HOUSE BILL No. 1019

DIGEST OF HB 1019 (Updated February 17, 2015 1:10 pm - DI 96)

Citations Affected: IC 4-13.5; IC 4-13.6; IC 5-1; IC 5-16; IC 5-23; IC 5-30; IC 8-1.5; IC 8-15.5; IC 8-15.7; IC 8-24; IC 16-22; IC 22-1; IC 35-44.2; IC 35-52; IC 36-1; IC 36-7; IC 36-7.5; IC 36-7.6; IC 36-9.


Effective: July 1, 2015.

Torr, Bosma, Brown T, Clere, DeVon, Speedy, Cook, Ziemke, Price, Lucas, Richardson

January 6, 2015, read first time and referred to Committee on Employment, Labor and Pensions. February 17, 2015, reported — Do Pass.
HOUSE BILL No. 1019

A BILL FOR AN ACT to amend the Indiana Code concerning public offices, officers, and employees.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-13.5-1.5-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 13. (a) An agreement or a contract under this chapter is subject to IC 5-16-7.

(b) (a) The contractor and each subcontractor engaged in installing energy conservation measures under a guaranteed energy cost savings contract shall keep full and accurate records indicating the names, classifications, and work performed by each worker employed by the respective contractor and subcontractor in connection with the work together with an accurate record of the number of hours worked by each worker and the actual wages paid.

(c) (b) The payroll records required to be kept under this section must be open to inspection by an authorized representative of the commission and the department of labor.

SECTION 2. IC 4-13.6-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 4. The division shall
comply with this article and the following statutes in the administration
of public works contracts:
(1) IC 5-16-3.
(2) IC 5-16-6.
(3) IC 5-16-7; if the estimated cost of the public works project is
at least twenty-five thousand dollars ($25,000):
(4) IC 5-16-8.
(5) IC 5-16-9.

SECTION 3. IC 4-13.6-8-8 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) An agreement or
a contract under this chapter is subject to IC 5-16-7:
(b) The contractor and each subcontractor engaged in installing
energy conservation measures under a guaranteed energy savings
contract shall keep full and accurate records indicating the names,
classifications, and work performed by each worker employed by the
respective contractor and subcontractor in connection with the work
and an accurate record of the number of hours worked by each worker
and the actual wages paid.
(c) The payroll records required to be kept under this section
must be open to inspection by an authorized representative of the
department and the department of labor.

SECTION 4. IC 5-1-16-45, AS AMENDED BY P.L.113-2006,
SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2015]: Sec. 45. (a) A county desiring to have a building
erected or renovated on land owned or to be acquired by the county
may sell that land or building to the authority. Before the sale may take
place, the county commissioners shall file a petition with the circuit
court of the county requesting the appointment of:
(1) one (1) disinterested freeholder of the county as an appraiser;
and
(2) two (2) disinterested appraisers licensed under IC 25-34.1;
who are residents of Indiana to determine the fair market value of the
land or building. One (1) of the appraisers described under subdivision
(2) must reside not more than fifty (50) miles from the land or building.
Upon appointment, the appraisers shall fix the fair market value of the
land or building and shall report that value within two (2) weeks from
the date of their appointment. The county may then sell the land or
building to the authority for an amount not less than the amount fixed
by the appraisers as the fair market value. The amount shall be paid in
cash upon delivery of the deed by the county to the authority. If a
cumulative building fund exists at the time of the sale, the proceeds
from the sale shall be placed in that fund. If a cumulative building fund
does not exist at the time of the sale, the proceeds from the sale shall be paid into the county hospital fund with the principal and interest on the fund to be used solely by the county hospital for the purposes set forth in IC 16-22-5-3 (or IC 16-12.1-4-4 before its repeal on July 1, 1993). A sale of land or a building by a county to the authority shall be authorized by the board of commissioners by an order that shall be entered in the official records of the board. The deed shall be executed on behalf of the county by the board of county commissioners.

(b) A contract entered into under this chapter for a public work (as defined in IC 5-16-7-4) is subject to IC 5-16-7.

SECTION 5. IC 5-1-17-18, AS AMENDED BY P.L.1-2006, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 18. (a) Subject to subsection (h), the authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;
(2) constructing, improving, reconstructing, or renovating one (1) or more capital improvements; or
(3) funding or refunding bonds issued under IC 36-10-8 or IC 36-10-9 or prior law.

(b) The bonds are payable from the lease rentals from the lease of the capital improvements for which the bonds were issued, insurance proceeds, and any other funds pledged or available.

c) The bonds shall be authorized by a resolution of the board.

d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds at public or private sale upon the terms determined by the board.

(g) All money received from any bonds issued under this chapter shall be applied to the payment of the cost of the acquisition or construction, or both, of capital improvements, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of the facility and all buildings, facilities, structures, and improvements related to it;
(2) acquisition of a site and clearing and preparing the site for construction;
(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the capital improvement suitable for use and operations;
(4) architectural, engineering, consultant, and attorney’s fees;

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(5) incidental expenses in connection with the issuance and sale of bonds;
(6) reserves for principal and interest;
(7) interest during construction;
(8) financial advisory fees;
(9) insurance during construction;
(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on, the bonds being refunded or refinanced.

(h) The authority may not issue bonds under this chapter unless the authority first finds that the following conditions are met:

(1) Each contract or subcontract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds

   (A) requires payment of the common construction wage required by IC 5-16-7; and

   (B) requires the contractor or subcontractor to enter into a project labor agreement as a condition of being awarded and performing work on the contract.

(2) The capital improvement board and the authority have entered into a written agreement concerning the terms of the financing of the facility. This agreement must include the following provisions:

   (A) Notwithstanding any other law, if the capital improvement board selected a construction manager and an architect for a facility before May 15, 2005, the authority will contract with that construction manager and architect and use plans as developed by that construction manager and architect. In addition, any other agreements entered into by the capital improvement board or a political subdivision served by the capital improvement board with respect to the design and construction of the facility will be reviewed by a selection committee consisting of:

      (i) two (2) of the members appointed to the board of directors of the authority under section 7(a)(1) of this chapter, as designated by the governor;

      (ii) the two (2) members appointed to the board of directors of the authority under section 7(a)(2) of this chapter; and

      (iii) the executive director of the authority.
The selection committee is not bound by any prior commitments of the capital improvement board or the political subdivision, other than the general project design, and will approve all contracts necessary for the design and construction of the facility.

(B) If before May 15, 2005, the capital improvement board acquired any land, plans, or other information necessary for the facility and the board had budgeted for these items, the capital improvement board will transfer the land, plans, or other information useful to the authority for a price not to exceed the lesser of:

(i) the actual cost to the capital improvement board; or
(ii) three million five hundred thousand dollars ($3,500,000).

(C) The capital improvement board agrees to take any legal action that the authority considers necessary to facilitate the financing of the facility, including entering into agreements during the design and construction of the facility or a sublease of a capital improvement to any state agency that is then leased by the authority to any state agency under section 26 of this chapter.

(D) The capital improvement board is prohibited from taking any other action with respect to the financing of the facility without the prior approval of the authority. The authority is not bound by the terms of any agreement entered into by the capital improvement board with respect to the financing of the facility without the prior approval of the authority.

(E) As the project financier, the Indiana finance authority (or its successor agency) and the public finance director will be responsible for selecting all investment bankers, bond counsel, trustees, and financial advisors.

(F) The capital improvement board agrees to deliver to the authority the one hundred million dollars ($100,000,000) that is owed to the capital improvement board, the consolidated city, or the county having a consolidated city pursuant to an agreement between the National Football League franchised professional football team and the capital improvement board, the consolidated city, or the county. This amount shall be applied to the cost of construction for the stadium part of the facility. This amount does not have to be delivered until a lease is entered into for the stadium between the authority and the capital improvement board.
(G) The authority agrees to consult with the staff of the capital improvement board on an as needed basis during the design and construction of the facility, and the capital improvement board agrees to make its staff available for this purpose.

(H) The authority, the county, the consolidated city, the capital improvement board and the National Football League franchised professional football team must commit to using their best efforts to assist and cooperate with one another to design and construct the facility on time and on budget.

(3) The capital improvement board and the National Football League franchised professional football team have entered into a lease for the stadium part of the facility that has been approved by the authority and has a term of at least thirty (30) years.

SECTION 6. IC 5-16-7 IS REPEALED [EFFECTIVE JULY 1, 2015]. (Wage Scale of Contractors' and Subcontractors' Employees).

SECTION 7. IC 5-16-7.1 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 7.1. Effect of Repeal of Common Construction Wage Statute (IC 5-16-7)

Sec. 1. As used in this chapter, "common construction wage statute" refers to the following:

(1) IC 5-16-7, as in effect on June 30, 2015.

(2) Any statute, as in effect on June 30, 2015, if IC 5-16-7 is applicable.

Sec. 2. Notwithstanding the repeal of the common construction wage statute by legislation enacted in the 2015 regular session of the general assembly, the common construction wage statute applies to a public works contract awarded before July 1, 2015, and shall be enforced as if the common construction wage statute had not been repealed.

SECTION 8. IC 5-23-3-3 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 3: If a governmental body enters into a BOT agreement that involves the construction of a public facility with public funds under this section, the operator or any contractor or subcontractor engaged in the construction of that public facility shall pay the common construction wage as determined under IC 5-16-7:

SECTION 9. IC 5-23-4-2 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 2: If a governmental body enters into an operating agreement that involves the construction of a public facility with public funds under this section, the operator or any contractor or subcontractor engaged in the construction of that public facility shall pay the common
construction wage as determined under IC 5-16-7:

SECTION 10. IC 5-30-6-4, AS ADDED BY P.L.74-2005,
SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2015]: Sec. 4. In addition to the design criteria package, a
request for proposals must include the following:

(1) Instructions.
(2) Proposal forms and schedules.
(3) General and special conditions.
(4) The basis for evaluation of proposals, including a description
of the selection criteria with the weight assigned to each criteria.
(5) A determination of the common construction wage made
under IC 5-16-7:
(6) Any other instructions, documents, or information relevant
to the public project that the public agency considers relevant.

SECTION 11. IC 5-30-8-6 IS REPEALED [EFFECTIVE JULY 1,
2015]. Sec. 6. (a) A determination under IC 5-16-7-1(c) for a public
project to be constructed under a design-build contract shall be made
and filed with the public agency at least two (2) weeks before the date
fixed for submission of the qualitative proposal and the price proposal
under IC 5-30-6-5:

(b) If the committee appointed under IC 5-16-7-1(b) fails to act and
to file a determination under IC 5-16-7-1(c) within the time required by
this section; the public agency shall make the determination; and its
finding shall be final:

(c) The time periods set forth in this section apply to any
construction services provided for a public project to be constructed
under a design-build contract; instead of the time periods set forth in
IC 5-16-7-1(h) and IC 5-16-7-1(i):

SECTION 12. IC 8-1.5-2-27 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 27. (a) A municipality
may lease waterworks facilities from a not-for-profit corporation, a
public utility, a county, or a municipality. The term of the lease may not
exceed fifty (50) years. The lease must provide that the municipality
has an option to:

(1) renew the lease for a further term on like conditions; and
(2) purchase the waterworks facilities covered by the lease
contract with the terms and conditions of the purchase specified
in the lease.

(b) If the option to purchase the waterworks facilities covered by the
lease is exercised, the municipality, for the purpose of procuring money
to pay the purchase price, may issue and sell revenue bonds under other
laws governing the issuance and sale of waterworks revenue bonds for

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additions and extensions to municipal waterworks.

(c) If the municipality has not exercised an option to purchase the property covered by the lease at the expiration of the lease, and upon the full discharge and performance by the municipality of its obligations under the lease contract, the property covered by the lease thereupon becomes the absolute property of the municipality, and the lessor shall execute proper instruments conveying to the municipality good and merchantable title thereto.

(d) A waterworks facility leased under this section is subject to IC 5-16-7.

SECTION 13. IC 8-15.5-6-2, AS AMENDED BY P.L.205-2013, SECTION 157, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Unless otherwise provided by federal law or this section, the operator or any contractor or subcontractor of the operator engaged in the construction of a project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

(b) IC 5-16-7 concerning the common construction wage applies to the following:

(1) The operator or any contractor or subcontractor of the operator engaged in a project for the construction of the Illiana Expressway, a limited access facility connecting Interstate Highway 65 in northwestern Indiana with an interstate highway in Illinois.

(2) The operator or any contractor or subcontractor of the operator engaged in the construction of a project that is the subject of a public-private agreement entered into after April 30, 2011.

SECTION 14. IC 8-15.7-6-2, AS AMENDED BY P.L.163-2011, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. (a) Unless otherwise provided by federal law or this section, the operator or any contractor or subcontractor of the operator engaged in the construction of a project is not required to comply with IC 4-13.6 or IC 5-16 concerning state public works, IC 5-17 concerning purchases of materials and supplies, or other statutes concerning procedures for procurement of public works or personal property as a condition of being awarded and performing work on the project.

(b) IC 5-16-7 concerning the common construction wage applies to the following:

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(1) The operator or any contractor or subcontractor of the operator
engaged in a project for the construction of the Illiana
Expressway, a limited access facility connecting Interstate
Highway 65 in northwestern Indiana with an interstate highway
in Illinois:

(2) The operator or any contractor or subcontractor of the operator
engaged in the construction of a project that is the subject of a
public-private agreement entered into after April 30, 2011.

SECTION 15. IC 8-24-9-1, AS ADDED BY P.L.182-2009(ss),
SECTION 282, IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2015]: Sec. 1. The district shall comply with
IC 5-16-7 (common construction wage), IC 5-22 (public purchasing),
IC 36-1-12 (public work projects), and any applicable federal bidding
statutes and regulations.

SECTION 16. IC 16-22-6-37 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 37. (a) A county or the
governing board of the hospital may remodel or construct an addition
to a hospital building leased under this chapter.

(b) To provide funds for that purpose, the county may issue general
obligation bonds or appropriate money from the county’s general fund
or other funds available for that purpose if the hospital building is
owned by the county. The governing board of a hospital may use funds
available to the board if the hospital building is owned by the county.

(c) A contract entered into under this chapter for a public work (as
defined in IC 5-16-7-4) is subject to IC 5-16-7.

SECTION 17. IC 16-22-7-42 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 42. (a) The governing
board of the hospital may remodel or construct an addition to a hospital
building leased by the hospital under this chapter.

(b) To provide funds for that purpose, the county may issue general
obligation aid bonds or the city hospital or city may appropriate money
from the city hospital’s or city’s general fund or other funds available
for that purpose if the hospital building is owned by the city hospital or
city. The governing board of the hospital may use any funds available
to the board if the hospital building is owned by the city.

(c) A contract entered into under this chapter for a public work (as
defined in IC 5-16-7-4) is subject to IC 5-16-7.

SECTION 18. IC 22-1-1-16 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 16. The commissioner
of labor and his the commissioner’s authorized representative shall
have the power and the authority to enter any place of employment for
the purpose of collecting facts and statistics relating to the employment

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of workers and of making inspections for the proper enforcement of all
of the labor laws of this state; including IC 5-16-7. No Indiana. An
employer or owner shall may not refuse to admit the commissioner of
labor or his the commissioner's authorized representatives to his the
employer's or owner's place of employment.

SECTION 19. IC 35-44.2-3-4 IS REPEALED [EFFECTIVE JULY
1, 2015]. Sec. 4: A person who commits a wage scale violation in a
state public works contract is subject to criminal prosecution under
IC 5-16-7-3.

SECTION 20. IC 35-44.2-3-5 IS REPEALED [EFFECTIVE JULY
1, 2015]. Sec. 5: A person who unlawfully divides a public works
project is subject to a civil action for an infraction under IC 5-16-7-6.

SECTION 21. IC 35-52-5-8 IS REPEALED [EFFECTIVE JULY 1,
2015]. Sec. 8: IC 5-16-7-3 defines a crime concerning wage rate of
contractor's and subcontractor's employees.

SECTION 22. IC 36-1-12-15 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 15. (a) A contract by
the board for public work must conform to the wage scale provisions
of IC 5-16-7-3.
(b) A contract by the board for public work must conform with the
antidiscrimination provisions of IC 5-16-6. The board may consider a
violation of IC 5-16-6 a material breach of the contract, as provided in
IC 22-9-1-10.

SECTION 23. IC 36-1-12-5, AS AMENDED BY P.L.99-2009,
SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2015]: Sec. 5. (a) The governing body may enter into an
agreement with a public utility to participate in a utility efficiency
program or enter into a guaranteed savings contract with a qualified
provider to increase the political subdivision's billable revenues or
reduce the school corporation's or the political subdivision's energy or
water consumption, wastewater usage costs, or operating costs if, after
review of the report described in section 6 of this chapter, the
governing body finds:
(1) in the case of conservation measures other than those that are
part of a project related to the alteration of a water or wastewater
structure or system, that the amount the governing body would
spend on the conservation measures under the contract and that
are recommended in the report is not likely to exceed the amount
to be saved in energy consumption costs and other operating costs
over twenty (20) years from the date of installation if the
recommendations in the report were followed;
(2) in the case of conservation measures that are part of a project

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related to the alteration of a water or wastewater structure or system, that the amount the governing body would spend on the conservation measures under the contract and that are recommended in the report is not likely to exceed the amount of increased billable revenues or the amount to be saved in energy and water consumption costs, wastewater usage costs, and other operating costs over twenty (20) years from the date of installation if the recommendations in the report were followed; and

(3) in the case of a guaranteed savings contract, the qualified provider provides a written guarantee as described in subsection (d)(3).

(b) Before entering into an agreement to participate in a utility efficiency program or a guaranteed savings contract under this section, the governing body must publish notice under subsection (c) indicating:

(1) that the governing body is requesting public utilities or qualified providers to propose conservation measures through:
   (A) a utility efficiency program; or
   (B) a guaranteed savings contract; and

(2) the date, the time, and the place where proposals must be received.

(c) The notice required by subsection (b) must:

(1) be published in two (2) newspapers of general circulation in the county where the school corporation or the political subdivision is located;

(2) be published two (2) times with at least one (1) week between publications and with the second publication made at least thirty days before the date by which proposals must be received; and

(3) meet the requirements of IC 5-3-1-1.

(d) An agreement to participate in a utility efficiency program or guaranteed savings contract under this section must provide that:

(1) in the case of conservation measures other than those that are part of a project related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of twenty (20) years or the average life of the conservation measures installed from the date of final installation;

(2) in the case of conservation measures that are part of a project

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related to the alteration of a water or wastewater structure or system, all payments, except obligations upon the termination of the agreement or contract before the agreement or contract expires, may be made to the public utility or qualified provider (whichever applies) in installments, not to exceed the lesser of twenty (20) years or the average life of the conservation measures installed from the date of final installation;

(3) in the case of the guaranteed savings contract:

(A) the:

(i) savings in energy and water consumption costs, wastewater usage costs, and other operating costs; and

(ii) increase in billable revenues;

due to the conservation measures are guaranteed to cover the costs of the payments for the measures; and

(B) the qualified provider will reimburse the school corporation or political subdivision for the difference between the guaranteed savings and the actual savings; and

(4) payments are subject to annual appropriation by the fiscal body of the school corporation or political subdivision and do not constitute an indebtedness of the school corporation or political subdivision within the meaning of a constitutional or statutory debt limitation.

(c) An agreement or a contract under this chapter is subject to IC 5-16-7.

SECTION 24. IC 36-7-12-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 20. (a) All tax revenues coming into possession of the economic development commission shall be deposited, held, and secured in accordance with the statutes relating to the handling and investing of public funds. The handling and expenditure of this money is subject to audit and supervision by the state board of accounts.

(b) Contracts for construction and equipment of economic development or pollution control facilities need not be let in accordance with IC 5-16, IC 5-17, or any other statute relating to public contracts. However, the construction of waterworks facilities financed for the public purpose of providing reliable water service subject to IC 5-16-7.

(c) Any employee of the economic development commission authorized to receive, disburse, or in any other way handle money or negotiable securities of the commission shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in the state. The bond must be in an amount
determined by the commission, and must be conditioned upon the
employee's faithful performance of his the employee's duties and the
accounting for all monies and property that may come into his the
employee's hands or under his the employee's control. The cost of
these bonds shall be paid by the commission.

SECTION 25. IC 36-7-14-12.3 IS REPEALED [EFFECTIVE JULY
1, 2015]. Sec. 12.3: IC 5-16-7 applies to:

(1) a person that enters into a contract with a redevelopment
commission to perform construction work referred to in section
12.2(a)(4), 12.2(a)(7), 12.2(a)(21), or 12.2(a)(22) of this chapter; and

(2) a subcontractor of a person described in subdivision (1);
with respect to the construction work referred to in subdivision (1);

SECTION 26. IC 36-7-5-2-8, AS ADDED BY P.L.214-2005,
SECTION 73, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2015]: Sec. 8. (a) The development authority must comply
with IC 5-16-7 (common construction wage), IC 5-22 (public
purchasing), IC 36-1-12 (public work projects), and any applicable
federal bidding statutes and regulations. An eligible political
subdivision that receives a loan, a grant, or other financial assistance
from the development authority or enters into a lease with the
development authority must comply with applicable federal, state, and
local public purchasing and bidding law and regulations. However, a
purchasing agency (as defined in IC 5-22-2-25) of an eligible political
subdivision may:

(1) assign or sell a lease for property to the development
authority; or

(2) enter into a lease for property with the development authority;
at any price and under any other terms and conditions as may be
determined by the eligible political subdivision and the development
authority. However, before making an assignment or sale of a lease or
entering into a lease under this section that would otherwise be subject
to IC 5-22, the eligible political subdivision or its purchasing agent
must obtain or cause to be obtained a purchase price for the property
to be subject to the lease from the lowest responsible and responsive
bidder in accordance with the requirements for the purchase of supplies
under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to
projects undertaken by the authority, the authority shall set a goal for
participation by minority business enterprises of fifteen percent (15%)
and women's business enterprises of five percent (5%), consistent with
the goals of delivering the project on time and within the budgeted

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amount and, insofar as possible, using Indiana businesses for employees, goods, and services. In fulfilling the goal, the authority shall take into account historical precedents in the same market.

SECTION 27. IC 36-7.5-4-3, AS AMENDED BY P.L.1-2006, SECTION 573, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) Subject to subsection (b), The development authority may issue bonds for the purpose of obtaining money to pay the cost of:

(1) acquiring real or personal property, including existing capital improvements;
(2) acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects; or
(3) funding or refunding bonds issued under this chapter or IC 8-5-15, IC 8-22-3, IC 36-7-13.5, or IC 36-9-3 or prior law.

(b) The bonds are payable solely from:
(1) the lease rentals from the lease of the projects for which the bonds were issued, insurance proceeds, and any other funds pledged or available; and
(2) except as otherwise provided by law, revenue received by the development authority and amounts deposited in the development authority fund.

(c) The bonds shall be authorized by a resolution of the development board.

(d) The terms and form of the bonds shall either be set out in the resolution or in a form of trust indenture approved by the resolution.

(e) The bonds shall mature within forty (40) years.

(f) The board shall sell the bonds only to the Indiana finance authority established by IC 4-4-11-4 upon the terms determined by the development board and the Indiana finance authority.

(g) All money received from any bonds issued under this chapter shall be applied solely to the payment of the cost of acquiring, constructing, improving, reconstructing, or renovating one (1) or more projects, or the cost of refunding or refinancing outstanding bonds, for which the bonds are issued. The cost may include:

(1) planning and development of equipment or a facility and all buildings, facilities, structures, equipment, and improvements related to the facility;
(2) acquisition of a site and clearing and preparing the site for construction;
(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;

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(4) architectural, engineering, consultant, and attorney's fees;
(5) incidental expenses in connection with the issuance and sale
of bonds;
(6) reserves for principal and interest;
(7) interest during construction;
(8) financial advisory fees;
(9) insurance during construction;
(10) municipal bond insurance, debt service reserve insurance,
letters of credit, or other credit enhancement; and
(11) in the case of refunding or refinancing, payment of the
principal of, redemption premiums (if any) for, and interest on,
the bonds being refunded or refinanced.

(h) The development authority may not issue bonds under this
article unless the development authority first finds that each contract
for the construction of a facility and all buildings, facilities, structures,
and improvements related to that facility to be financed in whole or in
part through the issuance of the bonds requires payment of the common
construction wage required by IC 5-16-7.

SECTION 28. IC 36-7.6-2-13, AS ADDED BY P.L.232-2007,
SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2015]: Sec. 13. (a) A development authority shall comply with
IC 5-16-7 (common construction wage); IC 5-22 (public purchasing),
IC 36-1-12 (public work projects), and any applicable federal bidding
statutes and regulations. An eligible political subdivision that receives
a loan, a grant, or other financial assistance from a development
authority or enters into a lease with a development authority must
comply with applicable federal, state, and local public purchasing and
bidding laws and regulations. However, a purchasing agency (as
defined in IC 5-22-2-25) of an eligible political subdivision may:
(1) assign or sell a lease for property to a development authority;
or
(2) enter into a lease for property with a development authority;
at any price and under any other terms and conditions as may be
determined by the eligible political subdivision and the development
authority. However, before making an assignment or a sale of a lease
or entering into a lease under this section that would otherwise be
subject to IC 5-22, the eligible political subdivision or its purchasing
agent must obtain or cause to be obtained a purchase price for the
property to be subject to the lease from the lowest responsible and
responsive bidder in accordance with the requirements for the purchase
of supplies under IC 5-22.

(b) In addition to the provisions of subsection (a), with respect to
projects undertaken by a development authority, the development
authority shall set a goal for participation by minority business
enterprises and women's business enterprises. The goals must be
consistent with:

(1) the participation goals established by the counties and
municipalities that are members of the development authority;
and

(2) the goals of delivering the project on time and within the
budgeted amount and, insofar as possible, using Indiana
businesses for employees, goods, and services.

SECTION 29. IC 36-7.6-4-3, AS ADDED BY P.L.232-2007,
SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
JULY 1, 2015]: Sec. 3. (a) Subject to subsection (b), A development
authority may issue bonds for the purpose of obtaining money to pay
the cost of:

(1) acquiring real or personal property, including existing capital
improvements;

(2) acquiring, constructing, improving, reconstructing, or
renovating one (1) or more projects; or

(3) funding or refunding bonds issued under this chapter,
IC 8-5-15, IC 8-22-3, IC 36-9-3, or prior law.

(b) The bonds are payable solely from:

(1) the lease rentals from the lease of the projects for which the
bonds were issued, insurance proceeds, and any other funds
pledged or available; and

(2) except as otherwise provided by law, revenue received by the
development authority and amounts deposited in the development
authority fund.

(c) The bonds must be authorized by a resolution of the
development board of the development authority that issues the bonds.

(d) The terms and form of the bonds must either be set out in the
resolution or in a form of trust indenture approved by the resolution.

(e) The bonds must mature within forty (40) years.

(f) A development board shall sell the bonds only to the Indiana
bond bank established by IC 5-1.5-2-1 upon the terms determined by
the development board and the Indiana bond bank.

(g) All money received from any bonds issued under this chapter
shall be applied solely to the payment of the cost of acquiring,
constructing, improving, reconstructing, or renovating one (1) or more
projects, or the cost of refunding or refinancing outstanding bonds, for
which the bonds are issued. The cost may include:

(1) planning and development of equipment or a facility and all

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buildings, facilities, structures, equipment, and improvements related to the facility;
(2) acquisition of a site and clearing and preparing the site for construction;
(3) equipment, facilities, structures, and improvements that are necessary or desirable to make the project suitable for use and operations;
(4) architectural, engineering, consultant, and attorney's fees;
(5) incidental expenses in connection with the issuance and sale of bonds;
(6) reserves for principal and interest;
(7) interest during construction;
(8) financial advisory fees;
(9) insurance during construction;
(10) municipal bond insurance, debt service reserve insurance, letters of credit, or other credit enhancement; and
(11) in the case of refunding or refinancing, payment of the principal of, redemption premiums (if any) for, and interest on the bonds being refunded or refinanced.

(h) A development authority may not issue bonds under this article unless the development authority first finds that each contract for the construction of a facility and all buildings, facilities, structures, and improvements related to that facility to be financed in whole or in part through the issuance of the bonds requires payment of the common construction wage required by IC 5-16-7.

SECTION 30. IC 36-9-23-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 2. A municipality may:
(1) acquire, construct, improve, operate, and maintain sewage works under this chapter;
(2) acquire, by gift, grant, purchase, condemnation, or otherwise, all lands, rights-of-way, and other property that are necessary for the sewage works;
(3) issue revenue bonds to pay the cost of acquiring, constructing, and improving the sewage works and property; and
(4) lease sewage works from a person, an entity, a corporation, a public utility, or a unit for a term not to exceed fifty (50) years.
A sewage works leased under this section is subject to IC 5-16-7.
COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred House Bill 1019, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to HB 1019 as introduced.)

HARMAN

Committee Vote: Yeas 8, Nays 4