



Reprinted  
February 9, 2021

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## SENATE BILL No. 304

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DIGEST OF SB 304 (Updated February 8, 2021 3:09 pm - DI 123)

**Citations Affected:** IC 5-16.

**Synopsis:** Indemnity agreements in public works contracts. Provides that a statute that invalidates indemnity agreements in construction contracts relating to providing certain professional services is applicable to such contracts relating to public works projects. Provides that a specified chapter does not apply to: (1) projects covered by INDOT's contractor qualification statute; or (2) a project that is the construction, improvement, alteration, repair, or maintenance of a highway, street, or road. Defines certain terms.

**Effective:** July 1, 2021.

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### Messmer, Koch, Randolph Lonnie M

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January 14, 2021, read first time and referred to Committee on Judiciary.  
February 4, 2021, amended, reported favorably — Do Pass.  
February 8, 2021, read second time, amended, ordered engrossed.

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SB 304—LS 6433/DI 75





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First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

## SENATE BILL No. 304

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A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

1           SECTION 1. IC 5-16-15 IS ADDED TO THE INDIANA CODE AS  
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2021]:  
4           **Chapter 15. Application of Certain Statutes to Public Works**  
5 **Contracts**  
6           **Sec. 1. This chapter does not apply to a project covered by**  
7 **IC 8-23-10.**  
8           **Sec. 2. As used in this chapter, "applicable public works statute"**  
9 **refers to whichever of the following statutes is applicable to the**  
10 **public works project of a public agency:**  
11           **(1) IC 4-13.6.**  
12           **(2) This article.**  
13           **(3) IC 5-23-4 (build, operate, transfer, and public-private**  
14 **agreements).**  
15           **(4) IC 5-30 (design-build).**  
16           **(5) IC 5-32 (employment of construction manager as**  
17 **constructor).**

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- 1           **(6) IC 36-1-12.**
- 2           **(7) Any other statute applicable to the public works projects**
- 3           **of the public agency.**
- 4           **Sec. 3. As used in this chapter, "contract" refers to a contract**
- 5           **for professional services of any of the following for a public works**
- 6           **project:**
- 7           **(1) A design professional.**
- 8           **(2) An architect.**
- 9           **(3) An engineer.**
- 10          **(4) An environmental consultant.**
- 11          **(5) A geologist.**
- 12          **(6) A geotechnical consultant.**
- 13          **(7) A landscape architect.**
- 14          **(8) A surveyor.**
- 15          **Sec. 4. As used in this chapter, "public agency" has the meaning**
- 16          **set forth in IC 5-30-1-11.**
- 17          **Sec. 5. (a) As used in this chapter, "public works project" refers**
- 18          **to a construction project governed by an applicable public works**
- 19          **statute.**
- 20          **(b) The term does not include any of the following:**
- 21               **(1) A project on the state highway system (as defined in**
- 22               **IC 8-23-1-40).**
- 23               **(2) A railroad project (as defined in IC 8-5-15-1).**
- 24          **Sec. 6. IC 26-2-5-4 applies to a contract.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 304, 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 1, between lines 5 and 6, begin a new paragraph and insert:

**"Sec. 1. This chapter does not apply to a project covered by IC 8-23-10."**

Page 1, line 6, delete "1." and insert "2."

Page 2, line 2, delete "2." and insert "3."

Page 2, line 13, delete "3." and insert "4."

Page 2, line 15, delete "4." and insert "5. (a)".

Page 2, between lines 17 and 18, begin a new paragraph and insert:

**"(b) The term does not include a project that is the construction, improvement, alteration, repair, or maintenance of a highway, street, or road (as defined by IC 8-23-1-23)."**

Page 2, line 18, delete "5." and insert "6."

and when so amended that said bill do pass.

(Reference is to SB 304 as introduced.)

BROWN L, Chairperson

Committee Vote: Yeas 10, Nays 0.

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 SENATE MOTION

Madam President: I move that Senate Bill 304 be amended to read as follows:

Page 2, delete lines 20 through 22, begin a new paragraph and insert:

**"(b) The term does not include any of the following:**

**(1) A project on the state highway system (as defined in IC 8-23-1-40).**

**(2) A railroad project (as defined in IC 8-5-15-1)."**

(Reference is to SB 304 as printed February 5, 2021.)

MESSMER

