



Reprinted
April 15, 2015

ENGROSSED HOUSE BILL No. 1019

DIGEST OF HB 1019 (Updated April 14, 2015 6:18 pm - DI 102)

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; noncode.

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 Repeals related statutes superseded by the repeal of the common construction wage statute.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 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, except public-private, design-build, and construction manager as constructor agreements: (1)
(Continued next page)

Effective: July 1, 2015.

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

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

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.

April 14, 2015, read second time, amended, ordered engrossed.

EH 1019—LS 6208/DI 97



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, as determined at the time the contract is awarded, 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) a contractor on a public works project that employs 10 or more employees to provide access to a training program applicable to the tasks to be performed by the employees in the normal course of their employment; and (B) a tier 1 or tier 2 contractor that employs 50 or more journeymen to participate in an apprenticeship training program that meets the standards established by the United States Department of Labor, Bureau of Apprenticeship and Training. (9) For a public works contract awarded after June 30, 2016, 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 (DWD), which must maintain the confidentiality of all records inspected. For a public works contract awarded after June 30, 2016, provides that a public agency that suspects the misclassification of one or more workers on the public agency's public works project may request in writing that DWD investigate the suspected misclassification, and if DWD finds information or records supporting the misclassification, DWD may refer the matter to an appropriate agency for further action. Provides that a public agency that reasonably suspects a contractor has violated these requirements shall refer certain violations to the appropriate agency for investigation or require the contractor to remedy certain violations not later than 30 days after the agency notifies the contractor of the violation. If the contractor fails to remedy the violation, requires the public agency to find the contractor to be not responsible for a period based on the severity of the violation, but for not more than 48 months. Provides that a finding that the contractor is not responsible may not be used by another public agency in making a determination as to whether that contractor is responsible. Provides that a determination that a contractor is not responsible is final and conclusive and subject to judicial review under IC 34-13-5. Provides that a person who, with intent to avoid the obligation to obtain worker's compensation coverage, falsely classifies an employee as a non-employee commits worker's compensation fraud. Provides for classification of this crime at various levels. Requires a contractor that, after June 30, 2015, is awarded a public works contract with an estimated cost of at least \$150,000 by a political subdivision to have an employee drug testing program. Requires the Indiana department of labor to submit to the general assembly not later than July 1, 2021, a report concerning the effects of the repeal of the common construction wage statute. Makes an appropriation to the Indiana Construction Roundtable Foundation of \$1 million dollars in each of the next two state fiscal years for the Foundation's use in conducting an educational marketing campaign in Indiana. Makes conforming amendments.



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April 15, 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

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

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

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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. (a) Except as provided in subsection (b), as used in this**
 24 **chapter, "applicable public works statute" refers to whichever of**
 25 **the following statutes is applicable to public works projects of the**
 26 **public agency:**

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

32 **(b) This definition does not include the following statutes:**

- 33 **(1) IC 5-23-4 (build, operate, transfer, and public-private**
 34 **agreements).**
 35 **(2) IC 5-30 (design-build).**
 36 **(3) IC 5-32 (employment of construction manager as**
 37 **constructor).**

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

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



- 1 **(1) "Tier 1 contractor" includes each person that has a**
- 2 **contract with the public agency to perform some part of the**
- 3 **work on, supply some of the materials for, or supply a service**
- 4 **for, a public works project. A person included in this tier is**
- 5 **also known as a "prime contractor" or a "general**
- 6 **contractor".**
- 7 **(2) "Tier 2 contractor" includes each person that has a**
- 8 **contract with a tier 1 contractor to perform some part of the**
- 9 **work on, supply some of the materials for, or supply a service**
- 10 **for, a public works project. A person included in this tier is**
- 11 **also known as a "subcontractor".**
- 12 **(3) "Tier 3 contractor" includes each person that has a**
- 13 **contract with a tier 2 contractor to perform some part of the**
- 14 **work on, supply some of the materials for, or supply a service**
- 15 **for, a public works project. A person included in this tier is**
- 16 **also known as a "sub-subcontractor".**
- 17 **(4) "Lower tier contractor" includes each person that has a**
- 18 **contract with a tier 3 contractor or lower tier contractor to**
- 19 **perform some part of the work on, supply some of the**
- 20 **materials for, or supply a service for, a public works project.**
- 21 **A person included in this tier is also known as a "lower tier**
- 22 **subcontractor".**
- 23 **Sec. 5. As used in this chapter, "public agency" has the meaning**
- 24 **set forth in IC 5-30-1-11.**
- 25 **Sec. 6. As used in this chapter, "public works project" refers to**
- 26 **a construction project governed by an applicable statute.**
- 27 **Sec. 7. The substance of the provisions of this chapter must be**
- 28 **stated or incorporated by reference in each public works contract.**
- 29 **Sec. 8. A public works project may not be structured other than**
- 30 **in the contractor tier structure.**
- 31 **Sec. 9. Each tier 1 contractor must contribute in:**
- 32 **(1) work performed by the tier 1 contractor's employees;**
- 33 **(2) materials supplied directly by the tier 1 contractor;**
- 34 **(3) services supplied directly by the tier 1 contractor's**
- 35 **employees; or**
- 36 **(4) any combination of subdivisions (1) through (3);**
- 37 **at least fifteen percent (15%) of the tier 1 contractor's total**
- 38 **contract price as determined at the time the contract is awarded.**
- 39 **Sec. 10. (a) This section applies to each contractor in any**
- 40 **contractor tier of a public works project.**
- 41 **(b) A contractor must maintain general liability insurance in at**
- 42 **least the following amounts:**



- 1 (1) For the each occurrence limit, one million dollars
- 2 (\$1,000,000).
- 3 (2) For the general aggregate limit, two million dollars
- 4 (\$2,000,000).
- 5 (c) A contractor must be qualified under either of the following
- 6 before doing any work on a public works project:
- 7 (1) IC 4-13.6-4.
- 8 (2) IC 8-23-10.
- 9 Sec. 11. Except as provided in this section, the following apply
- 10 to each contractor in any contractor tier of a public works project:
- 11 (1) IC 22-5-1.7. A contractor shall submit, before work begins
- 12 on a public work project, the E-Verify case verification
- 13 number for each individual who is required to be verified
- 14 under IC 22-5-1.7. An individual who is required to be
- 15 verified under IC 22-5-1.7 whose final case result is final
- 16 nonconfirmation may not be employed on the public works
- 17 project.
- 18 (2) A contractor may not pay cash to any individual employed
- 19 by the contractor for work done by the individual on the
- 20 public works project.
- 21 (3) A contractor must be in compliance with the federal Fair
- 22 Labor Standards Act of 1938, as amended (29 U.S.C. 201-209)
- 23 and IC 22-2-2-1 through IC 22-2-2-8.
- 24 (4) A contractor must be in compliance with IC 22-3-5-1 and
- 25 IC 22-3-7-34.
- 26 (5) A contractor must be in compliance with IC 22-4-1
- 27 through IC 22-4-39.5.
- 28 (6) A contractor must be in compliance with IC 4-13-18-1
- 29 through IC 4-13-18-7.
- 30 (7) A contractor must comply with section 12 of this chapter,
- 31 if applicable.
- 32 Sec. 12. (a) This section applies only to a or tier 2 contractor
- 33 that employs fifty (50) or more journeymen.
- 34 (b) A contractor must provide access to a training program
- 35 applicable to the tasks to be performed in the normal course of the
- 36 employee's employment with the contractor.
- 37 (b) The contractor shall participate in an apprenticeship
- 38 training program that meets the standards established by the
- 39 United States Department of Labor, Bureau of Apprenticeship and
- 40 Training.
- 41 (c) A contractor may comply with this section through any of
- 42 the following:



- 1 (1) An apprenticeship program.
- 2 (2) A program offered by Ivy Tech Community College of
- 3 Indiana.
- 4 (3) A program offered by Vincennes University.
- 5 (4) A program established by or for the contractor.
- 6 (5) A program offered by an entity sponsored by the United
- 7 States Department of Labor, Bureau of Apprenticeship and
- 8 Training.
- 9 (6) A program that results in the award of an industry
- 10 recognized portable certification.

11 Sec. 13. (a) This section applies to a public works contract

12 awarded after June 30, 2016. The payroll and related records of a

13 contractor in any contractor tier must be:

- 14 (1) preserved by the contractor for a period of three (3) years
- 15 after completion of the project work; and
- 16 (2) open to inspection by the department of workforce
- 17 development.

18 (b) The department of workforce development shall maintain

19 the confidentiality of all records inspected under this section in

20 accordance with the confidentiality provisions of IC 22-4-19-6.

21 Sec. 14. (a) This section applies to a public works contract

22 awarded after June 30, 2016.

23 (b) As used in this section, "department" refers to the

24 department of workforce development established under

25 IC 22-4.1-2-1.

26 (c) A public agency that is the owner of a public works project

27 and suspects a misclassification of one (1) or more workers by a

28 contractor in any contractor tier working on the public agency's

29 public works project may request in writing that the department

30 investigate the suspected worker misclassification. The public

31 agency shall provide to the department any information or records

32 that the public agency has concerning the misclassification.

33 (d) The department may investigate a request described in

34 subsection (c). If the department finds information or records that

35 support a finding that worker misclassification has occurred, the

36 department may refer the matter to the appropriate agency or

37 official for further action.

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

39 tier of a public works project.

40 (b) A public agency that reasonably suspects a contractor has

41 violated a provision of this chapter shall do one (1) of the following:

- 42 (1) If the suspected violation concerns or is related to any of



1 the following provisions, the public agency shall refer the
2 matter to the appropriate agency as follows:

3 (A) For a suspected violation of section 11(1) of this
4 chapter (E-Verify), the Indiana department of labor.

5 (B) For a suspected violation of section 11(3) of this
6 chapter (the federal FLSA or state minimum wage law),
7 the Indiana department of labor.

8 (C) For a suspected violation of section 11(4) of this
9 chapter (worker's compensation or occupational diseases),
10 the worker's compensation board of Indiana.

11 (D) For a suspected violation of section 11(5) of this
12 chapter (unemployment insurance), the department of
13 workforce development.

14 (2) If the suspected violation concerns a provision of this
15 chapter other than a provision listed in subdivision (1), the
16 public agency shall require the contractor to remedy the
17 violation not later than thirty (30) days after the public
18 agency notifies the contractor of the violation. The
19 notification to the contractor must be signed by the chief
20 executive officer of the public agency and sent by a method
21 that enables the public agency to verify receipt of the notice
22 by the contractor. During the thirty (30) day period, the
23 contractor may continue to work on the public works project.
24 If the contractor fails to remedy the violation within the thirty
25 (30) day period, the public agency shall find the contractor
26 not responsible and determine the length of time the
27 contractor is considered not responsible by the public agency.

28 (c) In making the determination of the length of time a
29 contractor is not responsible under subsection (b)(2), the public
30 agency shall consider the severity of the violation. The period
31 during which a contractor is considered not responsible:

32 (1) may not exceed forty-eight (48) months; and

33 (2) begins on the date of substantial completion of the public
34 works project.

35 (d) A finding by a public agency under subsection (b)(2) that a
36 contractor is not responsible may not be used by another public
37 agency in making a determination as to whether the contractor is
38 responsible for purposes of that public agency's award of a public
39 works contract to that contractor.

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

EH 1019—LS 6208/DI 97



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

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

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

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

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

13 **Sec. 3. A determination that a contractor is not responsible is**
 14 **final and conclusive, and subject to judicial review under**
 15 **IC 34-13-5.**

16 SECTION 14. IC 5-23-3-3 IS REPEALED [EFFECTIVE JULY 1,
 17 2015]. ~~Sec. 3: If a governmental body enters into a BOT agreement that~~
 18 ~~involves the construction of a public facility with public funds under~~
 19 ~~this section, the operator or any contractor or subcontractor engaged in~~
 20 ~~the construction of that public facility shall pay the common~~
 21 ~~construction wage as determined under IC 5-16-7.~~

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

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

- 32 (1) Instructions.
 33 (2) Proposal forms and schedules.
 34 (3) General and special conditions.
 35 (4) The basis for evaluation of proposals, including a description
 36 of the selection criteria with the weight assigned to each criteria.
 37 (5) ~~A determination of the common construction wage made~~
 38 ~~under IC 5-16-7.~~
 39 (6) (5) Any other instructions, documents, or information relevant
 40 to the public project that the public agency considers relevant.

41 SECTION 17. IC 5-30-8-6 IS REPEALED [EFFECTIVE JULY 1,
 42 2015]. ~~Sec. 6: (a) A determination under IC 5-16-7-1(c) for a public~~



1 project to be constructed under a design-build contract shall be made
 2 and filed with the public agency at least two (2) weeks before the date
 3 fixed for submission of the qualitative proposal and the price proposal
 4 under IC 5-30-6-5.

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

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

13 SECTION 18. IC 5-30-8-7 IS ADDED TO THE INDIANA CODE
 14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 15 1, 2015]: **Sec. 7. IC 5-16-13 and IC 5-16-14 apply to a contract
 16 awarded under this article.**

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

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

- 28 (1) renew the lease for a further term on like conditions; and
 29 (2) purchase the waterworks facilities covered by the lease
 30 contract with the terms and conditions of the purchase specified
 31 in the lease.

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

37 (c) If the municipality has not exercised an option to purchase the
 38 property covered by the lease at the expiration of the lease, and upon
 39 the full discharge and performance by the municipality of its
 40 obligations under the lease contract, the property covered by the lease
 41 thereupon becomes the absolute property of the municipality, and the
 42 lessor shall execute proper instruments conveying to the municipality



1 good and merchantable title thereto.

2 (d) A waterworks facility leased under this section is subject to
3 IC 5-16-7.

4 SECTION 21. IC 8-15.5-6-2, AS AMENDED BY P.L.205-2013,
5 SECTION 157, IS AMENDED TO READ AS FOLLOWS
6 [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Unless otherwise provided by
7 federal law or this section, the operator or any contractor or
8 subcontractor of the operator engaged in the construction of a project
9 is not required to comply with IC 4-13.6 or IC 5-16 concerning state
10 public works, IC 5-17 concerning purchases of materials and supplies,
11 or other statutes concerning procedures for procurement of public
12 works or personal property as a condition of being awarded and
13 performing work on the project.

14 (b) IC 5-16-7 concerning the common construction wage applies to
15 the following:

16 (1) The operator or any contractor or subcontractor of the operator
17 engaged in a project for the construction of the Hhiana
18 Expressway, a limited access facility connecting Interstate
19 Highway 65 in northwestern Indiana with an interstate highway
20 in Hhinois:

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

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

34 (b) IC 5-16-7 concerning the common construction wage applies to
35 the following:

36 (1) The operator or any contractor or subcontractor of the operator
37 engaged in a project for the construction of the Hhiana
38 Expressway, a limited access facility connecting Interstate
39 Highway 65 in northwestern Indiana with an interstate highway
40 in Hhinois:

41 (2) The operator or any contractor or subcontractor of the operator
42 engaged in the construction of a project that is the subject of a



1 ~~public-private agreement entered into after April 30, 2011.~~

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

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

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

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

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

23 (b) To provide funds for that purpose, the county may issue general
24 obligation aid bonds or the city hospital or city may appropriate money
25 from the city hospital's or city's general fund or other funds available
26 for that purpose if the hospital building is owned by the city hospital or
27 city. The governing board of the hospital may use any funds available
28 to the board if the hospital building is owned by the city.

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

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

41 SECTION 27. IC 22-5-1.7-2, AS AMENDED BY P.L.6-2012,
42 SECTION 157, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2015]: Sec. 2. As used in this chapter,
2 "contractor" means a person that **satisfies either of the following:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 **(1) the contract contains:**

41 **(A)** **a provision requiring the contractor to enroll in and**
42 **verify the work eligibility status of all newly hired**



1 employees of the contractor through the E-Verify
 2 program; and
 3 **(B) a provision that provides that a contractor is not**
 4 **required to verify the work eligibility status of all newly**
 5 **hired employees of the contractor through the E-Verify**
 6 **program if the E-Verify program no longer exists; and**
 7 **(2) the contractor signs an affidavit affirming that the**
 8 **contractor does not knowingly employ an unauthorized alien.**

9 SECTION 33. IC 22-5-1.7-12, AS ADDED BY P.L.171-2011,
 10 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 11 JULY 1, 2015]: Sec. 12. (a) A contractor or a subcontractor may not:

- 12 (1) knowingly employ or contract with an unauthorized alien; or
- 13 (2) retain an employee or contract with a person that the
- 14 contractor or subcontractor subsequently learns is an unauthorized
- 15 alien.

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

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

24 SECTION 34. IC 22-5-1.7-13, AS ADDED BY P.L.171-2011,
 25 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2015]: Sec. 13. (a) Except as provided in subsection (b), if the
 27 contractor fails to remedy the violation within the thirty (30) day period
 28 provided under section 12(b) of this chapter, the **following apply:**

29 **(1) The** state agency or political subdivision shall terminate the
 30 public contract for services with the contractor for breach of the
 31 public contract for services.

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

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

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



1 subdivision procures a new contractor.

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

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

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

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

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

21 (2) a termination of a:

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

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

30 **whichever is applicable.**

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

38 (1) does not knowingly employ or contract with an unauthorized
 39 alien; and

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

41 SECTION 37. IC 35-43-5-21 IS ADDED TO THE INDIANA
 42 CODE AS A NEW SECTION TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2015]: **Sec. 21. (a) A person who, with intent**
 2 **to avoid the obligation to obtain worker's compensation coverage**
 3 **as required by IC 22-3-5-1 and IC 22-3-7-34, falsely classifies an**
 4 **employee as one (1) of the following commits worker's**
 5 **compensation fraud:**

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

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

8 (3) **An owner.**

9 (4) **A partner.**

10 (5) **An officer.**

11 (6) **A member in a limited liability company.**

12 (b) **The offense described in subsection (a) is a Class A**
 13 **misdemeanor.**

14 SECTION 38. IC 35-44.2-3-4 IS REPEALED [EFFECTIVE JULY
 15 1, 2015]. ~~Sec. 4: A person who commits a wage scale violation in a~~
 16 ~~state public works contract is subject to criminal prosecution under~~
 17 ~~IC 5-16-7-3.~~

18 SECTION 39. IC 35-44.2-3-5 IS REPEALED [EFFECTIVE JULY
 19 1, 2015]. ~~Sec. 5: A person who unlawfully divides a public works~~
 20 ~~project is subject to a civil action for an infraction under IC 5-16-7-6.~~

21 SECTION 40. IC 35-52-5-8 IS REPEALED [EFFECTIVE JULY 1,
 22 2015]. ~~Sec. 8: IC 5-16-7-3 defines a crime concerning wage rate of~~
 23 ~~contractor's and subcontractor's employees.~~

24 SECTION 41. IC 35-52-5-9.5 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2015]: **Sec. 9.5. IC 5-16-13-14 defines a crime**
 27 **concerning quarterly wage reports.**

28 SECTION 42. IC 36-1-12-3, AS AMENDED BY P.L.172-2011,
 29 SECTION 138, IS AMENDED TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2015]: **Sec. 3. (a) The board may purchase or**
 31 **lease materials in the manner provided in IC 5-22 and perform any**
 32 **public work, by means of its own workforce, without awarding a**
 33 **contract whenever the cost of that public work project is estimated to**
 34 **be less than ~~one~~ ~~three~~ ~~hundred~~ ~~fifty~~ ~~thousand~~ ~~dollars~~ ~~(\$150,000):~~**
 35 **(\$300,000). Before a board may perform any work under this section**
 36 **by means of its own workforce, the political subdivision or agency**
 37 **must have a group of employees on its staff who are capable of**
 38 **performing the construction, maintenance, and repair applicable to that**
 39 **work. For purposes of this subsection, the cost of a public work project**
 40 **includes:**

41 (1) **the actual cost of materials, labor, equipment, and rental;**

42 (2) **a reasonable rate for use of trucks and heavy equipment**



1 owned; and
 2 (3) all other expenses incidental to the performance of the project.
 3 (b) This subsection applies only to a municipality or a county. The
 4 workforce of a municipality or county may perform a public work
 5 described in subsection (a) only if:
 6 (1) the workforce, through demonstrated skills, training, or
 7 expertise, is capable of performing the public work; and
 8 (2) for a public work project under subsection (a) whose cost is
 9 estimated to be more than one hundred thousand dollars
 10 (\$100,000), the board:
 11 (A) publishes a notice under IC 5-3-1 that:
 12 (i) describes the public work that the board intends to
 13 perform with its own workforce; and
 14 (ii) sets forth the projected cost of each component of the
 15 public work as described in subsection (a); and
 16 (B) determines at a public meeting that it is in the public
 17 interest to perform the public work with the board's own
 18 workforce.
 19 A public work project performed by a board's own workforce must be
 20 inspected and accepted as complete in the same manner as a public
 21 work project performed under a contract awarded after receiving bids.
 22 (c) When the project involves the rental of equipment with an
 23 operator furnished by the owner, or the installation or application of
 24 materials by the supplier of the materials, the project is considered to
 25 be a public work project and subject to this chapter. However, an
 26 annual contract may be awarded for equipment rental and materials to
 27 be installed or applied during a calendar or fiscal year if the proposed
 28 project or projects are described in the bid specifications.
 29 (d) A board of aviation commissioners or an airport authority board
 30 may purchase or lease materials in the manner provided in IC 5-22 and
 31 perform any public work by means of its own workforce and owned or
 32 leased equipment, in the construction, maintenance, and repair of any
 33 airport roadway, runway, taxiway, or aircraft parking apron whenever
 34 the cost of that public work project is estimated to be less than one
 35 hundred thousand dollars (\$100,000).
 36 (e) Municipal and county hospitals must comply with this chapter
 37 for all contracts for public work that are financed in whole or in part
 38 with cumulative building fund revenue, as provided in section 1(c) of
 39 this chapter. However, if the cost of the public work is estimated to be
 40 less than fifty thousand dollars (\$50,000), as reflected in the board
 41 minutes, the hospital board may have the public work done without
 42 receiving bids, by purchasing the materials and performing the work by



1 means of its own workforce and owned or leased equipment.

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

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

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

14 SECTION 44. IC 36-1-12-24 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 2015]: **Sec. 24. (a) As used in this section,**
17 **"contractor" includes a subcontractor of a contractor.**

18 **(b) IC 4-13-18, regarding drug testing of employees of public**
19 **works contractors, applies to a public works contract:**

20 **(1) if the estimated cost of the public works project is at least**
21 **one hundred fifty thousand dollars (\$150,000); and**

22 **(2) that is awarded under this chapter after June 30, 2015.**

23 SECTION 45. IC 36-1-12.5-5, AS AMENDED BY P.L.99-2009,
24 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
25 JULY 1, 2015]: Sec. 5. (a) The governing body may enter into an
26 agreement with a public utility to participate in a utility efficiency
27 program or enter into a guaranteed savings contract with a qualified
28 provider to increase the political subdivision's billable revenues or
29 reduce the school corporation's or the political subdivision's energy or
30 water consumption, wastewater usage costs, or operating costs if, after
31 review of the report described in section 6 of this chapter, the
32 governing body finds:

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

41 (2) in the case of conservation measures that are part of a project
42 related to the alteration of a water or wastewater structure or



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



1 system, all payments, except obligations upon the termination of
 2 the agreement or contract before the agreement or contract
 3 expires, may be made to the public utility or qualified provider
 4 (whichever applies) in installments, not to exceed the lesser of
 5 twenty (20) years or the average life of the conservation measures
 6 installed from the date of final installation;

7 (3) in the case of the guaranteed savings contract:

8 (A) the:

9 (i) savings in energy and water consumption costs,
 10 wastewater usage costs, and other operating costs; and

11 (ii) increase in billable revenues;

12 due to the conservation measures are guaranteed to cover the
 13 costs of the payments for the measures; and

14 (B) the qualified provider will reimburse the school
 15 corporation or political subdivision for the difference between
 16 the guaranteed savings and the actual savings; and

17 (4) payments are subject to annual appropriation by the fiscal
 18 body of the school corporation or political subdivision and do not
 19 constitute an indebtedness of the school corporation or political
 20 subdivision within the meaning of a constitutional or statutory
 21 debt limitation.

22 ~~(e) An agreement or a contract under this chapter is subject to~~
 23 ~~IC 5-16-7.~~

24 SECTION 46. IC 36-7-12-20 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 20. (a) All tax revenues
 26 coming into possession of the economic development commission shall
 27 be deposited, held, and secured in accordance with the statutes relating
 28 to the handling and investing of public funds. The handling and
 29 expenditure of this money is subject to audit and supervision by the
 30 state board of accounts.

31 (b) Contracts for construction and equipment of economic
 32 development or pollution control facilities need not be let in
 33 accordance with IC 5-16, IC 5-17, or any other statute relating to public
 34 contracts. ~~However, the construction of waterworks facilities financed~~
 35 ~~for the public purpose of providing reliable water service subject to~~
 36 ~~IC 5-16-7.~~

37 (c) Any employee of the economic development commission
 38 authorized to receive, disburse, or in any other way handle money or
 39 negotiable securities of the commission shall execute a bond payable
 40 to the state, with surety to consist of a surety or guaranty corporation
 41 qualified to do business in the state. The bond must be in an amount
 42 determined by the commission, and must be conditioned upon the



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

5 SECTION 47. IC 36-7-14-12.3 IS REPEALED [EFFECTIVE JULY
 6 1, 2015]. ~~Sec. 12.3. IC 5-16-7 applies to:~~

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

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

13 SECTION 48. IC 36-7.5-2-8, AS ADDED BY P.L.214-2005,
 14 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2015]: Sec. 8. (a) The development authority must comply
 16 with ~~IC 5-16-7 (common construction wage)~~; IC 5-22 (public
 17 purchasing), IC 36-1-12 (public work projects), and any applicable
 18 federal bidding statutes and regulations. An eligible political
 19 subdivision that receives a loan, a grant, or other financial assistance
 20 from the development authority or enters into a lease with the
 21 development authority must comply with applicable federal, state, and
 22 local public purchasing and bidding law and regulations. However, a
 23 purchasing agency (as defined in IC 5-22-2-25) of an eligible political
 24 subdivision may:

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

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

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



1 employees, goods, and services. In fulfilling the goal, the authority
2 shall take into account historical precedents in the same market.

3 SECTION 49. IC 36-7.5-4-3, AS AMENDED BY P.L.1-2006,
4 SECTION 573, IS AMENDED TO READ AS FOLLOWS
5 [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) ~~Subject to subsection (h)~~; The
6 development authority may issue bonds for the purpose of obtaining
7 money to pay the cost of:

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

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

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

14 (b) The bonds are payable solely from:

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

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

21 (c) The bonds shall be authorized by a resolution of the
22 development 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 only to the Indiana finance
27 authority established by IC 4-4-11-4 upon the terms determined by the
28 development board and the Indiana finance authority.

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

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

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

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

42 (4) architectural, engineering, consultant, and attorney's fees;



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

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

18 SECTION 50. IC 36-7.6-2-13, AS ADDED BY P.L.232-2007,
 19 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2015]: Sec. 13. (a) A development authority shall comply with
 21 IC 5-16-7 (common construction wage); IC 5-22 (public purchasing),
 22 IC 36-1-12 (public work projects), and any applicable federal bidding
 23 statutes and regulations. An eligible political subdivision that receives
 24 a loan, a grant, or other financial assistance from a development
 25 authority or enters into a lease with a development authority must
 26 comply with applicable federal, state, and local public purchasing and
 27 bidding laws and regulations. However, a purchasing agency (as
 28 defined in IC 5-22-2-25) of an eligible political subdivision may:

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

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

41 (b) In addition to the provisions of subsection (a), with respect to
 42 projects undertaken by a development authority, the development



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

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

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

10 SECTION 51. IC 36-7.6-4-3, AS ADDED BY P.L.232-2007,
 11 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2015]: Sec. 3. (a) ~~Subject to subsection (h)~~; A development
 13 authority may issue bonds for the purpose of obtaining money to pay
 14 the cost of:

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

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

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

21 (b) The bonds are payable solely from:

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

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

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

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

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

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

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

41 (1) planning and development of equipment or a facility and all
 42 buildings, facilities, structures, equipment, and improvements



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

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

25 SECTION 52. IC 36-9-23-2 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. A municipality may:

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

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

37 SECTION 53. [EFFECTIVE JULY 1, 2015] (a) **The Indiana**
 38 **department of labor shall submit to the general assembly in an**
 39 **electronic format under IC 5-14-6 not later than July 1, 2021, a**
 40 **report concerning the effects of the repeal of the common**
 41 **construction wage statute (IC 5-16-7), including information about**
 42 **all quantifiable effects of the repeal on public works projects,**



1 including at least the following:
2 (1) The cost of public works projects.
3 (2) The wages paid on public works projects.
4 (3) The number of Indiana residents working on public works
5 projects.
6 (b) This SECTION expires December 31, 2021.
7 SECTION 54. [EFFECTIVE JULY 1, 2015] There is appropriated
8 to the Indiana Construction Roundtable Foundation:
9 (1) for the state fiscal year beginning July 1, 2015, and ending
10 June 30, 2016, one million dollars (\$1,000,000); and
11 (2) for the state fiscal year beginning July 1, 2016, and ending
12 June 30, 2017, one million dollars (\$1,000,000);
13 from the state general fund for the Indiana Construction
14 Roundtable Foundation's use in conducting an educational
15 marketing campaign in Indiana to promote employment
16 opportunities in Indiana for skilled construction craft professionals
17 and to attract individuals to become craft professionals in the
18 Indiana construction industry.



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

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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 ~~thirty~~ **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.



SENATE MOTION

Madam President: I move that Engrossed House Bill 1019 be amended to read as follows:

Page 21, line 38, after "to" insert "**avoid the obligation to**".

Page 21, line 38, delete "IC 22-3-2" and insert "**IC 22-3-5-1 and IC 22-3-7-34**".

Page 21, line 39, delete "through IC 22-3-7".

Page 22, line 5, delete "(e)," and insert "**(d)**".

Page 22, delete lines 7 through 25, begin a new paragraph and insert:

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

(1) total value of all property, money, or other items of value obtained or sought to be obtained by the false classification 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 due to the false classification is at least five (5) and less than fifty (50).

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

(1) total value of all property, money, or other items of value obtained or sought to be obtained by the false classification is at least five thousand dollars (\$5,000); or

(2) number of employees not covered by worker's compensation coverage due to the false classification is at least fifty (50)."

(Reference is to EHB 1019 as printed April 8, 2015.)

YODER

 SENATE MOTION

Madam President: I move that Engrossed House Bill 1019 be amended to read as follows:

Page 9, line 38, after "chapter" insert ",".

Page 10, line 23, delete "As" and insert "**(a) Except as provided in subsection (b), as**".

Page 10, between lines 30 and 31, begin a new paragraph and insert:

"(b) This definition does not include the following statutes:

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(1) IC 5-23-4 (build, operate, transfer, and public-private agreements).

(2) IC 5-30 (design-build).

(3) IC 5-32 (employment of construction manager as constructor)."

Page 11, line 30, after "(15%) of the" insert **"tier 1 contractor's"**.

Page 11, line 30, after "price" delete "of the" and insert **"as determined at the time the contract is awarded."**

Page 11, delete line 31.

Page 11, delete lines 34 through 39, begin a new paragraph and insert:

"(b) A contractor must maintain general liability insurance in at least the following amounts:

(1) For the each occurrence limit, one million dollars (\$1,000,000).

(2) For the general aggregate limit, two million dollars (\$2,000,000)."

Page 12, line 6, delete "who will be employed by the".

Page 12, line 7, delete "contractor on the public works project and".

Page 13, line 3, after "Sec. 13." insert **"(a) This section applies to a public works contract awarded after June 30, 2016."**

Page 13, between lines 8 and 9, begin a new paragraph and insert:

"(b) The department of workforce development shall maintain the confidentiality of all records inspected under this section in accordance with the confidentiality provisions of IC 22-4-19-6."

Page 13, delete lines 9 through 41, begin a new paragraph and insert:

"Sec. 14. (a) This section applies to a public works contract awarded after June 30, 2016.

(b) As used in this section, "department" refers to the department of workforce development established under IC 22-4.1-2-1.

(c) A public agency that is the owner of a public works project and suspects a misclassification of one (1) or more workers by a contractor in any contractor tier working on the public agency's public works project may request in writing that the department investigate the suspected worker misclassification. The public agency shall provide to the department any information or records that the public agency has concerning the misclassification.

(d) The department may investigate a request described in subsection (c). If the department finds information or records that support a finding that worker misclassification has occurred, the



department may refer the matter to the appropriate agency or official for further action."

Page 14, delete lines 2 through 8, begin a new paragraph and insert:

"(b) A public agency that reasonably suspects a contractor has violated a provision of this chapter shall do one (1) of the following:

(1) If the suspected violation concerns or is related to any of the following provisions, the public agency shall refer the matter to the appropriate agency as follows:

(A) For a suspected violation of section 11(1) of this chapter (E-Verify), the Indiana department of labor.

(B) For a suspected violation of section 11(3) of this chapter (the federal FLSA or state minimum wage law), the Indiana department of labor.

(C) For a suspected violation of section 11(4) of this chapter (worker's compensation or occupational diseases), the worker's compensation board of Indiana.

(D) For a suspected violation of section 11(5) of this chapter (unemployment insurance), the department of workforce development.

(2) If the suspected violation concerns a provision of this chapter other than a provision listed in subdivision (1), the public agency shall require the contractor to remedy the violation not later than thirty (30) days after the public agency notifies the contractor of the violation. The notification to the contractor must be signed by the chief executive officer of the public agency and sent by a method that enables the public agency to verify receipt of the notice by the contractor. During the thirty (30) day period, the contractor may continue to work on the public works project. If the contractor fails to remedy the violation within the thirty (30) day period, the public agency shall find the contractor not responsible and determine the length of time the contractor is considered not responsible by the public agency.

(c) In making the determination of the length of time a contractor is not responsible under subsection (b)(2), the public agency shall consider the severity of the violation. The period during which a contractor is considered not responsible:

(1) may not exceed forty-eight (48) months; and

(2) begins on the date of substantial completion of the public works project.

(d) A finding by a public agency under subsection (b)(2) that a contractor is not responsible may not be used by another public



agency in making a determination as to whether the contractor is responsible for purposes of that public agency's award of a public works contract to that contractor."

Page 14, line 25, delete "this" and insert "**IC 34-13-5**".

Page 14, delete lines 26 through 42.

Page 15, delete lines 1 through 9.

Page 21, line 38, after "to" insert "**avoid the obligation to**".

Page 21, line 38, delete "IC 22-3-2" and insert "**IC 22-3-5-1 and IC 22-3-7-34**".

Page 21, line 39, delete "through IC 22-3-7".

Page 22, line 5, delete "Except as described in subsections (c) through (e), the" and insert "**The**".

Page 22, delete lines 7 through 25.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1019 as printed April 8, 2015.)

HERSHMAN

SENATE MOTION

Madam President: I move that Engrossed House Bill 1019 be amended to read as follows:

Page 24, between lines 25 and 26, begin a new paragraph and insert:

"SECTION 44. IC 36-1-12-24 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 24. (a) As used in this section, "contractor" includes a subcontractor of a contractor.**

(b) IC 4-13-18, regarding drug testing of employees of public works contractors, applies to a public works contract:

(1) if the estimated cost of the public works project is at least one hundred fifty thousand dollars (\$150,000); and

(2) that is awarded under this chapter after June 30, 2015."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1019 as printed April 8, 2015.)

CHARBONNEAU



SENATE MOTION

Madam President: I move that Engrossed House Bill 1019 be amended to read as follows:

Page 31, after line 39, begin a new paragraph and insert:

"SECTION 52. [EFFECTIVE JULY 1, 2015] (a) **The Indiana department of labor shall submit to the general assembly in an electronic format under IC 5-14-6 not later than July 1, 2021, a report concerning the effects of the repeal of the common construction wage statute (IC 5-16-7), including information about all quantifiable effects of the repeal on public works projects, including at least the following:**

- (1) **The cost of public works projects.**
- (2) **The wages paid on public works projects.**
- (3) **The number of Indiana residents working on public works projects.**

(b) **This SECTION expires December 31, 2021.**"

Renumber all SECTIONS consecutively.

(Reference is to EHB 1019 as printed April 8, 2015.)

HERSHMAN

 SENATE MOTION

Madam President: I move that Engrossed House Bill 1019 be amended to read as follows:

Page 12, line 26, after "tier 1" insert "**or tier 2**".

Page 12, line 27, delete "ten (10)" and insert "**fifty (50)**".

Page 12, line 27, delete "employees." and insert "**journeymen.**".

Page 12, delete lines 28 through 36, begin a new paragraph and insert:

"(b) The contractor shall participate in an apprenticeship training program that meets the standards established by the United States Department of Labor, Bureau of Apprenticeship and Training."

(Reference is to EHB 1019 as printed April 8, 2015.)

WALKER



SENATE MOTION

Madam President: I move that Engrossed House Bill 1019 be amended to read as follows:

Delete the title and insert the following:

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

Page 12, line 26, delete "tier 1".

Page 12, delete lines 28 through 36, begin a new paragraph and insert:

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

Page 12, line 39, delete "A trade union" and insert "An".

Page 13, line 1, after "by" insert "or for".

Page 13, line 1, delete "not later than" and insert ".".

Page 13, delete line 2, begin a new line block indented and insert:

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

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

Page 31, after line 39, begin a new paragraph and insert:

"SECTION 52. [EFFECTIVE JULY 1, 2015] There is appropriated to the Indiana Construction Roundtable Foundation:

(1) for the state fiscal year beginning July 1, 2015, and ending June 30, 2016, one million dollars (\$1,000,000); and

(2) for the state fiscal year beginning July 1, 2016, and ending June 30, 2017, one million dollars (\$1,000,000);

from the state general fund for the Indiana Construction Roundtable Foundation's use in conducting an educational marketing campaign in Indiana to promote employment opportunities in Indiana for skilled construction craft professionals and to attract individuals to become craft professionals in the Indiana construction industry."

Re-number all SECTIONS consecutively.

(Reference is to EHB 1019 as printed April 8, 2015.)

WALKER

