

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

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

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

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

## HOUSE ENROLLED ACT No. 1158

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AN ACT to amend the Indiana Code concerning local government.

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

SECTION 1. IC 36-2-2.8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:

**Chapter 2.8. County Contracts; Requirements**

**Sec. 1. This chapter only applies to a county not having a consolidated city.**

**Sec. 2. (a) As used in this chapter, "contract" means a contract for the purchase of:**

- (1) real property;
- (2) tangible or intangible personal property; or
- (3) services (as defined in IC 5-22-2-30).

**(b) The term does not include a contract concerning the issuance of:**

- (1) a bond to finance the construction of a public facility; or
- (2) a bond or other type of security for the payment of a lease obligation.

**Sec. 3. As used in this chapter, "county officer" has the meaning set forth in IC 36-2-2.9-3.**

**Sec. 4. A contract entered into by a county, including a contract executed by a county officer, must meet the following requirements:**

- (1) The contract must be executed in the name of the county.
- (2) Any property purchases for public use shall be:

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- (A) titled to; or
- (B) documented as owned by;  
the county.

**Sec. 5. The county executive may, by ordinance, require standard contractual language to be used in all contracts entered into by the county, including contracts executed by a county officer. The ordinance may include:**

- (1) provisions for indemnification;**
- (2) dispute resolution provisions;**
- (3) venue requirements;**
- (4) termination provisions; and**
- (5) notification provisions.**

**Sec. 6. In addition to the county executive's authority under IC 36-2-2.9 to approve contracts, the county executive may adopt an ordinance to delegate additional authority to approve contracts to other county officers and employees.**

SECTION 2. IC 36-2-2.9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:

**Chapter 2.9. Review of County Contracts**

**Sec. 1. This chapter only applies to a county not having a consolidated city.**

**Sec. 2. The definitions in IC 36-2-2.8 apply to this chapter.**

**Sec. 3. As used in this chapter, "county officer" means the following:**

- (1) Assessor.**
- (2) Auditor.**
- (3) Coroner.**
- (4) Recorder.**
- (5) Sheriff.**
- (6) Surveyor.**
- (7) Treasurer.**
- (8) Clerk of the circuit court.**
- (9) County fiscal body.**

**Sec. 4. (a) If a county officer has a proposed contract:**

- (1) that the county officer believes is necessary for the county officer to carry out a constitutional or statutory duty of office; and**
- (2) for which funds have been appropriated by the county fiscal body to pay for the contract;**

**the county officer must have the county executive execute the contract or submit the contract for review under this chapter.**



(b) The county executive may void a contract that a county officer executes without first complying with this chapter.

**Sec. 5.** To initiate a contract review, the county officer must submit to the county auditor the following:

- (1) A request for review.
- (2) A copy of the proposed contract. The contract must comply with IC 36-2-2.8, including using the standard terms required by ordinance under IC 36-2-2.8-5.

The county auditor shall date stamp the request and immediately forward copies of the request and contract to the president of the county executive and county attorney.

**Sec. 6.** Not later than twenty (20) days after the request is filed with the county auditor:

- (1) the county executive and county attorney shall review the proposed contract; and
- (2) the county executive shall notify the county officer of the results of the review.

**Sec. 7. (a)** If the county attorney advises the county executive that the contract does not comply with:

- (1) state law; or
- (2) any applicable public purchasing or bidding laws;

the county executive may disapprove the contract and the contract may not be executed by the county officer.

(b) The county attorney shall notify the county executive of the results of the review.

**Sec. 8.** If the contract:

- (1) is not disapproved under section 7 of this chapter; and
- (2) the county executive finds the contract:
  - (A) complies with IC 36-2-2.8; and
  - (B) is otherwise acceptable;

the county executive may approve and authorize execution of the contract by the county officer or the county executive.

**Sec. 9. (a)** If the county executive finds the contract:

- (1) does not comply with IC 36-2-2.8; or
- (2) is otherwise not acceptable for reasons other than those determined under section 7 of this chapter;

the county executive must provide the county officer with a written statement described in subsection (b).

(b) The county executive must provide a written statement as part of the notification of the review results under section 11 of this chapter that:

- (1) explains why the contract is not acceptable; and



(2) provides recommendations, if any, for making the contract acceptable to the county executive.

**Sec. 10.** The county executive has the responsibility of notifying the county officer of the results of the review conducted by the county attorney and the county executive.

**Sec. 11.** If:

(1) the review; and  
(2) the notification of the review results, including the written statement under section 9(b) of this chapter, if applicable; are not made within the time required under section 6 of this chapter, the contract shall be considered acceptable and the county officer may execute the contract.

**Sec. 12. (a)** This section only applies to a contract that:

(1) the county executive does not disapprove under section 7 of this chapter; and  
(2) is found to be unacceptable by the county executive under section 9 of this chapter.

**(b)** The county officer may do the following:

(1) Revise the contract and file a new request for review under this chapter.  
(2) Execute the contract, if the county officer determines the contract complies with IC 36-2-2.8.

**Sec. 13. (a)** A county officer must submit the contract to the county auditor not more than ten (10) days after the contract is executed.

**(b)** A contract that is executed by a county officer:

(1) under section 12(b)(2); and  
(2) submitted to the county auditor more than ten (10) days after execution;

is voidable by the county executive.

**Sec. 14.** The county auditor shall upload a contract submitted under section 13 of this chapter to the Indiana transparency website.



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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