



March 24, 1999

**ENGROSSED
SENATE BILL No. 486**

DIGEST OF SB486 (Updated February 18, 1999 2:48 pm - DI 84)

Citations Affected: IC 4-13.5; IC 4-13.6; IC 4-20.5; IC 4-21.5.

Synopsis: Various administrative matters. Provides that a certificate of qualification for a contractor or a person performing professional services on a state public works project expires 27 months after the date of issuance. (Under current law, a certificate expires 15 months after issuance.) Requires a person that holds a certificate of qualification to notify the certification board of any material changes in information supplied in the application submitted to the board. Provides that energy cost savings contracts entered into by the state are administered by the Indiana department of administration rather than state agencies that occupy the facilities that benefit from the contracts.
(Continued next page)

Effective: July 1, 1999.

Meeks R, Washington, Craycraft

(HOUSE SPONSORS — HASLER, SCHOLER)

January 19, 1999, read first time and referred to Committee on Governmental and Regulatory Affairs.

February 11, 1999, reported favorably — Do Pass.

February 15, 1999, read second time, amended, ordered engrossed.

February 16, 1999, engrossed.

February 18, 1999, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 3, 1999, read first time and referred to Committee on Commerce and Economic Development.

March 23, 1999, reported — Do Pass.

ES 486—LS 6832/DI 75+



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Digest Continued

Provides that the rules adopted by the Indiana department of administration relating to enforcement of the department's traffic rules must include an administrative appeals process. Provides that the administrative adjudication act does not apply to the administrative appeals process for enforcement of the department's traffic rules. Provides that a person aggrieved by the imposition of a civil penalty for violation of the department's traffic rules may appeal to a court of jurisdiction. Provides that the attorney general may file an appropriate action to enforce imposition of a civil penalty for a traffic violation. Repeals superseded energy efficiency contract statutes.

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March 24, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED SENATE BILL No. 486

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

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

1 SECTION 1. IC 4-13.5-1.5-10.5 IS ADDED TO THE INDIANA
2 CODE AS A NEW SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 1999]: **Sec. 10.5. As used in this chapter,**
4 **"energy cost savings contract" has the meaning set forth in**
5 **IC 4-13.6-8-2.**

6 SECTION 2. IC 4-13.5-1.5-10.6 IS ADDED TO THE INDIANA
7 CODE AS A NEW SECTION TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 1999]: **Sec. 10.6. As used in this chapter,**
9 **"governmental body" has the meaning set forth in IC 4-13.6-1-9.**

10 SECTION 3. IC 4-13.5-1.5-10.7 IS ADDED TO THE INDIANA
11 CODE AS A NEW SECTION TO READ AS FOLLOWS
12 [EFFECTIVE JULY 1, 1999]: **Sec. 10.7. As used in this chapter,**
13 **"qualified energy savings project" has the meaning set forth in**
14 **IC 4-13.6-8-3.**

15 SECTION 4. IC 4-13.5-1.5-10.8 IS ADDED TO THE INDIANA
16 CODE AS A NEW SECTION TO READ AS FOLLOWS

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1 [EFFECTIVE JULY 1, 1999]: **Sec. 10.8. As used in this chapter,**
 2 **"qualified provider" has the meaning set forth in IC 4-13.6-8-4.**

3 SECTION 5. IC 4-13.5-1.5-14 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. The amount of state
 5 appropriations available to a ~~state institution~~ **governmental body** may
 6 not be reduced because of energy cost savings and operational cost
 7 savings realized from a qualified energy savings project and an energy
 8 cost savings contract.

9 SECTION 6. IC 4-13.5-1.5-16 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. The general
 11 assembly finds that ~~the state needs~~ **governmental bodies need** to save
 12 energy ~~at state institutions~~ and authorizes the commission to enter into
 13 energy cost savings contracts with qualified providers under this article
 14 **and IC 4-13.6-8.**

15 SECTION 7. IC 4-13.6-4-4 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) If after its
 17 examination, the board finds that an applicant possesses the
 18 qualifications prescribed by this chapter and by its rules, the board
 19 shall issue the applicant a certificate of qualification. A certificate of
 20 qualification issued under this chapter is valid for a period of ~~fifteen~~
 21 ~~(15)~~ **twenty-seven (27)** months from the date of its issuance, unless
 22 revoked by the board for cause.

23 (b) Except for restrictions as to the amount or class of work or
 24 services that the board may place in the certificate, the certificate of
 25 qualification authorizes a contractor to bid on all proposed public
 26 works contracts and authorizes a person offering to perform
 27 professional services to perform those services.

28 **(c) A person that holds a certificate of qualification shall notify**
 29 **the board of any material changes in information in the application**
 30 **submitted to the board.**

31 ~~(c)~~ **(d)** The board may revoke a certificate of qualification after it
 32 notifies the holder of the certificate and provides the holder with an
 33 opportunity to be heard on the proposed revocation. The notice must be
 34 in writing and must state the grounds of the proposed revocation.

35 SECTION 8. IC 4-13.6-8 IS ADDED TO THE INDIANA CODE
 36 AS A **NEW CHAPTER** TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 1999]:

38 **Chapter 8. Energy Cost Savings Contracts**

39 **Sec. 1. As used in this chapter, "commission" refers to the state**
 40 **office building commission established by IC 4-13.5-1-1.5.**

41 **Sec. 2. As used in this chapter, "energy cost savings contract"**
 42 **means a contract between:**



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1 (1) the state or the commission; and
 2 (2) a qualified provider;
 3 for the implementation of at least one (1) qualified energy savings
 4 project and related measures for a governmental body.

5 **Sec. 3.** As used in this chapter, "qualified energy savings
 6 project" means a facility alteration designed to reduce energy
 7 consumption costs or other operating costs. The term includes the
 8 following:

9 (1) Providing insulation of the facility and systems within the
 10 facility.

11 (2) Installing or providing for window and door systems,
 12 including:

13 (A) storm windows and storm doors;

14 (B) caulking or weatherstripping;

15 (C) multi-glazed windows and doors;

16 (D) heat absorbing or heat reflective glazed and coated
 17 windows and doors;

18 (E) additional glazing;

19 (F) reduction in glass area; and

20 (G) other modifications that reduce energy consumption.

21 (3) Installing automatic energy control systems.

22 (4) Modifying or replacing heating, ventilating, or air
 23 conditioning systems.

24 (5) Unless an increase in illumination is necessary to conform
 25 to Indiana laws or rules or local ordinances, modifying or
 26 replacing lighting fixtures to increase the energy efficiency of
 27 the lighting system without increasing the overall illumination
 28 of a facility.

29 (6) Providing for other measures that reduce energy
 30 consumption or reduce operating costs.

31 **Sec. 4.** As used in this chapter, "qualified provider" means a
 32 person or business experienced in the design, implementation, and
 33 installation of energy and operational cost savings systems.

34 **Sec. 5.** (a) At the request of a governmental body, the
 35 department, in consultation with the governmental body, may do
 36 the following:

37 (1) Solicit proposals from qualified providers for an energy
 38 cost savings contract.

39 (2) Review proposals and contract with a qualified provider.

40 (b) An energy cost savings contract may cover more than one (1)
 41 governmental body.

42 **Sec. 6.** An energy cost savings contract may do any of the

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1 following:

2 (1) Provide that energy cost savings are guaranteed by the
3 qualified provider to the extent necessary to make payments
4 for the qualified energy savings project.

5 (2) Include contracts for building operation programs,
6 maintenance, and management or similar agreements with
7 the qualified provider to reduce energy or operational costs.

8 Sec. 7. (a) After reviewing the proposals submitted and after
9 receiving a recommendation from the budget committee, the
10 department may approve an energy cost savings contract with a
11 qualified provider that best meets the needs of the governmental
12 body if the department reasonably expects the cost of the qualified
13 energy savings project recommended in the proposal would not
14 exceed the amount to be saved in:

15 (1) energy costs;

16 (2) operational costs; or

17 (3) both energy and operational costs;

18 not later than ten (10) years after the date installation is completed
19 if the recommendations in the proposal are followed.

20 (b) An energy cost savings contract must include a guarantee
21 from the qualified provider to the state that:

22 (1) energy cost savings;

23 (2) operational cost savings; or

24 (3) both energy and operational cost savings;

25 will meet or exceed the cost of the qualified energy project not later
26 than ten (10) years after the date installation is completed.

27 Sec. 8. (a) An agreement or a contract under this chapter is
28 subject to IC 5-16-7.

29 (b) The contractor and each subcontractor engaged in installing
30 energy conservation measures under a guaranteed energy savings
31 contract shall keep full and accurate records indicating the names,
32 classifications, and work performed by each worker employed by
33 the respective contractor and subcontractor in connection with the
34 work and an accurate record of the number of hours worked by
35 each worker and the actual wages paid.

36 (c) The payroll records required to be kept under this section
37 must be open to inspection by an authorized representative of the
38 department and the department of labor.

39 Sec. 9. The amount of state appropriations available to a
40 governmental body may not be reduced because of energy cost
41 savings and operational cost savings realized from a qualified
42 energy savings project and an energy cost savings contract.



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1 **Sec. 10. The department may recommend to the governor that**
 2 **an energy cost savings contract be entered into by the state office**
 3 **building commission under IC 4-13.5-1.5.**

4 SECTION 9. IC 4-20.5-6-8 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The
 6 commissioner may regulate:

7 (1) the traffic and parking of motor vehicles, bicycles, or other
 8 vehicles; and

9 (2) the traffic of pedestrians;

10 on the streets, roads, paths, and grounds of real property controlled by
 11 the state through the department of administration in and around the
 12 state capitol, office buildings, parking garages, and adjoining state
 13 controlled property.

14 (b) Rules adopted under subsection (a) may include the following:

15 (1) Provisions governing the registration, speed, weight,
 16 operation, parking, times, places, and use of motor vehicles,
 17 bicycles, and other vehicles.

18 (2) Provisions governing the traffic of pedestrians.

19 (3) Provisions prescribing the assessment and collection of **civil**
 20 penalties for the violation of rules adopted by the commissioner.

21 Penalties may include the following:

22 (A) The imposition of reasonable charges.

23 (B) The removal and impounding (at the expense of the
 24 violator) of vehicles that are operated or parked in violation of
 25 rules adopted by the commissioner.

26 (C) The denial of permission to operate a vehicle on the
 27 property in and around the state capitol building, office
 28 buildings, parking garages, and adjoining state controlled
 29 property.

30 **(c) Rules adopted under this section must include provisions for**
 31 **an administrative appeal when a civil penalty is imposed under the**
 32 **rules. A person aggrieved by a final disposition of an appeal by the**
 33 **department may appeal the disposition to a court of jurisdiction.**
 34 **The attorney general may enforce a civil penalty imposed under**
 35 **this section by filing an appropriate action in a court of**
 36 **jurisdiction.**

37 ~~(e)~~ (d) This section does not limit or restrict the powers of any other
 38 governmental authority having jurisdiction over public streets, roads,
 39 alleys, or ways.

40 SECTION 10. IC 4-21.5-2-5 IS AMENDED TO READ AS
 41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. This article does not
 42 apply to the following agency actions:



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- 1 (1) The issuance of a warrant or jeopardy warrant for the
2 collection of taxes.
- 3 (2) A determination of probable cause or no probable cause by the
4 civil rights commission.
- 5 (3) A determination in a factfinding conference of the civil rights
6 commission.
- 7 (4) A personnel action, except review of a personnel action by the
8 state employees appeals commission under IC 4-15-2 or a
9 personnel action that is not covered by IC 4-15-2 but may be
10 taken only for cause.
- 11 (5) A resolution, directive, or other action of any agency that
12 relates solely to the internal policy, organization, or procedure of
13 that agency or another agency and is not a licensing or
14 enforcement action. Actions to which this exemption applies
15 include the statutory obligations of an agency to approve or ratify
16 an action of another agency.
- 17 (6) An agency action related to an offender within the jurisdiction
18 of the department of correction.
- 19 (7) A decision of the department of commerce, the department of
20 environmental management, the enterprise zone board, the tourist
21 information and grant fund review committee, the Indiana
22 development finance authority, the Indiana business
23 modernization and technology corporation, the corporation for
24 innovation development, the Indiana small business development
25 corporation, or the lieutenant governor that concerns a grant, loan,
26 bond, tax incentive, or financial guarantee.
- 27 (8) A decision to issue or not issue a complaint, summons, or
28 similar accusation.
- 29 (9) A decision to initiate or not initiate an inspection,
30 investigation, or other similar inquiry that will be conducted by
31 the agency, another agency, a political subdivision, including a
32 prosecuting attorney, a court, or another person.
- 33 (10) A decision concerning the conduct of an inspection,
34 investigation, or other similar inquiry by an agency.
- 35 (11) The acquisition, leasing, or disposition of property or
36 procurement of goods or services by contract.
- 37 (12) Determinations of the department of workforce development
38 under IC 22-4-18-1(g)(1), IC 22-4-40, or IC 22-4-41.
- 39 (13) A decision under IC 9-30-12 of the bureau of motor vehicles
40 to suspend or revoke the driver's license, a driver's permit, a
41 vehicle title, or a vehicle registration of an individual who
42 presents a dishonored check.

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1 (14) An action of the department of financial institutions under
2 IC 28-1-3.1 or a decision of the department of financial
3 institutions to act under IC 28-1-3.1.
4 (15) A determination by the NVRA official under IC 3-7-11
5 concerning an alleged violation of the National Voter Registration
6 Act of 1993 (42 U.S.C. 1973gg) or IC 3-7.
7 **(16) Imposition of a civil penalty under IC 4-20.5-6-8 if the**
8 **rules of the Indiana department of administration provide an**
9 **administrative appeals process.**
10 SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE
11 JULY 1, 1999]: IC 4-13.5-1.5-1; IC 4-13.5-1.5-2; IC 4-13.5-1.5-3;
12 IC 4-13.5-1.5-4; IC 4-13.5-1.5-5; IC 4-13.5-1.5-6; IC 4-13.5-1.5-7;
13 IC 4-13.5-1.5-8; IC 4-13.5-1.5-9; IC 4-13.5-1.5-10.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Governmental and Regulatory Affairs, to which was referred Senate Bill No. 486, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 486 as introduced.)

MERRITT, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Mr. President: I move that Senator Washington be added as
coauthor of Senate Bill 486.

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SENATE MOTION

Mr. President: I move that Senate Bill 486 be amended to read as follows:

Between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-13.5-1.5-10.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 1999]: **Sec. 10.5. As used in this chapter, "energy cost savings contract" has the meaning set forth in IC 4-13.6-8-2.**

SECTION 2. IC 4-13.5-1.5-10.6 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 1999]: **Sec. 10.6. As used in this chapter, "governmental body" has the meaning set forth in IC 4-13.6-1-9.**

SECTION 3. IC 4-13.5-1.5-10.7 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 1999]: **Sec. 10.7. As used in this chapter, "qualified energy savings project" has the meaning set forth in IC 4-13.6-8-3.**

SECTION 4. IC 4-13.5-1.5-10.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 1999]: **Sec. 10.8. As used in this chapter, "qualified provider" has the meaning set forth in IC 4-13.6-8-4.**

SECTION 5. IC 4-13.5-1.5-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 14. The amount of state appropriations available to a ~~state institution~~ **governmental body** may not be reduced because of energy cost savings and operational cost savings realized from a qualified energy savings project and an energy cost savings contract.

SECTION 6. IC 4-13.5-1.5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. The general assembly finds that ~~the state needs~~ **governmental bodies need** to save energy ~~at state institutions~~ and authorizes the commission to enter into energy cost savings contracts with qualified providers under this article **and IC 4-13.6-8."**

Re-number all SECTIONS consecutively.

(Reference is to SB 486 as printed February 12, 1999.)

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SENATE MOTION

Mr. President: I move that Senator Craycraft be added as coauthor of Senate Bill 486.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Commerce and Economic Development, to which was referred Senate Bill 486, 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.

BOTTORFF, Chair

Committee Vote: yeas 11, nays 0.

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