

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 2010 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1216

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 5-16-7-1, AS AMENDED BY SEA 418-2011, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1. (a) Any firm, individual, partnership, limited liability company, or corporation that is awarded a contract by the state, a political subdivision, or a municipal corporation for the construction of a public work, and any subcontractor of the construction, shall pay for each class of work described in subsection (c)(1) on the project a scale of wages that may not be less than the common construction wage.

(b) For the purpose of ascertaining what the common construction wage is in the county, the awarding governmental agency, before advertising for the contract, shall set up a committee of five (5) persons as follows:

- (1) One (1) person representing labor, to be named by the president of the state federation of labor.
- (2) One (1) person representing industry, to be named by the awarding agency.
- (3) A third member to be named by the ~~governor~~ **state president of the Associated Builders and Contractors**.
- (4) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project



C  
o  
p  
y

is located. The owner of the project shall make the appointment under this subdivision.

(5) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The legislative body (as defined in IC 36-1-2-9) for the county where the project is located shall make the appointment under this subdivision.

(c) As soon as appointed, the committee shall meet in the county where the project is located and determine in writing the following:

(1) A classification of the labor to be employed in the performance of the contract for the project, divided into the following three (3) classes:

- (A) Skilled labor.
- (B) Semiskilled labor.
- (C) Unskilled labor.

(2) The wage per hour to be paid each of the classes.

The committee is not required to consider information not presented to the committee at the meeting. IC 5-14-1.5 (open door law) applies to a meeting of the committee.

(d) The rate of wages determined by the committee under subsection (c) applies to any contract for which the awarding government agency lets not later than three (3) months after the date the committee determines the rate of wages. The committee shall establish wages for all classifications of work that may be employed on projects subject to contracts let by the awarding agency for three (3) months after the date the committee determines the rate of wages. If an awarding agency advertises for a contract that includes classifications that are not listed on the existing wage scale, the awarding agency shall form a new committee under subsection (b) to determine the classifications and wages on the contract.

(e) If the awarding government agency lets for a contract later than three (3) months after the committee determines the rate of wages, the awarding government agency shall form a new committee under subsection (b) to determine a rate of wages for the contract. The rate of wages determined under this subsection applies to any contract for which the awarding government agency lets not later than three (3) months after the rate of wages is determined under this subsection.

(f) The rate of wages determined under subsection (c) shall not be less than the common construction wage for each of the three (3) classes of wages described in subsection (c) that are currently being paid in the county where the project is located.

(g) ~~The provisions of This chapter shall~~ **does** not apply to contracts

C  
o  
p  
y



let by the Indiana department of transportation for the construction of highways, streets, and bridges. IC 8-23-9 applies to state highway projects.

(h) A determination under subsection (c) shall be made and filed with the awarding agency at least two (2) weeks prior to the date fixed for the letting, and a copy of the determination shall be furnished upon request to any person desiring to bid on the contract. The schedule is open to the inspection of the public.

(i) If the committee appointed under subsection (b) fails to act and to file a determination under subsection (c) at or before the time required under subsection (h), the awarding agency shall make the determination, and its finding shall be final.

(j) It shall be a condition of a contract awarded under this chapter that the successful bidder and all subcontractors shall comply strictly with the determination made under this section.

(k) ~~The provisions of~~ This chapter ~~do~~ **does** not apply to public projects in ~~this state~~ **Indiana** that would otherwise be subject to ~~the provisions of~~ this chapter that are to be paid for in whole or in part with funds granted by the federal government, unless the department of the federal government making the grant ~~shall consent~~ **consents** in writing that ~~the provisions of~~ this chapter ~~are~~ **is** applicable to the project.

(l) Notwithstanding any other law, ~~the provisions of~~ this chapter ~~apply~~ **applies** to projects that will be:

- (1) owned entirely; or
- (2) leased with an option to purchase;

by the state or a political subdivision (as defined in IC 36-1-2-13).

(m) Notwithstanding any other law, this chapter does not apply to projects in which the actual construction costs ~~are~~ less than ~~one hundred fifty thousand dollars (\$150,000)~~ **the following:**

- (1) For contracts awarded after December 31, 2011, and before January 1, 2013, two hundred fifty thousand dollars (\$250,000).**
- (2) For contracts awarded after December 31, 2012, three hundred fifty thousand dollars (\$350,000).**

SECTION 2. IC 5-16-7-4, AS AMENDED BY SEA 418-2011, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. The **following** definitions ~~in this section~~ apply throughout this chapter:

- (1) "Common construction wage" means a scale of wages for each class of work described in section 1(c)(1) of this chapter that is not less than the common construction wage of all construction wages being paid in the county where a project is located, as

C  
o  
p  
y



determined by the committee described in section 1(b) of this chapter after having considered **the following:**

**(A) Any reports with respect to wage scales submitted by the Indiana State Building and Construction Trades Council.**

**(B) Any reports with respect to wage scales submitted by the Associated Builders and Contractors of Indiana.**

**(C) Any other** information submitted by any person to the committee established under section 1(b) of this chapter.

(2) "~~State of Indiana~~" includes any officer, board, commission, or other agency authorized by law to award contracts for the performance of public work on behalf of the state, ~~excepting~~ **except** as otherwise provided in this chapter.

(3) "Municipal corporation" includes any county, city, town, ~~or~~ school corporation, ~~as well as~~ **or** any officer, board, commission, or other agency authorized by law to award contracts for the performance of public work on behalf of ~~any such a~~ municipal corporation. The term also includes a redevelopment commission established under IC 36-7-14-3.

(4) "Public work" includes any public building, highway, street, alley, bridge, sewer, drain, improvement, or any other work of any nature or character ~~whatsoever which that~~ is paid for out of public funds, ~~excepting~~ **except** as otherwise provided in this chapter.

SECTION 3. IC 5-16-7-6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: **Sec. 6. (a) A public work project may not be artificially divided into two (2) or more projects to avoid the application of this chapter.**

**(b) A bidder, quoter, or other person who is a party to a public work contract who knowingly violates this section commits a Class A infraction and may not be a party to, or benefit from, a public work contract for two (2) years after the date of the adjudication.**

**(c) An officer or employee of the state or a municipal corporation who knowingly violates this section commits a Class A infraction.**

SECTION 4. [EFFECTIVE JULY 1, 2011] **(a) As used in this SECTION, "legislative council" refers to the legislative council established by IC 2-5-1.1-1.**

**(b) As used in this SECTION, "public works statute" refers to any of the following:**

**(1) IC 4-13.6.**

**C  
o  
p  
y**



- (2) IC 5-16.
- (3) IC 8-10-1.
- (4) IC 8-23-9.
- (5) IC 36-1-12.

(c) As used in this SECTION, "study committee" means either of the following:

- (1) A statutory committee established under IC 2-5.
- (2) An interim study committee.

(d) The legislative council is urged to assign the following topics to a study committee during the 2011 legislative interim:

- (1) The use of an agreement with a labor organization on public works projects covered by a public works statute.
- (2) Job classifications used in a common construction wage determination.

(e) If a topic described in subsection (d) is assigned to a study committee, the study committee shall determine whether legislation should be enacted to address the topic and, if so, the study committee shall recommend proposed legislation.

(f) This SECTION expires December 31, 2011.

**C**  
**O**  
**P**  
**Y**



\_\_\_\_\_  
Speaker of the House of Representatives

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
President Pro Tempore

\_\_\_\_\_  
Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

**C  
o  
p  
y**

HEA 1216 — CC 1+

