

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 6326

BILL NUMBER: HB 1024

NOTE PREPARED: Nov 30, 2022

BILL AMENDED:

SUBJECT: Public Works Projects.

FIRST AUTHOR: Rep. Torr

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: *Governmental Bodies:* The bill provides that a governmental body may not enter into a debt instrument unless it first receives a written financial analysis. It requires a person who engages in certain activities on behalf of either a governmental body or a potential operator with whom a governmental body is negotiating a BOT agreement to be registered as a broker with the United States Securities and Exchange Commission (SEC).

Design-Build Projects: The bill provides that a contractor that employs 10 or more employees on a design-build public works project must provide its employees access to a training program applicable to the tasks to be performed in the normal course of the employee's employment with the contractor on the public project. It provides that a tier 1 or tier 2 contractor that employs 50 or more journeymen must participate in an apprenticeship or training program that meets certain standards. The bill requires design-builders and any member of a team working on a design-build public works project to comply with certain statutes.

Construction Managers as Constructors Projects: The bill provides that a public agency awarding a contract for a construction manager as constructor (CMc) project may not take certain actions based on a bidder's, offeror's, or contractor's entering into, refusing to enter into, adhering to, or refusing to adhere to an agreement with a labor organization.

Effective Date: July 1, 2023.

Explanation of State Expenditures: *Design-Build Projects:* The bill specifies that a contractor who is required to provide training for employees may comply with the training requirements through several options, two of which include programs offered by Ivy Tech Community College of Indiana or Vincennes

University. State operating support for Indiana state educational institutions (SEIs) is composed of base funding and performance funding. Under the current higher education performance funding formula, changes to enrollment could affect higher education appropriations for operations in future bienniums. The impact is probably minor and would depend on the higher education formula used in the future. *[SEIs receive state funding through General Fund appropriations.]*

Construction Managers as Constructors Projects: This provision of the bill should not impact state expenditures, as the state does not use project labor agreements on state public works projects or union affiliation in its bidder prequalifications.

The bill applies to all state agencies, state educational institutions, and bodies corporate and politic created by statute. The bill does not apply to judicial or legislative departments or the Indiana Department of Transportation.

Additional Information: CMc (also known as Construction Manager at Risk) is a project management process that generally requires a commitment by the construction manager to deliver a project within a guaranteed maximum price (GMP). The construction manager must manage and control construction costs so that they do not exceed the GMP because the construction manager would have to cover any additional costs if they occur.

Explanation of State Revenues: *Design-Build Projects:* The bill specifies that a contractor who is required to provide training for employees may comply with the training requirements through several options, two of which include programs offered by Ivy Tech Community College of Indiana or Vincennes University. To the extent that contractors choose to utilize these programs, tuition revenues to these schools could increase from increased enrollment.

Explanation of Local Expenditures: *Governmental Bodies:* The bill requires governmental bodies to receive a written financial analysis before proceeding with a debt instrumental which could cause a delay in starting a project as well the need to hire an individual to produce the written financial analysis. The bill also states that a person working for a governmental body or working with a potential operator who negotiating a BOT agreement with a governmental body must be registered as a broker with the SEC. To be registered as a broker with the SEC, an individual must first apply to become a member of a self-regulatory organization (SRO). After this, they will be required to become a member of FINRA, pass a qualifying examination, and be licensed by their state securities regulator.

Construction Managers as Constructors Projects: The bill could have an indeterminate impact on expenditures for any local unit that currently uses project labor agreements in its public works projects.

The bill applies to counties, municipalities, townships, school corporations, certain conservancy districts, fire protection districts, departments of aviation, and airport authorities. The CMc provision also applies to public libraries and health and hospital corporations.

Explanation of Local Revenues:

State Agencies Affected: Ivy Tech Community College of Indiana, Vincennes University; agencies involved in public works projects.

Local Agencies Affected: Local units involved in public works projects; governmental bodies.

Information Sources:

<https://www.in.gov/idoa/state-property-and-facilities/public-works/>

<https://www.in.gov/idoa/state-property-and-facilities/public-works/certification-board/>

<https://www.in.gov/idoa/state-property-and-facilities/public-works/general-forms-and-manuals/>

<https://indianalawreview.com/2016/02/19/union-based-bidding-restrictions-unresolved-issues/>

https://library.municode.com/in/gary/codes/code_of_ordinances

Project Labor Agreements, Congressional Research Service, June 28, 2012

<https://www.finra.org/investors/learn-to-invest/choosing-investment-professional/registered-financial-professionals>

Fiscal Analyst: Jasmine Noel, 317-234-1360.