

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
FISCAL IMPACT STATEMENT**

LS 6197
BILL NUMBER: HB 1033

NOTE PREPARED: Nov 14, 2024
BILL AMENDED:

SUBJECT: Retainage Requirements.

FIRST AUTHOR: Rep. Pressel
FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill establishes a maximum amount of retainage that may be withheld from payments to contractors and subcontractors of a private construction project. It establishes a uniform maximum amount of retainage for private construction projects and certain state and local public works projects.

Effective Date: July 1, 2025.

Explanation of State Expenditures: *Summary*— With respect to state public works projects, the bill would remove the lower bound of 6% or 3% retainage amount under the provisions of IC 5-16-5.5-3.5. The removal of the lower bounds would allow the Indiana Department of Administration or another state agency more flexibility to set the retainage percentage in future contracts to amounts lower than the 6% or 3% within current law. However, if future contracts were made with the retainage percentage set below the current lower bounds, this would leave less retainage proceeds available to use to satisfy any claims subcontractors may file against a general contractor/project.

Additional Information— Under current law, a state agency may do either of the following with regard to retainage on a public works contract:

- A. Withhold no more than 10% nor less than 6% of the dollar value of all work satisfactorily completed until the public work is 50% complete, and nothing further after that.
- B. Withhold no more than 5% nor less than 3% of the dollar value of all work satisfactorily completed until the public work is substantially complete.

Explanation of State Revenues:

Explanation of Local Expenditures: *Summary*— Similar to the impact described under *Explanation of State Expenditures*, political subdivisions would be able to set the retainage percentage lower than the 6% or 3% limits in current law for local public works contract in excess of \$200,000 for projects other than highways, roads, streets, alleys, bridges, and appurtenant structures situated on streets, alleys, and dedicated highway

rights-of-way. It would include a lessor corporation qualifying under current public education statute (in relation to school building projects) or any other lease-back arrangement containing an option to purchase, notwithstanding the statutory provisions governing those leases.

Explanation of Local Revenues:

State Agencies Affected: IDOA; other state agencies submitting a contract for a public works project.

Local Agencies Affected: Political subdivisions.

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