



February 9, 2011

SENATE BILL No. 533

DIGEST OF SB 533 (Updated February 7, 2011 3:41 pm - DI 113)

Citations Affected: IC 5-30.

Synopsis: Design-build public works projects. Provides that a public agency may not require an offeror to appear in person more than three times before the technical review committee for a design-build contract. Provides for a combined request for qualifications and proposals for a public project using design-build contracting if the preliminary estimated cost of the public project is less than \$1,000,000. Provides that a public agency may not issue a request for proposals for a controlled project until certain preliminary procedures requesting application of the petition and remonstrance process are completed. Limits the deliverables required for a qualitative proposal submitted in response to a request for proposals. Repeals the provision in current law requiring the governing body of a public agency to give prior authorization to use design-build contracting.

Effective: July 1, 2011.

Mishler

January 18, 2011, read first time and referred to Committee on Commerce & Economic Development.
February 8, 2011, amended, reported favorably — Do Pass.

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SB 533—LS 7422/DI 103+



February 9, 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. 533



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 5-30-2-1, AS ADDED BY P.L.74-2005, SECTION
- 2 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 3 2011]: Sec. 1. A design-build contract awarded as provided in this
- 4 ~~chapter article~~ is valid and enforceable.
- 5 SECTION 2. IC 5-30-4-1, AS ADDED BY P.L.74-2005, SECTION
- 6 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
- 7 2011]: Sec. 1. (a) Before entering into a design-build contract, a public
- 8 agency must appoint a technical review committee of at least three (3)
- 9 individuals.
- 10 (b) The members of the technical review committee must include
- 11 the following:
- 12 (1) A representative of the public agency.
- 13 (2) At least two (2) of the following, but not more than one (1)
- 14 under each clause:
- 15 (A) An architect registered under IC 25-4.
- 16 (B) A professional engineer registered under IC 25-31.
- 17 (C) A qualified contractor under IC 4-13.6 **or an individual**

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- 1 **employed by the qualified contractor.**
- 2 (c) A member of the technical review committee who is an architect
- 3 or a professional engineer may be:
- 4 (1) an employee of the public agency; or
- 5 (2) an outside consultant retained by the public agency for the
- 6 specific purpose of evaluating proposals submitted under this
- 7 article.
- 8 (d) The design criteria developer may serve as:
- 9 (1) a full member; or
- 10 (2) a nonvoting adviser;
- 11 of the committee.

12 SECTION 3. IC 5-30-4-4, AS ADDED BY P.L.74-2005, SECTION

13 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,

14 2011]: Sec. 4. **(a)** Except for interviews of persons submitting

15 **qualifications or** proposals, meetings of the technical review

16 committee shall be open to the public and subject to IC 5-14-1.5.

17 **(b) A public agency may not require an offeror to attend more**

18 **than three (3) interviews in person with the technical review**

19 **committee for a design-build contract.**

20 SECTION 4. IC 5-30-5-1, AS ADDED BY P.L.74-2005, SECTION

21 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,

22 2011]: Sec. 1. **(a) Except as provided in subsection (b),** when

23 design-build contracting ~~has been authorized under IC 5-30-2-2;~~ **is**

24 **used for a public project,** a public agency shall publish a notice of a

25 request for qualifications under IC 5-3-1. The notice must allow at least

26 ~~thirty (30)~~ **fourteen (14)** days for potential design-builders to respond

27 to the request for qualifications.

28 **(b) If design-build contracting is used for a public project with**

29 **a preliminary estimated cost that does not exceed one million**

30 **dollars (\$1,000,000), a public agency may publish a notice of a**

31 **combined request for qualifications and proposals under IC 5-3-1**

32 **that includes:**

- 33 (1) the information otherwise required by this chapter; and
- 34 (2) a request for proposals as otherwise provided under
- 35 IC 5-30-6.

36 **The notice must allow at least thirty (30) days for potential**

37 **design-builders to respond to the combined request for**

38 **qualifications and proposals.**

39 SECTION 5. IC 5-30-6-1, AS ADDED BY P.L.74-2005, SECTION

40 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,

41 2011]: Sec. 1. **(a) If a separate notice of request for qualifications**

42 **is issued under IC 5-30-5-1(a),** the public agency shall issue a request

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1 for proposals to the potential design-builders selected under
2 IC 5-30-5-6.

3 (b) Each request for proposals must contain a design criteria
4 package.

5 (c) For a project that is a controlled project (as defined in
6 IC 6-1.1-20-1.1), a request for proposals may not be issued until the
7 political subdivision proposing the controlled project has
8 completed the procedures described in IC 6-1.1-20-3.1.

9 SECTION 6. IC 5-30-7-1, AS ADDED BY P.L.74-2005, SECTION
10 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
11 2011]: Sec. 1. A proposal submitted in response to a request for
12 proposals described in IC 5-30-6 must satisfy the following:

13 (1) The qualitative proposal and the price proposal must be
14 submitted simultaneously in separately sealed and identified
15 packages. The price proposal must remain sealed until opened in
16 public under section 5 of this chapter.

17 (2) A proposal must identify each person with whom the offeror
18 proposes to enter into subcontracts for primary design services
19 and primary construction services, including any subcontractors,
20 under the design-build contract. The public agency may determine
21 requirements under this section.

22 (3) The price proposal must:
23 (A) contain one (1) lump sum cost of all design, construction
24 engineering, inspection, and construction costs of the proposed
25 project; or
26 (B) establish a maximum cost of the design-build contract that
27 will not be exceeded if the proposal is accepted without
28 change.

29 (4) The deliverables required for a qualitative proposal must
30 include: not exceed the following:

- 31 (A) All ~~documents~~, information and data requested in the
- 32 request for proposals: **design criteria package.**
- 33 (B) **A conceptual site plan.**
- 34 (C) **Conceptual building, systems, and equipment plans.**
- 35 (D) **Conceptual elevations.**
- 36 (E) **A project description narrative.**

37 SECTION 7. IC 5-30-2-2 IS REPEALED [EFFECTIVE JULY 1,
38 2011].

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COMMITTEE REPORT

Madam President: The Senate Committee on Commerce and Economic Development, to which was referred Senate Bill No. 533, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 533 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 8, Nays 0.

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