
SENATE BILL No. 369

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13-1-16.5; IC 4-13.6-6-2.8; IC 5-16-1-7.5; IC 8-10-1-7.7; IC 8-23-9-4.6.

Synopsis: State contracts. Provides that contracts for public works projects may not be awarded to a contractor that does not: (1) employ residents of Indiana as at least 80% of the employees working on the contract; and (2) enter into subcontracts only with subcontractors that employ residents of Indiana as at least 80% of the employees working on the contract. Provides that if a contract is being paid for with federal funds and the requirement that 80% of the employees must be residents of Indiana causes the loss of the federal funds as determined by the federal agency providing the funds, the use of 80% residents is a goal and not a requirement. Applies this restriction to contracts entered into by the public works division of the department of administration, any state agency or commission entering into a public works contract, the commission governing the ports of Indiana, and the department of transportation. Requires the commissioner of the department of administration to prepare an annual report for the public and the legislative council stating, for the contractors awarded public works contracts by the state and the subcontractors with which these contractors entered into subcontracts, the percentage of the contractors' and subcontractors' employees working on the public works contracts who are residents of Indiana.

Effective: Upon passage.

Mrvan, Rogers

January 11, 2011, read first time and referred to Committee on Commerce & Economic Development.

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First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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SENATE BILL No. 369



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 4-13-1-16.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: **Sec. 16.5. (a) As used in this section, "covered**
4 **transaction" means the award of a contract under:**

- 5 (1) IC 4-13.6-6-2.8;
- 6 (2) IC 5-16-1-7.5;
- 7 (3) IC 8-10-1-7.7; or
- 8 (4) IC 8-23-9-4.6.

9 (b) As used in this section, "resident of Indiana" means a person
10 who is at least eighteen (18) years of age and is one (1) of the
11 following:

- 12 (1) A person who has registered a motor vehicle in Indiana.
- 13 (2) A person who is registered to vote in Indiana.
- 14 (3) A person who has a child enrolled in an elementary or a
15 secondary school located in Indiana.
- 16 (4) A person who derives more than one-half (1/2) of the
17 person's gross income (as defined in Section 61 of the Internal



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

(c) Before October 1, 2011, and each year thereafter, the commissioner shall compile, make available for public inspection, and submit to the legislative council a report for the preceding state fiscal year stating:

- (1) for the contractors awarded contracts in covered transactions; and
- (2) for the subcontractors with which the contractors referred to in subdivision (1) enter into subcontracts in connection with contracts awarded in covered transactions;

the percentage of the employees of the contractors and subcontractors who work on the contracts and are residents of Indiana. The report to the legislative council must be in an electronic format under IC 5-14-6.

SECTION 2. IC 4-13.6-6-2.8 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.8. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

(b) When entering a bid under this chapter or a contract for professional services without bids under IC 4-13.6-5-7 for a public

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1 works project, each contractor shall provide the division with
2 information on the number of residents of Indiana who will be
3 employed by the contractor and the number of residents of Indiana
4 who will be employed by any subcontractor of the contractor.

5 (c) A contract for a public works project may not be awarded to
6 a contractor who does not:

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

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

12 (d) Before August 15, 2011, and each year thereafter, the
13 division shall file with the commissioner a report for the preceding
14 year stating:

15 (1) for each contractor awarded a contract under this
16 chapter; and

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

20 the percentage of the employees of the contractor or subcontractor
21 who work on the contract and are residents of Indiana.

22 (e) A contract awarded under this chapter for a public works
23 project is terminated if the division determines that the contractor
24 has failed to:

25 (1) employ residents of Indiana as at least eighty percent
26 (80%) of the employees who work on the contract; and

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

30 (f) A contractor or subcontractor who fails to employ residents
31 of Indiana as at least eighty percent (80%) of the employees who
32 work on the contract or subcontract commits a Class B infraction
33 for each nonresident of Indiana employed in excess of the number
34 of nonresident employees permitted by this section.

35 (g) If:

36 (1) a contract or subcontract awarded under this section is
37 funded in whole or in part with federal funds; and

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

41 employing eighty percent (80%) Indiana residents for the contract
42 or any subcontract becomes a goal for the contract, and

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subsections (a) through (f) do not apply.

SECTION 3. IC 5-16-1-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.5. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.**
- (2) A person who is registered to vote in Indiana.**
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.**
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.**

(b) When entering into a contract under this chapter, each contractor shall provide the state or commission with information on the number of residents of Indiana who will be employed by the contractor and the number of residents of Indiana who will be employed by any subcontractor of the contractor.

(c) A contract for a public works project under this chapter may not be awarded to a contractor who does not:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and**
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.**

(d) Before August 15, 2011, and each year thereafter, the state or a commission entering into contracts under this chapter shall file with the commissioner of the Indiana department of administration a report stating:

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

the percentage of the employees of the contractor or subcontractor

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who work on the contract and are residents of Indiana.

(e) A contract awarded under this chapter for a public works project is terminated if the state or commission determines that the contractor has failed to:

- (1) employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract; and
- (2) enter into subcontracts only with subcontractors who employ residents of Indiana as at least eighty percent (80%) of the employees who work on the subcontract.

(f) A contractor or subcontractor who fails to employ residents of Indiana as at least eighty percent (80%) of the employees who work on the contract or subcontract commits a Class B infraction for each nonresident of Indiana employed in excess of the number of nonresident employees permitted by this section.

(g) If:

- (1) a contract or subcontract awarded under this section is funded in whole or in part with federal funds; and
- (2) imposing the requirements of this section would cause the state to lose the federal funds, as determined by the federal agency providing the funds, for the contract;

employing eighty percent (80%) Indiana residents for the contract or any subcontract becomes a goal for the contract, and subsections (a) through (f) do not apply.

SECTION 4. IC 8-10-1-7.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.7. (a) As used in this section, "resident of Indiana" means a person who is at least eighteen (18) years of age and is one (1) of the following:

- (1) A person who has registered a motor vehicle in Indiana.
- (2) A person who is registered to vote in Indiana.
- (3) A person who has a child enrolled in an elementary or a secondary school located in Indiana.
- (4) A person who derives more than one-half (1/2) of the person's gross income (as defined in Section 61 of the Internal Revenue Code) from sources in Indiana, according to the provisions applicable to determining the source of adjusted gross income that are set forth in IC 6-3-2-2. However, a person who would otherwise be considered a resident of Indiana under this subdivision is not a resident of Indiana if a preponderance of the evidence concerning the factors set forth in subdivisions (1) through (3) proves that the person is not a resident of Indiana.

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1 (b) When entering into a contract under this chapter, each
2 contractor shall provide the commission with information on the
3 number of residents of Indiana who will be employed by the
4 contractor and the number of residents of Indiana who will be
5 employed by any subcontractor of the contractor.

6 (c) A contract for a public works project under this chapter may
7 not be awarded to a 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 who work on the subcontract.

14 (d) Before August 15, 2011, and each year thereafter, the
15 commission shall file with the commissioner of the Indiana
16 department of administration 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.

24 (e) A contract awarded under this chapter for a public works
25 project is terminated if the commission determines that the
26 contractor has failed to:

27 (1) employ residents of Indiana as at least eighty percent
28 (80%) of the employees who work on the contract; and

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

32 (f) A contractor or subcontractor who fails to employ residents
33 of Indiana as at least eighty percent (80%) of the employees who
34 work on the contract or subcontract commits a Class B infraction
35 for each nonresident of Indiana employed in excess of the number
36 of nonresident employees permitted by this section.

37 (g) If:

38 (1) a contract or subcontract awarded under this section is
39 funded in whole or in part with federal funds; and

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

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1 **employing eighty percent (80%) Indiana residents for the contract**
 2 **or any subcontract becomes a goal for the contract, and**
 3 **subsections (a) through (f) do not apply.**

4 SECTION 5. IC 8-23-9-4.6 IS ADDED TO THE INDIANA CODE
 5 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 6 UPON PASSAGE]: **Sec. 4.6. (a) As used in this section, "resident of**
 7 **Indiana" means a person who is at least eighteen (18) years of age**
 8 **and is one (1) of the following:**

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

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

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

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

23 **(b) When entering into a contract under this chapter, each**
 24 **contractor shall provide the department with information on the**
 25 **number of residents of Indiana who will be employed by the**
 26 **contractor and the number of residents of Indiana who will be**
 27 **employed by any subcontractor of the contractor.**

28 **(c) A contract for a public works project under this chapter may**
 29 **not be awarded to a contractor who does not:**

30 (1) **employ residents of Indiana as at least eighty percent**
 31 **(80%) of the employees of the contractor who work on the**
 32 **contract; and**

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

36 **(d) Before August 15, 2011, and each year thereafter, the**
 37 **department shall file with the commissioner of the Indiana**
 38 **department of administration a report stating:**

39 (1) **for each contractor awarded a contract under this**
 40 **chapter; and**

41 (2) **for each subcontractor with which a contractor referred**
 42 **to in subdivision (1) enters into a contract in connection with**

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1 a contract awarded under this chapter;
 2 the percentage of the employees of the contractor or subcontractor
 3 who work on the contract and are residents of Indiana.
 4 (e) A contract awarded under this chapter for a public works
 5 project is terminated if the department determines that the
 6 contractor has failed to:
 7 (1) employ residents of Indiana as at least eighty percent
 8 (80%) of the employees who work on the contract; and
 9 (2) enter into subcontracts only with subcontractors who
 10 employ residents of Indiana as at least eighty percent (80%)
 11 of the employees who work on the subcontract.
 12 (f) A contractor or subcontractor who fails to employ residents
 13 of Indiana as at least eighty percent (80%) of the employees who
 14 work on the contract or subcontract commits a Class B infraction
 15 for each nonresident of Indiana employed in excess of the number
 16 of nonresident employees permitted by this section.
 17 (g) If:
 18 (1) a contract or subcontract awarded under this section is
 19 funded in whole or in part with federal funds; and
 20 (2) imposing the requirements of this section would cause the
 21 state to lose the federal funds, as determined by the federal
 22 agency providing the funds, for the contract;
 23 employing eighty percent (80%) Indiana residents for the contract
 24 or any subcontract becomes a goal for the contract, and
 25 subsections (a) through (f) do not apply.
 26 SECTION 6. An emergency is declared for this act.

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