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SENATE BILL No. 317

Proposed Changes to introduced printing by AM031701

DIGEST OF PROPOSED AMENDMENT

Insurance or surety bond. Requires the amount of the insurance or surety bond to be posted in the event of a prepayment to be in the amount of the prepayment.

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 5-11-10-1.6, AS AMENDED BY P.L.121-2016,
- 2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2023]: Sec. 1.6. (a) As used in this section, "governmental
- 4 entity" refers to any of the following:
- 5 (1) A municipality (as defined in IC 36-1-2-11).
- 6 (2) A school corporation (as defined in IC 36-1-2-17), including
- 7 a school extracurricular account.
- 8 (3) A county.
- 9 (4) A regional water or sewer district organized under IC 13-26
- 10 or under IC 13-3-2 (before its repeal).
- 11 (5) A municipally owned utility that is subject to IC 8-1.5-3 or
- 12 IC 8-1.5-4.
- 13 (6) A board of an airport authority under IC 8-22-3.
- 14 (7) A board of aviation commissioners under IC 8-22-2.
- 15 (8) A conservancy district.
- 16 (9) A public transportation corporation under IC 36-9-4.
- 17 (10) A commuter transportation district under IC 8-5-15.
- 18 (11) The state.
- 19 (12) A solid waste management district established under
- 20 IC 13-21 or IC 13-9.5 (before its repeal).

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- 1 (13) A levee authority established under IC 14-27-6.
- 2 (14) A county building authority under IC 36-9-13.
- 3 (15) A soil and water conservation district established under
- 4 IC 14-32.
- 5 (16) The northwestern Indiana regional planning commission
- 6 established by IC 36-7-7.6-3.
- 7 (b) As used in this section, "claim" means a bill or an invoice
- 8 submitted to a governmental entity for goods or services.
- 9 (c) The fiscal officer of a governmental entity may not draw a
- 10 warrant or check for payment of a claim unless **all of the following**
- 11 **apply:**
- 12 (1) There is a fully itemized invoice or bill for the claim.
- 13 (2) The invoice or bill is approved by the officer or person
- 14 receiving the goods and services.
- 15 (3) The invoice or bill is filed with the governmental entity's
- 16 fiscal officer.
- 17 (4) The fiscal officer audits and certifies before payment that the
- 18 invoice or bill is true and correct. ~~and~~
- 19 (5) Payment of the claim is allowed by the governmental entity's
- 20 legislative body or the board or official having jurisdiction over
- 21 allowance of payment of the claim.
- 22 ~~This subsection does not prohibit~~
- 23 **(d) Notwithstanding subsection (c), the following are**
- 24 **permitted:**
- 25 **(1)** A school corporation, with prior approval of the board having
- 26 jurisdiction over allowance of payment of the claim, ~~from~~
- 27 **making may make** payment in advance of receipt of services as
- 28 allowed by guidelines developed under IC 20-20-13-10. ~~This~~
- 29 ~~subsection does not prohibit~~
- 30 **(2)** A municipality ~~from making may make advance payment~~
- 31 **of meal expense advances expenses** to a municipal employee
- 32 who will be traveling on official municipal business if the
- 33 municipal fiscal body has adopted an ordinance allowing the
- 34 advance payment. ~~specifying~~ **An ordinance adopted under this**
- 35 **subdivision must provide for all of the following:**
- 36 **(A)** The maximum amount that may be paid in advance. [
37]specifying
- 38 **(B)** The required invoices and other documentation that
- 39 must be submitted by the municipal employee. ~~and~~
- 40 ~~providing for~~
- 41 **(C)** Reimbursement from the wages of the municipal
- 42 employee if the municipal employee does not submit the

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required invoices and documentation.

(3) A political subdivision (as defined in IC 36-1-2-13) may make advance payments to contractors to enable the contractors to purchase materials needed for a public works project of the political subdivision. The solicitation for the public works contract providing for advance payment for contractors under this subdivision must include the following information:

(A) That the political subdivision will make advance payments to contractors to enable contractors to purchase materials.

(B) Any limitations on the amount of advance payments that will be made.

(C) Requirements for documentation relating to making advance payments to contractors for materials.

(D) Any other information about advance payment for materials the political subdivision considers useful to contractors that make offers.

Advance payments made under this subdivision may not exceed fifty percent (50%) of the entire cost of the contract.

(4) A political subdivision (as defined in IC 36-1-2-13) may make advance payments for goods or services before the goods are delivered or services are completed if the fiscal body of the political subdivision authorizes making advance payments. If the fiscal body of the political subdivision authorizes making advance payments, the local fiscal officer or the local fiscal officer's designee must do all of the following when advance payments are made:

(A) Track prepayments by defining the prepayment on a purchase order.

(B) Create a prepayment invoice that is associated with the purchase order.

(C) Require insurance or a surety bond in the amount of the prepayment if the amount of the prepayment is more than one hundred fifty thousand dollars (\$150,000).

Advance payments made under this subdivision may not exceed fifty percent (50%) of the entire cost of the contract.

(d) (e) The fiscal officer of a governmental entity shall issue checks or warrants for claims by the governmental entity that meet all of the requirements of this section. The fiscal officer does not incur personal liability for disbursements:

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- 1 (1) processed in accordance with this section; and
- 2 (2) for which funds are appropriated and available.
- 3 ~~(e)~~ (f) The certification provided for in subsection (c)(4) must be
- 4 on a form prescribed by the state board of accounts.

5 SECTION 2. IC 6-1.1-4-31.5, AS AMENDED BY P.L.86-2018,
 6 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2023]: Sec. 31.5. (a) As used in this section, "department"
 8 refers to the department of local government finance.

9 (b) If the department makes a determination and informs local
 10 officials under section 31(c) of this chapter, the department may order
 11 a state conducted assessment or reassessment in the county subject to
 12 the time limitation in that subsection.

13 (c) If the department orders a state conducted assessment or
 14 reassessment in a county, the department shall assume the duties of the
 15 county assessor. Notwithstanding sections 15 and 17 of this chapter, a
 16 county assessor subject to an order issued under this section may not
 17 assess property or have property assessed for the assessment or under
 18 a county's reassessment plan prepared under section 4.2 of this chapter.
 19 Until the state conducted assessment or reassessment is completed
 20 under this section, the assessment or reassessment duties of the county
 21 assessor are limited to providing the department or a contractor of the
 22 department the support and information requested by the department
 23 or the contractor.

24 (d) Before assuming the duties of a county assessor, the
 25 department shall transmit a copy of the department's order requiring a
 26 state conducted assessment or reassessment to the county assessor, the
 27 county fiscal body, the county auditor, and the county treasurer. Notice
 28 of the department's actions must be published one (1) time in a
 29 newspaper of general circulation published in the county. The
 30 department is not required to conduct a public hearing before taking
 31 action under this section.

32 (e) A county assessor subject to an order issued under this section
 33 shall, at the request of the department or the department's contractor,
 34 make available and provide access to all:

- 35 (1) data;
- 36 (2) records;
- 37 (3) maps;
- 38 (4) parcel record cards;
- 39 (5) forms;
- 40 (6) computer software systems;
- 41 (7) computer hardware systems; and
- 42 (8) other information;

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1 related to the assessment or reassessment of real property in the county.
 2 The information described in this subsection must be provided at no
 3 cost to the department or the contractor of the department. A failure to
 4 provide information requested under this subsection constitutes a
 5 failure to perform a duty related to an assessment or under a county's
 6 reassessment plan prepared under section 4.2 of this chapter and is
 7 subject to IC 6-1.1-37-2.

8 (f) The department may enter into a contract with a professional
 9 appraising firm to conduct an assessment or reassessment under this
 10 section. If a county entered into a contract with a professional
 11 appraising firm to conduct the county's assessment or reassessment
 12 before the department orders a state conducted assessment or
 13 reassessment in the county under this section, the contract:

14 (1) is as valid as if it had been entered into by the department;

15 and

16 (2) shall be treated as the contract of the department.

17 (g) After receiving the report of assessed values from the appraisal
 18 firm acting under a contract described in subsection (f), the department
 19 shall give notice to the taxpayer and the county assessor, by mail, of the
 20 amount of the assessment or reassessment. The notice of assessment or
 21 reassessment:

22 (1) is subject to appeal by the taxpayer under section 31.7 of this
 23 chapter; and

24 (2) must include a statement of the taxpayer's rights under
 25 section 31.7 of this chapter.

26 (h) The department shall forward a bill for services provided under
 27 a contract described in subsection (f) to the auditor of the county in
 28 which the state conducted reassessment occurs. The county shall pay
 29 the bill under the procedures prescribed by subsection (i).

30 (i) A county subject to an order issued under this section shall pay
 31 the cost of a contract described in subsection (f), without appropriation,
 32 from the county property reassessment fund. A contractor may
 33 periodically submit bills for partial payment of work performed under
 34 the contract. Notwithstanding any other law, a contractor is entitled to
 35 payment under this subsection for work performed under a contract if
 36 the contractor:

37 (1) submits to the department a fully itemized, certified bill in
 38 the form required by IC 5-11-10-1 for the costs of the work
 39 performed under the contract;

40 (2) obtains from the department:

41 (A) approval of the form and amount of the bill; and

42 (B) a certification that the billed goods and services have



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- 1 been received and comply with the contract; and
- 2 (3) files with the county auditor:
 - 3 (A) a duplicate copy of the bill submitted to the department;
 - 4 (B) proof of the department's approval of the form and
 - 5 amount of the bill; and
 - 6 (C) the department's certification that the billed goods and
 - 7 services have been received and comply with the contract.

8 The department's approval and certification of a bill under subdivision
 9 (2) shall be treated as conclusively resolving the merits of a contractor's
 10 claim. Upon receipt of the documentation described in subdivision (3),
 11 the county auditor shall immediately certify that the bill is true and
 12 correct without further audit and submit the claim to the county
 13 executive. The county executive shall allow the claim, in full, as
 14 approved by the department, without further examination of the merits
 15 of the claim in a regular or special session that is held not less than
 16 three (3) days and not more than seven (7) days after the date the claim
 17 is certified by the county fiscal officer if the procedures in IC 5-11-10-2
 18 are used to approve the claim or the date the claim is placed on the
 19 claim docket under IC 36-2-6-4 if the procedures in IC 36-2-6-4 are
 20 used to approve the claim. Upon allowance of the claim by the county
 21 executive, the county auditor shall immediately issue a warrant or
 22 check for the full amount of the claim approved by the department.
 23 Compliance with this subsection constitutes compliance with
 24 IC 5-11-6-1, IC 5-11-10, and IC 36-2-6. The determination and
 25 payment of a claim in compliance with this subsection is not subject to
 26 remonstrance and appeal. IC 36-2-6-4(f) and IC 36-2-6-9 do not apply
 27 to a claim submitted under this subsection. ~~IC 5-11-10-1.6(d)~~
 28 IC 5-11-10-1.6(e) applies to a fiscal officer who pays a claim in
 29 compliance with this subsection.

30 (j) Notwithstanding IC 4-13-2, a period of seven (7) days is
 31 permitted for each of the following to review and act under IC 4-13-2
 32 on a contract of the department entered into under this section:

- 33 (1) The commissioner of the Indiana department of
- 34 administration.
- 35 (2) The director of the budget agency.
- 36 (3) The attorney general.

37 (k) If money in the county's property reassessment fund is
 38 insufficient to pay for an assessment or reassessment conducted under
 39 this section, the department may increase the tax rate and tax levy of
 40 the county's property reassessment fund to pay the cost and expenses
 41 related to the assessment or reassessment.

42 (l) The department or the contractor of the department shall use

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1 the land values determined under section 13.6 of this chapter for a
 2 county subject to an order issued under this section to the extent that
 3 the department or the contractor finds that the land values reflect the
 4 true tax value of land, as determined under this article and the rules of
 5 the department. If the department or the contractor finds that the land
 6 values determined for the county under section 13.6 of this chapter do
 7 not reflect the true tax value of land, the department or the contractor
 8 shall determine land values for the county that reflect the true tax value
 9 of land, as determined under this article and the rules of the
 10 department. Land values determined under this subsection shall be
 11 used to the same extent as if the land values had been determined under
 12 section 13.6 of this chapter. The department or the contractor of the
 13 department shall notify the county's assessing officials of the land
 14 values determined under this subsection.

15 (m) A contractor of the department may notify the department if:

16 (1) a county auditor fails to:

17 (A) certify the contractor's bill;

18 (B) publish the contractor's claim;

19 (C) submit the contractor's claim to the county executive; or

20 (D) issue a warrant or check for payment of the contractor's
 21 bill;

22 as required by subsection (i) at the county auditor's first legal
 23 opportunity to do so;

24 (2) a county executive fails to allow the contractor's claim as
 25 legally required by subsection (i) at the county executive's first
 26 legal opportunity to do so; or

27 (3) a person or an entity authorized to act on behalf of the county
 28 takes or fails to take an action, including failure to request an
 29 appropriation, and that action or failure to act delays or halts
 30 progress under this section for payment of the contractor's bill.

31 (n) The department, upon receiving notice under subsection (m)
 32 from a contractor of the department, shall:

33 (1) verify the accuracy of the contractor's assertion in the notice
 34 that:

35 (A) a failure occurred as described in subsection (m)(1) or
 36 (m)(2); or

37 (B) a person or an entity acted or failed to act as described
 38 in subsection (m)(3); and

39 (2) provide to the treasurer of state the department's approval
 40 under subsection (i)(2)(A) of the contractor's bill with respect to
 41 which the contractor gave notice under subsection (m).

42 (o) Upon receipt of the department's approval of a contractor's bill



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1 under subsection (n), the treasurer of state shall pay the contractor the
2 amount of the bill approved by the department from money in the
3 possession of the state that would otherwise be available for
4 distribution to the county, including distributions of admissions taxes
5 or wagering taxes.

6 (p) The treasurer of state shall withhold from the money that
7 would be distributed under IC 4-33-12-6, IC 4-33-13-5, or any other
8 law to a county described in a notice provided under subsection (m) the
9 amount of a payment made by the treasurer of state to the contractor of
10 the department under subsection (o). Money shall be withheld from any
11 source payable to the county.

12 (q) Compliance with subsections (m) through (p) constitutes
13 compliance with IC 5-11-10.

14 (r) ~~IC 5-11-10-1.6(d)~~ IC 5-11-10-1.6(e) applies to the treasurer of
15 state with respect to the payment made in compliance with subsections
16 (m) through (p). This subsection and subsections (m) through (p) must
17 be interpreted liberally so that the state shall, to the extent legally valid,
18 ensure that the contractual obligations of a county subject to this
19 section are paid. Nothing in this section shall be construed to create a
20 debt of the state.

21 (s) The provisions of this section are severable as provided in
22 IC 1-1-1-8(b).

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