



February 18, 2011

SENATE BILL No. 418

DIGEST OF SB 418 (Updated February 16, 2011 6:56 pm - DI 102)

Citations Affected: IC 5-16; IC 5-30.

Synopsis: Common construction wage. Provides that the committee established in a county to determine the common construction wage for the county does not need to meet more often than once every three months and that the common construction wage determined at a meeting applies to all public works contracts awarded within the three months following the meeting. (Currently the committee must meet for each project.) Requires the committee to establish wages for all classifications that a county may need during the following three months. Requires that a new committee meet to establish wages for projects that require classifications not included on the three-month wage scale. Removes a requirement that the department of workforce development must provide reports for each meeting of the committee.

Effective: July 1, 2011.

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January 12, 2011, read first time and referred to Committee on Pensions and Labor.
February 17, 2011, amended, reported favorably — Do Pass.

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February 18, 2011

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. 418



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:

- 1 SECTION 1. IC 5-16-7-1 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Any firm, individual,
- 3 partnership, limited liability company, or corporation that is awarded
- 4 a contract by the state, a political subdivision, or a municipal
- 5 corporation for the construction of a public work, and any
- 6 subcontractor of the construction, shall pay for each class of work
- 7 described in subsection (c)(1) on the project a scale of wages that may
- 8 not be less than the common construction wage.
- 9 (b) For the purpose of ascertaining what the common construction
- 10 wage is in the county, the awarding governmental agency, before
- 11 advertising for the contract, shall set up a committee of five (5) persons
- 12 as follows:
- 13 (1) One (1) person representing labor, to be named by the
- 14 president of the state federation of labor.
- 15 (2) One (1) person representing industry, to be named by the
- 16 awarding agency.
- 17 (3) A third member to be named by the governor.

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1 (4) One (1) taxpayer who pays the tax that will be the funding
2 source for the project and resides in the county where the project
3 is located. The owner of the project shall make the appointment
4 under this subdivision.

5 (5) One (1) taxpayer who pays the tax that will be the funding
6 source for the project and resides in the county where the project
7 is located. The legislative body (as defined in IC 36-1-2-9) for the
8 county where the project is located shall make the appointment
9 under this subdivision.

10 (c) As soon as appointed, the committee shall meet in the county
11 where the project is located and determine in writing the following:

12 (1) A classification of the labor to be employed in the
13 performance of the contract for the project, divided into the
14 following three (3) classes:

- 15 (A) Skilled labor.
- 16 (B) Semiskilled labor.
- 17 (C) Unskilled labor.

18 (2) The wage per hour to be paid each of the classes.

19 The committee is not required to consider information not presented to
20 the committee at the meeting. IC 5-14-1.5 (open door law) applies to
21 a meeting of the committee.

22 **(d) The rate of wages determined by the committee under**
23 **subsection (c) applies to any contract for which the awarding**
24 **government agency lets not later than three (3) months after the**
25 **date the committee determines the rate of wages. The committee**
26 **shall establish wages for all classifications of work that may be**
27 **employed on projects subject to contracts let by the awarding**
28 **agency for three (3) months after the date the committee**
29 **determines the rate of wages. If an awarding agency advertises for**
30 **a contract that includes classifications that are not listed on the**
31 **existing wage scale, the awarding agency shall form a new**
32 **committee under subsection (b) to determine the classifications and**
33 **wages on the contract.**

34 **(e) If the awarding government agency lets for a contract later**
35 **than three (3) months after the committee determines the rate of**
36 **wages, the awarding government agency shall form a new**
37 **committee under subsection (b) to determine a rate of wages for**
38 **the contract. The rate of wages determined under this subsection**
39 **applies to any contract for which the awarding government agency**
40 **lets not later than three (3) months after the rate of wages is**
41 **determined under this subsection.**

42 ~~(d)~~ **(f)** The rate of wages determined under subsection (c) shall not

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1 be less than the common construction wage for each of the three (3)
2 classes of wages described in subsection (c) that are currently being
3 paid in the county where the project is located.

4 ~~(e)~~ **(g)** The provisions of this chapter shall not apply to contracts let
5 by the Indiana department of transportation for the construction of
6 highways, streets, and bridges. IC 8-23-9 applies to state highway
7 projects.

8 ~~(f)~~ **(h)** A determination under subsection (c) shall be made and filed
9 with the awarding agency at least two (2) weeks prior to the date fixed
10 for the letting, and a copy of the determination shall be furnished upon
11 request to any person desiring to bid on the contract. The schedule is
12 open to the inspection of the public.

13 ~~(g)~~ **(i)** If the committee appointed under subsection (b) fails to act
14 and to file a determination under subsection (c) at or before the time
15 required under subsection ~~(f)~~; **(h)**, the awarding agency shall make the
16 determination, and its finding shall be final.

17 ~~(h)~~ **(j)** It shall be a condition of a contract awarded under this
18 chapter that the successful bidder and all subcontractors shall comply
19 strictly with the determination made under this section.

20 ~~(i)~~ **(k)** The provisions of this chapter do not apply to public projects
21 in this state that would otherwise be subject to the provisions of this
22 chapter that are to be paid for in whole or in part with funds granted by
23 the federal government, unless the department of the federal
24 government making the grant shall consent in writing that the
25 provisions of this chapter are applicable to the project.

26 ~~(j)~~ **(l)** Notwithstanding any other law, the provisions of this chapter
27 apply to projects that will be:

- 28 (1) owned entirely; or
 - 29 (2) leased with an option to purchase;
- 30 by the state or a political subdivision (as defined in IC 36-1-2-13).

31 ~~(k)~~ **(m)** Notwithstanding any other law, this chapter does not apply
32 to projects in which the actual construction costs less than one hundred
33 fifty thousand dollars (\$150,000).

34 SECTION 2. IC 5-16-7-4 IS AMENDED TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2011]: Sec. 4. The definitions in this section
36 apply throughout this chapter:

- 37 (1) "Common construction wage" means a scale of wages for each
38 class of work described in section 1(c)(1) of this chapter that is
39 not less than the common construction wage of all construction
40 wages being paid in the county where a project is located, as
41 determined by the committee described in section 1(b) of this
42 chapter after having considered

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1 (A) reports from the department of workforce development;
 2 and
 3 (B) any other information submitted by any person to the
 4 committee established under section 1(b) of this chapter.
 5 (2) "State of Indiana" includes any officer, board, commission, or
 6 other agency authorized by law to award contracts for the
 7 performance of public work on behalf of the state, excepting as
 8 otherwise provided in this chapter.
 9 (3) "Municipal corporation" includes any county, city, town, or
 10 school corporation, as well as any officer, board, commission, or
 11 other agency authorized by law to award contracts for the
 12 performance of public work on behalf of any such municipal
 13 corporation. The term also includes a redevelopment commission
 14 established under IC 36-7-14-3.
 15 (4) "Public work" includes any public building, highway, street,
 16 alley, bridge, sewer, drain, improvement, or any other work of any
 17 nature or character whatsoever which is paid for out of public
 18 funds, excepting as otherwise provided in this chapter.
 19 SECTION 3. IC 5-30-8-6, AS ADDED BY P.L. 74-2005, SECTION
 20 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 21 2011]: Sec. 6. (a) A determination under IC 5-16-7-1(c) for a public
 22 project to be constructed under a design-build contract shall be made
 23 and filed with the public agency at least two (2) weeks before the date
 24 fixed for submission of the qualitative proposal and the price proposal
 25 under IC 5-30-6-5.
 26 (b) If the committee appointed under IC 5-16-7-1(b) fails to act and
 27 to file a determination under IC 5-16-7-1(c) within the time required by
 28 this section, the public agency shall make the determination, and its
 29 finding shall be final.
 30 (c) The time periods set forth in this section apply to any
 31 construction services provided for a public project to be constructed
 32 under a design-build contract, instead of the time periods set forth in
 33 ~~IC 5-16-7-1(f) and IC 5-16-7-1(g) and IC 5-16-7-1(h).~~

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COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 418, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 24, delete "advertises" and insert "lets".

Page 2, line 25, after "wages." insert "**The committee shall establish wages for all classifications of work that may be employed on projects subject to contracts let by the awarding agency for three (3) months after the date the committee determines the rate of wages. If an awarding agency advertises for a contract that includes classifications that are not listed on the existing wage scale, the awarding agency shall form a new committee under subsection (b) to determine the classifications and wages on the contract.**".

Page 2, line 26, delete "advertises" and insert "lets".

Page 2, line 32, delete "advertises" and insert "lets".

and when so amended that said bill do pass.

(Reference is to SB 418 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 6, Nays 0.

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