



January 29, 1999

HOUSE BILL No. 1509

DIGEST OF HB1509 (Updated January 27, 1999 11:23 am - DI 69)

Citations Affected: 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. Provides that the rules adopted by the Indiana department of administration relating to enforcement of the department's traffic rules
(Continued next page)

Effective: July 1, 1999.

Hasler

January 19, 1999, read first time and referred to Committee on Environmental Affairs.
January 28, 1999, reported — Do Pass.

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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 Repeals superseded energy efficiency contract statutes.

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January 29, 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.

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HOUSE BILL No. 1509

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 4-13.6-4-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) If, after its
3 examination, the board finds that an applicant possesses the
4 qualifications prescribed by this chapter and by its rules, the board
5 shall issue the applicant a certificate of qualification. A certificate of
6 qualification issued under this chapter is valid for a period of ~~fifteen~~
7 **(15) twenty-seven (27)** months from the date of its issuance, unless
8 revoked by the board for cause.
- 9 (b) Except for restrictions as to the amount or class of work or
10 services that the board may place in the certificate, the certificate of
11 qualification authorizes a contractor to bid on all proposed public
12 works contracts and authorizes a person offering to perform
13 professional services to perform those services.
- 14 (c) **A person that holds a certificate of qualification shall notify**
15 **the board of any material changes in information in the application**

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1 **submitted to the board.**

2 (c) (d) The board may revoke a certificate of qualification after it
3 notifies the holder of the certificate and provides the holder with an
4 opportunity to be heard on the proposed revocation. The notice must be
5 in writing and must state the grounds of the proposed revocation.

6 SECTION 2. IC 4-13.6-8 IS ADDED TO THE INDIANA CODE
7 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 1999]:

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

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

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

- 14 (1) the state or the commission; and
15 (2) a qualified provider;

16 for the implementation of at least one (1) qualified energy savings
17 project and related measures for a governmental body.

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

- 22 (1) Providing insulation of the facility and systems within the
23 facility.
24 (2) Installing or providing for window and door systems,
25 including:
26 (A) storm windows and storm doors;
27 (B) caulking or weatherstripping;
28 (C) multi-glazed windows and doors;
29 (D) heat absorbing or heat reflective glazed and coated
30 windows and doors;
31 (E) additional glazing;
32 (F) reduction in glass area; and
33 (G) other modifications that reduce energy consumption.
34 (3) Installing automatic energy control systems.
35 (4) Modifying or replacing heating, ventilating, or air
36 conditioning systems.
37 (5) Unless an increase in illumination is necessary to conform
38 to Indiana laws or rules or local ordinances, modifying or
39 replacing lighting fixtures to increase the energy efficiency of
40 the lighting system without increasing the overall illumination
41 of a facility.
42 (6) Providing for other measures that reduce energy



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1 consumption or reduce operating costs.

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

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

8 (1) Solicit proposals from qualified providers for an energy
9 cost savings contract.

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

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

13 **Sec. 6.** An energy cost savings contract may do any of the
14 following:

15 (1) Provide that energy cost savings are guaranteed by the
16 qualified provider to the extent necessary to make payments
17 for the qualified energy savings project.

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

21 **Sec. 7. (a)** After reviewing the proposals submitted and after
22 receiving a recommendation from the budget committee, the
23 department may approve an energy cost savings contract with a
24 qualified provider that best meets the needs of the governmental
25 body if the department reasonably expects the cost of the qualified
26 energy savings project recommended in the proposal would not
27 exceed the amount to be saved in:

28 (1) energy costs;

29 (2) operational costs; or

30 (3) both energy and operational costs;

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

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

35 (1) energy cost savings;

36 (2) operational cost savings; or

37 (3) both energy and operational cost savings;

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

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

42 (b) The contractor and each subcontractor engaged in installing

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1 energy conservation measures under a guaranteed energy savings
 2 contract shall keep full and accurate records indicating the names,
 3 classifications, and work performed by each worker employed by
 4 the respective contractor and subcontractor in connection with the
 5 work and an accurate record of the number of hours worked by
 6 each worker and the actual wages paid.

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

10 **Sec. 9. The amount of state appropriations available to a**
 11 **governmental body may not be reduced because of energy cost**
 12 **savings and operational cost savings realized from a qualified**
 13 **energy savings project and an energy cost savings contract.**

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

17 SECTION 3. IC 4-20.5-6-8 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 8. (a) The
 19 commissioner may regulate:

- 20 (1) the traffic and parking of motor vehicles, bicycles, or other
 21 vehicles; and
 22 (2) the traffic of pedestrians;

23 on the streets, roads, paths, and grounds of real property controlled by
 24 the state through the department of administration in and around the
 25 state capitol, office buildings, parking garages, and adjoining state
 26 controlled property.

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

- 28 (1) Provisions governing the registration, speed, weight,
 29 operation, parking, times, places, and use of motor vehicles,
 30 bicycles, and other vehicles.

31 (2) Provisions governing the traffic of pedestrians.

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

34 Penalties may include the following:

35 (A) The imposition of reasonable charges.

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

39 (C) The denial of permission to operate a vehicle on the
 40 property in and around the state capitol building, office
 41 buildings, parking garages, and adjoining state controlled
 42 property.



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1 **(c) Rules adopted under this section must include provisions for**
 2 **an administrative appeal when a civil penalty is imposed under the**
 3 **rules. A person aggrieved by a final disposition of an appeal by the**
 4 **department may appeal the disposition to a court of jurisdiction.**
 5 **The attorney general may enforce a civil penalty imposed under**
 6 **this section by filing an appropriate action in a court of**
 7 **jurisdiction.**

8 ~~(c)~~ **(d)** This section does not limit or restrict the powers of any other
 9 governmental authority having jurisdiction over public streets, roads,
 10 alleys, or ways.

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

14 (1) The issuance of a warrant or jeopardy warrant for the
 15 collection of taxes.

16 (2) A determination of probable cause or no probable cause by the
 17 civil rights commission.

18 (3) A determination in a factfinding conference of the civil rights
 19 commission.

20 (4) A personnel action, except review of a personnel action by the
 21 state employees appeals commission under IC 4-15-2 or a
 22 personnel action that is not covered by IC 4-15-2 but may be
 23 taken only for cause.

24 (5) A resolution, directive, or other action of any agency that
 25 relates solely to the internal policy, organization, or procedure of
 26 that agency or another agency and is not a licensing or
 27 enforcement action. Actions to which this exemption applies
 28 include the statutory obligations of an agency to approve or ratify
 29 an action of another agency.

30 (6) An agency action related to an offender within the jurisdiction
 31 of the department of correction.

32 (7) A decision of the department of commerce, the department of
 33 environmental management, the enterprise zone board, the tourist
 34 information and grant fund review committee, the Indiana
 35 development finance authority, the Indiana business
 36 modernization and technology corporation, the corporation for
 37 innovation development, the Indiana small business development
 38 corporation, or the lieutenant governor that concerns a grant, loan,
 39 bond, tax incentive, or financial guarantee.

40 (8) A decision to issue or not issue a complaint, summons, or
 41 similar accusation.

42 (9) A decision to initiate or not initiate an inspection,

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- 1 investigation, or other similar inquiry that will be conducted by
- 2 the agency, another agency, a political subdivision, including a
- 3 prosecuting attorney, a court, or another person.
- 4 (10) A decision concerning the conduct of an inspection,
- 5 investigation, or other similar inquiry by an agency.
- 6 (11) The acquisition, leasing, or disposition of property or
- 7 procurement of goods or services by contract.
- 8 (12) Determinations of the department of workforce development
- 9 under IC 22-4-18-1(g)(1), IC 22-4-40, or IC 22-4-41.
- 10 (13) A decision under IC 9-30-12 of the bureau of motor vehicles
- 11 to suspend or revoke the driver's license, a driver's permit, a
- 12 vehicle title, or a vehicle registration of an individual who
- 13 presents a dishonored check.
- 14 (14) An action of the department of financial institutions under
- 15 IC 28-1-3.1 or a decision of the department of financial
- 16 institutions to act under IC 28-1-3.1.
- 17 (15) A determination by the NVRA official under IC 3-7-11
- 18 concerning an alleged violation of the National Voter Registration
- 19 Act of 1993 (42 U.S.C. 1973gg) or IC 3-7.
- 20 **(16) Imposition of a civil penalty under IC 4-20.5-6-8 if the**
- 21 **rules of the Indiana department of administration provide an**
- 22 **administrative appeals process.**
- 23 SECTION 5. THE FOLLOWING ARE REPEALED [EFFECTIVE
- 24 JULY 1, 1999]: IC 4-13.5-1.5-1; IC 4-13.5-1.5-2; IC 4-13.5-1.5-3;
- 25 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;
- 26 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. Speaker: Your Committee on Environmental Affairs, to which was referred House Bill 1509, 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.

STURTZ, Chair

Committee Vote: yeas 11, nays 0.

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