

# SENATE BILL No. 319

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-52-36-0.5; IC 36-1-12.2.

**Synopsis:** Local government common construction wage. Allows the legislative body of a political subdivision to adopt an ordinance requiring the political subdivision to establish a common construction wage for public work projects awarded by the political subdivision. Exempts projects: (1) in which the actual construction costs are less than \$350,000; (2) that are paid for in whole or in part by federal funds unless the federal government gives written consent; and (3) that are undertaken by a person that has entered into an operating agreement with a political subdivision for the management or operation of a public facility under IC 5-23. Requires the board having the power to award a contract for public work to set up a five member committee to determine the common construction wage for the political subdivision before advertising a contract. Provides that the committee members are: (1) an individual representing labor to be named by the president of the state federation of labor; (2) an individual representing industry to be named by the board; (3) an individual to be named by the state president of the Associated Builders and Contractors; and (4) two taxpayers who pay the tax that is the funding source for the project and reside in the political subdivision where the project is located, one taxpayer appointed by the owner of the project and one taxpayer appointed by the legislative body for the political subdivision where the project is located. Requires the committee to determine in writing: (1) a classification of the labor to be employed in the performance of the contract for the project, divided into three classes: (A) skilled labor; (B) semiskilled labor; and (C) unskilled labor; and (2) the wage per hour to be paid to each of the classes. Provides that the rate of wages  
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**Effective:** July 1, 2016.

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## Mrvan

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January 7, 2016, read first time and referred to Committee on Rules & Legislative Procedure.

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## Digest Continued

determined by the committee applies to any contract which the board lets not later than three months after the date the committee determines the rate of wages. Requires the committee to make and file the determination with the board at least two weeks before the date fixed for the letting of the project. If the committee fails to act, requires the board letting the contract to make the determination, which is final. Requires a contractor or subcontractor to file with the political subdivision before performing any work on the project a schedule of the wages to be paid to the workers on the project, which may not be less than the wage scale determined by the committee. Provides that a contractor or subcontractor that knowingly fails to pay the rate of wages determined by the committee commits a Class B misdemeanor, and if the contractor or subcontractor has committed a prior offense, the contract on which the subsequent offense occurs is forfeited, and the contractor or subcontractor may not receive any further payment on the contract. Provides that a person who is a party to a public work contract, or an officer or employee of a political subdivision, who knowingly artificially divides a public work project into two or more projects to avoid paying a common construction wage commits a Class A infraction and the person may not be a party to, or benefit from, a public work contract for two years after the date the violation is adjudicated.



Introduced

Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

## SENATE BILL No. 319

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A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

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

1 SECTION 1. IC 35-52-36-0.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2016]: **Sec. 0.5. IC 36-1-12.2-13 defines a**  
4 **crime concerning common construction wage.**

5 SECTION 2. IC 36-1-12.2 IS ADDED TO THE INDIANA CODE  
6 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2016]:

8 **Chapter 12.2. Common Construction Wage**  
9 **Sec. 1. (a) This chapter applies to a political subdivision if the**  
10 **legislative body of the political subdivision adopts an ordinance**  
11 **that requires the political subdivision to comply with this chapter**  
12 **when awarding a contract for a public work.**

13 **(b) This chapter does not apply to the following:**  
14 **(1) A project in which the actual construction costs are less**  
15 **than three hundred fifty thousand dollars (\$350,000).**



1           **(2) A project that would otherwise be subject to this chapter**  
 2           **that is paid for in whole or in part with funds granted by the**  
 3           **federal government unless the department of the federal**  
 4           **government making the grant agrees in writing that this**  
 5           **chapter applies to the project.**

6           **(3) Except as provided in IC 5-23, a person that has entered**  
 7           **into an operating agreement with a political subdivision for**  
 8           **the management or operation of a public facility under**  
 9           **IC 5-23.**

10          **Sec. 2. The definitions in IC 36-1-12 apply throughout this**  
 11          **chapter.**

12          **Sec. 3. As used in this chapter, "committee" refers to the**  
 13          **common construction wage committee described in section 6(a) of**  
 14          **this chapter.**

15          **Sec. 4. As used in this chapter, "common construction wage"**  
 16          **means a scale of wages for each class of work (as described in**  
 17          **section 6(b) of this chapter) that is not less than the common**  
 18          **construction wage of all construction wages being paid in the**  
 19          **political subdivision where a public work project is located as**  
 20          **determined by the committee.**

21          **Sec. 5. A person that is awarded a contract by a political**  
 22          **subdivision for a public work, including a subcontractor for a**  
 23          **project, shall pay for each class of work (as described in section**  
 24          **6(b) of this chapter) on the project a scale of wages that may not be**  
 25          **less than the common construction wage.**

26          **Sec. 6. (a) To determine the common construction wage for the**  
 27          **political subdivision, the board, before advertising for a public**  
 28          **work contract, shall set up a committee of five (5) members as**  
 29          **follows:**

30               **(1) One (1) individual representing labor to be named by the**  
 31               **president of the state federation of labor.**

32               **(2) One (1) individual representing industry to be named by**  
 33               **the board.**

34               **(3) One (1) individual to be named by the state president of**  
 35               **the Associated Builders and Contractors.**

36               **(4) One (1) taxpayer who pays the tax that is the funding**  
 37               **source for the project and resides in the political subdivision**  
 38               **where the project is located. The owner of the project**  
 39               **appoints this individual.**

40               **(5) One (1) taxpayer who pays the tax that is the funding**  
 41               **source for the project and resides in the political subdivision**  
 42               **where the project is located. The legislative body for the**



- 1           political subdivision where the project is located appoints this  
2           individual.
- 3           (b) As soon as possible after the members are appointed, the  
4           committee shall meet in the political subdivision where the project  
5           is located and determine in writing the following:
- 6               (1) A classification of the labor to be employed in the  
7               performance of the contract for the project, divided into the  
8               following three (3) classes:
- 9                   (A) Skilled labor.  
10                  (B) Semiskilled labor.  
11                  (C) Unskilled labor.
- 12              (2) The wage per hour to be paid to each of the classes.
- 13           (c) Before making the determination under subsection (b), the  
14           committee shall consider the following:
- 15              (1) Any reports with respect to wage scales submitted by the  
16              Indiana State Building and Construction Trades Council.  
17              (2) Any reports with respect to wage scales submitted by the  
18              Associated Builders and Contractors of Indiana.  
19              (3) Any other information submitted by any person to the  
20              committee.
- 21           The committee is not required to consider information not  
22           presented to the committee at the meeting.
- 23           (d) IC 5-14-1.5 applies to a meeting of the committee.
- 24           Sec. 7. (a) The rate of wages determined by the committee under  
25           section 6 of this chapter applies to any contract which the board  
26           lets not later than three (3) months after the date the committee  
27           determines the rate of wages.
- 28           (b) The committee shall establish wages for all classifications of  
29           work that may be employed on projects to be let by the board for  
30           three (3) months after the date the committee determines the rate  
31           of wages.
- 32           (c) If the board advertises for a contract that includes  
33           classifications that are not listed on the existing wage scale, the  
34           board shall form a new committee under section 6(a) of this  
35           chapter to determine the classifications and wages on the contract.
- 36           (d) If the board lets for a contract later than three (3) months  
37           after the committee determines the rate of wages, the board shall  
38           form a new committee under section 6(a) of this chapter to  
39           determine a rate of wages for the contract. The rate of wages  
40           determined under this subsection applies to any contract which the  
41           board lets not later than three (3) months after the rate of wages is  
42           determined under this subsection.



1           **Sec. 8. The rate of wages determined under section 6 of this**  
2 **chapter may not be less than the common construction wage for**  
3 **each of the three (3) classes of labor described in section 6(b) of this**  
4 **chapter that are currently being paid in the political subdivision**  
5 **where the project is located.**

6           **Sec. 9. (a) A determination under section 6 of this chapter must**  
7 **be made and filed with the board at least two (2) weeks before the**  
8 **date fixed for the letting of the project.**

9           **(b) A copy of the determination must be furnished upon request**  
10 **to any person desiring to bid on the contract.**

11           **(c) The determination must be available for public inspection.**

12           **Sec. 10. If the committee appointed under section 6(a) of this**  
13 **chapter fails to act and to file a determination under section 9(a) of**  
14 **this chapter on or before the time required under section 9(a) of**  
15 **this chapter, the board letting the public work contract shall make**  
16 **the determination, which is final.**

17           **Sec. 11. A condition of a contract awarded with a common**  
18 **construction wage determination is that the successful bidder and**  
19 **all subcontractors shall strictly comply with the determination.**

20           **Sec. 12. (a) A political subdivision letting a contract to which**  
21 **this chapter applies shall require a contractor or subcontractor**  
22 **performing any work under the contract to file with the political**  
23 **subdivision a schedule of the wages to be paid to the laborers,**  
24 **workers, and mechanics working on the project.**

25           **(b) The schedule described in subsection (a) must be filed before**  
26 **any work is performed on the project by the contractor or**  
27 **subcontractor.**

28           **(c) The schedule described in subsection (a) may not be less than**  
29 **the wage scale determined by the committee under section 6 of this**  
30 **chapter.**

31           **(d) This chapter does not prevent a contractor or subcontractor**  
32 **from paying a higher rate of wages than the wages set out in the**  
33 **schedule of wages determined by the committee under section 6 of**  
34 **this chapter.**

35           **Sec. 13. (a) A contractor or subcontractor that knowingly fails**  
36 **to pay the rate of wages determined under this chapter commits a**  
37 **Class B misdemeanor.**

38           **(b) If the contractor or subcontractor has committed a prior**  
39 **offense under this section, the contract on which the subsequent**  
40 **offense occurs is forfeited, and the contractor or subcontractor**  
41 **may not receive any further payment on the contract. The political**  
42 **subdivision may not make any further payments on the contract**



1 from any funds under the political subdivision's control.  
2 Sec. 14. (a) A public work project may not be artificially divided  
3 into two (2) or more projects to avoid the application of this  
4 chapter.  
5 (b) A person who is a party to a public work contract who  
6 knowingly violates this section commits a Class A infraction and  
7 may not be a party to, or benefit from, a public work contract for  
8 two (2) years after the date the violation is adjudicated.  
9 (c) An officer or employee of a political subdivision who  
10 knowingly violates this section commits a Class A infraction.

