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# SENATE BILL No. 315

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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 would cause the loss of the federal funds, as determined by the federal agency providing the funds, the use of 80% 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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**Mrvan**

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January 8, 2013, read first time and referred to Committee on Commerce, Economic Development & Technology.

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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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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# SENATE BILL No. 315



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) or more of  
11 the 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  
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) entered into subcontracts in connection  
 17 with 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) or more 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  
 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 for 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 on the contract by the contractor and the number of  
 4 residents of Indiana who will be employed on the contract by any  
 5 subcontractor of the contractor.

6 (c) A contract for a public works project may not be awarded to  
 7 a contractor that does not:

8 (1) employ residents of Indiana as at least eighty percent  
 9 (80%) of the employees who work on the contract; and

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

13 (d) Before August 15, 2013, and each year thereafter, the  
 14 division shall file with the commissioner a report for the preceding  
 15 year stating:

16 (1) for each contractor awarded a contract under this  
 17 chapter; and

18 (2) for each subcontractor with which a contractor referred  
 19 to in subdivision (1) entered into a subcontract in connection  
 20 with a contract awarded under this chapter;

21 the percentage of the employees of the contractor or subcontractor  
 22 who work on the contract and are residents of Indiana.

23 (e) A contract awarded under this chapter for a public works  
 24 project is terminated if the division determines that the contractor  
 25 has failed to:

26 (1) employ residents of Indiana as at least eighty percent  
 27 (80%) of the employees who work on the contract; and

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

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

36 (g) If:

37 (1) a contract or subcontract awarded under this chapter is  
 38 funded in whole or in part with federal funds; and

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

42 employing eighty percent (80%) Indiana residents for the contract

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1 or any subcontract is a goal for the contract, and subsections (b)  
2 through (f) do not apply.

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

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

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

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

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

22 (b) When entering into a contract with the state or a commission  
23 under this chapter, each contractor shall provide the state or  
24 commission with information on the number of residents of  
25 Indiana who will be employed on the contract by the contractor  
26 and the number of residents of Indiana who will be employed on  
27 the contract 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 that does not:

30 (1) employ residents of Indiana as at least eighty percent  
31 (80%) of the employees who work on the contract; and

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

35 (d) Before August 15, 2013, and each year thereafter, the state  
36 or a commission entering into contracts under this chapter shall  
37 file with the commissioner of the Indiana department of  
38 administration a report for the preceding year 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) entered into a subcontract in connection

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1           with 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 state or commission 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 that fails to employ residents  
13 of Indiana as at least eighty percent (80%) of the employees who  
14 work on a contract or subcontract as required under this section  
15 commits a Class B infraction for each nonresident of Indiana  
16 employed in excess of the number of nonresident employees  
17 permitted by this section.

18           (g) If:

19           (1) a contract or subcontract awarded under this chapter is  
20 funded in whole or in part with federal funds; and

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

24 employing eighty percent (80%) Indiana residents for the contract  
25 or any subcontract is a goal for the contract, and subsections (b)  
26 through (f) do not apply.

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

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

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

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

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

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1 a preponderance of the evidence concerning the factors set  
 2 forth in subdivisions (1) through (3) proves that the person is  
 3 not a resident of Indiana.

4 (b) When entering into a contract for a public works project  
 5 under this chapter, each contractor shall provide the commission  
 6 with information on the number of residents of Indiana who will be  
 7 employed on the contract by the contractor and the number of  
 8 residents of Indiana who will be employed on the contract by any  
 9 subcontractor of the contractor.

10 (c) A contract for a public works project under this chapter may  
 11 not be awarded to a contractor that does not:

12 (1) employ residents of Indiana as at least eighty percent  
 13 (80%) of the employees of the contractor who work on the  
 14 contract; and

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

18 (d) Before August 15, 2013, and each year thereafter, the  
 19 commission shall file with the commissioner of the Indiana  
 20 department of administration a report for the preceding year  
 21 stating:

22 (1) for each contractor awarded a contract for a public works  
 23 project under this chapter; and

24 (2) for each subcontractor with which a contractor referred  
 25 to in subdivision (1) entered into a subcontract in connection  
 26 with a contract for a public works project awarded under this  
 27 chapter;

28 the percentage of the employees of the contractor or subcontractor  
 29 who work on the contract and are residents of Indiana.

30 (e) A contract awarded under this chapter for a public works  
 31 project is terminated if the commission determines that the  
 32 contractor has failed to:

33 (1) employ residents of Indiana as at least eighty percent  
 34 (80%) of the employees who work on the contract; and

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

38 (f) A contractor or subcontractor that fails to employ residents  
 39 of Indiana as at least eighty percent (80%) of the employees who  
 40 work on a contract or subcontract as required under this section  
 41 commits a Class B infraction for each nonresident of Indiana  
 42 employed in excess of the number of nonresident employees

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1 permitted by this section.

2 (g) If:

3 (1) a contract or subcontract awarded for a public works  
4 project under this chapter is funded in whole or in part with  
5 federal funds; and

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

9 employing eighty percent (80%) Indiana residents for the contract  
10 or any subcontract is a goal for the contract, and subsections (b)  
11 through (f) do not apply.

12 SECTION 5. IC 8-23-9-4.6 IS ADDED TO THE INDIANA CODE  
13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
14 UPON PASSAGE]: Sec. 4.6. (a) As used in this section, "resident of  
15 Indiana" means a person who is at least eighteen (18) years of age  
16 and is one (1) or more of the following:

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

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

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

21 (4) A person who derives more than one-half (1/2) of the  
22 person's gross income (as defined in Section 61 of the Internal  
23 Revenue Code) from sources in Indiana, according to the  
24 provisions applicable to determining the source of adjusted  
25 gross income that are set forth in IC 6-3-2-2. However, a  
26 person who would otherwise be considered a resident of  
27 Indiana under this subdivision is not a resident of Indiana if  
28 a preponderance of the evidence concerning the factors set  
29 forth in subdivisions (1) through (3) proves that the person is  
30 not a resident of Indiana.

31 (b) When entering into a contract for a public works project  
32 under this chapter, each contractor shall provide the department  
33 with information on the number of residents of Indiana who will be  
34 employed on the contract by the contractor and the number of  
35 residents of Indiana who will be employed on the contract by any  
36 subcontractor of the contractor.

37 (c) A contract for a public works project under this chapter may  
38 not be awarded to a contractor that does not:

39 (1) employ residents of Indiana as at least eighty percent  
40 (80%) of the employees of the contractor who work on the  
41 contract; and

42 (2) enter into subcontracts only with subcontractors who

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1           employ residents of Indiana as at least eighty percent (80%)  
2           of the employees working on the subcontract.  
3           (d) Before August 15, 2013, and each year thereafter, the  
4           department shall file with the commissioner of the Indiana  
5           department of administration a report for the preceding year  
6           stating:  
7               (1) for each contractor awarded a contract for a public works  
8               project under this chapter; and  
9               (2) for each subcontractor with which a contractor referred  
10              to in subdivision (1) entered into a subcontract in connection  
11              with a contract for a public works project awarded under this  
12              chapter;  
13           the percentage of the employees of the contractor or subcontractor  
14           who work on the contract and are residents of Indiana.  
15           (e) A contract awarded under this chapter for a public works  
16           project is terminated if the department determines that the  
17           contractor has failed to:  
18               (1) employ residents of Indiana as at least eighty percent  
19               (80%) of the employees who work on the contract; and  
20               (2) enter into subcontracts only with subcontractors who  
21               employ residents of Indiana as at least eighty percent (80%)  
22               of the employees who work on the subcontract.  
23           (f) A contractor or subcontractor that fails to employ residents  
24           of Indiana as at least eighty percent (80%) of the employees who  
25           work on a contract or subcontract as required under this section  
26           commits a Class B infraction for each nonresident of Indiana  
27           employed in excess of the number of nonresident employees  
28           permitted by this section.  
29           (g) If:  
30               (1) a contract or subcontract for a public works project  
31               awarded under this chapter is funded in whole or in part with  
32               federal funds; and  
33               (2) imposing the requirements of this section would cause the  
34               state to lose the federal funds for the contract, as determined  
35               by the federal agency providing the funds;  
36           employing eighty percent (80%) Indiana residents for the contract  
37           or any subcontract is a goal for the contract, and subsections (b)  
38           through (f) do not apply.  
39           SECTION 6. An emergency is declared for this act.

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