

HOUSE BILL No. 1605

DIGEST OF INTRODUCED BILL

Citations Affected: IC 8-23; IC 32-21-2-3; IC 32-31-2.

Synopsis: Department of transportation matters. Removes a provision requiring each contract for highway work to be acknowledged before an officer authorized to administer oaths. Provides that a certificate of qualification issued by the department of transportation (department) is valid for a period of 24 months. Allows the department to adopt rules concerning eligibility and qualification requirements for bidders of contracts. Exempts the department from certain real property recording requirements. Makes conforming amendments.

Effective: July 1, 2019.

Sullivan, Speedy

January 22, 2019, read first time and referred to Committee on Roads and Transportation.



First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1605

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

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

1 SECTION 1. IC 8-23-9-21 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 21. Every contract for
3 highway work ~~authorized to be made under this chapter~~ shall be made
4 in the name of the state **and** signed by the commissioner and the
5 contracting parties. ~~and acknowledged before an officer authorized by~~
6 ~~law to administer oaths~~. The contract shall be submitted to and
7 approved by the attorney general with regard to legality and form.

8 SECTION 2. IC 8-23-10-2 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. (a) A bidder desiring
10 to submit to the department a bid for the performance of a contract the
11 department proposes to let must apply to the department for
12 qualification and must use for that purpose the forms prescribed and
13 furnished by the department. All applications must be verified by the
14 applicant.

15 (b) The department shall act within thirty (30) days upon an
16 application for qualification. Upon the receipt of an application for
17 qualification, the department shall examine and may investigate the



1 application and shall determine whether the applicant is competent and
 2 responsible and possesses the financial resources that satisfy this
 3 chapter.

4 (c) If the applicant is found to possess the qualifications prescribed
 5 by this chapter and by the rules adopted by the department, the
 6 department shall issue a certificate of qualification, which shall be
 7 valid for the period of ~~one (1) year~~, **twenty-four (24) months**, or a
 8 shorter period of time that the department prescribes, unless revoked
 9 by the department for cause. The certificate of qualification must
 10 contain a statement fixing the aggregate amount of uncompleted work
 11 that the applicant will be permitted to have at any time under a contract
 12 with the department and may also, in the discretion of the department,
 13 contain a statement limiting a bidder to the submission of bids upon a
 14 certain class or classes of work. Subject to any restrictions as to amount
 15 or class of work, the certificate of qualification authorizes its holder to
 16 bid on all work on which bids are taken by the department during the
 17 period of time specified.

18 (d) A certificate of qualification may be revoked by the department
 19 only after notice to the qualified bidder and an opportunity to be heard.
 20 The notice must be in writing and must state the grounds of the
 21 proposed revocation.

22 SECTION 3. IC 8-23-10-3 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 3. (a) A bidder may not
 24 be given a certificate of qualification unless the bidder's financial
 25 statement and the investigation made by the department show that the
 26 bidder possesses net current assets sufficient in the judgment of the
 27 department to render it probable that the bidder can satisfactorily
 28 execute contracts and meet obligations incurred. All applications for
 29 qualification must expressly authorize the department to obtain all
 30 information considered pertinent with respect to the financial worth
 31 and assets and liabilities of the applicant from banks or other financial
 32 institutions, surety companies, dealers in material, equipment, or
 33 supplies, or other persons having business transactions with an
 34 applicant and must expressly authorize all financial institutions or other
 35 persons to furnish information requested by the department.

36 (b) ~~The financial statement furnished by an applicant for~~
 37 ~~qualification of more than one million dollars (\$1,000,000) must be~~
 38 ~~prepared and attested as audited by an independent:~~

39 (1) ~~certified public accountant registered and in good standing in~~
 40 ~~any state; or~~

41 (2) ~~public accountant registered and in good standing in Indiana.~~

42 (c) ~~The financial statement furnished by an applicant for~~



1 qualification of more than two hundred thousand dollars (\$200,000)
 2 but not more than one million dollars (\$1,000,000) must be prepared
 3 and attested as reviewed by an independent:

4 (1) certified public accountant registered and in good standing in
 5 any state; or

6 (2) public accountant registered and in good standing in Indiana:

7 ~~(d)~~ **(b)** A qualification of two hundred thousand dollars (\$200,000)
 8 or less may be granted by the department if the financial statement
 9 furnished by the applicant is certified as correct by an officer of the
 10 company. The department may require all qualified bidders to file
 11 financial statements from time to time at intervals it prescribes. **The**
 12 **department shall adopt rules under IC 4-22-2, including emergency**
 13 **rules adopted in the manner provided under IC 4-22-2-37.1, that**
 14 **establish the requirements for financial statements furnished to the**
 15 **department by potential applicants for the purpose of determining**
 16 **an applicant's eligibility and financial capacity under this chapter.**

17 ~~(e)~~ **(c)** This chapter shall be administered without reference to the
 18 residence of applicants, and its provisions and the rules of the
 19 department adopted under this chapter apply equally to residents and
 20 nonresidents of Indiana. This chapter does not apply to the purchase of
 21 material, equipment, and supplies or to the construction and
 22 maintenance of buildings.

23 ~~(f)~~ **(d)** Notwithstanding IC 5-14-3-4(a)(5), a financial statement
 24 submitted to the department under this chapter is considered
 25 confidential financial information for the purposes of IC 5-14-3.

26 SECTION 4. IC 32-21-2-3, AS AMENDED BY P.L.187-2018,
 27 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 28 JULY 1, 2019]: Sec. 3. (a) ~~For~~ **Except as provided in subsection (c),**
 29 a conveyance, a mortgage, or an instrument of writing to be recorded
 30 it must be:

31 (1) acknowledged by the grantor; or

32 (2) proved before a:

33 (A) judge;

34 (B) clerk of a court of record;

35 (C) county auditor;

36 (D) county recorder;

37 (E) notary public;

38 (F) mayor of a city in Indiana or any other state;

39 (G) commissioner appointed in a state other than Indiana by
 40 the governor of Indiana;

41 (H) minister, charge d'affaires, or consul of the United States
 42 in any foreign country;



1 (I) clerk of the city county council for a consolidated city, city
 2 clerk for a second class city, or clerk-treasurer for a third class
 3 city;

4 (J) clerk-treasurer for a town; or

5 (K) person authorized under IC 2-3-4-1.

6 (b) In addition to the requirements under subsection (a), a
 7 conveyance may not be recorded after June 30, 2007, unless it meets
 8 the requirements of this subsection. The conveyance must include a
 9 statement containing substantially the following information:

10 "The mailing address to which statements should be mailed under
 11 IC 6-1.1-22-8.1 is [insert proper mailing address]. The mailing
 12 address of the grantee is [insert proper mailing address]."

13 The mailing address for the grantee must be a street address or a rural
 14 route address. A conveyance complies with this subsection if it
 15 contains the address or addresses required by this subsection at the end
 16 of the conveyance and immediately preceding or following the
 17 statements required by IC 36-2-11-15.

18 **(c) This section does not apply to the Indiana department of**
 19 **transportation.**

20 SECTION 5. IC 32-31-2-1 IS AMENDED TO READ AS
 21 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 1. **(a) This section**
 22 **does not apply to any lease that is entered into by the Indiana**
 23 **department of transportation under IC 8-23-2.**

24 **(b)** Not more than forty-five (45) days after its execution, a lease of
 25 real estate for a period longer than three (3) years shall be recorded in
 26 the Miscellaneous Record in the recorder's office of the county in
 27 which the real estate is located.

28 SECTION 6. IC 32-31-2-2 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2019]: Sec. 2. **(a) This section**
 30 **does not apply to any lease that is entered into by the Indiana**
 31 **department of transportation under IC 8-23-2.**

32 **(b)** If a lease for a period longer than three (3) years is not recorded
 33 within forty-five (45) days after its execution, the lease is void against
 34 any subsequent purchaser, lessee, or mortgagee who acquires the real
 35 estate in good faith and for valuable consideration.

