



February 23, 2016

---

---

## ENGROSSED SENATE BILL No. 375

---

DIGEST OF SB 375 (Updated February 23, 2016 9:59 am - DI 113)

**Citations Affected:** IC 4-13.6; IC 8-23; IC 22-2.

**Synopsis:** Prequalification for public works projects. Delays from June 30, 2016, to December 31, 2016, the date after which public works projects that are awarded must comply with the requirement that a contractor be qualified under IC 4-13.6-4 or IC 8-23-10 before doing any work on the project. Requires that a contractor working on a project that is a public work be qualified by the Indiana department of administration's certification board (board). Requires that a contractor working on a project that is the construction, improvement, alteration, repair, or maintenance of a road, highway, street, or alley be qualified by the Indiana department of transportation. Exempts from the qualification requirement: (1) a materials supplier; and (2) a contractor doing any work on a public works project awarded by a local unit  
(Continued next page)

**Effective:** Upon passage; July 1, 2016.

---

---

**Hershman, Yoder, Miller Patricia,  
Broden**

(HOUSE SPONSORS — TORR, OBER)

---

---

January 11, 2016, read first time and referred to Committee on Local Government.

January 21, 2016, reported favorably — Do Pass.

February 2, 2016, read second time, amended, ordered engrossed.

February 3, 2016, engrossed. Read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 9, 2016, read first time and referred to Committee on Employment, Labor and Pensions.

February 23, 2016, amended, reported — Do Pass.

---

---

ES 375—LS 6988/DI 102



Digest Continued

whenever: (A) the total amount of the contract awarded to the contractor for work on the public works project is less than \$300,000; and (B) the public agency complies with IC 36-1-12 in awarding the contract for the project. Requires that a list of contractors holding a valid certificate of qualification under IC 4-13.6-4 or IC 8-23-10 be available for public inspection during regular office hours and on the Internet. Eliminates a provision from current law stating that the prohibition against a county, city, town, or township (unit) establishing a minimum wage in excess of the federal or state minimum wage does not limit the authority of the unit to establish wage rates in a contract to which the unit is a party.



February 23, 2016

Second Regular Session 119th General Assembly (2016)

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 2015 Regular Session of the General Assembly.

## ENGROSSED SENATE BILL No. 375

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

- 1 SECTION 1. IC 4-13.6-4-2.5 IS ADDED TO THE INDIANA  
2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE UPON PASSAGE]: **Sec. 2.5. (a) The definitions in**  
4 **IC 5-16-13 apply to this section.**  
5 **(b) For purposes of IC 5-16-13-10(c) and this section, the**  
6 **following apply:**  
7 **(1) A contractor must be qualified under this chapter before**  
8 **doing any work on a public works project that is a public**  
9 **work:**  
10 **(A) as defined by IC 4-13.6-1-13; or**  
11 **(B) as defined by IC 36-1-12-2, excluding the construction,**  
12 **alteration, or repair of a highway, street, or alley.**  
13 **(2) A supplier (as defined by IC 4-13.6-1-20) is not required to**  
14 **be qualified under this chapter before doing any work on a**  
15 **public works project.**  
16 **(c) Notwithstanding the applicability date specified in**  
17 **IC 5-16-13-10(c) and subject to subsection (d), the requirement**

ES 375—LS 6988/DI 102



1 that a contractor must be qualified under this chapter before doing  
 2 any work on a public works project applies to a public works  
 3 contract awarded after December 31, 2016.

4 (d) This subsection applies to a public works project awarded  
 5 after December 31, 2016, by a local unit. A contractor in any  
 6 contractor tier is not required to be qualified under this chapter  
 7 before doing any work on a public works project awarded by a  
 8 local unit whenever:

9 (1) the total amount of the contract awarded to the contractor  
 10 for work on the public works project is less than three  
 11 hundred thousand dollars (\$300,000); and

12 (2) the local unit complies with IC 36-1-12 in awarding the  
 13 contract for the public works project.

14 SECTION 2. IC 4-13.6-4-4.5 IS ADDED TO THE INDIANA  
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 16 [EFFECTIVE JULY 1, 2016]: Sec. 4.5. The board shall make  
 17 available for public inspection during regular office hours and on  
 18 the Internet a list of the contractors holding a valid certificate of  
 19 qualification issued by the board under this chapter.

20 SECTION 3. IC 8-23-10-0.5 IS ADDED TO THE INDIANA CODE  
 21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 22 UPON PASSAGE]: Sec. 0.5. (a) The definitions in IC 5-16-13 apply  
 23 to this section.

24 (b) For purposes of IC 5-16-13-10(c) and this section, a  
 25 contractor must be qualified under this chapter before doing any  
 26 work on a public works project that is the construction,  
 27 improvement, alteration, repair, or maintenance of a road (as  
 28 defined by IC 8-23-1-23), highway, street, or alley.

29 (c) Notwithstanding the applicability date specified in  
 30 IC 5-16-13-10(c) and subject to subsection (d), the requirement  
 31 that a contractor must be qualified under this chapter before doing  
 32 any work on a public works project applies to a public works  
 33 contract awarded after December 31, 2016.

34 (d) This subsection applies to a public works project awarded  
 35 after December 31, 2016, by a local unit. A contractor in any  
 36 contractor tier is not required to be qualified under this chapter  
 37 before doing any work on a public works project awarded by a  
 38 local unit whenever:

39 (1) the total amount of the contract awarded to the contractor  
 40 for work on the public works project is less than three  
 41 hundred thousand dollars (\$300,000); and

42 (2) the local unit complies with IC 36-1-12 in awarding the



- 1           **contract for the public works project.**  
 2           SECTION 4. IC 8-23-10-1 IS AMENDED TO READ AS  
 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. It is unlawful to  
 4 award a contract to any person other than a bidder previously qualified  
 5 in compliance with this chapter, **except for the award of a contract**  
 6 **for a public works project by a local unit whenever section 0.5(d)**  
 7 **of this chapter applies.**  
 8           SECTION 5. IC 8-23-10-2.5 IS ADDED TO THE INDIANA CODE  
 9 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY  
 10 1, 2016]: **Sec. 2.5. The department shall make available for public**  
 11 **inspection during regular office hours and on the Internet a list of**  
 12 **the contractors holding a valid certificate of qualification issued by**  
 13 **the department under this chapter.**  
 14           SECTION 6. IC 22-2-2-10.5, AS ADDED BY P.L.211-2011,  
 15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2016]: Sec. 10.5. (a) As used in this section, "unit" has the  
 17 meaning set forth in IC 36-1-2-23.  
 18           (b) Unless federal or state law provides otherwise, a unit may not:  
 19           (1) establish;  
 20           (2) mandate; or  
 21           (3) otherwise require;  
 22 a minimum wage that exceeds the minimum wage required by section  
 23 4 of this chapter or by the federal minimum hourly wage prescribed by  
 24 29 U.S.C. 206(a)(1).  
 25           (c) **This section does not limit the authority of a unit to establish**  
 26 **wage rates in a contract to which the unit is a party.**  
 27           SECTION 7. **An emergency is declared for this act.**



## COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 375, 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 to SB 375 as introduced.)

HEAD, Chairperson

Committee Vote: Yeas 8, Nays 0

---

 SENATE MOTION

Madam President: I move that Senate Bill 375 be amended to read as follows:

Page 1, between lines 4 and 5, begin a new paragraph and insert:

**"(b) For purposes of IC 5-16-13-10(c) and this section, the following apply:**

**(1) A contractor must be qualified under this chapter before doing any work on a public works project that is a public work:**

**(A) as defined by IC 4-13.6-1-13; or**

**(B) as defined by IC 36-1-12-2, excluding the construction, alteration, or repair of a highway, street, or alley.**

**(2) A supplier (as defined by IC 4-13.6-1-20) is not required to be qualified under this chapter before doing any work on a public works project."**

Page 1, line 5, delete "(b)" and insert "(c)".

Page 1, line 6, delete "subsections (c) and" and insert "**subsection**".

Page 1, line 10, delete "(c)" and insert "**(d)**".

Page 1, line 11, after "contractor" insert "**in any contractor tier**".

Page 1, line 17, delete "public agency" and insert "**local unit**".

Page 2, delete lines 2 through 7, begin a new paragraph and insert:

**"(e) The board may adopt rules under IC 4-22-2, including emergency rules in the manner provided under IC 4-22-2-37.1, to specify the circumstances under which a contractor's qualification under this chapter may include a limitation as to the dollar amount of a contract that may be awarded to the contractor for work on a public works project."**

Page 2, between lines 17 and 18, begin a new paragraph and insert:

**"(b) For purposes of IC 5-16-13-10(c) and this section, a**



**contractor must be qualified under this chapter before doing any work on a public works project that is the construction, improvement, alteration, repair, or maintenance of a road (as defined by IC 8-23-1-23), highway, street, or alley."**

Page 2, line 18, delete "(b)" and insert "(c)".

Page 2, line 19, delete "subsections (c) and" and insert "**subsection**".

Page 2, line 23, delete "(c)" and insert "**(d)**".

Page 2, line 24, after "contractor" insert "**in any contractor tier**".

Page 2, line 30, delete "public agency" and insert "**local unit**".

Page 2, delete lines 32 through 37, begin a new paragraph and insert:

"SECTION 4. IC 8-23-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. It is unlawful to award a contract to any person other than a bidder previously qualified in compliance with this chapter, **except for the award of a contract for a public works project by a local unit whenever section 0.5(d) of this chapter applies.**"

Renumber all SECTIONS consecutively.

(Reference is to SB 375 as printed January 22, 2016.)

HERSHMAN

---

#### COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment, Labor and Pensions, to which was referred Senate Bill 375, 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:

Page 2, delete lines 14 through 19.

Page 3, between lines 19 and 20, begin a new paragraph and insert:

"SECTION 6. IC 22-2-2-10.5, AS ADDED BY P.L.211-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 10.5. (a) As used in this section, "unit" has the meaning set forth in IC 36-1-2-23.

(b) Unless federal or state law provides otherwise, a unit may not:

- (1) establish;
- (2) mandate; or
- (3) otherwise require;

a minimum wage that exceeds the minimum wage required by section 4 of this chapter or by the federal minimum hourly wage prescribed by

ES 375—LS 6988/DI 102



29 U.S.C. 206(a)(1).

(c) This section does not limit the authority of a unit to establish wage rates in a contract to which the unit is a party."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 375 as reprinted February 3, 2016.)

GUTWEIN

Committee Vote: yeas 9, nays 4.

