



February 10, 2023

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## SENATE BILL No. 330

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DIGEST OF SB 330 (Updated February 9, 2023 11:34 am - DI 87)

**Citations Affected:** IC 5-16; IC 22-2.

**Synopsis:** Payroll information on public finance construction. Requires a contractor in any contractor tier except for tier 1 (a general or prime contractor) on a: (1) public works project; or (2) a tax advantaged construction project; to complete a weekly report of wages and hours of the contractor's employees who work on the project.

**Effective:** July 1, 2023.

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January 12, 2023, read first time and referred to Committee on Local Government.  
February 9, 2023, amended, reported favorably — Do Pass.

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SB 330—LS 6943/DI 75





February 10, 2023

First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

## SENATE BILL No. 330

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 5-16-13-12.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2023]: **Sec. 12.5. (a) This section applies to a**  
4 **contractor in a contractor tier on a public works project, not**  
5 **including a tier 1 contractor.**  
6 (b) **This section applies only to a public works contract entered**  
7 **into after June 30, 2023.**  
8 (c) **As used in this section, "department" refers to the**  
9 **department of labor created by IC 22-1-1-1.**  
10 (d) **As used in this section, "Form WH-347" refers to the weekly**  
11 **report of wages and hours of individuals employed on construction**  
12 **projects prescribed by the Wage and Hour Division of the United**  
13 **States Department of Labor.**  
14 (e) **As used in this section, "report" refers to either of the**  
15 **following:**  
16 (1) **Form WH-347.**  
17 (2) **A form prescribed by the department that is the equivalent**

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- 1 of Form WH-347.
- 2 (f) Each week, a contractor shall complete and maintain in its  
3 files a report.
- 4 (g) At the request of any of the following, a contractor shall  
5 produce the report for inspection and verification:
- 6 (1) The public agency that has contracted for the public works  
7 project.
- 8 (2) The department.
- 9 (h) The department shall prescribe a form that is the equivalent  
10 of Form WH-347. The form must require that an agent of the  
11 contractor completing the form certify the information on the form  
12 under the penalties for perjury. The department may provide that  
13 payroll records normally maintained by a contractor satisfy the  
14 requirement of this section if those records contain the information  
15 required under this section.
- 16 SECTION 2. IC 22-2-19 IS ADDED TO THE INDIANA CODE AS  
17 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
18 1, 2023]:
- 19 **Chapter 19. Wage Reporting on Tax Advantaged Construction**  
20 **Projects**
- 21 **Sec. 1.** This chapter applies to a tax advantaged construction  
22 project funded in whole or in part through a tax advantage granted  
23 after June 30, 2023.
- 24 **Sec. 2.** As used in this chapter, "contractor" refers generally to  
25 a contractor in a contractor tier, not including a tier 1 contractor.
- 26 **Sec. 3.** As used in this chapter, "contractor tier" has the  
27 meaning set forth in IC 5-16-13-4.
- 28 **Sec. 4.** As used in this chapter, "construction" includes any of  
29 the following:
- 30 (1) The alteration of a structure.
- 31 (2) The building of a structure.
- 32 (3) The reconstruction of a structure.
- 33 (4) The renovation of a structure.
- 34 (5) The expansion of a structure.
- 35 (6) The demolition of a structure.
- 36 (7) The improvement of a structure.
- 37 (8) The repair of a structure.
- 38 (9) The maintenance of a structure.
- 39 **Sec. 5.** As used in this chapter, "department" refers to the  
40 department of labor created by IC 22-1-1-1.
- 41 **Sec. 6.** As used in this chapter, "Form WH-347" refers to the  
42 weekly report of wages and hours of individuals employed on



1 construction projects prescribed by the Wage and Hour Division  
2 of the United States Department of Labor.

3 Sec. 7. As used in this chapter, "political subdivision" has the  
4 meaning set forth in IC 36-1-2-13.

5 Sec. 8. As used in this chapter, "public entity" refers to any of  
6 the following:

- 7 (1) The state.
- 8 (2) A political subdivision.
- 9 (3) An instrumentality of the state or a political subdivision  
10 (including a nonprofit corporation).
- 11 (4) A body corporate and politic established by law.
- 12 (5) An entity for a tax increment financing area described in  
13 section 10(1) of this chapter.

14 Sec. 9. As used in this chapter, "tax advantage" refers to any of  
15 the benefits described in section 10 of this chapter granted by a  
16 public entity.

17 Sec. 10. As used in this chapter, "tax advantaged construction"  
18 refers to the following:

- 19 (1) Construction in a geographic area including:
  - 20 (A) an economic development area;
  - 21 (B) a sports development area;
  - 22 (C) a community revitalization area;
  - 23 (D) a certified technology park;
  - 24 (E) a tax increment financing district; and
  - 25 (F) other similar areas or districts;

26 designated by a public entity as an allocation area or in which  
27 tax increment property tax, adjusted gross income tax, or  
28 gross retail and use tax revenue is dedicated to provide  
29 improvements or to retire bonds issued to pay for  
30 improvements.

- 31 (2) Construction for which an exemption, deduction, credit,  
32 preferential rate, or other tax benefit is granted under  
33 IC 6-1.1-12.1, IC 6-1.1-12.4, IC 6-1.1-12.5, IC 6-1.1-12.6, or  
34 IC 6-3.1.

- 35 (3) Construction financed in any part with the proceeds of  
36 bonds exempt from state taxation or issued by a public entity.

- 37 (4) Construction in an enterprise zone (IC 5-28-15).

- 38 (5) A rail project (as defined in IC 5-1.3-2-14 or IC 8-5-15-1).

39 Sec. 11. As used in this section, "report" refers to either of the  
40 following:

- 41 (1) Form WH-347.
- 42 (2) A form prescribed by the department that is the equivalent



1 of Form WH-347.

2 **Sec. 12. Any agreement between a person and public entity**  
 3 **granting a tax advantage must provide that:**

4 (1) the tax advantage is conditioned on and subject to the  
 5 provisions of this chapter;

6 (2) all construction contracts at every contractor tier:

7 (A) entered into; and

8 (B) financed in whole or in part through the tax advantage;  
 9 must provide that the provisions and requirements of this  
 10 chapter are incorporated into the contract.

11 **Sec. 13. Each week, a contractor shall complete and maintain in**  
 12 **its files a report.**

13 **Sec. 14. At the request of any of the following, a contractor shall**  
 14 **produce the report for inspection and verification:**

15 (1) The public entity that has:

16 (A) contracted directly for the tax advantaged  
 17 construction; or

18 (B) granted the tax advantage through which the tax  
 19 advantaged construction is financed in whole or in part.

20 (2) The department.

21 **Sec. 15. (a) If a public entity suspects that a violation of section**  
 22 **13 of this chapter has occurred, the public entity shall require the**  
 23 **contractor to remedy the violation not later than thirty (30) days**  
 24 **after the public entity notifies the contractor of the violation. The**  
 25 **notification to the contractor must be signed by the chief executive**  
 26 **officer of the public entity and sent by a method that enables the**  
 27 **public entity to verify receipt of the notice by the contractor.**

28 (b) During the thirty (30) day period described in subsection (a),  
 29 the contractor may continue to work on the construction project.  
 30 If the contractor fails to remedy the violation within the thirty (30)  
 31 day period, the public entity shall find the contractor not  
 32 responsible and determine the length of time the contractor is  
 33 considered not responsible by the public entity.

34 (c) In making the determination of the length of time a  
 35 contractor is not responsible under subsection (b), the public entity  
 36 shall consider the severity of the violation. The period during  
 37 which a contractor is considered not responsible:

38 (1) may not exceed forty-eight (48) months; and

39 (2) begins on the date of substantial completion of the  
 40 construction project.

41 **Sec. 16. The department shall prescribe a form that is the**  
 42 **equivalent of Form WH-347. The form must require that an agent**



1 of the contractor completing the form certify the information on  
2 the form under the penalties for perjury. The department may  
3 provide that payroll records normally maintained by a contractor  
4 satisfy the requirement of this chapter if those records contain the  
5 information required under this chapter.



## COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 330, 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, line 4, delete "any contractor tier on a public works project." and insert "**a contractor tier on a public works project, not including a tier 1 contractor.**".

Page 2, line 24, delete "any contractor tier." and insert "**a contractor tier, not including a tier 1 contractor.**".

and when so amended that said bill do pass.

(Reference is to SB 330 as introduced.)

BUCK, Chairperson

Committee Vote: Yeas 10, Nays 0.

