

# SENATE BILL No. 197

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## 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% Indiana 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.

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**Arnold, Breaux, Broden, Hume,  
Lanane, Mrvan, Randolph, Rogers,  
Simpson, Skinner, Tallian, Taylor,  
Young R**

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January 4, 2012, read first time and referred to Committee on Commerce and Economic Development.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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# SENATE BILL No. 197



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



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

9 (c) Before October 1, 2013, and each year thereafter, the  
 10 commissioner shall compile, make available for public inspection,  
 11 and submit to the legislative council a report for the preceding  
 12 state fiscal year stating:

13 (1) for the contractors awarded contracts in covered  
 14 transactions; and

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

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

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

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

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

29 (3) A person who has a child enrolled in an elementary or a  
 30 secondary school located in Indiana.

31 (4) A person who derives more than one-half (1/2) of the  
 32 person's gross income (as defined in Section 61 of the Internal  
 33 Revenue Code) from sources in Indiana, according to the  
 34 provisions applicable to determining the source of adjusted  
 35 gross income that are set forth in IC 6-3-2-2. However, a  
 36 person who would otherwise be considered a resident of  
 37 Indiana under this subdivision is not a resident of Indiana if  
 38 a preponderance of the evidence concerning the factors set  
 39 forth in subdivisions (1) through (3) proves that the person is  
 40 not a resident of Indiana.

41 (b) When entering a bid under this chapter or a contract for  
 42 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, 2013, 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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1 subsections (a) through (f) do not apply.

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

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

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

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

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

33 (d) Before August 15, 2013, and each year thereafter, the state  
34 or a commission entering into contracts under this chapter shall  
35 file with the commissioner of the Indiana department of  
36 administration a report stating:

- 37 (1) for each contractor awarded a contract under this  
38 chapter; and  
39 (2) for each subcontractor with which a contractor referred  
40 to in subdivision (1) enters into a contract in connection with  
41 a contract awarded under this chapter;  
42 the percentage of the employees of the contractor or subcontractor

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1 who work on the contract and are residents of Indiana.

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

5 (1) employ residents of Indiana as at least eighty percent  
6 (80%) of the employees who work on the contract; and

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

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

15 (g) If:

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

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

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

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

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

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

31 (3) A person who has a child enrolled in an elementary or a  
32 secondary school located in Indiana.

33 (4) A person who derives more than one-half (1/2) of the  
34 person's gross income (as defined in Section 61 of the Internal  
35 Revenue Code) from sources in Indiana, according to the  
36 provisions applicable to determining the source of adjusted  
37 gross income that are set forth in IC 6-3-2-2. However, a  
38 person who would otherwise be considered a resident of  
39 Indiana under this subdivision is not a resident of Indiana if  
40 a preponderance of the evidence concerning the factors set  
41 forth in subdivisions (1) through (3) proves that the person is  
42 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, 2013, 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, 2013, 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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