

January 29, 1998

HOUSE BILL No. 1277

DIGEST OF HB1277 (Updated January 28, 1998 11:35 am - DI 96)

Citations Affected: IC 5-16-7.

Synopsis: Common construction wage. Requires the committee that determines the common construction wage to determine a classification and subclassification of the trades or crafts of labor to be employed on the project. Requires the committee to make wage determinations based on information presented at a public meeting. Redefines common construction wage. Requires the department of labor to adopt rules for the implementation of the common construction wage law.

Effective: July 1, 1998.

Liggett

January 13, 1998, read first time and referred to Committee on Labor and Employment.
January 28, 1998, reported — Do Pass.

HB 1277—LS 7255/DI 94



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January 29, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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HOUSE BILL No. 1277

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 5-16-7-1, AS AMENDED BY P.L.81-1995,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 1. (a) Any firm, individual, partnership, limited
4 liability company, or corporation that is awarded a contract by the state,
5 a political subdivision, or a municipal corporation for the construction
6 of a public work, and any subcontractor of the construction, shall pay
7 for each class of work described in subsection (c)(1) on the project a
8 scale of wages that may not be less than the common construction
9 wage.
10 (b) For the purpose of ascertaining what the common construction
11 wage is in the county, the awarding governmental agency, before
12 advertising for the contract, shall set up a committee of five (5) persons
13 as follows:
14 (1) One (1) person representing labor, to be named by the
15 president of the state federation of labor.
16 (2) One (1) person representing industry, to be named by the
17 awarding agency.

HB 1277—LS 7255/DI 94



- 1 (3) A third member to be named by the governor.
- 2 (4) One (1) taxpayer who pays the tax that will be the funding
- 3 source for the project and resides in the county where the project
- 4 is located. The owner of the project shall make the appointment
- 5 under this subdivision.
- 6 (5) One (1) taxpayer who pays the tax that will be the funding
- 7 source for the project and resides in the county where the project
- 8 is located. The legislative body (as defined in IC 36-1-2-9) for the
- 9 county where the project is located shall make the appointment
- 10 under this subdivision.
- 11 (c) As soon as appointed, the committee shall meet in the county
- 12 where the project is located and determine in writing the following:
- 13 (1) A classification of the **trades or crafts of** labor to be
- 14 employed in the performance of the contract for the project,
- 15 **including, to the extent appropriate for the project, asbestos**
- 16 **workers or insulators, boilermakers, bricklayers or masons,**
- 17 **carpenters, cement workers or masons, electricians, glaziers,**
- 18 **masonry workers, laborers, millwrights, equipment operators,**
- 19 **painters, pipe fitters, plasterers, plumbers, roofers,**
- 20 **waterproofers, sheet metal workers, sprinkler fitters, carpet**
- 21 **layers, drywall finishers, drywall installers, elevator**
- 22 **constructors, hod carriers, rod workers, rod men, iron**
- 23 **workers, paperhangers, pile drivers, pointers, cleaners,**
- 24 **caulkers, stone masons, sound and communications workers,**
- 25 **technical engineers, layout engineers, instrument engineers,**
- 26 **dynamite workers, terrazzo setters, terrazzo finishers, tile**
- 27 **setters, tile finishers, teamsters, and other traditional**
- 28 **classifications. Each trade or craft shall be divided into the**
- 29 **following three (3) classes: subclasses:**
- 30 (A) Skilled labor, **including journeymen and field**
- 31 **supervisors.**
- 32 (B) Semiskilled labor, **including apprentices who have at**
- 33 **least one (1) year of experience in a trade.**
- 34 (C) Unskilled labor, **including apprentices who have less**
- 35 **than one (1) year of experience in a trade.**
- 36 (2) The wage per hour to be paid each of the ~~classes:~~ **trade or**
- 37 **craft and each subclass.**
- 38 The committee is ~~not~~ required to ~~consider~~ **make determinations based**
- 39 **on** information ~~not~~ presented to the committee at the meeting.
- 40 IC 5-14-1.5 (open door law) applies to a meeting of the committee.
- 41 (d) The rate of wages determined under subsection (c) shall not be
- 42 less than the common construction wage for each **trade or craft and**

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1 **each** of the three (3) ~~classes~~ **subclasses** of wages described in
 2 subsection (c) that are currently being paid in the county where the
 3 project is located.

4 (e) The provisions of this chapter shall not apply to contracts let by
 5 the Indiana department of transportation for the construction of
 6 highways, streets, and bridges. IC 8-23-9 applies to state highway
 7 projects.

8 (f) A determination under subsection (c) shall be made and filed
 9 with the awarding agency at least two (2) weeks prior to the date fixed
 10 for the letting, and a copy of the determination shall be furnished upon
 11 request to any person desiring to bid on the contract. The schedule is
 12 open to the inspection of the public.

13 (g) If the committee appointed under subsection (b) fails to act and
 14 to file a determination under subsection (c) at or before the time
 15 required under subsection (f), the awarding agency shall make the
 16 determination, and its finding shall be final.

17 (h) It shall be a condition of a contract awarded under this chapter
 18 that the successful bidder and all subcontractors shall comply strictly
 19 with the determination made under this section.

20 (i) The provisions of this chapter do not apply to public projects in
 21 this state that would otherwise be subject to the provisions of this
 22 chapter that are to be paid for in whole or in part with funds granted by
 23 the federal government, unless the department of the federal
 24 government making the grant shall consent in writing that the
 25 provisions of this chapter are applicable to the project.

26 (j) Notwithstanding any other law, the provisions of this chapter
 27 apply to projects that will be:

- 28 (1) owned entirely; or
- 29 (2) leased with an option to purchase;

30 by the state or a political subdivision (as defined in IC 36-1-2-13).

31 (k) Notwithstanding any other law, this chapter does not apply to
 32 projects in which the actual construction costs less than one hundred
 33 fifty thousand dollars (\$150,000).

34 **(l) When a common wage is required, the committee appointed**
 35 **for the project under subsection (b) shall meet at a set time and at**
 36 **a designated public place each week.**

37 SECTION 2. IC 5-16-7-4, AS AMENDED BY P.L.81-1995,
 38 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 1998]: Sec. 4. The definitions in this section apply throughout
 40 this chapter:

- 41 (1) "Common construction wage" means a scale of wages for each
 42 ~~class of work~~ **trade or craft and each subclass** as described in

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1 section 1(c)(1) of this chapter that is ~~not less than the common~~
 2 **construction representative of the most frequently paid** wage
 3 of all construction wages being paid in the county where a project
 4 is located **for similar types of construction**, as determined by the
 5 committee described in section 1(b) of this chapter ~~after having~~
 6 ~~considered:~~ **based on the evidence of the following:**

7 (A) Reports ~~from or survey data gathered by~~ the department
 8 of workforce development. ~~and (B)~~

9 **(B) Current wages payable to workers under the terms of**
 10 **applicable collective bargaining agreements between bona**
 11 **fide organizations of labor and employees that apply or**
 12 **pertain to the county in which the public work is to be**
 13 **situated.**

14 (C) Any other information submitted by any person to the
 15 committee established under section 1(b) of this chapter.

16 **The determined scale of wages must include costs incurred or**
 17 **reasonably anticipated in providing benefits to workers for**
 18 **training and apprenticeships or other similar programs,**
 19 **medical care, hospital care, and pension benefits. However,**
 20 **this chapter does not require the purchase of or participation**
 21 **in a particular health insurance plan, pension plan, or benefits**
 22 **plan.**

23 (2) "State of Indiana" includes any officer, board, commission, or
 24 other agency authorized by law to award contracts for the
 25 performance of public work on behalf of the state, excepting as
 26 otherwise provided in this chapter.

27 (3) "Municipal corporation" includes any county, city, town, or
 28 school corporation, as well as any officer, board, commission, or
 29 other agency authorized by law to award contracts for the
 30 performance of public work on behalf of any such municipal
 31 corporation. The term also includes a redevelopment commission
 32 established under IC 36-7-14-3.

33 (4) "Public work" includes any public building, highway, street,
 34 alley, bridge, sewer, drain, improvement, or any other work of any
 35 nature or character whatsoever which is paid for out of public
 36 funds, excepting as otherwise provided in this chapter.

37 SECTION 3. IC 5-16-7-6 IS ADDED TO THE INDIANA CODE
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 39 1, 1998]: **Sec. 6. The department of labor shall adopt rules under**
 40 **IC 4-22-2 to implement this chapter.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1277, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LIGGETT, Chair

Committee Vote: yeas 8, nays 5.

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