
HOUSE BILL No. 1164

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-22.

Synopsis: Review of privatization savings. Provides that a contract or the solicitation for a contract to privatize any of the functions currently performed by a governmental body's employees must: (1) require an offeror to provide verifiable evidence that the cost of the contract will be less than the cost of having the functions performed by the governmental body's employees; (2) specify that the governmental body may not pay the contractor more than the cost the contractor determined the governmental body would incur to perform the functions using its own employees; (3) require the governmental body to provide to an offeror an estimate of the cost of having the functions performed by the governmental body's employees; and (4) contain a statement that the governmental body may pursue certain remedies if the contractor fails to comply with the contract. Excludes from these requirements purchases from qualified nonprofit agencies for persons with severe disabilities.

Effective: July 1, 2003.

Dickinson

January 8, 2003, read first time and referred to Committee on Labor and Employment.

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First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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HOUSE BILL No. 1164



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 5-22-5-9 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2003]: **Sec. 9. (a) This section applies to a solicitation for a**
- 4 **contract that would require the contractor to perform any of a**
- 5 **governmental body's functions that are performed at the time of**
- 6 **the solicitation by the governmental body's employees. This section**
- 7 **does not apply to a purchase under IC 5-22-13.**
- 8 **(b) The solicitation must include the following:**
- 9 **(1) An estimate of the cost the governmental body would incur**
- 10 **if performing the functions covered by the contract with the**
- 11 **governmental body's employees during the period comprising**
- 12 **the term of the proposed contract. The estimate must include**
- 13 **labor, overhead, and other administrative costs.**
- 14 **(2) A requirement that the offeror must provide objective,**
- 15 **verifiable evidence that:**
- 16 **(A) is satisfactory to the governmental body; and**
- 17 **(B) demonstrates that if the offeror is awarded the**



- 1 contract, the cost of the contract over the term of the
 2 contract will be less than the amount described in
 3 subdivision (1).
- 4 **(3) A statement that the contract between the governmental**
 5 **body and the offeror must contain a provision that the**
 6 **governmental body may not pay to the offeror, over the term**
 7 **of the contract, more than the cost the offeror determined the**
 8 **governmental body would incur to perform the functions with**
 9 **the governmental body's employees during the period**
 10 **comprising the term of the contract.**
- 11 **(4) A statement that the contract between the governmental**
 12 **body and the offeror may provide for the deposit of surety**
 13 **bonds, the making of good faith deposits, liquidated damages,**
 14 **the right of reversion or repurchase, or other rights and**
 15 **remedies if the offeror fails to comply with the contract.**
- 16 SECTION 2. IC 5-22-13-5 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 5. (a) Supplies and
 18 services purchased under this chapter must:
 19 (1) meet the specifications and needs of the purchasing
 20 governmental body; and
 21 (2) be purchased at a fair market price.
- 22 **(b) Supplies and services purchased under this chapter are not**
 23 **subject to IC 5-22-5-9.**
- 24 SECTION 3. IC 5-22-16-7 IS ADDED TO THE INDIANA CODE
 25 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 26 1, 2003]: Sec. 7. (a) This section applies to a solicitation for a
 27 contract that would require the contractor to perform any of a
 28 governmental body's functions that are currently performed by the
 29 governmental body's employees. This section does not apply to a
 30 purchase under IC 5-22-13.
- 31 **(b) An offeror may not be considered responsive to the**
 32 **solicitation if the offeror does not provide objective, verifiable**
 33 **evidence that:**
 34 **(1) is satisfactory to the governmental body; and**
 35 **(2) demonstrates that, if the offeror is awarded the contract,**
 36 **the cost of the contract over the term of the contract will be**
 37 **less than the cost the governmental body estimates the**
 38 **governmental body would incur if performing the functions**
 39 **covered by the contract with the governmental body's**
 40 **employees during the period comprising the term of the**
 41 **proposed contract.**
- 42 SECTION 4. IC 5-22-17-15 IS ADDED TO THE INDIANA CODE

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1 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
2 1, 2003]: **Sec. 15. (a) This section applies to a contract that would
3 require the contractor to perform any of a governmental body's
4 functions that are performed before the contract is entered into by
5 the governmental body's employees. This section does not apply to
6 a purchase under IC 5-22-13.**
7 **(b) A contract referred to in subsection (a) must contain the
8 statement described in IC 5-22-5-9(b)(3).**

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