public works project.

32 **Sec. 10. (a)** This section applies to each contractor in any  
 33 contractor tier of a public works project.

34 **(b)** A contractor must maintain general liability insurance in an  
 35 amount equal to:

- 36 (1) the value of the contractor's contract for the public works
- 37 project; or
- 38 (2) such other amount specified by the public agency in the
- 39 contract documents.

40 **(c)** A contractor must be qualified under either of the following  
 41 before doing any work on a public works project:

- 42 (1) IC 4-13.6-4.



1           **(2) IC 8-23-10.**

2           **Sec. 11. Except as provided in this section, the following apply**  
 3 **to each contractor in any contractor tier of a public works project:**

4           **(1) IC 22-5-1.7. A contractor shall submit, before work begins**  
 5 **on a public work project, the E-Verify case verification**  
 6 **number for each individual who will be employed by the**  
 7 **contractor on the public works project and who is required to**  
 8 **be verified under IC 22-5-1.7. An individual who is required**  
 9 **to be verified under IC 22-5-1.7 whose final case result is final**  
 10 **nonconfirmation may not be employed on the public works**  
 11 **project.**

12           **(2) A contractor may not pay cash to any individual employed**  
 13 **by the contractor for work done by the individual on the**  
 14 **public works project.**

15           **(3) A contractor must be in compliance with the federal Fair**  
 16 **Labor Standards Act of 1938, as amended (29 U.S.C. 201-209)**  
 17 **and IC 22-2-2-1 through IC 22-2-2-8.**

18           **(4) A contractor must be in compliance with IC 22-3-5-1 and**  
 19 **IC 22-3-7-34.**

20           **(5) A contractor must be in compliance with IC 22-4-1**  
 21 **through IC 22-4-39.5.**

22           **(6) A contractor must be in compliance with IC 4-13-18-1**  
 23 **through IC 4-13-18-7.**

24           **(7) A contractor must comply with section 12 of this chapter,**  
 25 **if applicable.**

26           **Sec. 12. (a) This section applies only to a tier 1 contractor that**  
 27 **employs ten (10) or more employees.**

28           **(b) A contractor must do the following:**

29           **(1) Maintain an ongoing training program for its employees**  
 30 **that it requires employees to attend.**

31           **(2) Certify to the public agency the existence and operation of**  
 32 **the program:**

33           **(A) at the time the public works contract is entered into;**  
 34 **and**

35           **(B) every three (3) months after the contract is awarded**  
 36 **until substantial completion of the project.**

37           **(c) A contractor may comply with this section through any of**  
 38 **the following:**

39           **(1) A trade union apprenticeship program.**

40           **(2) A program offered by Ivy Tech Community College of**  
 41 **Indiana.**

42           **(3) A program offered by Vincennes University.**



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**(4) A program established by the contractor not later than one (1) year before the date of the contract award.**

**Sec. 13. The payroll and related records of a contractor in any contractor tier must be:**

**(1) preserved by the contractor for a period of three (3) years after completion of the project work; and**

**(2) open to inspection by the department of workforce development.**

**Sec. 14. A public agency that is the owner of a public works project may do the following:**

**(1) The public agency may request in writing an in-person inspection of information that is contained in the quarterly wage reports submitted to the department of workforce development under IC 22-4-19-6(b) for a contractor in any contractor tier working on the public agency's public works project.**

**(2) The chief executive officer of the public agency shall sign the request described in subdivision (1). The request must:**

**(A) identify the specific contractor whose quarterly wage reports the public agency seeks to inspect;**

**(B) identify the individuals who will conduct the inspection on the public agency's behalf; and**

**(C) contain a verification that the public agency and anyone acting on the public agency's behalf will be bound by confidentiality provisions and penalties for disclosure under IC 22-4-19-6.**

**(3) The public agency must inspect the reports requested in subdivision (1) in person at the offices of the department of workforce development after making an appointment to do so.**

**(4) The public agency may not at any time during or after the inspection described in subdivision (3) record, copy, make a written record, or otherwise commit an act that results in the removal of a confidential record from the offices of the department of workforce development.**

**(5) An employee or agent of the public agency may not disclose in any manner any information obtained during an inspection described in subdivision (3).**

**(6) A person who discloses any information obtained during an inspection described in subdivision (3) commits a Class B misdemeanor.**

**Sec. 15. (a) This section applies to a contractor in any contractor**



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tier of a public works project.

(b) A public agency that finds a contractor has violated a provision of this chapter shall find the contractor not responsible for a period of not more than forty-eight (48) months from the date of substantial completion of the public works project.

(c) The public agency that makes a finding under subsection (b) shall determine the length of time the contractor is considered not responsible based on the severity of the violation.

SECTION 13. IC 5-16-14 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 14. Determination That a Contractor for a Public Works Project Is Not Responsible**

**Sec. 1. (a) This chapter applies only to a public works contract awarded after June 30, 2015.**

(b) The provisions of an applicable public works statute shall be construed consistently with this chapter, but to the extent an applicable public works statute is inconsistent with this chapter, the provisions of this chapter govern.

(c) A provision of an invitation for bids, request for proposals, or public works contract inconsistent with this chapter is void.

**Sec. 2. The definitions in IC 5-16-13 apply throughout this chapter.**

**Sec. 3. A determination that a contractor is not responsible is final and conclusive, and subject to judicial review under this chapter.**

**Sec. 4. (a) A person aggrieved by a determination that the person is not responsible may file a petition for judicial review of that determination in a court of appropriate jurisdiction.**

(b) The court shall grant relief only if it determines that a person seeking judicial relief under this chapter has been substantially prejudiced by a determination that is any of the following:

- (1) Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
- (2) Contrary to constitutional right, power, privilege, or immunity.
- (3) In excess of statutory jurisdiction, authority, or limitations, or short of statutory right.
- (4) Without observance of procedure required by law.
- (5) Unsupported by substantial evidence.

**Sec. 5. The burden of demonstrating the invalidity of the**





1 determination is on the person asserting the invalidity.

2 **Sec. 6. (a) If the court finds that a person has been substantially**  
 3 **prejudiced by a determination, the court may set aside the**  
 4 **determination. The court may remand the case to the**  
 5 **governmental body for further proceedings and compel an action**  
 6 **by the governmental body that has been unreasonably delayed or**  
 7 **unlawfully withheld.**

8 **(b) A court may not award damages in an action under this**  
 9 **chapter.**

10 SECTION 14. IC 5-23-3-3 IS REPEALED [EFFECTIVE JULY 1,  
 11 2015]. Sec. 3: If a governmental body enters into a BOT agreement that  
 12 involves the construction of a public facility with public funds under  
 13 this section, the operator or any contractor or subcontractor engaged in  
 14 the construction of that public facility shall pay the common  
 15 construction wage as determined under IC 5-16-7.

16 SECTION 15. IC 5-23-4-2 IS REPEALED [EFFECTIVE JULY 1,  
 17 2015]. Sec. 2: If a governmental body enters into an operating  
 18 agreement that involves the construction of a public facility with public  
 19 funds under this section, the operator or any contractor or subcontractor  
 20 engaged in the construction of that public facility shall pay the common  
 21 construction wage as determined under IC 5-16-7.

22 SECTION 16. IC 5-30-6-4, AS ADDED BY P.L.74-2005,  
 23 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2015]: Sec. 4. In addition to the design criteria package, a  
 25 request for proposals must include the following:

- 26 (1) Instructions.  
 27 (2) Proposal forms and schedules.  
 28 (3) General and special conditions.  
 29 (4) The basis for evaluation of proposals, including a description  
 30 of the selection criteria with the weight assigned to each criteria.  
 31 (5) A determination of the common construction wage made  
 32 under IC 5-16-7.  
 33 (6) (5) Any other instructions, documents, or information relevant  
 34 to the public project that the public agency considers relevant.

35 SECTION 17. IC 5-30-8-6 IS REPEALED [EFFECTIVE JULY 1,  
 36 2015]. Sec. 6: (a) A determination under IC 5-16-7-1(c) for a public  
 37 project to be constructed under a design-build contract shall be made  
 38 and filed with the public agency at least two (2) weeks before the date  
 39 fixed for submission of the qualitative proposal and the price proposal  
 40 under IC 5-30-6-5.

41 (b) If the committee appointed under IC 5-16-7-1(b) fails to act and  
 42 to file a determination under IC 5-16-7-1(c) within the time required by



1 this section; the public agency shall make the determination; and its  
2 finding shall be final.

3 (e) The time periods set forth in this section apply to any  
4 construction services provided for a public project to be constructed  
5 under a design-build contract; instead of the time periods set forth in  
6 IC 5-16-7-1(h) and IC 5-16-7-1(i).

7 SECTION 18. IC 5-30-8-7 IS ADDED TO THE INDIANA CODE  
8 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
9 1, 2015]: **Sec. 7. IC 5-16-13 and IC 5-16-14 apply to a contract  
10 awarded under this article.**

11 SECTION 19. IC 5-32-1-4 IS ADDED TO THE INDIANA CODE  
12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
13 1, 2015]: **Sec. 4. IC 5-16-13 and IC 5-16-14 apply to a contract  
14 awarded under this article, regardless of which applicable public  
15 works statute applies to the contract.**

16 SECTION 20. IC 8-1.5-2-27 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 27. (a) A municipality  
18 may lease waterworks facilities from a not-for-profit corporation, a  
19 public utility, a county, or a municipality. The term of the lease may not  
20 exceed fifty (50) years. The lease must provide that the municipality  
21 has an option to:

- 22 (1) renew the lease for a further term on like conditions; and  
23 (2) purchase the waterworks facilities covered by the lease  
24 contract with the terms and conditions of the purchase specified  
25 in the lease.

26 (b) If the option to purchase the waterworks facilities covered by the  
27 lease is exercised, the municipality, for the purpose of procuring money  
28 to pay the purchase price, may issue and sell revenue bonds under other  
29 laws governing the issuance and sale of waterworks revenue bonds for  
30 additions and extensions to municipal waterworks.

31 (c) If the municipality has not exercised an option to purchase the  
32 property covered by the lease at the expiration of the lease, and upon  
33 the full discharge and performance by the municipality of its  
34 obligations under the lease contract, the property covered by the lease  
35 thereupon becomes the absolute property of the municipality, and the  
36 lessor shall execute proper instruments conveying to the municipality  
37 good and merchantable title thereto.

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

40 SECTION 21. IC 8-15.5-6-2, AS AMENDED BY P.L.205-2013,  
41 SECTION 157, IS AMENDED TO READ AS FOLLOWS  
42 [EFFECTIVE JULY 1, 2015]: Sec. 2. ~~(a)~~ Unless otherwise provided by



1 federal law or this section, the operator or any contractor or  
 2 subcontractor of the operator engaged in the construction of a project  
 3 is not required to comply with IC 4-13.6 or IC 5-16 concerning state  
 4 public works, IC 5-17 concerning purchases of materials and supplies,  
 5 or other statutes concerning procedures for procurement of public  
 6 works or personal property as a condition of being awarded and  
 7 performing work on the project.

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

10 (1) ~~The operator or any contractor or subcontractor of the operator~~  
 11 ~~engaged in a project for the construction of the Hhiana~~  
 12 ~~Expressway, a limited access facility connecting Interstate~~  
 13 ~~Highway 65 in northwestern Indiana with an interstate highway~~  
 14 ~~in Hhinois:~~

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

18 SECTION 22. IC 8-15.7-6-2, AS AMENDED BY P.L.163-2011,  
 19 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2015]: Sec. 2. (a) Unless otherwise provided by federal law or  
 21 this section, the operator or any contractor or subcontractor of the  
 22 operator engaged in the construction of a project is not required to  
 23 comply with IC 4-13.6 or IC 5-16 concerning state public works,  
 24 IC 5-17 concerning purchases of materials and supplies, or other  
 25 statutes concerning procedures for procurement of public works or  
 26 personal property as a condition of being awarded and performing work  
 27 on the project.

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

30 (1) ~~The operator or any contractor or subcontractor of the operator~~  
 31 ~~engaged in a project for the construction of the Hhiana~~  
 32 ~~Expressway, a limited access facility connecting Interstate~~  
 33 ~~Highway 65 in northwestern Indiana with an interstate highway~~  
 34 ~~in Hhinois:~~

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

38 SECTION 23. IC 8-24-9-1, AS ADDED BY P.L.182-2009(ss),  
 39 SECTION 282, IS AMENDED TO READ AS FOLLOWS  
 40 [EFFECTIVE JULY 1, 2015]: Sec. 1. The district shall comply with  
 41 ~~IC 5-16-7 (common construction wage);~~ IC 5-22 (public purchasing),  
 42 IC 36-1-12 (public work projects), and any applicable federal bidding



1 statutes and regulations.

2 SECTION 24. IC 16-22-6-37 IS AMENDED TO READ AS  
3 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 37. (a) A county or the  
4 governing board of the hospital may remodel or construct an addition  
5 to a hospital building leased under this chapter.

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

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

13 SECTION 25. IC 16-22-7-42 IS AMENDED TO READ AS  
14 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 42. (a) The governing  
15 board of the hospital may remodel or construct an addition to a hospital  
16 building leased by the hospital under this chapter.

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

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

25 SECTION 26. IC 22-1-1-16 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 16. The commissioner  
27 of labor and ~~his the commissioner's~~ authorized representative shall  
28 have the power and the authority to enter any place of employment for  
29 the purpose of collecting facts and statistics relating to the employment  
30 of workers and of making inspections for the proper enforcement of all  
31 of the labor laws of ~~this state, including IC 5-16-7. No Indiana.~~ An  
32 employer or owner ~~shall~~ **may not** refuse to admit the commissioner of  
33 labor or ~~his the commissioner's~~ authorized representatives to ~~his the~~  
34 **employer's or owner's** place of employment.

35 SECTION 27. IC 22-5-1.7-2, AS AMENDED BY P.L.6-2012,  
36 SECTION 157, IS AMENDED TO READ AS FOLLOWS  
37 [EFFECTIVE JULY 1, 2015]: Sec. 2. As used in this chapter,  
38 "contractor" means a person that **satisfies either of the following:**

39 (1) **Is a person that:**

40 (A) has entered into; or

41 (2) (B) is attempting to enter into;

42 a public contract for services with a state agency or political



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subdivision.

**(2) Is a person that:**

**(A) has entered into; or**

**(B) is attempting to enter into;**

**a contract for a public works project with a public agency.**

SECTION 28. IC 22-5-1.7-6.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 6.2. As used in this chapter, "public agency" has the meaning set forth in IC 5-30-1-11.**

SECTION 29. IC 22-5-1.7-6.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 6.4. As used in this chapter, "public works project" has the meaning set forth in IC 5-16-13-6.**

SECTION 30. IC 22-5-1.7-7, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 7. As used in this chapter, "state agency" has the meaning set forth in ~~IC 4-6-3-1~~. IC 4-13-1-1.**

SECTION 31. IC 22-5-1.7-8, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 8. As used in this chapter, "subcontractor" means a person that:**

**(1) is a party to a contract with a contractor; and**

**(2) provides services or work for work the contractor is performing under either of the following:**

**(A) A public contract for services.**

**(B) A contract for a public works project with a public agency.**

SECTION 32. IC 22-5-1.7-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.1. This section applies only to a contract for a public works project entered into or renewed after June 30, 2015. A public agency may not enter into or renew a contract for a public works project with a contractor unless:**

**(1) the contract contains:**

**(A) a provision requiring the contractor to enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program; and**

**(B) a provision that provides that a contractor is not required to verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program if the E-Verify program no longer exists; and**



- 1           **(2) the contractor signs an affidavit affirming that the**  
 2           **contractor does not knowingly employ an unauthorized alien.**  
 3           SECTION 33. IC 22-5-1.7-12, AS ADDED BY P.L.171-2011,  
 4           SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 5           JULY 1, 2015]: Sec. 12. (a) A contractor or a subcontractor may not:  
 6           (1) knowingly employ or contract with an unauthorized alien; or  
 7           (2) retain an employee or contract with a person that the  
 8           contractor or subcontractor subsequently learns is an unauthorized  
 9           alien.
- 10           (b) If a contractor violates this section, the state agency, ~~or~~ political  
 11           subdivision, **or public agency** shall require the contractor to remedy  
 12           the violation not later than thirty (30) days after the date the state  
 13           agency, ~~or~~ political subdivision, **or public agency** notifies the  
 14           contractor of the violation.
- 15           (c) There is a rebuttable presumption that a contractor did not  
 16           knowingly employ an unauthorized alien if the contractor verified the  
 17           work eligibility status of the employee through the E-Verify program.
- 18           SECTION 34. IC 22-5-1.7-13, AS ADDED BY P.L.171-2011,  
 19           SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20           JULY 1, 2015]: Sec. 13. (a) Except as provided in subsection (b), if the  
 21           contractor fails to remedy the violation within the thirty (30) day period  
 22           provided under section 12(b) of this chapter, the **following apply**:
- 23           **(1) The** state agency or political subdivision shall terminate the  
 24           public contract for services with the contractor for breach of the  
 25           public contract for services.
- 26           **(2) The public agency shall terminate the contract for a public**  
 27           **works project with the contractor for breach of the contract**  
 28           **for the public works project.**
- 29           (b) If a contractor employs or contracts with an unauthorized alien,  
 30           ~~but~~ the **following apply**:
- 31           **(1) If the** state agency or political subdivision (whichever the  
 32           contractor has a public contract for services with) determines that  
 33           terminating the public contract for services under subsection (a)  
 34           would be detrimental to the public interest or public property, the  
 35           state agency or political subdivision may allow the public contract  
 36           for services to remain in effect until the state agency or political  
 37           subdivision procures a new contractor.
- 38           **(2) If the public agency determines that terminating the**  
 39           **contract for a public works project under subsection (a)**  
 40           **would be detrimental to the public interest or public property,**  
 41           **the public agency may allow the contract for the public works**  
 42           **project to remain in effect until the public agency procures a**



1           **new contractor.**

2           (c) If a state agency or political subdivision terminates a public  
3 contract for services under subsection (a), the contractor is liable to the  
4 state agency or political subdivision for actual damages.

5           **(d) If a public agency terminates a contract for a public works  
6 project under subsection (a), the contractor is liable to the public  
7 agency for actual damages.**

8           SECTION 35. IC 22-5-1.7-14, AS ADDED BY P.L.171-2011,  
9 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2015]: Sec. 14. A contractor may file an action with a circuit  
11 or superior court having jurisdiction in the county to challenge:

12           (1) a notice of a violation to the contractor under section 12(b) of  
13 this chapter not later than twenty (20) days after the contractor  
14 receives the notice; or

15           (2) a termination of a:

16           **(A) public contract for services under section 13(a) of this  
17 chapter not later than twenty (20) days after the state agency  
18 or political subdivision terminates the public contract for  
19 services with the contractor; or**

20           **(B) contract for a public works project under section 13(a)  
21 of this chapter not later than twenty (20) days after the  
22 public agency terminates the contract for the public works  
23 project with the contractor;**

24           **whichever is applicable.**

25           SECTION 36. IC 22-5-1.7-15, AS ADDED BY P.L.171-2011,  
26 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2015]: Sec. 15. If a contractor uses a subcontractor to provide  
28 services for work the contractor is performing under a public contract  
29 for services **or a contract for a public works project**, the  
30 subcontractor shall certify to the contractor in a manner consistent with  
31 federal law that the subcontractor, at the time of certification:

32           (1) does not knowingly employ or contract with an unauthorized  
33 alien; and

34           (2) has enrolled and is participating in the E-Verify program.

35           SECTION 37. IC 35-43-5-21 IS ADDED TO THE INDIANA  
36 CODE AS A **NEW SECTION TO READ AS FOLLOWS**  
37 [EFFECTIVE JULY 1, 2015]: **Sec. 21. (a) A person who, with intent  
38 to obtain worker's compensation coverage as required by IC 22-3-2  
39 through IC 22-3-7, falsely classifies an employee as one (1) of the  
40 following commits worker's compensation fraud:**

41           **(1) An independent contractor.**

42           **(2) A sole proprietor.**



- 1           (3) An owner.
- 2           (4) A partner.
- 3           (5) An officer.
- 4           (6) A member in a limited liability company.
- 5           (b) Except as described in subsections (c) through (e), the
- 6 offense described in subsection (a) is a Class A misdemeanor.
- 7           (c) The offense described in subsection (a) is a Level 6 felony if
- 8 the:
- 9           (1) value of the obligation is less than one thousand dollars
- 10 (\$1,000); or
- 11           (2) number of employees not covered by worker's
- 12 compensation coverage is less than five (5).
- 13           (d) The offense described in subsection (a) is a Level 5 felony if
- 14 the:
- 15           (1) value of the obligation is at least one thousand dollars
- 16 (\$1,000) and less than five thousand dollars (\$5,000); or
- 17           (2) number of employees not covered by worker's
- 18 compensation coverage is at least five (5) and less than fifty
- 19 (50).
- 20           (e) The offense described in subsection (a) is a Level 3 felony if
- 21 the:
- 22           (1) value of the obligation is at least five thousand dollars
- 23 (\$5,000); or
- 24           (2) number of employees not covered by worker's
- 25 compensation coverage is at least fifty (50).
- 26           SECTION 38. IC 35-44.2-3-4 IS REPEALED [EFFECTIVE JULY
- 27 1, 2015]. Sec. 4: A person who commits a wage scale violation in a
- 28 state public works contract is subject to criminal prosecution under
- 29 IC 5-16-7-3.
- 30           SECTION 39. IC 35-44.2-3-5 IS REPEALED [EFFECTIVE JULY
- 31 1, 2015]. Sec. 5: A person who unlawfully divides a public works
- 32 project is subject to a civil action for an infraction under IC 5-16-7-6.
- 33           SECTION 40. IC 35-52-5-8 IS REPEALED [EFFECTIVE JULY 1,
- 34 2015]. Sec. 8: IC 5-16-7-3 defines a crime concerning wage rate of
- 35 contractor's and subcontractor's employees.
- 36           SECTION 41. IC 35-52-5-9.5 IS ADDED TO THE INDIANA
- 37 CODE AS A NEW SECTION TO READ AS FOLLOWS
- 38 [EFFECTIVE JULY 1, 2015]: Sec. 9.5. IC 5-16-13-14 defines a crime
- 39 concerning quarterly wage reports.
- 40           SECTION 42. IC 36-1-12-3, AS AMENDED BY P.L.172-2011,
- 41 SECTION 138, IS AMENDED TO READ AS FOLLOWS
- 42 [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The board may purchase or





1 lease materials in the manner provided in IC 5-22 and perform any  
 2 public work, by means of its own workforce, without awarding a  
 3 contract whenever the cost of that public work project is estimated to  
 4 be less than ~~one three~~ ~~hundred fifty~~ thousand dollars ~~(\$150,000)~~.  
 5 **(\$300,000)**. Before a board may perform any work under this section  
 6 by means of its own workforce, the political subdivision or agency  
 7 must have a group of employees on its staff who are capable of  
 8 performing the construction, maintenance, and repair applicable to that  
 9 work. For purposes of this subsection, the cost of a public work project  
 10 includes:

- 11 (1) the actual cost of materials, labor, equipment, and rental;  
 12 (2) a reasonable rate for use of trucks and heavy equipment  
 13 owned; and  
 14 (3) all other expenses incidental to the performance of the project.

15 (b) This subsection applies only to a municipality or a county. The  
 16 workforce of a municipality or county may perform a public work  
 17 described in subsection (a) only if:

- 18 (1) the workforce, through demonstrated skills, training, or  
 19 expertise, is capable of performing the public work; and  
 20 (2) for a public work project under subsection (a) whose cost is  
 21 estimated to be more than one hundred thousand dollars  
 22 (\$100,000), the board:

23 (A) publishes a notice under IC 5-3-1 that:

- 24 (i) describes the public work that the board intends to  
 25 perform with its own workforce; and  
 26 (ii) sets forth the projected cost of each component of the  
 27 public work as described in subsection (a); and

28 (B) determines at a public meeting that it is in the public  
 29 interest to perform the public work with the board's own  
 30 workforce.

31 A public work project performed by a board's own workforce must be  
 32 inspected and accepted as complete in the same manner as a public  
 33 work project performed under a contract awarded after receiving bids.

34 (c) When the project involves the rental of equipment with an  
 35 operator furnished by the owner, or the installation or application of  
 36 materials by the supplier of the materials, the project is considered to  
 37 be a public work project and subject to this chapter. However, an  
 38 annual contract may be awarded for equipment rental and materials to  
 39 be installed or applied during a calendar or fiscal year if the proposed  
 40 project or projects are described in the bid specifications.

41 (d) A board of aviation commissioners or an airport authority board  
 42 may purchase or lease materials in the manner provided in IC 5-22 and



1 perform any public work by means of its own workforce and owned or  
 2 leased equipment, in the construction, maintenance, and repair of any  
 3 airport roadway, runway, taxiway, or aircraft parking apron whenever  
 4 the cost of that public work project is estimated to be less than one  
 5 hundred thousand dollars (\$100,000).

6 (e) Municipal and county hospitals must comply with this chapter  
 7 for all contracts for public work that are financed in whole or in part  
 8 with cumulative building fund revenue, as provided in section 1(c) of  
 9 this chapter. However, if the cost of the public work is estimated to be  
 10 less than fifty thousand dollars (\$50,000), as reflected in the board  
 11 minutes, the hospital board may have the public work done without  
 12 receiving bids, by purchasing the materials and performing the work by  
 13 means of its own workforce and owned or leased equipment.

14 (f) If a public works project involves a structure, an improvement,  
 15 or a facility under the control of a department (as defined in  
 16 IC 4-3-19-2(2)), the department may not artificially divide the project  
 17 to bring any part of the project under this section.

18 SECTION 43. IC 36-1-12-15 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. (a) A contract by  
 20 the board for public work must conform to ~~the wage scale provisions~~  
 21 ~~of IC 5-16-7.~~ **IC 5-16-13.**

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

26 SECTION 44. IC 36-1-12.5-5, AS AMENDED BY P.L.99-2009,  
 27 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 28 JULY 1, 2015]: Sec. 5. (a) The governing body may enter into an  
 29 agreement with a public utility to participate in a utility efficiency  
 30 program or enter into a guaranteed savings contract with a qualified  
 31 provider to increase the political subdivision's billable revenues or  
 32 reduce the school corporation's or the political subdivision's energy or  
 33 water consumption, wastewater usage costs, or operating costs if, after  
 34 review of the report described in section 6 of this chapter, the  
 35 governing body finds:

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



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



- 1 measures installed from the date of final installation;
- 2 (2) in the case of conservation measures that are part of a project
- 3 related to the alteration of a water or wastewater structure or
- 4 system, all payments, except obligations upon the termination of
- 5 the agreement or contract before the agreement or contract
- 6 expires, may be made to the public utility or qualified provider
- 7 (whichever applies) in installments, not to exceed the lesser of
- 8 twenty (20) years or the average life of the conservation measures
- 9 installed from the date of final installation;
- 10 (3) in the case of the guaranteed savings contract:
- 11 (A) the:
- 12 (i) savings in energy and water consumption costs,
- 13 wastewater usage costs, and other operating costs; and
- 14 (ii) increase in billable revenues;
- 15 due to the conservation measures are guaranteed to cover the
- 16 costs of the payments for the measures; and
- 17 (B) the qualified provider will reimburse the school
- 18 corporation or political subdivision for the difference between
- 19 the guaranteed savings and the actual savings; and
- 20 (4) payments are subject to annual appropriation by the fiscal
- 21 body of the school corporation or political subdivision and do not
- 22 constitute an indebtedness of the school corporation or political
- 23 subdivision within the meaning of a constitutional or statutory
- 24 debt limitation.
- 25 (e) ~~An agreement or a contract under this chapter is subject to~~
- 26 ~~IC 5-16-7.~~
- 27 SECTION 45. IC 36-7-12-20 IS AMENDED TO READ AS
- 28 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 20. (a) All tax revenues
- 29 coming into possession of the economic development commission shall
- 30 be deposited, held, and secured in accordance with the statutes relating
- 31 to the handling and investing of public funds. The handling and
- 32 expenditure of this money is subject to audit and supervision by the
- 33 state board of accounts.
- 34 (b) Contracts for construction and equipment of economic
- 35 development or pollution control facilities need not be let in
- 36 accordance with IC 5-16, IC 5-17, or any other statute relating to public
- 37 contracts. ~~However, the construction of waterworks facilities financed~~
- 38 ~~for the public purpose of providing reliable water service subject to~~
- 39 ~~IC 5-16-7.~~
- 40 (c) Any employee of the economic development commission
- 41 authorized to receive, disburse, or in any other way handle money or
- 42 negotiable securities of the commission shall execute a bond payable



1 to the state, with surety to consist of a surety or guaranty corporation  
 2 qualified to do business in the state. The bond must be in an amount  
 3 determined by the commission, and must be conditioned upon the  
 4 employee's faithful performance of ~~his~~ **the employee's** duties and the  
 5 accounting for all monies and property that may come into ~~his~~ **the**  
 6 **employee's** hands or under ~~his~~ **the employee's** control. The cost of  
 7 these bonds shall be paid by the commission.

8 SECTION 46. IC 36-7-14-12.3 IS REPEALED [EFFECTIVE JULY  
 9 1, 2015]. ~~Sec. 12.3: IC 5-16-7 applies to:~~

10 (1) a person that enters into a contract with a redevelopment  
 11 commission to perform construction work referred to in section  
 12 12.2(a)(4), 12.2(a)(7), 12.2(a)(21), or 12.2(a)(22) of this chapter;  
 13 and

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

16 SECTION 47. IC 36-7.5-2-8, AS ADDED BY P.L.214-2005,  
 17 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2015]: Sec. 8. (a) The development authority must comply  
 19 with ~~IC 5-16-7 (common construction wage)~~; IC 5-22 (public  
 20 purchasing), IC 36-1-12 (public work projects), and any applicable  
 21 federal bidding statutes and regulations. An eligible political  
 22 subdivision that receives a loan, a grant, or other financial assistance  
 23 from the development authority or enters into a lease with the  
 24 development authority must comply with applicable federal, state, and  
 25 local public purchasing and bidding law and regulations. However, a  
 26 purchasing agency (as defined in IC 5-22-2-25) of an eligible political  
 27 subdivision may:

28 (1) assign or sell a lease for property to the development  
 29 authority; or

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

40 (b) In addition to the provisions of subsection (a), with respect to  
 41 projects undertaken by the authority, the authority shall set a goal for  
 42 participation by minority business enterprises of fifteen percent (15%)



1 and women's business enterprises of five percent (5%), consistent with  
 2 the goals of delivering the project on time and within the budgeted  
 3 amount and, insofar as possible, using Indiana businesses for  
 4 employees, goods, and services. In fulfilling the goal, the authority  
 5 shall take into account historical precedents in the same market.

6 SECTION 48. IC 36-7.5-4-3, AS AMENDED BY P.L.1-2006,  
 7 SECTION 573, IS AMENDED TO READ AS FOLLOWS  
 8 [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) ~~Subject to subsection (h)~~; The  
 9 development authority may issue bonds for the purpose of obtaining  
 10 money to pay the cost of:

11 (1) acquiring real or personal property, including existing capital  
 12 improvements;

13 (2) acquiring, constructing, improving, reconstructing, or  
 14 renovating one (1) or more projects; or

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

17 (b) The bonds are payable solely from:

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

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

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

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

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

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

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

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

40 (2) acquisition of a site and clearing and preparing the site for  
 41 construction;

42 (3) equipment, facilities, structures, and improvements that are



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

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

21 SECTION 49. IC 36-7.6-2-13, AS ADDED BY P.L.232-2007,  
 22 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2015]: Sec. 13. (a) A development authority shall comply with  
 24 ~~IC 5-16-7 (common construction wage);~~ IC 5-22 (public purchasing),  
 25 IC 36-1-12 (public work projects), and any applicable federal bidding  
 26 statutes and regulations. An eligible political subdivision that receives  
 27 a loan, a grant, or other financial assistance from a development  
 28 authority or enters into a lease with a development authority must  
 29 comply with applicable federal, state, and local public purchasing and  
 30 bidding laws and regulations. However, a purchasing agency (as  
 31 defined in IC 5-22-2-25) of an eligible political subdivision may:

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



1 of supplies under IC 5-22.

2 (b) In addition to the provisions of subsection (a), with respect to  
3 projects undertaken by a development authority, the development  
4 authority shall set a goal for participation by minority business  
5 enterprises and women's business enterprises. The goals must be  
6 consistent with:

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

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

13 SECTION 50. IC 36-7.6-4-3, AS ADDED BY P.L.232-2007,  
14 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2015]: Sec. 3. (a) ~~Subject to subsection (h)~~; A development  
16 authority may issue bonds for the purpose of obtaining money to pay  
17 the cost of:

18 (1) acquiring real or personal property, including existing capital  
19 improvements;

20 (2) acquiring, constructing, improving, reconstructing, or  
21 renovating one (1) or more projects; or

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

24 (b) The bonds are payable solely from:

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

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

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

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

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

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

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





- 1 which the bonds are issued. The cost may include:
- 2 (1) planning and development of equipment or a facility and all
- 3 buildings, facilities, structures, equipment, and improvements
- 4 related to the facility;
- 5 (2) acquisition of a site and clearing and preparing the site for
- 6 construction;
- 7 (3) equipment, facilities, structures, and improvements that are
- 8 necessary or desirable to make the project suitable for use and
- 9 operations;
- 10 (4) architectural, engineering, consultant, and attorney's fees;
- 11 (5) incidental expenses in connection with the issuance and sale
- 12 of bonds;
- 13 (6) reserves for principal and interest;
- 14 (7) interest during construction;
- 15 (8) financial advisory fees;
- 16 (9) insurance during construction;
- 17 (10) municipal bond insurance, debt service reserve insurance,
- 18 letters of credit, or other credit enhancement; and
- 19 (11) in the case of refunding or refinancing, payment of the
- 20 principal of, redemption premiums (if any) for, and interest on the
- 21 bonds being refunded or refinanced.
- 22 ~~(h) A development authority may not issue bonds under this article~~
- 23 ~~unless the development authority first finds that each contract for the~~
- 24 ~~construction of a facility and all buildings, facilities, structures, and~~
- 25 ~~improvements related to that facility to be financed in whole or in part~~
- 26 ~~through the issuance of the bonds requires payment of the common~~
- 27 ~~construction wage required by IC 5-16-7.~~
- 28 SECTION 51. IC 36-9-23-2 IS AMENDED TO READ AS
- 29 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. A municipality may:
- 30 (1) acquire, construct, improve, operate, and maintain sewage
- 31 works under this chapter;
- 32 (2) acquire, by gift, grant, purchase, condemnation, or otherwise,
- 33 all lands, rights-of-way, and other property that are necessary for
- 34 the sewage works;
- 35 (3) issue revenue bonds to pay the cost of acquiring, constructing,
- 36 and improving the sewage works and property; and
- 37 (4) lease sewage works from a person, an entity, a corporation, a
- 38 public utility, or a unit for a term not to exceed fifty (50) years.
- 39 ~~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

## COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1019, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 8 and 9, begin a new line block indented and insert:

**"(5) IC 5-16-13.**

**(6) IC 5-16-14.**

SECTION 3. IC 4-13.6-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 10. (a) A contractor having a contract with the division for a public works project may enter into a subcontract with a value of one hundred fifty thousand dollars (\$150,000) or more, involving the performance of any part of the public work upon which the contractor may be engaged only if the subcontractor has been properly qualified under the terms of this chapter for the work subcontracted.

(b) A contractor that enters into a public works contract with an estimated cost of one hundred fifty thousand dollars (\$150,000) or more must complete at least ~~twenty~~ **fifteen** percent (~~20%~~) **(15%)** of the work (measured in dollars of the total contract price) with its own forces. The director may determine whether a contractor has completed at least ~~twenty~~ **fifteen** percent (~~20%~~) **(15%)** of the work with its own forces, and this determination is final and conclusive.

(c) The director may find a contractor violating this section to be in breach of the contract and may employ any legal remedies or administrative remedies that the department may prescribe by rule or in the contract documents. The division may develop contract provisions that assure compliance by contractors with this section and



provide for remedies if a contractor breaches these provisions.

SECTION 4. IC 4-13.6-5-4, AS AMENDED BY P.L.172-2011, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. (a) If the estimated cost of a public works project is less than ~~one~~ **three** hundred ~~forty~~ **thirty** thousand dollars (~~\$150,000~~), **(\$300,000)**, the division may perform the public work without awarding a public works contract under section 2 of this chapter. In performing the public work, the division may authorize use of equipment owned, rented, or leased by the state, may authorize purchase of materials in the manner provided by law, and may authorize performance of the public work using employees of the state.

(b) The workforce of a state agency may perform a public work described in subsection (a) only if:

- (1) the workforce, through demonstrated skills, training, or expertise, is capable of performing the public work; and
- (2) for a public works project under subsection (a) whose cost is estimated to be more than one hundred thousand dollars (\$100,000), the agency:

(A) publishes a notice under IC 5-3-1 that:

- (i) describes the public work that the agency intends to perform with its own workforce; and
- (ii) sets forth the projected cost of each component of the public work as described in subsection (a); and

(B) determines at a public meeting that it is in the public interest to perform the public work with the agency's own workforce.

A public works project performed by an agency's own workforce must be inspected and accepted as complete in the same manner as a public works project performed under a contract awarded after receiving bids.

(c) If a public works project involves a structure, an improvement, or a facility under the control of an agency, the agency may not artificially divide the project to bring any part of the project under this section.

(d) If a public works project involves a structure, improvement, or facility under the control of the department of natural resources, the department of natural resources may purchase materials for the project in the manner provided by law and without a contract being awarded, and may use its employees to perform the labor and supervision, if:

- (1) the department of natural resources uses equipment owned or leased by it; and
- (2) the division of engineering of the department of natural resources estimates the cost of the public works project will be



less than ~~one three~~ hundred ~~fifty~~ thousand dollars (~~\$150,000~~): **(\$300,000).**

(e) If a public works project involves a structure, improvement, or facility under the control of the department of correction, the department of correction may purchase materials for the project in the manner provided by law and use inmates in the custody of the department of correction to perform the labor and use its own employees for supervisory purposes, without awarding a contract, if:

- (1) the department of correction uses equipment owned or leased by it; and
- (2) the estimated cost of the public works project using employee or inmate labor is less than the greater of:
  - (A) fifty thousand dollars (\$50,000); or
  - (B) the project cost limitation set by IC 4-13-2-11.1.

All public works projects covered by this subsection must comply with the remaining provisions of this article, and all plans and specifications for the public works project must be approved by a licensed architect or engineer."

Page 6, between lines 13 and 14, begin a new paragraph and insert:

"SECTION 8. IC 5-16-1-1.5, AS AMENDED BY P.L.6-2012, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1.5. (a) The governing board of any state educational institution, acting on behalf of said institution, may purchase materials in the manner provided by law and perform any work by means of its own employees and owned or leased equipment in the construction, rehabilitation, extension, maintenance or repair of any building, structure, improvement, or facility, of said institutions, without awarding a contract therefor, whenever the cost of such work shall be estimated to be less than ~~one three~~ hundred ~~fifty~~ thousand dollars (~~\$150,000~~): **(\$300,000).**

(b) The workforce of a state educational institution may perform a public work described in subsection (a) only if:

- (1) the workforce, through demonstrated skills, training, or expertise, is capable of performing the public work; and
- (2) for a public work project under subsection (a) whose cost is estimated to be more than one hundred thousand dollars (\$100,000), the state educational institution:
  - (A) publishes a notice under IC 5-3-1 that:
    - (i) describes the public work that the state educational institution intends to perform with its own workforce; and
    - (ii) sets forth the projected cost of each component of the public work as described in subsection (a); and



(B) determines at a public meeting that it is in the public interest to perform the public work with the state educational institution's own workforce.

A public work project performed by a state educational institution's own workforce must be inspected and accepted as complete in the same manner as a public work project performed under a contract awarded after receiving bids.

(c) If a public work project involves a structure, an improvement, or a facility under the control of a state educational institution, the state educational institution may not artificially divide the project to bring any part of the project under this section."

Page 6, between lines 31 and 32, begin a new paragraph and insert:  
"SECTION 11. IC 5-16-7.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 7.2. Wage Scales for Public Works Projects**

**Sec. 1. (a) This chapter applies to a public works contract awarded by a public agency after June 30, 2015.**

**(b) This chapter does not apply to contracts awarded by the Indiana department of transportation when IC 8-23-9 applies.**

**Sec. 2. As used in this chapter, "applicable public works statute" refers to whichever of the following statutes is applicable to public works projects of the public agency:**

- (1) IC 4-13.6.**
- (2) This article.**
- (3) IC 36-1-12.**
- (4) Any other statute applicable to the public works projects of the public agency.**

**Sec. 3. As used in this chapter "public agency" has the meaning set forth in IC 5-30-1-11.**

**Sec. 4. As used in this chapter, "public works project" refers to a construction project governed by an applicable public works statute.**

**Sec. 5. Unless federal or state law provides otherwise, a public agency may not:**

- (1) establish;**
- (2) mandate; or**
- (3) otherwise require;**

**a wage scale or wage schedule for a public works contract awarded by the public agency.**

SECTION 12. IC 5-16-13 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2015]:

**Chapter 13. Requirements for Contractors on Public Works Projects**

**Sec. 1. (a) This chapter applies only to a public works contract awarded after June 30, 2015.**

**(b) The requirements described in this chapter are in addition to requirements for contractors stated in the applicable public works statute. The provisions of an applicable public works statute shall be construed consistently with this chapter, but to the extent an applicable public works statute is inconsistent with this chapter, the provisions of this chapter govern.**

**(c) A provision of an invitation for bids, request for proposals, or a public works contract inconsistent with this chapter is void.**

**Sec. 2. As used in this chapter, "applicable public works statute" refers to whichever of the following statutes is applicable to public works projects of the public agency:**

- (1) IC 4-13.6.**
- (2) This article.**
- (3) IC 36-1-12.**
- (4) Any other statute applicable to the public works projects of the public agency.**

**Sec. 3. As used in this chapter, "contractor" refers generally to a contractor in any contractor tier.**

**Sec. 4. As used in this chapter, "contractor tier" refers collectively to the following classes of contractors on a public works project:**

- (1) "Tier 1 contractor" includes each person that has a contract with the public agency to perform some part of the work on, supply some of the materials for, or supply a service for, a public works project. A person included in this tier is also known as a "prime contractor" or a "general contractor".**
- (2) "Tier 2 contractor" includes each person that has a contract with a tier 1 contractor to perform some part of the work on, supply some of the materials for, or supply a service for, a public works project. A person included in this tier is also known as a "subcontractor".**
- (3) "Tier 3 contractor" includes each person that has a contract with a tier 2 contractor to perform some part of the work on, supply some of the materials for, or supply a service for, a public works project. A person included in this tier is also known as a "sub-subcontractor".**



(4) "Lower tier contractor" includes each person that has a contract with a tier 3 contractor or lower tier contractor to perform some part of the work on, supply some of the materials for, or supply a service for, a public works project. A person included in this tier is also known as a "lower tier subcontractor".

Sec. 5. As used in this chapter, "public agency" has the meaning set forth in IC 5-30-1-11.

Sec. 6. As used in this chapter, "public works project" refers to a construction project governed by an applicable statute.

Sec. 7. The substance of the provisions of this chapter must be stated or incorporated by reference in each public works contract.

Sec. 8. A public works project may not be structured other than in the contractor tier structure.

Sec. 9. Each tier 1 contractor must contribute in:

- (1) work performed by the tier 1 contractor's employees;
- (2) materials supplied directly by the tier 1 contractor;
- (3) services supplied directly by the tier 1 contractor's employees; or
- (4) any combination of subdivisions (1) through (3);

at least fifteen percent (15%) of the total contract price of the public works project.

Sec. 10. (a) This section applies to each contractor in any contractor tier of a public works project.

(b) A contractor must maintain general liability insurance in an amount equal to:

- (1) the value of the contractor's contract for the public works project; or
- (2) such other amount specified by the public agency in the contract documents.

(c) A contractor must be qualified under either of the following before doing any work on a public works project:

- (1) IC 4-13.6-4.
- (2) IC 8-23-10.

Sec. 11. Except as provided in this section, the following apply to each contractor in any contractor tier of a public works project:

- (1) IC 22-5-1.7. A contractor shall submit, before work begins on a public work project, the E-Verify case verification number for each individual who will be employed by the contractor on the public works project and who is required to be verified under IC 22-5-1.7. An individual who is required to be verified under IC 22-5-1.7 whose final case result is final



nonconfirmation may not be employed on the public works project.

(2) A contractor may not pay cash to any individual employed by the contractor for work done by the individual on the public works project.

(3) A contractor must be in compliance with the federal Fair Labor Standards Act of 1938, as amended (29 U.S.C. 201-209) and IC 22-2-2-1 through IC 22-2-2-8.

(4) A contractor must be in compliance with IC 22-3-5-1 and IC 22-3-7-34.

(5) A contractor must be in compliance with IC 22-4-1 through IC 22-4-39.5.

(6) A contractor must be in compliance with IC 4-13-18-1 through IC 4-13-18-7.

(7) A contractor must comply with section 12 of this chapter, if applicable.

Sec. 12. (a) This section applies only to a tier 1 contractor that employs ten (10) or more employees.

(b) A contractor must do the following:

(1) Maintain an ongoing training program for its employees that it requires employees to attend.

(2) Certify to the public agency the existence and operation of the program:

(A) at the time the public works contract is entered into; and

(B) every three (3) months after the contract is awarded until substantial completion of the project.

(c) A contractor may comply with this section through any of the following:

(1) A trade union apprenticeship program.

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

(3) A program offered by Vincennes University.

(4) A program established by the contractor not later than one (1) year before the date of the contract award.

Sec. 13. The payroll and related records of a contractor in any contractor tier must be:

(1) preserved by the contractor for a period of three (3) years after completion of the project work; and

(2) open to inspection by the department of workforce development.

Sec. 14. A public agency that is the owner of a public works





project may do the following:

- (1) The public agency may request in writing an in-person inspection of information that is contained in the quarterly wage reports submitted to the department of workforce development under IC 22-4-19-6(b) for a contractor in any contractor tier working on the public agency's public works project.
- (2) The chief executive officer of the public agency shall sign the request described in subdivision (1). The request must:
  - (A) identify the specific contractor whose quarterly wage reports the public agency seeks to inspect;
  - (B) identify the individuals who will conduct the inspection on the public agency's behalf; and
  - (C) contain a verification that the public agency and anyone acting on the public agency's behalf will be bound by confidentiality provisions and penalties for disclosure under IC 22-4-19-6.
- (3) The public agency must inspect the reports requested in subdivision (1) in person at the offices of the department of workforce development after making an appointment to do so.
- (4) The public agency may not at any time during or after the inspection described in subdivision (3) record, copy, make a written record, or otherwise commit an act that results in the removal of a confidential record from the offices of the department of workforce development.
- (5) An employee or agent of the public agency may not disclose in any manner any information obtained during an inspection described in subdivision (3).
- (6) A person who discloses any information obtained during an inspection described in subdivision (3) commits a Class B misdemeanor.

**Sec. 15. (a) This section applies to a contractor in any contractor tier of a public works project.**

**(b) A public agency that finds a contractor has violated a provision of this chapter shall find the contractor not responsible for a period of not more than forty-eight (48) months from the date of substantial completion of the public works project.**

**(c) The public agency that makes a finding under subsection (b) shall determine the length of time the contractor is considered not responsible based on the severity of the violation.**

SECTION 13. IC 5-16-14 IS ADDED TO THE INDIANA CODE



AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

**Chapter 14. Determination That a Contractor for a Public Works Project Is Not Responsible**

**Sec. 1. (a)** This chapter applies only to a public works contract awarded after June 30, 2015.

**(b)** The provisions of an applicable public works statute shall be construed consistently with this chapter, but to the extent an applicable public works statute is inconsistent with this chapter, the provisions of this chapter govern.

**(c)** A provision of an invitation for bids, request for proposals, or public works contract inconsistent with this chapter is void.

**Sec. 2.** The definitions in IC 5-16-13 apply throughout this chapter.

**Sec. 3.** A determination that a contractor is not responsible is final and conclusive, and subject to judicial review under this chapter.

**Sec. 4. (a)** A person aggrieved by a determination that the person is not responsible may file a petition for judicial review of that determination in a court of appropriate jurisdiction.

**(b)** The court shall grant relief only if it determines that a person seeking judicial relief under this chapter has been substantially prejudiced by a determination that is any of the following:

- (1)** Arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.
- (2)** Contrary to constitutional right, power, privilege, or immunity.
- (3)** In excess of statutory jurisdiction, authority, or limitations, or short of statutory right.
- (4)** Without observance of procedure required by law.
- (5)** Unsupported by substantial evidence.

**Sec. 5.** The burden of demonstrating the invalidity of the determination is on the person asserting the invalidity.

**Sec. 6. (a)** If the court finds that a person has been substantially prejudiced by a determination, the court may set aside the determination. The court may remand the case to the governmental body for further proceedings and compel an action by the governmental body that has been unreasonably delayed or unlawfully withheld.

**(b)** A court may not award damages in an action under this chapter."



Page 7, between lines 28 and 29, begin a new paragraph and insert:  
 "SECTION 17. IC 5-30-8-7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2015]: **Sec. 7. IC 5-16-13 and IC 5-16-14 apply to a contract awarded under this article.**

SECTION 18. IC 5-32-1-4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2015]: **Sec. 4. IC 5-16-13 and IC 5-16-14 apply to a contract awarded under this article, regardless of which applicable public works statute applies to the contract."**

Page 10, between lines 5 and 6, begin a new paragraph and insert:  
 "SECTION 26. IC 22-5-1.7-2, AS AMENDED BY P.L.6-2012, SECTION 157, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. As used in this chapter, "contractor" means a person that **satisfies either of the following:**

**(1) Is a person that:**

**(A)** has entered into; or

**(B)** is attempting to enter into;

a public contract for services with a state agency or political subdivision.

**(2) Is a person that:**

**(A)** has entered into; or

**(B)** is attempting to enter into;

**a contract for a public works project with a public agency.**

SECTION 27. IC 22-5-1.7-6.2 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2015]: **Sec. 6.2. As used in this chapter, "public agency" has the meaning set forth in IC 5-30-1-11.**

SECTION 28. IC 22-5-1.7-6.4 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2015]: **Sec. 6.4. As used in this chapter, "public works project" has the meaning set forth in IC 5-16-13-6.**

SECTION 29. IC 22-5-1.7-7, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. As used in this chapter, "state agency" has the meaning set forth in ~~IC 4-6-3-1~~. **IC 4-13-1-1.**

SECTION 30. IC 22-5-1.7-8, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. As used in this chapter, "subcontractor" means a person that:

(1) is a party to a contract with a contractor; and

(2) provides services **or work** for work the contractor is



performing under **either of the following:**

(A) A public contract for services.

(B) **A contract for a public works project with a public agency.**

SECTION 31. IC 22-5-1.7-11.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 11.1. This section applies only to a contract for a public works project entered into or renewed after June 30, 2015. A public agency may not enter into or renew a contract for a public works project with a contractor unless:**

(1) **the contract contains:**

(A) **a provision requiring the contractor to enroll in and verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program; and**

(B) **a provision that provides that a contractor is not required to verify the work eligibility status of all newly hired employees of the contractor through the E-Verify program if the E-Verify program no longer exists; and**

(2) **the contractor signs an affidavit affirming that the contractor does not knowingly employ an unauthorized alien.**

SECTION 32. IC 22-5-1.7-12, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 12. (a) A contractor or a subcontractor may not:**

(1) knowingly employ or contract with an unauthorized alien; or

(2) retain an employee or contract with a person that the contractor or subcontractor subsequently learns is an unauthorized alien.

(b) If a contractor violates this section, the state agency, ~~or~~ political subdivision, **or public agency** shall require the contractor to remedy the violation not later than thirty (30) days after the date the state agency, ~~or~~ political subdivision, **or public agency** notifies the contractor of the violation.

(c) There is a rebuttable presumption that a contractor did not knowingly employ an unauthorized alien if the contractor verified the work eligibility status of the employee through the E-Verify program.

SECTION 33. IC 22-5-1.7-13, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 13. (a) Except as provided in subsection (b), if the contractor fails to remedy the violation within the thirty (30) day period provided under section 12(b) of this chapter, the following apply:**

(1) **The state agency or political subdivision shall terminate the**



public contract for services with the contractor for breach of the public contract for services.

**(2) The public agency shall terminate the contract for a public works project with the contractor for breach of the contract for the public works project.**

(b) If a contractor employs or contracts with an unauthorized alien, ~~but~~ **the following apply:**

**(1) If the state agency or political subdivision (whichever the contractor has a public contract for services with) determines that terminating the public contract for services under subsection (a) would be detrimental to the public interest or public property, the state agency or political subdivision may allow the public contract for services to remain in effect until the state agency or political subdivision procures a new contractor.**

**(2) If the public agency determines that terminating the contract for a public works project under subsection (a) would be detrimental to the public interest or public property, the public agency may allow the contract for the public works project to remain in effect until the public agency procures a new contractor.**

(c) If a state agency or political subdivision terminates a public contract for services under subsection (a), the contractor is liable to the state agency or political subdivision for actual damages.

**(d) If a public agency terminates a contract for a public works project under subsection (a), the contractor is liable to the public agency for actual damages.**

SECTION 34. IC 22-5-1.7-14, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 14. A contractor may file an action with a circuit or superior court having jurisdiction in the county to challenge:

(1) a notice of a violation to the contractor under section 12(b) of this chapter not later than twenty (20) days after the contractor receives the notice; or

(2) a termination of a:

**(A) public contract for services under section 13(a) of this chapter not later than twenty (20) days after the state agency or political subdivision terminates the public contract for services with the contractor; or**

**(B) contract for a public works project under section 13(a) of this chapter not later than twenty (20) days after the public agency terminates the contract for the public works project with the contractor;**



**whichever is applicable.**

SECTION 35. IC 22-5-1.7-15, AS ADDED BY P.L.171-2011, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. If a contractor uses a subcontractor to provide services for work the contractor is performing under a public contract for services **or a contract for a public works project**, the subcontractor shall certify to the contractor in a manner consistent with federal law that the subcontractor, at the time of certification:

- (1) does not knowingly employ or contract with an unauthorized alien; and
- (2) has enrolled and is participating in the E-Verify program.

SECTION 36. IC 35-43-5-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 21. (a) A person who, with intent to obtain worker's compensation coverage as required by IC 22-3-2 through IC 22-3-7, falsely classifies an employee as one (1) of the following commits worker's compensation fraud:**

- (1) An independent contractor.
- (2) A sole proprietor.
- (3) An owner.
- (4) A partner.
- (5) An officer.
- (6) A member in a limited liability company.

(b) Except as described in subsections (c) through (e), the offense described in subsection (a) is a Class A misdemeanor.

(c) The offense described in subsection (a) is a Level 6 felony if the:

- (1) value of the obligation is less than one thousand dollars (\$1,000); or
- (2) number of employees not covered by worker's compensation coverage is less than five (5).

(d) The offense described in subsection (a) is a Level 5 felony if the:

- (1) value of the obligation is at least one thousand dollars (\$1,000) and less than five thousand dollars (\$5,000); or
- (2) number of employees not covered by worker's compensation coverage is at least five (5) and less than fifty (50).

(e) The offense described in subsection (a) is a Level 3 felony if the:

- (1) value of the obligation is at least five thousand dollars (\$5,000); or



**(2) number of employees not covered by worker's compensation coverage is at least fifty (50)."**

Page 10, between lines 15 and 16, begin a new paragraph and insert:  
 "SECTION 40. IC 35-52-5-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 9.5. IC 5-16-13-14 defines a crime concerning quarterly wage reports.**

SECTION 41. IC 36-1-12-3, AS AMENDED BY P.L.172-2011, SECTION 138, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) The board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work, by means of its own workforce, without awarding a contract whenever the cost of that public work project is estimated to be less than ~~one three hundred fifty thousand dollars (\$150,000)~~: **(\$300,000)**. Before a board may perform any work under this section by means of its own workforce, the political subdivision or agency must have a group of employees on its staff who are capable of performing the construction, maintenance, and repair applicable to that work. For purposes of this subsection, the cost of a public work project includes:

- (1) the actual cost of materials, labor, equipment, and rental;
- (2) a reasonable rate for use of trucks and heavy equipment owned; and
- (3) all other expenses incidental to the performance of the project.

(b) This subsection applies only to a municipality or a county. The workforce of a municipality or county may perform a public work described in subsection (a) only if:

- (1) the workforce, through demonstrated skills, training, or expertise, is capable of performing the public work; and
- (2) for a public work project under subsection (a) whose cost is estimated to be more than one hundred thousand dollars (\$100,000), the board:

- (A) publishes a notice under IC 5-3-1 that:
  - (i) describes the public work that the board intends to perform with its own workforce; and
  - (ii) sets forth the projected cost of each component of the public work as described in subsection (a); and
- (B) determines at a public meeting that it is in the public interest to perform the public work with the board's own workforce.

A public work project performed by a board's own workforce must be inspected and accepted as complete in the same manner as a public



work project performed under a contract awarded after receiving bids.

(c) When the project involves the rental of equipment with an operator furnished by the owner, or the installation or application of materials by the supplier of the materials, the project is considered to be a public work project and subject to this chapter. However, an annual contract may be awarded for equipment rental and materials to be installed or applied during a calendar or fiscal year if the proposed project or projects are described in the bid specifications.

(d) A board of aviation commissioners or an airport authority board may purchase or lease materials in the manner provided in IC 5-22 and perform any public work by means of its own workforce and owned or leased equipment, in the construction, maintenance, and repair of any airport roadway, runway, taxiway, or aircraft parking apron whenever the cost of that public work project is estimated to be less than one hundred thousand dollars (\$100,000).

(e) Municipal and county hospitals must comply with this chapter for all contracts for public work that are financed in whole or in part with cumulative building fund revenue, as provided in section 1(c) of this chapter. However, if the cost of the public work is estimated to be less than fifty thousand dollars (\$50,000), as reflected in the board minutes, the hospital board may have the public work done without receiving bids, by purchasing the materials and performing the work by means of its own workforce and owned or leased equipment.

(f) If a public works project involves a structure, an improvement, or a facility under the control of a department (as defined in IC 4-3-19-2(2)), the department may not artificially divide the project to bring any part of the project under this section."

Page 10, line 17, reset in roman "(a) A contract by".

Page 10, line 18, reset in roman "the board for public work must conform to".

Page 10, line 19, after "IC 5-16-7." insert "**IC 5-16-13.**".

Page 10, line 20, reset in roman "(b)".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1019 as printed February 17, 2015.)

HERSHMAN, Chairperson

Committee Vote: Yeas 8, Nays 5.

