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| PREVAILED | Roll Call No. _____ |
| FAILED | Ayes _____ |
| WITHDRAWN | Noes _____ |
| RULED OUT OF ORDER | |

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 473 be amended to read as follows:

- 1 Page 5, between lines 9 and 10, begin a new paragraph and insert:
- 2 "SECTION 6. IC 8-15.5-6-3, AS ADDED BY P.L.47-2006,
- 3 SECTION 39, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 UPON PASSAGE]: Sec. 3. The operator or any contractor or
- 5 subcontractor of the operator engaged in the construction of a toll road
- 6 project is subject to:
- 7 (1) the provisions of 25 IAC 5 concerning equal opportunities for
- 8 minority business enterprises and women's business enterprises
- 9 to participate in procurement and contracting processes; ~~and~~
- 10 (2) the provisions that may be established by the authority in a
- 11 public-private agreement with respect to awarding contracts to
- 12 Indiana businesses (as defined in IC 5-22-15-20.5); **and**
- 13 **(3) section 6 of this chapter concerning the employment of**
- 14 **Indiana residents by contractors and subcontractors.**
- 15 SECTION 7. IC 8-15.5-6-6 IS ADDED TO THE INDIANA CODE
- 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 17 UPON PASSAGE]: Sec. 6. (a) As used in this section, "resident of
- 18 Indiana" means a person who is at least eighteen (18) years of age
- 19 and is one (1) of the following:
- 20 (1) A person who has registered a motor vehicle in Indiana.
- 21 (2) A person who is registered to vote in Indiana.
- 22 (3) A person who has a child enrolled in an elementary or a
- 23 secondary school located in Indiana.
- 24 (4) A person who derives more than one-half (1/2) of the

1 person's gross income (as defined in Section 61 of the Internal
2 Revenue Code) from sources in Indiana, according to the
3 provisions applicable to determining the source of adjusted
4 gross income that are set forth in IC 6-3-2-2. However, a
5 person who would otherwise be considered a resident of
6 Indiana under this subdivision is not a resident of Indiana if
7 a preponderance of the evidence concerning the factors set
8 forth in subdivisions (1) through (3) proves that the person is
9 not a resident of Indiana.

10 (b) Except as provided in subsection (f), a contract for a public
11 works project under this chapter may not be awarded to a
12 contractor who does not:

13 (1) employ residents of Indiana as at least eighty percent
14 (80%) of the employees of the contractor who work on the
15 contract; and

16 (2) enter into subcontracts only with subcontractors who
17 employ residents of Indiana as at least eighty percent (80%)
18 of the employees working on the subcontract.

19 (c) Except as provided in subsection (f), before August 15 of
20 2012, and each year thereafter, the authority shall file with the
21 legislative council a report stating:

22 (1) for each contractor awarded a contract under this
23 chapter; and

24 (2) for each subcontractor with which a contractor referred
25 to in subdivision (1) enters into a contract in connection with
26 a contract awarded under this chapter;

27 the percentage of the employees of the contractor or subcontractor
28 who work on the contract and are residents of Indiana. The report
29 to the legislative council must be in an electronic format under
30 IC 5-14-6.

31 (d) Except as provided in subsection (f), a contract awarded
32 under this chapter for a public works project is terminated if the
33 authority determines that the contractor has failed to:

34 (1) employ residents of Indiana as at least eighty percent
35 (80%) of the employees who work on the contract; and

36 (2) enter into subcontracts only with subcontractors who
37 employ residents of Indiana as at least eighty percent (80%)
38 of the employees who work on the subcontract.

39 (e) Except as provided in subsection (f), a contractor or
40 subcontractor who fails to employ residents of Indiana as at least
41 eighty percent (80%) of the employees who work on the contract
42 or subcontract commits a Class B infraction for each nonresident
43 of Indiana employed in excess of the number of nonresident
44 employees permitted by this section.

45 (f) If:

46 (1) a contract or subcontract subject to this section is funded
47 in whole or in part with federal funds; and

1 **(2) imposing the requirements of this section would cause the**
 2 **state to lose the federal funds for the contract, as determined**
 3 **by the federal agency providing the funds;**
 4 **subsections (b) through (e) do not apply.**

5 **(g) If an agency of the federal government makes a**
 6 **determination under subsection (f) that causes a contract to be**
 7 **exempted from the requirements of subsections (b) through (e), this**
 8 **section is meant to express the view of the general assembly that**
 9 **expanding employment opportunities for Indiana residents**
 10 **remains a vital part of the state's economy.**

11 **(h) A contract exempted from the requirements of subsections**
 12 **(b) through (e) may not reference the employment of Indiana**
 13 **residents. Neither the authority nor an operator may consider the**
 14 **number of employment opportunities for Indiana residents when**
 15 **doing any of the following with respect to a project subject to a**
 16 **contract that is exempted from the requirements of subsections (b)**
 17 **through (e):**

- 18 **(1) Issuing a request for proposals.**
- 19 **(2) Issuing a bulletin inviting bids for the contract.**
- 20 **(3) Prequalifying a contractor for the contract.**
- 21 **(4) Evaluating a bid for the contract.**

22 **(i) This section does not apply to contracts entered into to**
 23 **perform work:**

- 24 **(1) resulting from an emergency; or**
- 25 **(2) performed by an artisan or by someone in a speciality area**
 26 **with limited persons able to perform the work."**

27 Page 13, between lines 28 and 29, begin a new paragraph and insert:

28 "SECTION 14. IC 8-15.7-6-6 IS ADDED TO THE INDIANA
 29 CODE AS A NEW SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE UPON PASSAGE]: **Sec. 6. The operator or any**
 31 **contractor or subcontractor of the operator engaged in the**
 32 **construction of a qualifying project is subject to:**

- 33 **(1) the provisions of 25 IAC 5 concerning equal opportunities**
 34 **for minority business enterprises and women's business**
 35 **enterprises to participate in procurement and contracting**
 36 **processes;**
- 37 **(2) the provisions that may be established by the department**
 38 **in a public-private agreement with respect to awarding**
 39 **contracts to Indiana businesses (as defined in**
 40 **IC 5-22-15-20.5); and**
- 41 **(3) section 7 of this chapter concerning the employment of**
 42 **Indiana residents by contractors and subcontractors.**

43 SECTION 15. IC 8-15.7-6-7 IS ADDED TO THE INDIANA CODE
 44 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 45 UPON PASSAGE]: **Sec. 7. (a) As used in this section, "resident of**
 46 **Indiana" means a person who is at least eighteen (18) years of age**
 47 **and is one (1) of the following:**

1 (1) A person who has registered a motor vehicle in Indiana.

2 (2) A person who is registered to vote in Indiana.

3 (3) A person who has a child enrolled in an elementary or a
4 secondary school located in Indiana.

5 (4) A person who derives more than one-half (1/2) of the
6 person's gross income (as defined in Section 61 of the Internal
7 Revenue Code) from sources in Indiana, according to the
8 provisions applicable to determining the source of adjusted
9 gross income that are set forth in IC 6-3-2-2. However, a
10 person who would otherwise be considered a resident of
11 Indiana under this subdivision is not a resident of Indiana if
12 a preponderance of the evidence concerning the factors set
13 forth in subdivisions (1) through (3) proves that the person is
14 not a resident of Indiana.

15 (b) Except as provided in subsection (f), a contract for a public
16 works project under this chapter may not be awarded to a
17 contractor who does not:

18 (1) employ residents of Indiana as at least eighty percent
19 (80%) of the employees of the contractor who work on the
20 contract; and

21 (2) enter into subcontracts only with subcontractors who
22 employ residents of Indiana as at least eighty percent (80%)
23 of the employees working on the subcontract.

24 (c) Except as provided in subsection (f), before August 15 of
25 2012, and each year thereafter, the department shall file with the
26 legislative council a report stating:

27 (1) for each contractor awarded a contract under this
28 chapter; and

29 (2) for each subcontractor with which a contractor referred
30 to in subdivision (1) enters into a contract in connection with
31 a contract awarded under this chapter;

32 the percentage of the employees of the contractor or subcontractor
33 who work on the contract and are residents of Indiana. The report
34 to the legislative council must be in an electronic format under
35 IC 5-14-6.

36 (d) Except as provided in subsection (f), a contract awarded
37 under this chapter for a public works project is terminated if the
38 department determines that the contractor has failed to:

39 (1) employ residents of Indiana as at least eighty percent
40 (80%) of the employees who work on the contract; and

41 (2) enter into subcontracts only with subcontractors who
42 employ residents of Indiana as at least eighty percent (80%)
43 of the employees who work on the subcontract.

44 (e) Except as provided in subsection (f), a contractor or
45 subcontractor who fails to employ residents of Indiana as at least
46 eighty percent (80%) of the employees who work on the contract
47 or subcontract commits a Class B infraction for each nonresident

1 of Indiana employed in excess of the number of nonresident
2 employees permitted by this section.

3 (f) If:

4 (1) a contract or subcontract subject to this section is funded
5 in whole or in part with federal funds; and

6 (2) imposing the requirements of this section would cause the
7 state to lose the federal funds for the contract, as determined
8 by the federal agency providing the funds;

9 subsections (b) through (e) do not apply.

10 (g) If an agency of the federal government makes a
11 determination under subsection (f) that causes a contract to be
12 exempted from the requirements of subsections (b) through (e), this
13 section is meant to express the view of the general assembly that
14 expanding employment opportunities for Indiana residents
15 remains a vital part of the state's economy.

16 (h) A contract exempted from the requirements of subsections
17 (b) through (e) may not reference the employment of Indiana
18 residents. Neither the department nor an operator may consider
19 the number of employment opportunities for Indiana residents
20 when doing any of the following with respect to a project subject
21 to a contract that is exempted from the requirements of subsections
22 (b) through (e):

23 (1) Issuing a request for proposals.

24 (2) Issuing a bulletin inviting bids for the contract.

25 (3) Prequalifying a contractor for the contract.

26 (4) Evaluating a bid for the contract.

27 (i) This section does not apply to contracts entered into to
28 perform work:

29 (1) resulting from an emergency; or

30 (2) performed by an artisan or by someone in a speciality area
31 with limited persons able to perform the work."

32 Page 15, between lines 10 and 11, begin a new paragraph and insert:

33 "SECTION 18. IC 8-23-9-4.6 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE UPON PASSAGE]: **Sec. 4.6. (a) As used in this section,**
36 **"resident of Indiana" means a person who is at least eighteen (18)**
37 **years of age and is one (1) of the following:**

38 (1) A person who has registered a motor vehicle in Indiana.

39 (2) A person who is registered to vote in Indiana.

40 (3) A person who has a child enrolled in an elementary or a
41 secondary school located in Indiana.

42 (4) A person who derives more than one-half (1/2) of the
43 person's gross income (as defined in Section 61 of the Internal
44 Revenue Code) from sources in Indiana, according to the
45 provisions applicable to determining the source of adjusted
46 gross income that are set forth in IC 6-3-2-2. However, a
47 person who would otherwise be considered a resident of

1 **Indiana under this subdivision is not a resident of Indiana if**
 2 **a preponderance of the evidence concerning the factors set**
 3 **forth in subdivisions (1) through (3) proves that the person is**
 4 **not a resident of Indiana.**

5 **(b) Except as provided in subsection (f), a contract for a public**
 6 **works project under this chapter may not be awarded to a**
 7 **contractor who does not:**

8 **(1) employ residents of Indiana as at least eighty percent**
 9 **(80%) of the employees of the contractor who work on the**
 10 **contract; and**

11 **(2) enter into subcontracts only with subcontractors who**
 12 **employ residents of Indiana as at least eighty percent (80%)**
 13 **of the employees working on the subcontract.**

14 **(c) Except as provided in subsection (f), before August 15 of**
 15 **2012, and each year thereafter, the department shall file with the**
 16 **legislative council a report stating:**

17 **(1) for each contractor awarded a contract under this**
 18 **chapter; and**

19 **(2) for each subcontractor with which a contractor referred**
 20 **to in subdivision (1) enters into a contract in connection with**
 21 **a contract awarded under this chapter;**

22 **the percentage of the employees of the contractor or subcontractor**
 23 **who work on the contract and are residents of Indiana. The report**
 24 **to the legislative council must be in an electronic format under**
 25 **IC 5-14-6.**

26 **(d) Except as provided in subsection (f), a contract awarded**
 27 **under this chapter for a public works project is terminated if the**
 28 **department determines that the contractor has failed to:**

29 **(1) employ residents of Indiana as at least eighty percent**
 30 **(80%) of the employees who work on the contract; and**

31 **(2) enter into subcontracts only with subcontractors who**
 32 **employ residents of Indiana as at least eighty percent (80%)**
 33 **of the employees who work on the subcontract.**

34 **(e) Except as provided in subsection (f), a contractor or**
 35 **subcontractor who fails to employ residents of Indiana as at least**
 36 **eighty percent (80%) of the employees who work on the contract**
 37 **or subcontract commits a Class B infraction for each nonresident**
 38 **of Indiana employed in excess of the number of nonresident**
 39 **employees permitted by this section.**

40 **(f) If:**

41 **(1) a contract or subcontract subject to this section is funded**
 42 **in whole or in part with federal funds; and**

43 **(2) imposing the requirements of this section would cause the**
 44 **state to lose the federal funds for the contract, as determined**
 45 **by the federal agency providing the funds;**

46 **subsections (b) through (e) do not apply.**

47 **(g) If an agency of the federal government makes a**

1 **determination under subsection (f) that causes a contract to be**
2 **exempted from the requirements of subsections (b) through (e), this**
3 **section is meant to express the view of the general assembly that**
4 **expanding employment opportunities for Indiana residents**
5 **remains a vital part of the state's economy.**

6 **(h) A contract exempted from the requirements of subsections**
7 **(b) through (e) may not reference the employment of Indiana**
8 **residents. The department may not consider the number of**
9 **employment opportunities for Indiana residents when doing any of**
10 **the following with respect to a project subject to a contract that is**
11 **exempted from the requirements of subsections (b) through (e):**

12 **(1) Issuing a request for proposals.**

13 **(2) Issuing a bulletin inviting bids for the contract.**

14 **(3) Prequalifying a contractor for the contract.**

15 **(4) Evaluating a bid for the contract.**

16 **(i) This section does not apply to contracts entered into to**
17 **perform work:**

18 **(1) resulting from an emergency; or**

19 **(2) performed by an artisan or by someone in a speciality area**
20 **with limited persons able to perform the work."**

21 **Renumber all SECTIONS consecutively.**

(Reference is to ESB 473 as printed April 8, 2011.)

Representative Reske