

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.

SENATE ENROLLED ACT No. 486

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

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

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

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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:

- (1) finds that ~~the state needs~~ **governmental bodies need** to save energy at ~~state institutions~~ **and reduce operating costs**; and
- (2) authorizes the commission to enter into energy cost savings contracts with qualified providers under this article **and IC 4-13.6-8.**

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

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

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

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

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

Chapter 8. Energy Cost Savings Contracts

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

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

- (1) the state or the commission; and**



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

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

- (1) Providing insulation of the facility and systems within the facility.
- (2) Installing or providing for window and door systems, including:
 - (A) storm windows and storm doors;
 - (B) caulking or weatherstripping;
 - (C) multi-glazed windows and doors;
 - (D) heat absorbing or heat reflective glazed and coated windows and doors;
 - (E) additional glazing;
 - (F) reduction in glass area; and
 - (G) other modifications that reduce energy consumption.
- (3) Installing automatic energy control systems.
- (4) Modifying or replacing heating, ventilating, or air conditioning systems.
- (5) Unless an increase in illumination is necessary to conform to Indiana laws or rules or local ordinances, modifying or replacing lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility.
- (6) Providing for other measures that reduce energy consumption or reduce operating costs.

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

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

- (1) Solicit proposals from qualified providers for an energy cost savings contract.
 - (2) Review proposals and contract with a qualified provider.
- (b) An energy cost savings contract may cover more than one (1) governmental body.

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



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

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

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

- (1) energy costs;
- (2) operational costs; or
- (3) both energy and operational costs;

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

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

- (1) energy cost savings;
- (2) operational cost savings; or
- (3) both energy and operational cost savings;

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

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

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

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

Sec. 9. The amount of state appropriations available to a 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.

Sec. 10. The department may recommend to the governor that

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an energy cost savings contract be entered into by the state office building commission under IC 4-13.5-1.5.

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

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

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

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

- (1) Provisions governing the registration, speed, weight, operation, parking, times, places, and use of motor vehicles, bicycles, and other vehicles.
- (2) Provisions governing the traffic of pedestrians.
- (3) Provisions prescribing the assessment and collection of **civil** penalties for the violation of rules adopted by the commissioner. Penalties may include the following:

- (A) The imposition of reasonable charges.
- (B) The removal and impounding (at the expense of the violator) of vehicles that are operated or parked in violation of rules adopted by the commissioner.
- (C) The denial of permission to operate a vehicle on the property in and around the state capitol building, office buildings, parking garages, and adjoining state controlled property.

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

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

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

- (1) The issuance of a warrant or jeopardy warrant for the

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collection of taxes.

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

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

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

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

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

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

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

(9) A decision to initiate or not initiate an inspection, investigation, or other similar inquiry that will be conducted by the agency, another agency, a political subdivision, including a prosecuting attorney, a court, or another person.

(10) A decision concerning the conduct of an inspection, investigation, or other similar inquiry by an agency.

(11) The acquisition, leasing, or disposition of property or procurement of goods or services by contract.

(12) Determinations of the department of workforce development under IC 22-4-18-1(g)(1), IC 22-4-40, or IC 22-4-41.

(13) A decision under IC 9-30-12 of the bureau of motor vehicles to suspend or revoke the driver's license, a driver's permit, a vehicle title, or a vehicle registration of an individual who presents a dishonored check.

(14) An action of the department of financial institutions under

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IC 28-1-3.1 or a decision of the department of financial institutions to act under IC 28-1-3.1.

(15) A determination by the NVRA official under IC 3-7-11 concerning an alleged violation of the National Voter Registration Act of 1993 (42 U.S.C. 1973gg) or IC 3-7.

(16) Imposition of a civil penalty under IC 4-20.5-6-8 if the rules of the Indiana department of administration provide an administrative appeals process.

SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 1999]: IC 4-13.5-1.5-1; IC 4-13.5-1.5-2; IC 4-13.5-1.5-3; 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; 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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