
HOUSE BILL No. 1309

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-1-12.

Synopsis: Public works projects cost thresholds. Provides that a political subdivision may perform a public works project using its own work force if the cost of the project is less than \$150,000 (under current law the threshold is \$100,000). Increases the cost threshold to at least one hundred fifty thousand dollars (\$150,000) at which bids are required under the local public works statute. Changes the cost threshold to at least \$50,000 and less than \$150,000 at which quotes are required under the local public works statute (current law provides different thresholds for various political subdivisions).

Effective: July 1, 2011.

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January 13, 2011, read first time and referred to Committee on Employment, Labor and Pensions.

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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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HOUSE BILL No. 1309



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-1-12-3 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 3. (a) The board may
 3 purchase or lease materials in the manner provided in IC 5-22 and
 4 perform any public work, by means of its own workforce, without
 5 awarding a contract whenever the cost of that public work project is
 6 estimated to be less than one hundred **fifty** thousand dollars
 7 ~~(\$100,000)~~. **(\$150,000)**. Before a board may perform any work under
 8 this section by means of its own workforce, the political subdivision or
 9 agency must have a group of employees on its staff who are capable of
 10 performing the construction, maintenance, and repair applicable to that
 11 work. For purposes of this subsection, the cost of a public work project
 12 includes the actual cost of materials, labor, equipment, rental, a
 13 reasonable rate for use of trucks and heavy equipment owned, and all
 14 other expenses incidental to the performance of the project.

15 (b) When the project involves the rental of equipment with an
 16 operator furnished by the owner, or the installation or application of
 17 materials by the supplier of the materials, the project is considered to



1 be a public work project and subject to this chapter. However, an
2 annual contract may be awarded for equipment rental and materials to
3 be installed or applied during a calendar or fiscal year if the proposed
4 project or projects are described in the bid specifications.

5 (c) A board of aviation commissioners or an airport authority board
6 may purchase or lease materials in the manner provided in IC 5-22 and
7 perform any public work by means of its own workforce and owned or
8 leased equipment, in the construction, maintenance, and repair of any
9 airport roadway, runway, taxiway, or aircraft parking apron whenever
10 the cost of that public work project is estimated to be less than fifty
11 thousand dollars (\$50,000).

12 (d) Municipal and county hospitals must comply with this chapter
13 for all contracts for public work that are financed in whole or in part
14 with cumulative building fund revenue, as provided in section 1(c) of
15 this chapter. However, if the cost of the public work is estimated to be
16 less than fifty thousand dollars (\$50,000), as reflected in the board
17 minutes, the hospital board may have the public work done without
18 receiving bids, by purchasing the materials and performing the work by
19 means of its own workforce and owned or leased equipment.

20 (e) If a public works project involves a structure, an improvement,
21 or a facility under the control of a department (as defined in
22 IC 4-3-19-2(2)), the department may not artificially divide the project
23 to bring any part of the project under this section.

24 SECTION 2. IC 36-1-12-4, AS AMENDED BY P.L.113-2010,
25 SECTION 108, IS AMENDED TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2011]: Sec. 4. (a) This section applies whenever
27 the cost of a public work project will be **at least one hundred fifty**
28 **thousand dollars (\$150,000).**

29 (1) at least seventy-five thousand dollars (\$75,000) in:

30 (A) a consolidated city or second class city;

31 (B) a county containing a consolidated city or second class
32 city; or

33 (C) a regional water or sewage district established under
34 IC 13-26; or

35 (2) at least fifty thousand dollars (\$50,000) in a political
36 subdivision or an agency not described in subdivision (1).

37 (b) The board must comply with the following procedure:

38 (1) The board shall prepare general plans and specifications
39 describing the kind of public work required, but shall avoid
40 specifications which might unduly limit competition. If the
41 project involves the resurfacing (as defined by IC 8-14-2-1) of a
42 road, street, or bridge, the specifications must show how the

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weight or volume of the materials will be accurately measured and verified.

(2) The board shall file the plans and specifications in a place reasonably accessible to the public, which shall be specified in the notice required by subdivision (3).

(3) Upon the filing of the plans and specifications, the board shall publish notice in accordance with IC 5-3-1 calling for sealed proposals for the public work needed.

(4) The notice must specify the place where the plans and specifications are on file and the date fixed for receiving bids.

(5) The period of time between the date of the first publication and the date of receiving bids shall be governed by the size of the contemplated project in the discretion of the board. The period of time between the date of the first publication and receiving bids may not be more than:

(A) six (6) weeks if the estimated cost of the public works project is less than twenty-five million dollars (\$25,000,000); and

(B) ten (10) weeks if the estimated cost of the public works project is at least twenty-five million dollars (\$25,000,000).

~~(6) If the cost of a project is one hundred thousand dollars (\$100,000) or more;~~ The board shall require the bidder to submit a financial statement, a statement of experience, a proposed plan or plans for performing the public work, and the equipment that the bidder has available for the performance of the public work. The statement shall be submitted on forms prescribed by the state board of accounts.

(7) The board may not require a bidder to submit a bid before the meeting at which bids are to be received. The meeting for receiving bids must be open to the public. All bids received shall be opened publicly and read aloud at the time and place designated and not before.

(8) Except as provided in subsection (c), the board shall:

(A) award the contract for public work or improvements to the lowest responsible and responsive bidder; or

(B) reject all bids submitted.

(9) If the board awards the contract to a bidder other than the lowest bidder, the board must state in the minutes or memoranda, at the time the award is made, the factors used to determine which bidder is the lowest responsible and responsive bidder and to justify the award. The board shall keep a copy of the minutes or memoranda available for public inspection.

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- 1 (10) In determining whether a bidder is responsive, the board may
- 2 consider the following factors:
- 3 (A) Whether the bidder has submitted a bid or quote that
- 4 conforms in all material respects to the specifications.
- 5 (B) Whether the bidder has submitted a bid that complies
- 6 specifically with the invitation to bid and the instructions to
- 7 bidders.
- 8 (C) Whether the bidder has complied with all applicable
- 9 statutes, ordinances, resolutions, or rules pertaining to the
- 10 award of a public contract.
- 11 (11) In determining whether a bidder is a responsible bidder, the
- 12 board may consider the following factors:
- 13 (A) The ability and capacity of the bidder to perform the work.
- 14 (B) The integrity, character, and reputation of the bidder.
- 15 (C) The competence and experience of the bidder.
- 16 (12) The board shall require the bidder to submit an affidavit:
- 17 (A) that the bidder has not entered into a combination or
- 18 agreement:
- 19 (i) relative to the price to be bid by a person;
- 20 (ii) to prevent a person from bidding; or
- 21 (iii) to induce a person to refrain from bidding; and
- 22 (B) that the bidder's bid is made without reference to any other
- 23 bid.
- 24 (c) Notwithstanding subsection (b)(8), a county may award sand,
- 25 gravel, asphalt paving materials, or crushed stone contracts to more
- 26 than one (1) responsible and responsive bidder if the specifications
- 27 allow for bids to be based upon service to specific geographic areas and
- 28 the contracts are awarded by geographic area. The geographic areas do
- 29 not need to be described in the specifications.
- 30 SECTION 3. IC 36-1-12-4.7, AS AMENDED BY P.L.195-2007,
- 31 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 32 JULY 1, 2011]: Sec. 4.7. (a) This section applies whenever a public
- 33 work project is estimated to cost **at least fifty thousand dollars**
- 34 **(\$50,000) and less than one hundred fifty thousand dollars**
- 35 **(\$150,000).**
- 36 ~~(1) at least twenty-five thousand dollars (\$25,000) and less than~~
- 37 ~~one hundred thousand dollars (\$100,000) in:~~
- 38 ~~(A) a consolidated city, second class city, or third class city~~
- 39 ~~with a population of fifteen thousand (15,000) or more;~~
- 40 ~~(B) a county containing a consolidated city or second class~~
- 41 ~~city; or~~
- 42 ~~(C) a regional water or sewage district established under~~

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- 1 ~~IC 13-26; or~~
- 2 ~~(2) at least twenty-five thousand dollars (\$25,000) and less than~~
- 3 ~~fifty thousand dollars (\$50,000) in a political subdivision or~~
- 4 ~~agency not described in subdivision (1).~~
- 5 (b) The board must proceed under the following provisions:
- 6 (1) The board shall invite quotes from at least three (3) persons
- 7 known to deal in the class of work proposed to be done by mailing
- 8 them a notice stating that plans and specifications are on file in a
- 9 specified office. The notice must be mailed not less than seven (7)
- 10 days before the time fixed for receiving quotes.
- 11 (2) The board may not require a person to submit a quote before
- 12 the meeting at which quotes are to be received. The meeting for
- 13 receiving quotes must be open to the public. All quotes received
- 14 shall be opened publicly and read aloud at the time and place
- 15 designated and not before.
- 16 (3) The board shall award the contract for the public work to the
- 17 lowest responsible and responsive quoter.
- 18 (4) The board may reject all quotes submitted.

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