



February 22, 2008

**ENGROSSED
SENATE BILL No. 175**

DIGEST OF SB 175 (Updated February 20, 2008 3:18 pm - DI 96)

Citations Affected: IC 8-23; IC 34-30; noncode.

Synopsis: Various INDOT matters. Changes the requirements for certain bids that the department of transportation (INDOT) may accept for state highway projects. Provides that INDOT may not require certain contractors to assume any liability or indemnify the state for any amount greater than the degree of fault of the contractor.

Effective: Upon passage; July 1, 2008.

Merritt, Simpson

(HOUSE SPONSORS — AUSTIN, DUNCAN, BUCK)

January 8, 2008, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.

January 15, 2008, reported favorably — Do Pass.

January 22, 2008, read second time, ordered engrossed.

January 23, 2008, engrossed.

January 29, 2008, read third time, passed. Yeas 37, nays 11.

HOUSE ACTION

January 30, 2008, read first time and referred to Committee on Roads and Transportation.

February 21, 2008, amended, reported — Do Pass.

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February 22, 2008

Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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ENGROSSED SENATE BILL No. 175

A BILL FOR AN ACT to amend the Indiana Code concerning utilities and transportation.

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

1 SECTION 1. IC 8-23-2-12.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 12.5. (a) As used in this section,**
4 **"contractor" refers to a person who provides professional services**
5 **under a contract with the department.**

6 (b) As used in this section, "professional services" refers to
7 engineering, architectural, or surveying services.

8 (c) Notwithstanding any provision of IC 26-2-5-1 to the
9 contrary, the department may not require a contractor to assume
10 any liability or indemnify the state for any amount greater than the
11 degree of fault of the contractor.

12 (d) Any contractual provision in conflict with the prohibitions
13 contained in subsection (c) is void and unenforceable.

14 SECTION 2. IC 8-23-9-4 IS AMENDED TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2008]: **Sec. 4. Notwithstanding any other**
16 **statute or rule adopted by the department,** the department may
17 accept a proposal and award a contract for the construction,

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1 improvement, or maintenance of a road if:

2 (1) the ~~bids are~~ **lowest responsive and qualified bid is:**

3 (A) ~~less than one million dollars (\$1,000,000);~~

4 (B) ~~one (1) of four (4) or more bids received by the~~ **department for the contract; or**

5 (C) ~~not more than five percent (5%)~~ **fifteen percent (15%)**

6 above the estimated cost of the project;

7 (2) the commissioner believes that awarding a contract under this

8 section is in the best interests of the state; and

9 (3) the award would comply with any requirement imposed under

10 section 13 of this chapter.

11 SECTION 3. IC 34-30-2-26.5 IS ADDED TO THE INDIANA

12 CODE AS A **NEW** SECTION TO READ AS FOLLOWS

13 [EFFECTIVE UPON PASSAGE]: **Sec. 26.5. IC 8-23-2-12.5**

14 **(Concerning contractors providing services to the Indiana**

15 **department of transportation).**

16 SECTION 4. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 175, 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 175 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 9, Nays 1.



SENATE MOTION

Madam President: I move that Senator Simpson be added as coauthor of Engrossed Senate Bill 175.

MERRITT



COMMITTEE REPORT

Mr. Speaker: Your Committee on Roads and Transportation, to which was referred Senate Bill 175, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

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

"SECTION 1. IC 8-23-2-12.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 12.5. (a) As used in this section, "contractor" refers to a person who provides professional services under a contract with the department.**

(b) As used in this section, "professional services" refers to engineering, architectural, or surveying services.

(c) Notwithstanding any provision of IC 26-2-5-1 to the contrary, the department may not require a contractor to assume any liability or indemnify the state for any amount greater than the degree of fault of the contractor.

(d) Any contractual provision in conflict with the prohibitions contained in subsection (c) is void and unenforceable."

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Page 1, line 10, delete "twenty" and insert "**fifteen**".

Page 1, line 10, delete "(20%)" and insert "**(15%)**".

Page 1, after line 15, begin a new paragraph and insert:

"SECTION 3. IC 34-30-2-26.5 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26.5. IC 8-23-2-12.5 (Concerning contractors providing services to the Indiana department of transportation).**

SECTION 4. **An emergency is declared for this act.**"

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 175 as printed January 16, 2008.)

AUSTIN, Chair

Committee Vote: yeas 9, nays 0.

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