

SENATE BILL No. 176

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-52-36-0.5; IC 36-1-12.2.

Synopsis: Local government common construction wage. Allows the legislative body of a political subdivision to adopt an ordinance requiring the political subdivision to establish a common construction wage for public work projects awarded by the political subdivision. Exempts projects: (1) in which the actual construction costs are less than \$350,000; (2) that are paid for in whole or in part by federal funds unless the federal government gives written consent; or (3) that are undertaken by a person that has entered into an operating agreement with a political subdivision for the management or operation of a public facility under IC 5-23. Requires the board having the power to award a contract for a public work to set up a five member committee to determine the common construction wage for the political subdivision before advertising a contract. Provides that the committee members are: (1) an individual representing labor to be named by the president of the state federation of labor; (2) an individual representing industry to be named by the board; (3) an individual to be named by the state president of the Associated Builders and Contractors; and (4) two taxpayers who pay the tax that is the funding source for the project and reside in the political subdivision where the project is located, one taxpayer appointed by the owner of the project and one taxpayer appointed by the legislative body for the political subdivision where the project is located. Requires the committee to determine in writing: (1) a classification of the labor to be employed in the performance of the contract for the project, divided into three classes: (A) skilled labor; (B) semiskilled labor; and (C) unskilled labor; and (2) the wage per hour to be paid to each of the classes. Provides that the rate of wages
(Continued next page)

Effective: July 1, 2017.

Mrvan

January 9, 2017, read first time and referred to Committee on Pensions and Labor.



Digest Continued

determined by the committee applies to any contract which the board lets not later than three months after the date the committee determines the rate of wages. Requires the committee to make and file the determination with the board at least two weeks before the date fixed for the letting of the project. If the committee fails to act, requires the board letting the contract to make the determination, which is final. Requires a contractor or subcontractor to file with the political subdivision before performing any work on the project a schedule of the wages to be paid to the workers on the project, which may not be less than the wage scale determined by the committee. Provides that a contractor or subcontractor that knowingly fails to pay the rate of wages determined by the committee commits a Class B misdemeanor, and if the contractor or subcontractor has committed a prior offense, the contract on which the subsequent offense occurs is forfeited, and the contractor or subcontractor may not receive any further payment on the contract. Provides that a person who is a party to a public work contract, or an officer or employee of a political subdivision, who knowingly artificially divides a public work project into two or more projects to avoid paying a common construction wage commits a Class A infraction and the person may not be a party to, or benefit from, a public work contract for two years after the date the violation is adjudicated.



First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE BILL No. 176

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 35-52-36-0.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2017]: **Sec. 0.5. IC 36-1-12.2-13 defines a**
4 **crime concerning common construction wage.**

5 SECTION 2. IC 36-1-12.2 IS ADDED TO THE INDIANA CODE
6 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2017]:

8 **Chapter 12.2. Common Construction Wage**
9 **Sec. 1. (a) This chapter applies to a political subdivision if the**
10 **legislative body of the political subdivision adopts an ordinance**
11 **that requires the political subdivision to comply with this chapter**
12 **when awarding a contract for a public work.**

13 **(b) This chapter does not apply to the following:**
14 **(1) A project in which the actual construction costs are less**
15 **than three hundred fifty thousand dollars (\$350,000).**
16 **(2) A project that would otherwise be subject to this chapter**
17 **that is paid for in whole or in part with funds granted by the**



1 federal government unless the department of the federal
 2 government making the grant agrees in writing that this
 3 chapter applies to the project.

4 (3) Except as provided in IC 5-23, a person that has entered
 5 into an operating agreement with a political subdivision for
 6 the management or operation of a public facility under
 7 IC 5-23.

8 Sec. 2. The definitions in IC 36-1-12 apply throughout this
 9 chapter.

10 Sec. 3. As used in this chapter, "committee" refers to the
 11 common construction wage committee described in section 6(a) of
 12 this chapter.

13 Sec. 4. As used in this chapter, "common construction wage"
 14 means a scale of wages for each class of work (as described in
 15 section 6(b) of this chapter) that is not less than the common
 16 construction wage of all construction wages being paid in the
 17 political subdivision where a public work project is located as
 18 determined by the committee.

19 Sec. 5. A person that is awarded a contract by a political
 20 subdivision for a public work, including a subcontractor for a
 21 project, shall pay for each class of work (as described in section
 22 6(b) of this chapter) on the project a scale of wages that may not be
 23 less than the common construction wage.

24 Sec. 6. (a) To determine the common construction wage for the
 25 political subdivision, the board, before advertising for a public
 26 work contract, shall set up a committee of five (5) members as
 27 follows:

28 (1) One (1) individual representing labor to be named by the
 29 president of the state federation of labor.

30 (2) One (1) individual representing industry to be named by
 31 the board.

32 (3) One (1) individual to be named by the state president of
 33 the Associated Builders and Contractors.

34 (4) One (1) taxpayer who pays the tax that is the funding
 35 source for the project and resides in the political subdivision
 36 where the project is located. The owner of the project
 37 appoints this individual.

38 (5) One (1) taxpayer who pays the tax that is the funding
 39 source for the project and resides in the political subdivision
 40 where the project is located. The legislative body for the
 41 political subdivision where the project is located appoints this
 42 individual.

43 (b) As soon as possible after the members are appointed, the



1 committee shall meet in the political subdivision where the project
2 is located and determine in writing the following:

3 (1) A classification of the labor to be employed in the
4 performance of the contract for the project, divided into the
5 following three (3) classes:

6 (A) Skilled labor.

7 (B) Semiskilled labor.

8 (C) Unskilled labor.

9 (2) The wage per hour to be paid to each of the classes.

10 (c) Before making the determination under subsection (b), the
11 committee shall consider the following:

12 (1) Any reports with respect to wage scales submitted by the
13 Indiana State Building and Construction Trades Council.

14 (2) Any reports with respect to wage scales submitted by the
15 Associated Builders and Contractors of Indiana.

16 (3) Any other information submitted by any person to the
17 committee.

18 The committee is not required to consider information not
19 presented to the committee at the meeting.

20 (d) IC 5-14-1.5 applies to a meeting of the committee.

21 Sec. 7. (a) The rate of wages determined by the committee under
22 section 6 of this chapter applies to any contract which the board
23 lets not later than three (3) months after the date the committee
24 determines the rate of wages.

25 (b) The committee shall establish wages for all classifications of
26 work that may be employed on projects to be let by the board for
27 three (3) months after the date the committee determines the rate
28 of wages.

29 (c) If the board advertises for a contract that includes
30 classifications that are not listed on the existing wage scale, the
31 board shall form a new committee under section 6(a) of this
32 chapter to determine the classifications and wages on the contract.

33 (d) If the board lets a contract later than three (3) months after
34 the committee determines the rate of wages, the board shall form
35 a new committee under section 6(a) of this chapter to determine a
36 rate of wages for the contract. The rate of wages determined under
37 this subsection applies to any contract which the board lets not
38 later than three (3) months after the rate of wages is determined
39 under this subsection.

40 Sec. 8. The rate of wages determined under section 6 of this
41 chapter may not be less than the common construction wage for
42 each of the three (3) classes of labor described in section 6(b) of this
43 chapter that are currently being paid in the political subdivision



1 where the project is located.

2 **Sec. 9. (a)** A determination under section 6 of this chapter must
3 be made and filed with the board at least two (2) weeks before the
4 date fixed for the letting of the project.

5 **(b)** A copy of the determination must be furnished upon request
6 to any person desiring to bid on the contract.

7 **(c)** The determination must be available for public inspection.

8 **Sec. 10.** If the committee appointed under section 6(a) of this
9 chapter fails to act and to file a determination under section 9(a) of
10 this chapter on or before the time required under section 9(a) of
11 this chapter, the board letting the public work contract shall make
12 the determination, which is final.

13 **Sec. 11.** A condition of a contract awarded with a common
14 construction wage determination is that the successful bidder and
15 all subcontractors shall strictly comply with the determination.

16 **Sec. 12. (a)** A political subdivision letting a contract to which
17 this chapter applies shall require a contractor or subcontractor
18 performing any work under the contract to file with the political
19 subdivision a schedule of the wages to be paid to the laborers,
20 workers, and mechanics working on the project.

21 **(b)** The schedule described in subsection (a) must be filed before
22 any work is performed on the project by the contractor or
23 subcontractor.

24 **(c)** The schedule described in subsection (a) may not be less than
25 the wage scale determined by the committee under section 6 of this
26 chapter.

27 **(d)** This chapter does not prevent a contractor or subcontractor
28 from paying a higher rate of wages than the wages set out in the
29 schedule of wages determined by the committee under section 6 of
30 this chapter.

31 **Sec. 13. (a)** A contractor or subcontractor that knowingly fails
32 to pay the rate of wages determined under this chapter commits a
33 Class B misdemeanor.

34 **(b)** If the contractor or subcontractor has committed a prior
35 offense under this section, the contract on which the subsequent
36 offense occurs is forfeited, and the contractor or subcontractor
37 may not receive any further payment on the contract. The political
38 subdivision may not make any further payments on the contract
39 from any funds under the political subdivision's control.

40 **Sec. 14. (a)** A public work project may not be artificially divided
41 into two (2) or more projects to avoid the application of this
42 chapter.

43 **(b)** A person who is a party to a public work contract who



1 **knowingly violates this section commits a Class A infraction and**
2 **may not be a party to, or benefit from, a public work contract for**
3 **two (2) years after the date the violation is adjudicated.**
4 **(c) An officer or employee of a political subdivision who**
5 **knowingly violates this section commits a Class A infraction.**

