March 13, 2013

ENGROSSED
HOUSE BILL No. 1589

DIGEST OF HB 1589 (Updated March 12, 2013 10:30 am - DI 73)

Citations Affected: IC 8-10.

Synopsis: Ports of Indiana procurement and public works. Increases the threshold at which the ports of Indiana (ports) is required to publicly bid construction projects or purchases of equipment, materials, and supplies from $25,000 to $150,000. Provides that a contract for construction or for the purchase of materials or supplies, may proceed immediately after the ports approves the contract. Provides the grounds by which an emergency may be declared by the governing body of the ports and requires the reason for the declaration of emergency to be recorded in the governing body's minutes. Provides that if an emergency is declared, the ports may: (1) contract for a construction project or the purchase of equipment, materials, or supplies, without advertising for bids, if bids or quotes are invited from at least three persons; (2) reject all bids or quotes submitted; and (3) contract with the lowest and best bidder or quoter for the construction project or purchase. Prohibits the ports, in the absence of a declared emergency, from making separate contracts for a construction project or purchase of equipment, if the aggregate of the contracts is more than $150,000 (instead of $25,000).

Effective: May 15, 2013.

Ober, Clere, Brown C, Stemler

(SENATE SPONSORS — HEAD, CHARBONNEAU)

January 23, 2013, read first time and referred to Committee on Government and Regulatory Reform.
February 19, 2013, amended, reported — Do Pass.
February 21, 2013, read second time, amended, ordered engrossed.
February 22, 2013, engrossed.
February 25, 2013, read third time, passed. Yeas 94, nays 0.

SENATE ACTION

February 27, 2013, read first time and referred to Committee on Tax and Fiscal Policy.
March 12, 2013, reported favorably — Do Pass.

C o p y

March 13, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

C o p y

ENGROSSED
HOUSE BILL No. 1589

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 8-10-1-7, AS AMENDED BY P.L.98-2008, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE MAY 15, 2013]: Sec. 7. The ports of Indiana is authorized and empowered to do the following:

(1) To adopt an official seal which shall not be the seal of the state of Indiana.

(2) To maintain a principal office and sub-offices at such place or places within the state as it may designate.

(3) To sue and be sued, and to plead and be impleaded in the name of the ports of Indiana. However, actions at law against the ports of Indiana shall be brought in the circuit court of the county in which the principal office of the ports of Indiana is located or in the circuit court of the county in which the cause of action arose, if the county is located within the state. All summonses and legal notices of every kind shall be served on the ports of Indiana by leaving a copy thereof at the principal office of the ports of Indiana with the person in charge thereof or with the secretary of

the ports of Indiana. However, no such action shall be deemed commenced until a copy of the summons and complaint, cross complaint, petition, bill, or pleading is served upon the attorney general of Indiana.

(4) To acquire, lease, construct, maintain, repair, police, and operate a port or project as provided in this chapter, and to establish rules and regulations for the use of the port or project, and other property subject to the jurisdiction and control of the ports of Indiana.

(5) To issue both taxable and tax exempt revenue bonds of the state, payable solely from revenues, as herein provided, for the purpose of paying all or any part of the cost of a port or project.

(6) To acquire, lease, and operate tug boats, locomotives, and any and every kind of motive power and conveyances or appliances necessary or proper to carry passengers, goods, wares, merchandise, or articles of commerce in, on, or around the port or project.

(7) To fix and revise from time to time and to collect fees, rentals, tolls, and other charges for the use of any port or project.

(8) To acquire, obtain option on, hold, and dispose of real and personal property in the exercise of its powers and the performance of its duties under this chapter.

(9) To designate the location and establish, limit, and control points of ingress to and egress from a port or project.

(10) To lease to others for development or operation such portions of any port or project, on such terms and conditions as the ports of Indiana shall deem advisable.

(11) To make and enter into all contracts, undertakings, and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter. **Except as provided in section 29 of this chapter,** when the cost of any such contract for construction, or for the purchase of equipment, materials, or supplies, involves an expenditure of more than ~~twenty-five~~ **one hundred fifty** thousand dollars ~~($25,000),~~ **($150,000),** the ports of Indiana shall make a written contract with the lowest and best bidder after advertisement for not less than two (2) consecutive weeks in a newspaper of general circulation in the county where the construction will occur and in such other publications as the ports of Indiana shall determine. The notice shall state the general character of the work and the general character of the materials to be furnished, the place where plans and specifications therefor may be examined, and the time and

C o p y

place of receiving bids. Each bid shall contain the full name of every person or company interested in it and shall be accompanied by a sufficient bond or certified check on a solvent bank that if the bid is accepted a contract will be entered into and the performance of its proposal secured. The ports of Indiana may reject any and all bids. A bond with good and sufficient surety as shall be approved by the ports of Indiana shall be required of all contractors in an amount equal to at least fifty percent (50%) of the contract price conditioned upon the faithful performance of the contract. **A contract for construction or a contract for the purchase of materials or supplies requires only the approval of the commission. Upon the ports of Indiana's approval of a contract, the ports of Indiana may immediately proceed with the construction or purchase.**

(12) To construct, assemble, or otherwise build, own, lease, operate, manage, or otherwise control any project throughout Indiana for the purpose of promoting economic growth and development throughout Indiana, retaining existing employment within Indiana, and attracting new employment opportunities within Indiana.

(13) To employ a chief executive, consulting engineers, superintendents, and such other engineers, construction and accounting experts, attorneys, and other employees and agents as may be necessary in its judgment, and to fix their compensation and title, but no compensation of any employee of the ports of Indiana shall exceed the compensation of the highest paid officer or employee of the state.

(14) To receive and accept from any federal agency grants for or in aid of the construction of any port or project, and to receive and accept aid or contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

(15) To provide coverage for its employees under the provisions of IC 22-3-2 through IC 22-3-6, and IC 22-4.

(16) To do all acts and things necessary or proper to carry out the powers expressly granted in this article.

(17) To hold, use, administer, and expend such sum or sums as may herein or hereafter be appropriated or transferred to the ports of Indiana.

SECTION 2. IC 8-10-1-29, AS AMENDED BY P.L.98-2008, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

C o p y

MAY 15, 2013]: Sec. 29. (a) **The ports of Indiana may declare an emergency:**

(1) in the case of fire, flood, windstorm, casualty, or other extraordinary emergency, including mechanical failure of any part of a building or structure; and

(2) if the health, safety, or welfare of the public or necessary governmental operations are endangered by loss or damage.

The ports of Indiana shall declare an emergency by recording the declaration and grounds for the emergency in the minutes of the commission.

(b) Unless the ports of Indiana declares an emergency, the ports of Indiana may not during any six (6) month period make separate contracts with another party for similar construction projects or the purchase of similar equipment, materials, or supplies under IC 8-10-1-7(5) without advertising for and accepting public bids, if the aggregate cost of the separate contracts is more than ~~twenty-five~~ **one hundred fifty** thousand dollars ~~($25,000).~~ **($150,000).**

~~(b)~~ **(c)** A commission member or an employee of the ports of Indiana who knowingly violates subsection ~~(a)~~ **(b)** commits a Class D felony.

~~(c)~~ **(d)** A person who accepts a contract with the ports of Indiana knowing that subsection ~~(a)~~ **(b)** was violated in connection with the contract commits a Class D felony and may not be a party to or benefit from any contract with a public body in the state for two (2) years from the date of the person's conviction.

(e) If the ports of Indiana declares an emergency, the ports of Indiana may:

(1) contract for a construction project or the purchase of equipment, materials, or supplies, without advertising for bids, if bids or quotes are invited from at least three (3) persons known to deal in:

(A) the public work required to be done; or

(B) the equipment, materials, or supplies sought to be purchased; and

(2) either:

(A) reject all bids or quotes submitted; or

(B) contract with the lowest and best bidder or quoter for the construction project or purchase.

SECTION 3. **An emergency is declared for this act.**

C o p y

COMMITTEE REPORT

Mr. Speaker: Your Committee on Government and Regulatory Reform, to which was referred House Bill 1589, has had the same under consideration and begs leave to report the same back to the House 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 HB 1589 as introduced.)

MAHAN, Chair

Committee Vote: yeas 9, nays 4.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1589 be amended to read as follows:

Page 4, line 1, after "(a)" insert "**The ports of Indiana may declare an emergency:**

(1) in the case of fire, flood, windstorm, casualty, or other extraordinary emergency, including mechanical failure of any part of a building or structure; and

(2) if the health, safety, or welfare of the public or necessary governmental operations are endangered by loss or damage.

The ports of Indiana shall declare an emergency by recording the declaration and grounds for the emergency in the minutes of the commission.

(b)".

Page 4, line 8, strike "(b)" and insert "**(c)**".

Page 4, line 9, strike "(a)" and insert "**(b)**".

Page 4, line 10, strike "(c)" and insert "**(d)**".

Page 4, line 11, strike "(a)" and insert "**(b)**".

Page 4, line 15, delete "(d)" and insert "**(e)**".

(Reference is to HB 1589 as printed February 19, 2013.)

OBER

Copy

COMMITTEE REPORT

Madam President: The Senate Committee on Tax and Fiscal Policy, to which was referred House Bill No. 1589, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1589 as reprinted February 22, 2013.)

HERSHMAN, Chairperson

Committee Vote: Yeas 8, Nays 3.

Copy