HOUSE BILL No. 1067

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-13.6-5-13; IC 5-16-12; IC 8-10-1-31; IC 8-23-9-59; IC 34-13-8; IC 36-1-12-22.

Synopsis: Public works projects. Provides that the plans, specifications, and contract documents for a public works project may not require bidders, contractors, or subcontractors to enter into or comply with certain agreements with labor organizations. Provides a cause of action to challenge the award of a contract that violates these provisions.

Effective: July 1, 2011.

Hinkle, Torr

January 5, 2011, read first time and referred to Committee on Employment, Labor and Pensions.

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Introduced

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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HOUSE BILL No. 1067

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:

SECTION 1. IC 4-13.6-5-13 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 13. (a) This section applies to contracts entered into, awarded, or renewed after June 30, 2011.**

(b) The plans, specifications, and contract documents for a public works contract awarded under this chapter may not do any of the following:

(1) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement with a labor organization on the same or a related public works project.

(2) Discriminate against a bidder, contractor, or subcontractor for refusing to enter into, remain signatory to, or comply with an agreement with a labor organization on the same or a related public works project.

(3) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement that requires an employee of the bidder, contractor, or subcontractor, as a condition of

employment, to do either of the following:

(A) Become a member of or become affiliated with a labor organization.

(B) Over the objection of an employee, pay dues or fees to a labor organization that exceed the employee's share of the labor organization's costs relating to collective bargaining, contract administration, or grievance adjustment.

(c) This section does not prohibit an employer or any other person covered by the federal National Labor Relations Act from entering into agreements or engaging in any other activity protected by law. This section may not be interpreted to interfere with the labor relations of persons covered by the federal National Labor Relations Act.

SECTION 2. IC 5-16-12 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 12. Prohibited Public Works Contract Requirements

Sec. 1. (a) This chapter applies to contracts entered into, awarded, or renewed after June 30, 2011. This chapter applies to the plans, specifications, and contract documents for a public works contract awarded by a contracting agency.

(b) This chapter does not prohibit an employer or any other person covered by the federal National Labor Relations Act from entering into agreements or engaging in any other activity protected by law. This chapter may not be interpreted to interfere with the labor relations of persons covered by the federal National Labor Relations Act.

Sec. 2. As used in this chapter, "contracting agency" refers to the agency, board, commission, officer, or trustee that enters into a public works contract covered by this article.

Sec. 3. Plans, specifications, and contract documents may not do any of the following:

(1) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement with a labor organization on the same or a related public works project.

(2) Discriminate against a bidder, contractor, or subcontractor for refusing to enter into, remain signatory to, or comply with an agreement with a labor organization on the same or a related public works project.

(3) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement that requires an employee

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of the bidder, contractor, or subcontractor, as a condition of employment, to do either of the following:

(A) Become a member of or become affiliated with a labor organization.

(B) Over the objection of an employee, pay dues or fees to a labor organization that exceed the employee's share of the labor organization's costs relating to collective bargaining, contract administration, or grievance adjustment.

SECTION 3. IC 8-10-1-31 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 31. (a) This section applies to contracts entered into, awarded, or renewed after June 30, 2011. This section applies to a contract for the following:**

(1) Altering, building, constructing, demolishing, improving, or repairing a building or structure by the commission.

(2) Making an improvement to real property owned by, or leased in the name of, the commission.

(3) Performing the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property by the commission.

(b) The plans, specifications, and contract documents for a contract awarded by the commission may not do any of the following:

(1) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement with a labor organization on the same or a related public works project.

(2) Discriminate against a bidder, contractor, or subcontractor for refusing to enter into, remain signatory to, or comply with an agreement with a labor organization on the same or a related public works project.

(3) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement that requires an employee of the bidder, contractor, or subcontractor, as a condition of employment, to do either of the following:

(A) Become a member of or become affiliated with a labor organization.

(B) Over the objection of an employee, pay dues or fees to a labor organization that exceed the employee's share of the labor organization's costs relating to collective bargaining, contract administration, or grievance adjustment.

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(c) This section does not prohibit an employer or any other person covered by the federal National Labor Relations Act from entering into agreements or engaging in any other activity protected by law. This section may not be interpreted to interfere with the labor relations of persons covered by the federal National Labor Relations Act.

SECTION 4. IC 8-23-9-59 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 59. (a) This section applies to contracts entered into, awarded, or renewed after June 30, 2011.**

(b) The plans, specifications, and contract documents for a contract awarded by the department may not do any of the following:

(1) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement with a labor organization on the same or a related public works project.

(2) Discriminate against a bidder, contractor, or subcontractor for refusing to enter into, remain signatory to, or comply with an agreement with a labor organization on the same or a related public works project.

(3) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement that requires an employee of the bidder, contractor, or subcontractor, as a condition of employment, to do either of the following:

(A) Become a member of or become affiliated with a labor organization.

(B) Over the objection of an employee, pay dues or fees to a labor organization that exceed the employee's share of the labor organization's costs relating to collective bargaining, contract administration, or grievance adjustment.

(c) This section does not prohibit an employer or any other person covered by the federal National Labor Relations Act from entering into agreements or engaging in any other activity protected by law. This section may not be interpreted to interfere with the labor relations of persons covered by the federal National Labor Relations Act.

SECTION 5. IC 34-13-8 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]:

Chapter 8. Enforcement of Certain Public Works Statutes

Sec. 1. This chapter applies to contracts entered into, awarded,

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or renewed after June 30, 2011.

Sec. 2. As used in this chapter, "applicable statute" refers to any of the following:

(1) IC 4-13.6-5-13.

(2) IC 5-16-12.

(3) IC 8-10-1-31.

(4) IC 8-23-9-59.

(5) IC 36-1-12-22.

Sec. 3. As used in this chapter, "interested party" includes the following:

(1) A bidder, contractor, or subcontractor for a public works contract covered by an applicable statute.

(2) An employee of a bidder, contractor, or subcontractor for a public works contract covered by an applicable statute.

(3) A taxpayer of an entity awarding a public works contract covered by an applicable statute.

Sec. 4. An interested party has a cause of action to challenge the award of a public works contract that violates an applicable statute.

Sec. 5. Subject to section 6 of this chapter, an interested party that prevails in an action under this chapter is entitled to the following relief:

(1) A declaration that the provisions of the public works contract that violate the applicable statute are void.

(2) Costs and attorney's fees.

(3) Any other appropriate relief requested by the interested party.

Sec. 6. (a) This chapter does not prohibit an employer or any other person covered by the federal National Labor Relations Act from entering into agreements or engaging in any other activity protected by law. This chapter may not be interpreted to interfere with the labor relations of persons covered by the federal National Labor Relations Act.

(b) Relief that would interfere with the labor relations of persons covered by the federal National Labor Relations Act may not be granted under this chapter.

SECTION 6. IC 36-1-12-22 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 22. (a) This section applies to contracts entered into, awarded, or renewed after June 30, 2011.**

(b) The plans, specifications, and contract documents for a public works contract awarded under this chapter may not do any

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of the following:

(1) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement with a labor organization on the same or a related public works project.

(2) Discriminate against a bidder, contractor, or subcontractor for refusing to enter into, remain signatory to, or comply with an agreement with a labor organization on the same or a related public works project.

(3) Require a bidder, contractor, or subcontractor to enter into or comply with an agreement that requires an employee of the bidder, contractor, or subcontractor, as a condition of employment, to do either of the following:

(A) Become a member of or become affiliated with a labor organization.

(B) Over the objection of an employee, pay dues or fees to a labor organization that exceed the employee's share of the labor organization's costs relating to collective bargaining, contract administration, or grievance adjustment.

(c) This section does not prohibit an employer or any other person covered by the federal National Labor Relations Act from entering into agreements or engaging in any other activity protected by law. This section may not be interpreted to interfere with the labor relations of persons covered by the federal National Labor Relations Act.

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