

HOUSE BILL No. 1419

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13.5-1.5-13; IC 4-13.6; IC 5-1; IC 5-16; IC 5-23; IC 5-30; IC 8-1.5-2-27; IC 8-15.5-6-2; IC 8-15.7-6-2; IC 8-24-9-1; IC 16-22; IC 22-1-1-16; IC 35-44.2-3; IC 35-51-5-1; IC 36-1; IC 36-7; IC 36-7.5; IC 36-7.6; IC 36-9-23-2.

Synopsis: Repeal of common construction wage statute. Repeals the common construction wage statute. Repeals related statutes superseded by the repeal of the common construction wage statute. Makes conforming amendments.

Effective: July 1, 2014.

Leonard

January 16, 2014, read first time and referred to Committee on Employment, Labor and Pensions.



Second Regular Session 118th General Assembly (2014)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

HOUSE BILL No. 1419



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 4-13.5-1.5-13 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 13. (a) ~~An agreement~~
3 ~~or a contract under this chapter is subject to IC 5-16-7.~~

4 (b) (a) The contractor and each subcontractor engaged in installing
5 energy conservation measures under a guaranteed energy cost savings
6 contract shall keep full and accurate records indicating the names,
7 classifications, and work performed by each worker employed by the
8 respective contractor and subcontractor in connection with the work
9 together with an accurate record of the number of hours worked by
10 each worker and the actual wages paid.

11 (c) (b) The payroll records required to be kept under this section
12 must be open to inspection by an authorized representative of the
13 commission and the department of labor.

14 SECTION 2. IC 4-13.6-2-4 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. The division shall
16 comply with this article and the following statutes in the administration



1 of public works contracts:

2 (1) IC 5-16-3.

3 (2) IC 5-16-6.

4 ~~(3) IC 5-16-7, if the estimated cost of the public works project is~~
5 ~~at least twenty-five thousand dollars (\$25,000):~~

6 ~~(4) (3) IC 5-16-8.~~

7 ~~(5) (4) IC 5-16-9.~~

8 SECTION 3. IC 4-13.6-8-8 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 8. ~~(a) An agreement or~~
10 ~~a contract under this chapter is subject to IC 5-16-7.~~

11 ~~(b) (a)~~ The contractor and each subcontractor engaged in installing
12 energy conservation measures under a guaranteed energy savings
13 contract shall keep full and accurate records indicating the names,
14 classifications, and work performed by each worker employed by the
15 respective contractor and subcontractor in connection with the work
16 and an accurate record of the number of hours worked by each worker
17 and the actual wages paid.

18 ~~(c) (b)~~ The payroll records required to be kept under this section
19 must be open to inspection by an authorized representative of the
20 department and the department of labor.

21 SECTION 4. IC 5-1-16-45, AS AMENDED BY P.L.113-2006,
22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 2014]: Sec. 45. ~~(a)~~ A county desiring to have a building
24 erected or renovated on land owned or to be acquired by the county
25 may sell that land or building to the authority. Before the sale may take
26 place, the county commissioners shall file a petition with the circuit
27 court of the county requesting the appointment of:

28 (1) one (1) disinterested freeholder of the county as an appraiser;
29 and

30 (2) two (2) disinterested appraisers licensed under IC 25-34.1;
31 who are residents of Indiana to determine the fair market value of the
32 land or building. One (1) of the appraisers described under subdivision
33 (2) must reside not more than fifty (50) miles from the land or building.
34 Upon appointment, the appraisers shall fix the fair market value of the
35 land or building and shall report that value within two (2) weeks from
36 the date of their appointment. The county may then sell the land or
37 building to the authority for an amount not less than the amount fixed
38 by the appraisers as the fair market value. The amount shall be paid in
39 cash upon delivery of the deed by the county to the authority. If a
40 cumulative building fund exists at the time of the sale, the proceeds
41 from the sale shall be placed in that fund. If a cumulative building fund
42 does not exist at the time of the sale, the proceeds from the sale shall



1 be paid into the county hospital fund with the principal and interest on
 2 the fund to be used solely by the county hospital for the purposes set
 3 forth in IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal on July 1,
 4 1993). A sale of land or a building by a county to the authority shall be
 5 authorized by the board of commissioners by an order that shall be
 6 entered in the official records of the board. The deed shall be executed
 7 on behalf of the county by the board of county commissioners.

8 ~~(b) A contract entered into under this chapter for a public work (as~~
 9 ~~defined in IC 5-16-7-4) is subject to IC 5-16-7.~~

10 SECTION 5. IC 5-1-17-18, AS AMENDED BY P.L.1-2006,
 11 SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2014]: Sec. 18. (a) Subject to subsection (h), the authority
 13 may issue bonds for the purpose of obtaining money to pay the cost of:

- 14 (1) acquiring real or personal property, including existing capital
 15 improvements;
- 16 (2) constructing, improving, reconstructing, or renovating one (1)
 17 or more capital improvements; or
- 18 (3) funding or refunding bonds issued under IC 36-10-8 or
 19 IC 36-10-9 or prior law.

20 (b) The bonds are payable from the lease rentals from the lease of
 21 the capital improvements for which the bonds were issued, insurance
 22 proceeds, and any other funds pledged or available.

23 (c) The bonds shall be authorized by a resolution of the board.

24 (d) The terms and form of the bonds shall either be set out in the
 25 resolution or in a form of trust indenture approved by the resolution.

26 (e) The bonds shall mature within forty (40) years.

27 (f) The board shall sell the bonds at public or private sale upon the
 28 terms determined by the board.

29 (g) All money received from any bonds issued under this chapter
 30 shall be applied to the payment of the cost of the acquisition or
 31 construction, or both, of capital improvements, or the cost of refunding
 32 or refinancing outstanding bonds, for which the bonds are issued. The
 33 cost may include:

- 34 (1) planning and development of the facility and all buildings,
 35 facilities, structures, and improvements related to it;
- 36 (2) acquisition of a site and clearing and preparing the site for
 37 construction;
- 38 (3) equipment, facilities, structures, and improvements that are
 39 necessary or desirable to make the capital improvement suitable
 40 for use and operations;
- 41 (4) architectural, engineering, consultant, and attorney's fees;
- 42 (5) incidental expenses in connection with the issuance and sale



- 1 of bonds;
- 2 (6) reserves for principal and interest;
- 3 (7) interest during construction;
- 4 (8) financial advisory fees;
- 5 (9) insurance during construction;
- 6 (10) municipal bond insurance, debt service reserve insurance,
- 7 letters of credit, or other credit enhancement; and
- 8 (11) in the case of refunding or refinancing, payment of the
- 9 principal of, redemption premiums (if any) for, and interest on,
- 10 the bonds being refunded or refinanced.
- 11 (h) The authority may not issue bonds under this chapter unless the
- 12 authority first finds that the following conditions are met:
- 13 (1) Each contract or subcontract for the construction of a facility
- 14 and all buildings, facilities, structures, and improvements related
- 15 to that facility to be financed in whole or in part through the
- 16 issuance of the bonds
- 17 (A) requires payment of the common construction wage
- 18 required by IC 5-16-7; and
- 19 (B) requires the contractor or subcontractor to enter into a
- 20 project labor agreement as a condition of being awarded and
- 21 performing work on the contract.
- 22 (2) The capital improvement board and the authority have entered
- 23 into a written agreement concerning the terms of the financing of
- 24 the facility. This agreement must include the following
- 25 provisions:
- 26 (A) Notwithstanding any other law, if the capital improvement
- 27 board selected a construction manager and an architect for a
- 28 facility before May 15, 2005, the authority will contract with
- 29 that construction manager and architect and use plans as
- 30 developed by that construction manager and architect. In
- 31 addition, any other agreements entered into by the capital
- 32 improvement board or a political subdivision served by the
- 33 capital improvement board with respect to the design and
- 34 construction of the facility will be reviewed by a selection
- 35 committee consisting of:
- 36 (i) two (2) of the members appointed to the board of
- 37 directors of the authority under section 7(a)(1) of this
- 38 chapter, as designated by the governor;
- 39 (ii) the two (2) members appointed to the board of directors
- 40 of the authority under section 7(a)(2) of this chapter; and
- 41 (iii) the executive director of the authority.
- 42 The selection committee is not bound by any prior



- 1 commitments of the capital improvement board or the political
2 subdivision, other than the general project design, and will
3 approve all contracts necessary for the design and construction
4 of the facility.
- 5 (B) If before May 15, 2005, the capital improvement board
6 acquired any land, plans, or other information necessary for
7 the facility and the board had budgeted for these items, the
8 capital improvement board will transfer the land, plans, or
9 other information useful to the authority for a price not to
10 exceed the lesser of:
- 11 (i) the actual cost to the capital improvement board; or
 - 12 (ii) three million five hundred thousand dollars
13 (\$3,500,000).
- 14 (C) The capital improvement board agrees to take any legal
15 action that the authority considers necessary to facilitate the
16 financing of the facility, including entering into agreements
17 during the design and construction of the facility or a sublease
18 of a capital improvement to any state agency that is then leased
19 by the authority to any state agency under section 26 of this
20 chapter.
- 21 (D) The capital improvement board is prohibited from taking
22 any other action with respect to the financing of the facility
23 without the prior approval of the authority. The authority is not
24 bound by the terms of any agreement entered into by the
25 capital improvement board with respect to the financing of the
26 facility without the prior approval of the authority.
- 27 (E) As the project financier, the Indiana finance authority (or
28 its successor agency) and the public finance director will be
29 responsible for selecting all investment bankers, bond counsel,
30 trustees, and financial advisors.
- 31 (F) The capital improvement board agrees to deliver to the
32 authority the one hundred million dollars (\$100,000,000) that
33 is owed to the capital improvement board, the consolidated
34 city, or the county having a consolidated city pursuant to an
35 agreement between the National Football League franchised
36 professional football team and the capital improvement board,
37 the consolidated city, or the county. This amount shall be
38 applied to the cost of construction for the stadium part of the
39 facility. This amount does not have to be delivered until a
40 lease is entered into for the stadium between the authority and
41 the capital improvement board.
- 42 (G) The authority agrees to consult with the staff of the capital



1 improvement board on an as needed basis during the design
 2 and construction of the facility, and the capital improvement
 3 board agrees to make its staff available for this purpose.

4 (H) The authority, the county, the consolidated city, the capital
 5 improvement board and the National Football League
 6 franchised professional football team must commit to using
 7 their best efforts to assist and cooperate with one another to
 8 design and construct the facility on time and on budget.

9 (3) The capital improvement board and the National Football
 10 League franchised professional football team have entered into a
 11 lease for the stadium part of the facility that has been approved by
 12 the authority and has a term of at least thirty (30) years.

13 SECTION 6. IC 5-16-7 IS REPEALED [EFFECTIVE JULY 1,
 14 2014]. (Wage Scale of Contractors' and Subcontractors' Employees).

15 SECTION 7. IC 5-16-7.1 IS ADDED TO THE INDIANA CODE
 16 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2014]:

18 **Chapter 7.1. Effect of Repeal of Common Construction Wage**
 19 **Statute (IC 5-16-7)**

20 **Sec. 1. As used in this chapter, "common construction wage**
 21 **statute" refers to the following:**

22 **(1) IC 5-16-7, as in effect on June 30, 2014.**

23 **(2) Any statute, as in effect on June 30, 2014, providing that**
 24 **IC 5-16-7 is applicable.**

25 **Sec. 2. Notwithstanding the repeal of the common construction**
 26 **wage statute by legislation enacted in the 2014 regular session of**
 27 **the general assembly, the common construction wage statute**
 28 **applies to a public works contract awarded before July 1, 2014,**
 29 **and shall be enforced as if the common construction wage statute**
 30 **had not been repealed.**

31 SECTION 8. IC 5-23-3-3 IS REPEALED [EFFECTIVE JULY 1,
 32 2014]. Sec: 3: If a governmental body enters into a BOT agreement that
 33 involves the construction of a public facility with public funds under
 34 this section; the operator or any contractor or subcontractor engaged in
 35 the construction of that public facility shall pay the common
 36 construction wage as determined under IC 5-16-7.

37 SECTION 9. IC 5-23-4-2 IS REPEALED [EFFECTIVE JULY 1,
 38 2014]. Sec: 2: If a governmental body enters into an operating
 39 agreement that involves the construction of a public facility with public
 40 funds under this section; the operator or any contractor or subcontractor
 41 engaged in the construction of that public facility shall pay the common
 42 construction wage as determined under IC 5-16-7.



1 SECTION 10. IC 5-30-6-4, AS ADDED BY P.L.74-2005,
 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2014]: Sec. 4. In addition to the design criteria package, a
 4 request for proposals must include the following:

- 5 (1) Instructions.
- 6 (2) Proposal forms and schedules.
- 7 (3) General and special conditions.
- 8 (4) The basis for evaluation of proposals, including a description
 9 of the selection criteria with the weight assigned to each criteria.
- 10 (5) ~~A determination of the common construction wage made~~
 11 ~~under IC 5-16-7.~~
- 12 (6) ~~(5)~~ Any other instructions, documents, or information relevant
 13 to the public project that the public agency considers relevant.

14 SECTION 11. IC 5-30-8-6 IS REPEALED [EFFECTIVE JULY 1,
 15 2014]. Sec. 6: (a) ~~A determination under IC 5-16-7-1(c) for a public~~
 16 ~~project to be constructed under a design-build contract shall be made~~
 17 ~~and filed with the public agency at least two (2) weeks before the date~~
 18 ~~fixed for submission of the qualitative proposal and the price proposal~~
 19 ~~under IC 5-30-6-5.~~

20 (b) ~~If the committee appointed under IC 5-16-7-1(b) fails to act and~~
 21 ~~to file a determination under IC 5-16-7-1(c) within the time required by~~
 22 ~~this section, the public agency shall make the determination, and its~~
 23 ~~finding shall be final.~~

24 (c) ~~The time periods set forth in this section apply to any~~
 25 ~~construction services provided for a public project to be constructed~~
 26 ~~under a design-build contract, instead of the time periods set forth in~~
 27 ~~IC 5-16-7-1(h) and IC 5-16-7-1(i).~~

28 SECTION 12. IC 8-1.5-2-27 IS AMENDED TO READ AS
 29 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 27. (a) A municipality
 30 may lease waterworks facilities from a not-for-profit corporation, a
 31 public utility, a county, or a municipality. The term of the lease may not
 32 exceed fifty (50) years. The lease must provide that the municipality
 33 has an option to:

- 34 (1) renew the lease for a further term on like conditions; and
- 35 (2) purchase the waterworks facilities covered by the lease
 36 contract with the terms and conditions of the purchase specified
 37 in the lease.

38 (b) If the option to purchase the waterworks facilities covered by the
 39 lease is exercised, the municipality, for the purpose of procuring money
 40 to pay the purchase price, may issue and sell revenue bonds under other
 41 laws governing the issuance and sale of waterworks revenue bonds for
 42 additions and extensions to municipal waterworks.



1 (c) If the municipality has not exercised an option to purchase the
 2 property covered by the lease at the expiration of the lease, and upon
 3 the full discharge and performance by the municipality of its
 4 obligations under the lease contract, the property covered by the lease
 5 thereupon becomes the absolute property of the municipality, and the
 6 lessor shall execute proper instruments conveying to the municipality
 7 good and merchantable title thereto.

8 ~~(d) A waterworks facility leased under this section is subject to~~
 9 ~~IC 5-16-7.~~

10 SECTION 13. IC 8-15.5-6-2, AS AMENDED BY P.L.205-2013,
 11 SECTION 157, IS AMENDED TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2014]: Sec. 2. ~~(a)~~ Unless otherwise provided by
 13 federal law or this section, the operator or any contractor or
 14 subcontractor of the operator engaged in the construction of a project
 15 is not required to comply with IC 4-13.6 or IC 5-16 concerning state
 16 public works, IC 5-17 concerning purchases of materials and supplies,
 17 or other statutes concerning procedures for procurement of public
 18 works or personal property as a condition of being awarded and
 19 performing work on the project.

20 ~~(b) IC 5-16-7 concerning the common construction wage applies to~~
 21 ~~the following:~~

22 (1) ~~The operator or any contractor or subcontractor of the operator~~
 23 ~~engaged in a project for the construction of the Hhiana~~
 24 ~~Expressway, a limited access facility connecting Interstate~~
 25 ~~Highway 65 in northwestern Indiana with an interstate highway~~
 26 ~~in Hhinois.~~

27 (2) ~~The operator or any contractor or subcontractor of the operator~~
 28 ~~engaged in the construction of a project that is the subject of a~~
 29 ~~public-private agreement entered into after April 30, 2011.~~

30 SECTION 14. IC 8-15.7-6-2, AS AMENDED BY P.L.163-2011,
 31 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2014]: Sec. 2. ~~(a)~~ Unless otherwise provided by federal law or
 33 this section, the operator or any contractor or subcontractor of the
 34 operator engaged in the construction of a project is not required to
 35 comply with IC 4-13.6 or IC 5-16 concerning state public works,
 36 IC 5-17 concerning purchases of materials and supplies, or other
 37 statutes concerning procedures for procurement of public works or
 38 personal property as a condition of being awarded and performing work
 39 on the project.

40 ~~(b) IC 5-16-7 concerning the common construction wage applies to~~
 41 ~~the following:~~

42 (1) ~~The operator or any contractor or subcontractor of the operator~~



1 engaged in a project for the construction of the Hhiana
 2 Expressway; a limited access facility connecting Interstate
 3 Highway 65 in northwestern Indiana with an interstate highway
 4 in Hhinois.

5 (2) The operator or any contractor or subcontractor of the operator
 6 engaged in the construction of a project that is the subject of a
 7 public-private agreement entered into after April 30, 2011.

8 SECTION 15. IC 8-24-9-1, AS ADDED BY P.L.182-2009(ss),
 9 SECTION 282, IS AMENDED TO READ AS FOLLOWS
 10 [EFFECTIVE JULY 1, 2014]: Sec. 1. The district shall comply with
 11 ~~IC 5-16-7 (common construction wage)~~; IC 5-22 (public purchasing),
 12 IC 36-1-12 (public work projects), and any applicable federal bidding
 13 statutes and regulations.

14 SECTION 16. IC 16-22-6-37 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 37. (a) A county or the
 16 governing board of the hospital may remodel or construct an addition
 17 to a hospital building leased under this chapter.

18 (b) To provide funds for that purpose, the county may issue general
 19 obligation bonds or appropriate money from the county's general fund
 20 or other funds available for that purpose if the hospital building is
 21 owned by the county. The governing board of a hospital may use funds
 22 available to the board if the hospital building is owned by the county.

23 (c) ~~A contract entered into under this chapter for a public work (as~~
 24 ~~defined in IC 5-16-7-4) is subject to IC 5-16-7.~~

25 SECTION 17. IC 16-22-7-42 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 42. (a) The governing
 27 board of the hospital may remodel or construct an addition to a hospital
 28 building leased by the hospital under this chapter.

29 (b) To provide funds for that purpose, the county may issue general
 30 obligation aid bonds or the city hospital or city may appropriate money
 31 from the city hospital's or city's general fund or other funds available
 32 for that purpose if the hospital building is owned by the city hospital or
 33 city. The governing board of the hospital may use any funds available
 34 to the board if the hospital building is owned by the city.

35 (c) ~~A contract entered into under this chapter for a public work (as~~
 36 ~~defined in IC 5-16-7-4) is subject to IC 5-16-7.~~

37 SECTION 18. IC 22-1-1-16 IS AMENDED TO READ AS
 38 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 16. The commissioner
 39 of labor and ~~his~~ **the commissioner's** authorized representative shall
 40 have the power and the authority to enter any place of employment for
 41 the purpose of collecting facts and statistics relating to the employment
 42 of workers and of making inspections for the proper enforcement of all



1 of the labor laws of ~~this state, including IC 5-16-7.~~ **No Indiana.** An
 2 employer or owner ~~shall may not~~ refuse to admit the commissioner of
 3 labor or ~~his the commissioner's~~ authorized representatives to ~~his the~~
 4 **employer's or owner's** place of employment.

5 SECTION 19. IC 35-44.2-3-4 IS REPEALED [EFFECTIVE JULY
 6 1, 2014]. ~~Sec. 4: A person who commits a wage scale violation in a~~
 7 ~~state public works contract is subject to criminal prosecution under~~
 8 ~~IC 5-16-7-3.~~

9 SECTION 20. IC 35-44.2-3-5 IS REPEALED [EFFECTIVE JULY
 10 1, 2014]. ~~Sec. 5: A person who unlawfully divides a public works~~
 11 ~~project is subject to a civil action for an infraction under IC 5-16-7-6.~~

12 SECTION 21. IC 35-51-5-1, AS AMENDED BY P.L.126-2012,
 13 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2014]: Sec. 1. The following statutes define crimes in IC 5:

15 IC 5-1-4-22 (Concerning hospital bonding authorities).

16 IC 5-2-2-11 (Concerning the law enforcement academy building
 17 commission).

18 IC 5-2-4-7 (Concerning criminal intelligence information).

19 IC 5-10.4-3-16 (Concerning the Indiana state teacher's retirement
 20 fund).

21 IC 5-11-1-18 (Concerning state board of accounts).

22 IC 5-15-6-8 (Concerning local public records commissions).

23 ~~IC 5-16-7-3 (Concerning wage scale of contractor's and~~
 24 ~~subcontractor's employees).~~

25 IC 5-16-9-5 (Concerning parking for persons with physical
 26 disabilities).

27 IC 5-28-15-7 (Concerning enterprise zones).

28 IC 5-28-15-8 (Concerning enterprise zones).

29 SECTION 22. IC 36-1-12-15 IS AMENDED TO READ AS
 30 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 15. ~~(a) A contract by~~
 31 ~~the board for public work must conform to the wage scale provisions~~
 32 ~~of IC 5-16-7.~~

33 ~~(b)~~ A contract by the board for public work must conform with the
 34 antidiscrimination provisions of IC 5-16-6. The board may consider a
 35 violation of IC 5-16-6 a material breach of the contract, as provided in
 36 IC 22-9-1-10.

37 SECTION 23. IC 36-1-12.5-5, AS AMENDED BY P.L.99-2009,
 38 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2014]: Sec. 5. (a) The governing body may enter into an
 40 agreement with a public utility to participate in a utility efficiency
 41 program or enter into a guaranteed savings contract with a qualified
 42 provider to increase the political subdivision's billable revenues or



1 reduce the school corporation's or the political subdivision's energy or
 2 water consumption, wastewater usage costs, or operating costs if, after
 3 review of the report described in section 6 of this chapter, the
 4 governing body finds:

5 (1) in the case of conservation measures other than those that are
 6 part of a project related to the alteration of a water or wastewater
 7 structure or system, that the amount the governing body would
 8 spend on the conservation measures under the contract and that
 9 are recommended in the report is not likely to exceed the amount
 10 to be saved in energy consumption costs and other operating costs
 11 over twenty (20) years from the date of installation if the
 12 recommendations in the report were followed;

13 (2) in the case of conservation measures that are part of a project
 14 related to the alteration of a water or wastewater structure or
 15 system, that the amount the governing body would spend on the
 16 conservation measures under the contract and that are
 17 recommended in the report is not likely to exceed the amount of
 18 increased billable revenues or the amount to be saved in energy
 19 and water consumption costs, wastewater usage costs, and other
 20 operating costs over twenty (20) years from the date of
 21 installation if the recommendations in the report were followed;
 22 and

23 (3) in the case of a guaranteed savings contract, the qualified
 24 provider provides a written guarantee as described in subsection
 25 (d)(3).

26 (b) Before entering into an agreement to participate in a utility
 27 efficiency program or a guaranteed savings contract under this section,
 28 the governing body must publish notice under subsection (c)
 29 indicating:

30 (1) that the governing body is requesting public utilities or
 31 qualified providers to propose conservation measures through:

32 (A) a utility efficiency program; or

33 (B) a guaranteed savings contract; and

34 (2) the date, the time, and the place where proposals must be
 35 received.

36 (c) The notice required by subsection (b) must:

37 (1) be published in two (2) newspapers of general circulation in
 38 the county where the school corporation or the political
 39 subdivision is located;

40 (2) be published two (2) times with at least one (1) week between
 41 publications and with the second publication made at least thirty

42 (30) days before the date by which proposals must be received;



1 and
 2 (3) meet the requirements of IC 5-3-1-1.
 3 (d) An agreement to participate in a utility efficiency program or
 4 guaranteed savings contract under this section must provide that:
 5 (1) in the case of conservation measures other than those that are
 6 part of a project related to the alteration of a water or wastewater
 7 structure or system, all payments, except obligations upon the
 8 termination of the agreement or contract before the agreement or
 9 contract expires, may be made to the public utility or qualified
 10 provider (whichever applies) in installments, not to exceed the
 11 lesser of twenty (20) years or the average life of the conservation
 12 measures installed from the date of final installation;
 13 (2) in the case of conservation measures that are part of a project
 14 related to the alteration of a water or wastewater structure or
 15 system, all payments, except obligations upon the termination of
 16 the agreement or contract before the agreement or contract
 17 expires, may be made to the public utility or qualified provider
 18 (whichever applies) in installments, not to exceed the lesser of
 19 twenty (20) years or the average life of the conservation measures
 20 installed from the date of final installation;
 21 (3) in the case of the guaranteed savings contract:
 22 (A) the:
 23 (i) savings in energy and water consumption costs,
 24 wastewater usage costs, and other operating costs; and
 25 (ii) increase in billable revenues;
 26 due to the conservation measures are guaranteed to cover the
 27 costs of the payments for the measures; and
 28 (B) the qualified provider will reimburse the school
 29 corporation or political subdivision for the difference between
 30 the guaranteed savings and the actual savings; and
 31 (4) payments are subject to annual appropriation by the fiscal
 32 body of the school corporation or political subdivision and do not
 33 constitute an indebtedness of the school corporation or political
 34 subdivision within the meaning of a constitutional or statutory
 35 debt limitation.
 36 ~~(e) An agreement or a contract under this chapter is subject to~~
 37 ~~IC 5-16-7.~~
 38 SECTION 24. IC 36-7-12-20 IS AMENDED TO READ AS
 39 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 20. (a) All tax revenues
 40 coming into possession of the economic development commission shall
 41 be deposited, held, and secured in accordance with the statutes relating
 42 to the handling and investing of public funds. The handling and



1 expenditure of this money is subject to audit and supervision by the
2 state board of accounts.

3 (b) Contracts for construction and equipment of economic
4 development or pollution control facilities need not be let in
5 accordance with IC 5-16, IC 5-17, or any other statute relating to public
6 contracts. ~~However, the construction of waterworks facilities financed
7 for the public purpose of providing reliable water service subject to
8 IC 5-16-7.~~

9 (c) Any employee of the economic development commission
10 authorized to receive, disburse, or in any other way handle money or
11 negotiable securities of the commission shall execute a bond payable
12 to the state, with surety to consist of a surety or guaranty corporation
13 qualified to do business in the state. The bond must be in an amount
14 determined by the commission, and must be conditioned upon the
15 employee's faithful performance of ~~his~~ **the employee's** duties and the
16 accounting for all monies and property that may come into ~~his~~ **the**
17 **employee's** hands or under ~~his~~ **the employee's** control. The cost of
18 these bonds shall be paid by the commission.

19 SECTION 25. IC 36-7-14-12.3 IS REPEALED [EFFECTIVE JULY
20 1, 2014]. ~~Sec. 12.3. IC 5-16-7 applies to:~~

21 ~~(1) a person that enters into a contract with a redevelopment
22 commission to perform construction work referred to in section
23 12.2(a)(4), 12.2(a)(7), 12.2(a)(22), or 12.2(a)(23) of this chapter;
24 and~~

25 ~~(2) a subcontractor of a person described in subdivision (1);
26 with respect to the construction work referred to in subdivision (1).~~

27 SECTION 26. IC 36-7.5-2-8, AS ADDED BY P.L.214-2005,
28 SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
29 JULY 1, 2014]: Sec. 8. (a) The development authority must comply
30 with ~~IC 5-16-7 (common construction wage)~~; IC 5-22 (public
31 purchasing), IC 36-1-12 (public work projects), and any applicable
32 federal bidding statutes and regulations. An eligible political
33 subdivision that receives a loan, a grant, or other financial assistance
34 from the development authority or enters into a lease with the
35 development authority must comply with applicable federal, state, and
36 local public purchasing and bidding law and regulations. However, a
37 purchasing agency (as defined in IC 5-22-2-25) of an eligible political
38 subdivision may:

39 (1) assign or sell a lease for property to the development
40 authority; or

41 (2) enter into a lease for property with the development authority;
42 at any price and under any other terms and conditions as may be



1 determined by the eligible political subdivision and the development
 2 authority. However, before making an assignment or sale of a lease or
 3 entering into a lease under this section that would otherwise be subject
 4 to IC 5-22, the eligible political subdivision or its purchasing agent
 5 must obtain or cause to be obtained a purchase price for the property
 6 to be subject to the lease from the lowest responsible and responsive
 7 bidder in accordance with the requirements for the purchase of supplies
 8 under IC 5-22.

9 (b) In addition to the provisions of subsection (a), with respect to
 10 projects undertaken by the authority, the authority shall set a goal for
 11 participation by minority business enterprises of fifteen percent (15%)
 12 and women's business enterprises of five percent (5%), consistent with
 13 the goals of delivering the project on time and within the budgeted
 14 amount and, insofar as possible, using Indiana businesses for
 15 employees, goods, and services. In fulfilling the goal, the authority
 16 shall take into account historical precedents in the same market.

17 SECTION 27. IC 36-7.5-4-3, AS AMENDED BY P.L.1-2006,
 18 SECTION 573, IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2014]: Sec. 3. (a) ~~Subject to subsection (h)~~; The
 20 development authority may issue bonds for the purpose of obtaining
 21 money to pay the cost of:

22 (1) acquiring real or personal property, including existing capital
 23 improvements;

24 (2) acquiring, constructing, improving, reconstructing, or
 25 renovating one (1) or more projects; or

26 (3) funding or refunding bonds issued under this chapter or
 27 IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law.

28 (b) The bonds are payable solely from:

29 (1) the lease rentals from the lease of the projects for which the
 30 bonds were issued, insurance proceeds, and any other funds
 31 pledged or available; and

32 (2) except as otherwise provided by law, revenue received by the
 33 development authority and amounts deposited in the development
 34 authority fund.

35 (c) The bonds shall be authorized by a resolution of the
 36 development board.

37 (d) The terms and form of the bonds shall either be set out in the
 38 resolution or in a form of trust indenture approved by the resolution.

39 (e) The bonds shall mature within forty (40) years.

40 (f) The board shall sell the bonds only to the Indiana finance
 41 authority established by IC 4-4-1 1-4 upon the terms determined by the
 42 development board and the Indiana finance authority.



1 (g) All money received from any bonds issued under this chapter
 2 shall be applied solely to the payment of the cost of acquiring,
 3 constructing, improving, reconstructing, or renovating one (1) or more
 4 projects, or the cost of refunding or refinancing outstanding bonds, for
 5 which the bonds are issued. The cost may include:

6 (1) planning and development of equipment or a facility and all
 7 buildings, facilities, structures, equipment, and improvements
 8 related to the facility;

9 (2) acquisition of a site and clearing and preparing the site for
 10 construction;

11 (3) equipment, facilities, structures, and improvements that are
 12 necessary or desirable to make the project suitable for use and
 13 operations;

14 (4) architectural, engineering, consultant, and attorney's fees;

15 (5) incidental expenses in connection with the issuance and sale
 16 of bonds;

17 (6) reserves for principal and interest;

18 (7) interest during construction;

19 (8) financial advisory fees;

20 (9) insurance during construction;

21 (10) municipal bond insurance, debt service reserve insurance,
 22 letters of credit, or other credit enhancement; and

23 (11) in the case of refunding or refinancing, payment of the
 24 principal of, redemption premiums (if any) for, and interest on,
 25 the bonds being refunded or refinanced.

26 (h) ~~The development authority may not issue bonds under this~~
 27 ~~article unless the development authority first finds that each contract~~
 28 ~~for the construction of a facility and all buildings, facilities, structures,~~
 29 ~~and improvements related to that facility to be financed in whole or in~~
 30 ~~part through the issuance of the bonds requires payment of the common~~
 31 ~~construction wage required by IC 5-16-7.~~

32 SECTION 28. IC 36-7.6-2-13, AS ADDED BY P.L.232-2007,
 33 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2014]: Sec. 13. (a) A development authority shall comply with
 35 ~~IC 5-16-7 (common construction wage)~~, IC 5-22 (public purchasing),
 36 IC 36-1-12 (public work projects), and any applicable federal bidding
 37 statutes and regulations. An eligible political subdivision that receives
 38 a loan, a grant, or other financial assistance from a development
 39 authority or enters into a lease with a development authority must
 40 comply with applicable federal, state, and local public purchasing and
 41 bidding laws and regulations. However, a purchasing agency (as
 42 defined in IC 5-22-2-25) of an eligible political subdivision may:



- 1 (1) assign or sell a lease for property to a development authority;
- 2 or
- 3 (2) enter into a lease for property with a development authority;
- 4 at any price and under any other terms and conditions as may be
- 5 determined by the eligible political subdivision and the development
- 6 authority. However, before making an assignment or a sale of a lease
- 7 or entering into a lease under this section that would otherwise be
- 8 subject to IC 5-22, the eligible political subdivision or its purchasing
- 9 agent must obtain or cause to be obtained a purchase price for the
- 10 property to be subject to the lease from the lowest responsible and
- 11 responsive bidder in accordance with the requirements for the purchase
- 12 of supplies under IC 5-22.
- 13 (b) In addition to the provisions of subsection (a), with respect to
- 14 projects undertaken by a development authority, the development
- 15 authority shall set a goal for participation by minority business
- 16 enterprises and women's business enterprises. The goals must be
- 17 consistent with:
- 18 (1) the participation goals established by the counties and
- 19 municipalities that are members of the development authority;
- 20 and
- 21 (2) the goals of delivering the project on time and within the
- 22 budgeted amount and, insofar as possible, using Indiana
- 23 businesses for employees, goods, and services.
- 24 SECTION 29. IC 36-7.6-4-3, AS ADDED BY P.L.232-2007,
- 25 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 26 JULY 1, 2014]: Sec. 3. (a) ~~Subject to subsection (h)~~; A development
- 27 authority may issue bonds for the purpose of obtaining money to pay
- 28 the cost of:
- 29 (1) acquiring real or personal property, including existing capital
- 30 improvements;
- 31 (2) acquiring, constructing, improving, reconstructing, or
- 32 renovating one (1) or more projects; or
- 33 (3) funding or refunding bonds issued under this chapter,
- 34 IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law.
- 35 (b) The bonds are payable solely from:
- 36 (1) the lease rentals from the lease of the projects for which the
- 37 bonds were issued, insurance proceeds, and any other funds
- 38 pledged or available; and
- 39 (2) except as otherwise provided by law, revenue received by the
- 40 development authority and amounts deposited in the development
- 41 authority fund.
- 42 (c) The bonds must be authorized by a resolution of the



1 development board of the development authority that issues the bonds.

2 (d) The terms and form of the bonds must either be set out in the
3 resolution or in a form of trust indenture approved by the resolution.

4 (e) The bonds must mature within forty (40) years.

5 (f) A development board shall sell the bonds only to the Indiana
6 bond bank established by IC 5-1.5-2-1 upon the terms determined by
7 the development board and the Indiana bond bank.

8 (g) All money received from any bonds issued under this chapter
9 shall be applied solely to the payment of the cost of acquiring,
10 constructing, improving, reconstructing, or renovating one (1) or more
11 projects, or the cost of refunding or refinancing outstanding bonds, for
12 which the bonds are issued. The cost may include:

13 (1) planning and development of equipment or a facility and all
14 buildings, facilities, structures, equipment, and improvements
15 related to the facility;

16 (2) acquisition of a site and clearing and preparing the site for
17 construction;

18 (3) equipment, facilities, structures, and improvements that are
19 necessary or desirable to make the project suitable for use and
20 operations;

21 (4) architectural, engineering, consultant, and attorney's fees;

22 (5) incidental expenses in connection with the issuance and sale
23 of bonds;

24 (6) reserves for principal and interest;

25 (7) interest during construction;

26 (8) financial advisory fees;

27 (9) insurance during construction;

28 (10) municipal bond insurance, debt service reserve insurance,
29 letters of credit, or other credit enhancement; and

30 (11) in the case of refunding or refinancing, payment of the
31 principal of, redemption premiums (if any) for, and interest on the
32 bonds being refunded or refinanced.

33 (h) A development authority may not issue bonds under this article
34 unless the development authority first finds that each contract for the
35 construction of a facility and all buildings, facilities, structures, and
36 improvements related to that facility to be financed in whole or in part
37 through the issuance of the bonds requires payment of the common
38 construction wage required by IC 5-16-7.

39 SECTION 30. IC 36-9-23-2 IS AMENDED TO READ AS
40 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. A municipality may:

41 (1) acquire, construct, improve, operate, and maintain sewage
42 works under this chapter;



- 1 (2) acquire, by gift, grant, purchase, condemnation, or otherwise,
- 2 all lands, rights-of-way, and other property that are necessary for
- 3 the sewage works;
- 4 (3) issue revenue bonds to pay the cost of acquiring, constructing,
- 5 and improving the sewage works and property; and
- 6 (4) lease sewage works from a person, an entity, a corporation, a
- 7 public utility, or a unit for a term not to exceed fifty (50) years.
- 8 ~~A sewage works leased under this section is subject to IC 5-16-7.~~

