



February 23, 2024

ENGROSSED HOUSE BILL No. 1158

DIGEST OF HB 1158 (Updated February 22, 2024 11:54 am - DI 87)

Citations Affected: IC 36-2.

Synopsis: County contracts. Provides that for counties other than Marion County, contracts entered into by the county (including contracts executed by county elected officers) must meet certain requirements. Requires certain contracts of county elected officers to be reviewed by the county attorney and county executive. Provides that a contract of a county elected officer may be disapproved in the review by the county attorney, if the contract does not comply with state law or the public purchasing or bidding laws. Allows the county executive to void a contract if a county officer fails to comply with the review process.

Effective: July 1, 2024.

Lehman, May, Steuerwald, Johnson B, Zimmerman

(SENATE SPONSORS — HOLDMAN, GARTEN)

January 8, 2024, read first time and referred to Committee on Local Government.

January 16, 2024, amended, reported — Do Pass.

January 18, 2024, read second time, amended, ordered engrossed.

January 19, 2024, engrossed.

January 22, 2024, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

January 25, 2024, read first time and referred to Committee on Local Government.

February 22, 2024, amended, reported favorably — Do Pass.

EH 1158—LS 6424/DI 137



February 23, 2024

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1158

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

- 1 SECTION 1. IC 36-2-2.8 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2024]:
4 **Chapter 2.8. County Contracts; Requirements**
5 **Sec. 1. This chapter only applies to a county not having a**
6 **consolidated city.**
7 **Sec. 2. (a) As used in this chapter, "contract" means a contract**
8 **for the purchase of:**
9 (1) **real property;**
10 (2) **tangible or intangible personal property; or**
11 (3) **services (as defined in IC 5-22-2-30).**
12 **(b) The term does not include a contract concerning the issuance**
13 **of:**
14 (1) **a bond to finance the construction of a public facility; or**
15 (2) **a bond or other type of security for the payment of a lease**
16 **obligation.**
17 **Sec. 3. As used in this chapter, "county officer" has the meaning**

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set forth in IC 36-2-2.9-3.

Sec. 4. A contract entered into by a county, including a contract executed by a county officer, must meet the following requirements:

- (1) The contract must be executed in the name of the county.**
- (2) Any property purchases for public use shall be:**
 - (A) titled to; or**
 - (B) documented as owned by; the county.**

Sec. 5. The county executive may, by ordinance, require standard contractual language to be used in all contracts entered into by the county, including contracts executed by a county officer. The ordinance may include:

- (1) provisions for indemnification;**
- (2) dispute resolution provisions;**
- (3) venue requirements;**
- (4) termination provisions; and**
- (5) notification provisions.**

SECTION 2. IC 36-2-2.9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:

Chapter 2.9. Review of County Contracts

Sec. 1. This chapter only applies to a county not having a consolidated city.

Sec. 2. The definitions in IC 36-2-2.8 apply to this chapter.

Sec. 3. As used in this chapter, "county officer" means the following:

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

Sec. 4. (a) If a county officer has a proposed contract:

- (1) that the county officer believes is necessary for the county officer to carry out a constitutional or statutory duty of office; and**
- (2) for which funds have been appropriated by the county fiscal body to pay for the contract;**



- 1 the county officer must submit the contract for review under this
 2 chapter.
- 3 (b) The county executive may void a contract that a county
 4 officer executes without first complying with this chapter.
- 5 Sec. 5. To initiate a contract review, the county officer must
 6 submit to the county auditor the following:
- 7 (1) A request for review.
 8 (2) A copy of the proposed contract. The contract must
 9 comply with IC 36-2-2.8, including using the standard terms
 10 required by ordinance under IC 36-2-2.8-5.
- 11 The county auditor shall date stamp the request and immediately
 12 forward copies of the request and contract to the president of the
 13 county executive and county attorney.
- 14 Sec. 6. Not later than twenty (20) days after the request is filed
 15 with the county auditor:
- 16 (1) the county executive and county attorney shall review the
 17 proposed contract; and
 18 (2) the county executive shall notify the county officer of the
 19 results of the review.
- 20 Sec. 7. (a) If the county attorney determines that the contract
 21 does not comply with:
- 22 (1) state law; or
 23 (2) any applicable public purchasing or bidding laws;
 24 the contract is disapproved and may not be executed by the county
 25 officer.
- 26 (b) The county attorney shall notify the county executive of the
 27 results of the review.
- 28 Sec. 8. If the contract:
- 29 (1) is not disapproved under section 7 of this chapter; and
 30 (2) the county executive finds the contract:
 31 (A) complies with IC 36-2-2.8; and
 32 (B) is otherwise acceptable;
- 33 the county executive may approve and authorize execution of the
 34 contract by the county officer or the county executive.
- 35 Sec. 9. (a) If the county executive finds the contract:
- 36 (1) does not comply with IC 36-2-2.8; or
 37 (2) is otherwise not acceptable for reasons other than those
 38 determined under section 7 of this chapter;
- 39 the county executive must provide the county officer with a written
 40 statement described in subsection (b).
- 41 (b) The county executive must provide a written statement as
 42 part of the notification of the review results under section 11 of this



- 1 **chapter that:**
 2 (1) explains why the contract is not acceptable; and
 3 (2) provides recommendations, if any, for making the contract
 4 acceptable to the county executive.
- 5 **Sec. 10.** The county executive has the responsibility of notifying
 6 the county officer of the results of the review conducted by the
 7 county attorney and the county executive.
- 8 **Sec. 11. If:**
 9 (1) the review; and
 10 (2) the notification of the review results, including the written
 11 statement under section 9(b) of this chapter, if applicable;
 12 are not made within the time required under section 6 of this
 13 chapter, the contract shall be considered acceptable and the county
 14 officer may execute the contract.
- 15 **Sec. 12. (a)** This section only applies to a contract that:
 16 (1) the county attorney does not disapprove under section 7 of
 17 this chapter; and
 18 (2) is found to be unacceptable by the county executive under
 19 section 9 of this chapter.
- 20 **(b)** The county officer may do the following:
 21 (1) Revise the contract and file a new request for review
 22 under this chapter.
 23 (2) Execute the contract, if the county officer determines the
 24 contract complies with IC 36-2-2.8.
- 25 **Sec. 13. (a)** A county officer must submit the contract to the
 26 county auditor not more than ten (10) days after the contract is
 27 executed.
- 28 **(b)** A contract that is executed by a county officer:
 29 (1) under section 12(b)(2); and
 30 (2) submitted to the county auditor more than ten (10) days
 31 after execution;
 32 is voidable by the county executive.
- 33 **Sec. 14.** The county auditor shall upload a contract submitted
 34 under section 13 of this chapter to the Indiana transparency
 35 website under IC 5-14-3.8-3.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1158, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "A county executive may pass an ordinance" and insert:

"This section does not apply to a county containing a consolidated city.

(b) The following applies to all contracts entered into by a county unit:

(1) The contract shall be undertaken in the name of the county.

(2) Any real property, personal property, goods, or services purchased by the county or a county official for public use shall be titled to, or otherwise documented as owned by, the county unit.

(3) The county executive may, by ordinance, require standard contractual language to be used in all contracts of the county unit that may include:

(A) provisions for indemnification;

(B) dispute resolution provisions;

(C) venue requirements;

(D) termination provisions; and

(E) notification provisions.

SECTION 2. IC 36-2-13-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 21. (a) This section does not apply to a county containing a consolidated city.**

(b) This section applies to a contract for the purchase of goods and services by the county or on behalf of a county official for official use with appropriated funds.

(c) Except as provided in subsection (e), the county executive is the body charged with executing contracts on behalf of the county.

(d) Subsection (e) may be utilized by an elected officeholder subject to the following conditions:

(1) The proposed contract meets the requirements in section 20 of this chapter.

(2) The proposed contract is for goods and services that are necessary for an elected officeholder to carry out a constitutional or statutory duty for the elected officeholder's office.

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(3) The funds used have been appropriated by the county fiscal body, if appropriation is required under law.

(e) When an elected officeholder determines that it may be necessary to execute a contract that meets the requirements in subsection (d), the following review process applies:

(1) The elected officeholder must file an official request for approval of the proposed contract with the county auditor with notice to the president of the county executive.

(2) The county executive shall have at least fifteen (15) days from the date the request is filed to review and approve the proposed contract. As part of the review, the proposed contract must be reviewed by the county attorney to determine:

(A) the county's potential exposure to liability under the contract; and

(B) whether the contract complies with state law.

(3) If the county executive finds that:

(A) the proposed contract is acceptable, the county executive may approve the contract and authorize it for execution by either the county executive or the elected officeholder; or

(B) the proposed contract is not acceptable, the county executive may refuse to approve the contract. However, the county executive must provide a written statement to the elected officeholder within five (5) days following the public meeting in which it was considered explaining why the contract is not acceptable and provide recommendations that would make the contract acceptable, if any.

(4) Should a contract be refused for approval by the county executive under subdivision (3)(B), the elected officeholder may:

(A) offer a revised contract to the county executive by filing a new request for review under subdivision (1); or

(B) execute the contract if the officeholder determines the contract includes the required terms stated in an ordinance adopted under section 20(a)(3) of this chapter, if an ordinance has been adopted.

(5) A contract executed under subdivision (4)(B) shall be submitted to the county auditor not later than ten (10) days after execution. Any contract not submitted to the county auditor within ten (10) days is voidable by the county



executive.

(6) The county auditor shall upload a contract submitted under subdivision (5) to the Indiana transparency website under IC 5-14-3.8-3."

Page 1, delete lines 4 through 17.

Delete page 2.

and when so amended that said bill do pass.

(Reference is to HB 1158 as introduced.)

MAY

Committee Vote: yeas 11, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1158 be amended to read as follows:

Page 1, line 3, delete "a county" and insert "**the following:**".

Page 1, delete line 4, begin a new line block indented and insert:

- "(1) A county containing a consolidated city.**
- (2) A building corporation of a county that issues bonds for the purpose of constructing public facilities.**
- (3) A bond or other type of security for the payment of a lease obligation."**

Page 2, line 6, delete "a county" and insert "**the following:**".

Page 2, delete line 7, begin a new line block indented and insert:

- "(1) A county containing a consolidated city.**
- (2) A building corporation of a county that issues bonds for the purpose of constructing public facilities.**
- (3) A bond or other type of security for the payment of a lease obligation."**

(Reference is to HB 1158 Digest Correction as printed January 16, 2024.)

MELTZER



HOUSE MOTION

Mr. Speaker: I move that House Bill 1158 be amended to read as follows:

Page 2, line 29, delete "at least fifteen (15)" and insert "**twenty (20)**".

Page 2, line 30, delete "approve the" and insert "**respond as to whether the proposed contract is approved or disapproved.**".

Page 2, line 31, delete "proposed contract."

Page 3, line 3, delete "five (5) days following the" and insert "**the timeframe described in subdivision (2)**".

Page 3, line 4, delete "public meeting in which it was considered".

(Reference is to HB 1158 Digest Correction as printed January 16, 2024.)

ZIMMERMAN

 COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred House Bill No. 1158, 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, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 36-2-2.8 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:

Chapter 2.8. County Contracts; Requirements

Sec. 1. This chapter only applies to a county not having a consolidated city.

Sec. 2. (a) As used in this chapter, "contract" means a contract for the purchase of:

- (1) real property;**
- (2) tangible or intangible personal property; or**
- (3) services (as defined in IC 5-22-2-30).**

(b) The term does not include a contract concerning the issuance of:

- (1) a bond to finance the construction of a public facility; or**
- (2) a bond or other type of security for the payment of a lease obligation.**

Sec. 3. As used in this chapter, "county officer" has the meaning



set forth in IC 36-2-2.9-3.

Sec. 4. A contract entered into by a county, including a contract executed by a county officer, must meet the following requirements:

- (1) The contract must be executed in the name of the county.**
- (2) Any property purchases for public use shall be:**
 - (A) titled to; or**
 - (B) documented as owned by; the county."**

Page 2, delete lines 1 through 2, begin a new paragraph and insert:

"Sec. 5. The county executive may, by ordinance, require standard contractual language to be used in all contracts entered into by the county, including contracts executed by a county officer. The ordinance may include:"

Page 2, line 3, delete "(A)", begin a new line block indented and insert:

"(1)".

Page 2, line 4, delete "(B)", begin a new line block indented and insert:

"(2)".

Page 2, line 5, delete "(C)", begin a new line block indented and insert:

"(3)".

Page 2, line 6, delete "(D)", begin a new line block indented and insert:

"(4)".

Page 2, line 7, delete "(E)", begin a new line block indented and insert:

"(5)".

Page 2, delete lines 8 through 42, begin a new paragraph and insert:

"SECTION 2. IC 36-2-2.9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]:

Chapter 2.9. Review of County Contracts

Sec. 1. This chapter only applies to a county not having a consolidated city.

Sec. 2. The definitions in IC 36-2-2.8 apply to this chapter.

Sec. 3. As used in this chapter, "county officer" means the following:

- (1) Assessor.**
- (2) Auditor.**
- (3) Coroner.**



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

Sec. 4. (a) If a county officer has a proposed contract:

- (1) that the county officer believes is necessary for the county officer to carry out a constitutional or statutory duty of office; and**
- (2) for which funds have been appropriated by the county fiscal body to pay for the contract;**

the county officer must submit the contract for review under this chapter.

(b) The county executive may void a contract that a county officer executes without first complying with this chapter.

Sec. 5. To initiate a contract review, the county officer must submit to the county auditor the following:

- (1) A request for review.**
- (2) A copy of the proposed contract. The contract must comply with IC 36-2-2.8, including using the standard terms required by ordinance under IC 36-2-2.8-5.**

The county auditor shall date stamp the request and immediately forward copies of the request and contract to the president of the county executive and county attorney.

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

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

Sec. 7. (a) If the county attorney determines that the contract does not comply with:

- (1) state law; or**
- (2) any applicable public purchasing or bidding laws;**

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

(b) The county attorney shall notify the county executive of the results of the review.

Sec. 8. If the contract:

- (1) is not disapproved under section 7 of this chapter; and**
- (2) the county executive finds the contract:**



(A) complies with IC 36-2-2.8; and

(B) is otherwise acceptable;

the county executive may approve and authorize execution of the contract by the county officer or the county executive.

Sec. 9. (a) If the county executive finds the contract:

(1) does not comply with IC 36-2-2.8; or

(2) is otherwise not acceptable for reasons other than those determined under section 7 of this chapter;

the county executive must provide the county officer with a written statement described in subsection (b).

(b) The county executive must provide a written statement as part of the notification of the review results under section 11 of this chapter that:

(1) explains why the contract is not acceptable; and

(2) provides recommendations, if any, for making the contract acceptable to the county executive.

Sec. 10. The county executive has the responsibility of notifying the county officer of the results of the review conducted by the county attorney and the county executive.

Sec. 11. If:

(1) the review; and

(2) the notification of the review results, including the written statement under section 9(b) of this chapter, if applicable;

are not made within the time required under section 6 of this chapter, the contract shall be considered acceptable and the county officer may execute the contract.

Sec. 12. (a) This section only applies to a contract that:

(1) the county attorney does not disapprove under section 7 of this chapter; and

(2) is found to be unacceptable by the county executive under section 9 of this chapter.

(b) The county officer may do the following:

(1) Revise the contract and file a new request for review under this chapter.

(2) Execute the contract, if the county officer determines the contract complies with IC 36-2-2.8.

Sec. 13. (a) A county officer must submit the contract to the county auditor not more than ten (10) days after the contract is executed.

(b) A contract that is executed by a county officer:

(1) under section 12(b)(2); and

(2) submitted to the county auditor more than ten (10) days



**after execution;
is voidable by the county executive."**

Page 3, delete lines 1 through 31, begin a new paragraph and insert:

"Sec. 14. The county auditor shall upload a contract submitted under section 13 of this chapter to the Indiana transparency website under IC 5-14-3.8-3."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

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

BUCK, Chairperson

Committee Vote: Yeas 10, Nays 0.

