

PROPOSED AMENDMENT

HB 1158 # 2

DIGEST

County contracts. Moves provisions of the bill from a location in the Code that applies only to county sheriffs to a location applying to counties in general. Defines "county officer". Provides that if a county officer submits a contract for review and the county attorney determines that the contract does not comply with state law or exposes the county to potential liability, the contract may not be executed.

- 1 Page 1, delete lines 1 through 17, begin a new paragraph and insert:
2 "SECTION 1. IC 36-2-2.8 IS ADDED TO THE INDIANA CODE
3 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2024]:
5 **Chapter 2.8. County Contracts; Requirements**
6 **Sec. 1. This chapter only applies to a county not having a**
7 **consolidated city.**
8 **Sec. 2. (a) As used in this chapter, "contract" means a contract**
9 **for the purchase of:**
10 **(1) real property;**
11 **(2) tangible or intangible personal property; or**
12 **(3) services (as defined in IC 5-22-2-30).**
13 **(b) The term does not include a contract concerning the issuance**
14 **of:**
15 **(1) a bond to finance the construction of a public facility; or**
16 **(2) a bond or other type of security for the payment of a lease**
17 **obligation.**
18 **Sec. 3. A contract must meet the following requirements:**
19 **(1) The contract must be executed in the name of the county.**
20 **(2) Any property purchases for public use shall be:**
21 **(A) titled to; or**
22 **(B) documented as owned by;**
23 **the county."**
24 Page 2, line 1, delete "contractual", begin a new paragraph and
25 insert:
26 **"Sec. 4. The county executive may, by ordinance, require**

- 1 **standard contractual".**
- 2 Page 2, line 3, delete "(A)", begin a new line block indented and
- 3 insert:
- 4 **"(1)".**
- 5 Page 2, line 4, delete "(B)", begin a new line block indented and
- 6 insert:
- 7 **"(2)".**
- 8 Page 2, line 5, delete "(C)", begin a new line block indented and
- 9 insert:
- 10 **"(3)".**
- 11 Page 2, line 6, delete "(D)", begin a new line block indented and
- 12 insert:
- 13 **"(4)".**
- 14 Page 2, line 7, delete "(E)", begin a new line block indented and
- 15 insert:
- 16 **"(5)".**
- 17 Page 2, delete lines 8 through 42, begin a new paragraph and insert:
- 18 **"SECTION 2. IC 36-2-2.9 IS ADDED TO THE INDIANA CODE**
- 19 **AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE**
- 20 **JULY 1, 2024]:**
- 21 **Chapter 2.9. Review of County Contracts**
- 22 **Sec. 1. This chapter only applies to a county not having a**
- 23 **consolidated city.**
- 24 **Sec. 2. (a) As used in this chapter, "contract" means a contract**
- 25 **for a purchase by a county officer:**
- 26 **(1) of:**
- 27 **(A) real property;**
- 28 **(B) tangible or intangible personal property; or**
- 29 **(C) services (as defined in IC 5-22-2-30); and**
- 30 **(2) for which funds have been appropriated.**
- 31 **(b) The term does not include a contract concerning the issuance**
- 32 **of:**
- 33 **(1) a bond to finance the construction of a public facility; or**
- 34 **(2) a bond or other type of security for the payment of a lease**
- 35 **obligation.**
- 36 **Sec. 3. As used in this chapter, "county officer" means the**
- 37 **following:**
- 38 **(1) Assessor.**
- 39 **(2) Auditor.**
- 40 **(3) Coroner.**

- 1 **(4) Recorder.**
- 2 **(5) Sheriff.**
- 3 **(6) Surveyor.**
- 4 **(7) Treasurer.**
- 5 **(8) Clerk of the circuit court.**
- 6 **(9) County fiscal body.**

7 **Sec. 4. A county officer may request review of a contract under**
 8 **this chapter, if:**

- 9 **(1) the contract meets the requirements of IC 36-2-2.8,**
 10 **including any terms required by ordinance adopted under**
 11 **IC 36-2-2.8-4;**
- 12 **(2) the contract is necessary for the county officer to carry out**
 13 **a constitutional or statutory duty of office; and**
- 14 **(3) the funds to pay for the contract have been appropriated**
 15 **by the county fiscal body.**

16 **Sec. 5. The county officer must submit to the county auditor a:**

- 17 **(1) request for review; and**
- 18 **(2) copy of the proposed contract.**

19 **The county auditor shall date stamp the request and immediately**
 20 **forward copies of the request and contract to the county executive**
 21 **and county attorney.**

22 **Sec. 6. (a) Not later than twenty (20) days after the request is**
 23 **filed with the county auditor:**

- 24 **(1) the county executive and county attorney shall review the**
 25 **proposed contract; and**
- 26 **(2) the county executive shall notify the county officer of the**
 27 **results of the review.**

28 **(b) If the county attorney determines the contract:**

- 29 **(1) exposes the county to potential liability; or**
- 30 **(2) does not comply with state law;**

31 **the contract is disapproved and may not be executed by the county**
 32 **officer.**

33 **(c) If the contract is not disapproved under subsection (b) and**
 34 **the county executive finds the contract is acceptable, the county**
 35 **executive may approve the contract and authorize execution by the**
 36 **county officer or the county executive.**

37 **(d) If the county executive finds the contract is not acceptable**
 38 **for reasons other than those determined by the county attorney**
 39 **under subsection (b), the county executive must provide the county**
 40 **officer with a written statement explaining why the contract is not**

1 acceptable and provide recommendations, if any, for making the
2 contract acceptable to the county executive.

3 **Sec. 7. If the county attorney and county executive fail to review**
4 **and notify the county officer within the time required under section**
5 **6 of this chapter, the contract shall be considered acceptable and**
6 **the county officer may execute the contract.**

7 **Sec. 8. If the county executive finds the contract not acceptable**
8 **under section 6(d) of this chapter, the county officer may do the**
9 **following:**

10 (1) **Revise the contract and file a new request for review of the**
11 **revised contract under section 5 of this chapter.**

12 (2) **If the county officer determines that the contract contains**
13 **the terms required by ordinance under IC 36-2-2.8-4, the**
14 **county officer may:**

15 (A) **execute the contract; and**

16 (B) **submit the contract to the county auditor not later than**
17 **ten (10) days after execution.**

18 **A contract that is submitted to the county auditor more than**
19 **ten (10) days after execution is voidable by the county**
20 **executive."**

21 Page 3, delete lines 1 through 29.

22 Page 3, line 30, delete "under subdivision (5)", begin a new
23 paragraph and insert:

24 **"Sec. 9. The county auditor shall upload a contract submitted**
25 **under section 8 of this chapter".**

(Reference is to HB 1158 as reprinted January 19, 2024.)