

HOUSE BILL No. 1417

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-12.3.

Synopsis: Small business set aside for public works. Authorizes a political subdivision to designate a public works project so that only small construction businesses can submit offers to perform the work on the project. Establishes a general definition of "small construction business", and requires a political subdivision to adopt rules to establish additional criteria to determine whether a construction business is a small construction business.

Effective: July 1, 2014.

Candelaria Reardon

January 16, 2014, read first time and referred to Committee on Government and Regulatory Reform.



Second Regular Session 118th General Assembly (2014)

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 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1417

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

- 1 SECTION 1. IC 36-1-12.3 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2014]:
4 **Chapter 12.3. Small Construction Business Set Asides for Public**
5 **Works Projects**
6 **Sec. 1. (a) A public works project performed as a small**
7 **construction business public works set aside under this chapter is**
8 **subject to the following:**
9 (1) IC 36-1-12.
10 (2) IC 36-1-12.5.
11 (3) IC 36-1-12.7.
12 (4) The rules of the political subdivision.
13 (b) If there is a conflict between this chapter and a provision
14 described in subsection (a), this chapter governs.
15 **Sec. 2. The definitions in IC 36-1-12 apply throughout this**
16 **chapter.**



1 **Sec. 3.** As used in this chapter, "rule" refers to an order, an
2 ordinance, a resolution, or another procedure by which a political
3 subdivision is authorized by law to adopt a policy that has the force
4 and effect of law.

5 **Sec. 4.** As used in this chapter, "small construction business"
6 refers to a construction business that:

- 7 (1) is independently owned and operated;
8 (2) is not dominant in its field of operation; and
9 (3) satisfies the criteria adopted under section 6 of this
10 chapter.

11 **Sec. 5.** As used in this chapter, "small construction business
12 public works set aside" means a public works project in which the
13 solicitation states that offers will be accepted only from small
14 construction businesses.

15 **Sec. 6. (a)** A political subdivision may adopt rules to implement
16 this chapter.

17 (b) The rules adopted by a political subdivision under this
18 section must establish criteria for determining qualifications as a
19 small construction business. In establishing criteria, the rules may
20 use any standards established for determination of small
21 construction business status that are used by an agency of the
22 federal government. A political subdivision may also receive
23 assistance from the Indiana economic development corporation to
24 establish criteria or to implement the rules.

25 (c) The rules adopted by a political subdivision under this
26 section may consider the number of employees employed by a
27 construction business and the dollar volume of the construction
28 business. The rules must provide that, when computing the size of
29 a construction business, the annual sales and receipts of the
30 construction business and all of its affiliates must be included.

31 (d) The rules adopted by a political subdivision under this
32 section must provide the following:

- 33 (1) A construction business is not a small construction
34 business if its average annual receipts for the preceding three
35 (3) fiscal years exceed four million dollars (\$4,000,000).
36 (2) A construction business is not a small construction
37 business if it employs more than one hundred (100)
38 individuals.
39 (3) A construction business qualifies as a small construction
40 business if the business is an Indiana small business concern
41 owned and controlled by veterans, as defined in 15 U.S.C.
42 632(q)(3) as in effect January 1, 2014, and the business:



1 (A) has a current verification as a veteran owned small
 2 business concern under 38 CFR 74 et seq., by the Center of
 3 Veterans Enterprise of the United States Department of
 4 Veterans Affairs;

5 (B) is owned and controlled by one (1) or more veterans
 6 who have been residents of Indiana for at least one (1) year
 7 before submitting an offer under this chapter or, in the
 8 case of a corporation, have at least fifty-one percent (51%)
 9 of the corporation's stock owned by one (1) or more
 10 veterans who have been residents of Indiana for at least
 11 one (1) year before submitting an offer under this chapter;
 12 and

13 (C) has its principal place of business located in Indiana.

14 Sec. 7. (a) A political subdivision that adopts rules under section
 15 6 of this chapter may identify a specific public works project as a
 16 small construction business public works set aside for which the
 17 solicitation must be restricted to small construction businesses.

18 (b) A small construction business public works set aside
 19 designation must be made before the solicitation for the public
 20 works project is issued, and the public notice of the solicitation
 21 must state that the public works project is a small construction
 22 business public works set aside.

23 Sec. 8. A political subdivision may not designate a public works
 24 project as a small construction business public works set aside
 25 unless there is a reasonable expectation that offers will be
 26 submitted by at least two (2) small construction businesses capable
 27 of performing the public works project at a fair and reasonable
 28 price.

29 Sec. 9. If a public works project is designated as a small
 30 construction business public works set aside, the solicitation must
 31 be confined to small construction businesses.

32 Sec. 10. A contract shall be awarded to the lowest responsible
 33 and responsive small construction business submitting an offer
 34 among the small construction businesses submitting offers in
 35 accordance with the political subdivision's rules adopted under
 36 section 6 of this chapter.

37 Sec. 11. If the board determines that acceptance of the lowest
 38 responsible and responsive offer will result in the payment of an
 39 unreasonable price, the board shall reject all offers and may
 40 withdraw designation of the public works project as a small
 41 construction business public works set aside.

