

SENATE BILL No. 330

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-16-13-12.5; IC 22-2-19.

Synopsis: Payroll information on public finance construction. Requires a contractor in any contractor tier on a public works project or on a tax advantaged construction project to complete a weekly report of wages and hours of the contractor's employees who work on the public works project or the tax advantaged construction project.

Effective: July 1, 2023.

Bohacek

January 12, 2023, read first time and referred to Committee on Local Government.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 330

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 5-16-13-12.5 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2023]: **Sec. 12.5. (a) This section applies to a**
- 4 **contractor in any contractor tier on a public works project.**
- 5 **(b) This section applies only to a public works contract entered**
- 6 **into after June 30, 2023.**
- 7 **(c) As used in this section, "department" refers to the**
- 8 **department of labor created by IC 22-1-1-1.**
- 9 **(d) As used in this section, "Form WH-347" refers to the weekly**
- 10 **report of wages and hours of individuals employed on construction**
- 11 **projects prescribed by the Wage and Hour Division of the United**
- 12 **States Department of Labor.**
- 13 **(e) As used in this section, "report" refers to either of the**
- 14 **following:**
- 15 **(1) Form WH-347.**
- 16 **(2) A form prescribed by the department that is the equivalent**
- 17 **of Form WH-347.**



1 (f) Each week, a contractor shall complete and maintain in its
2 files a report.

3 (g) At the request of any of the following, a contractor shall
4 produce the report for inspection and verification:

5 (1) The public agency that has contracted for the public works
6 project.

7 (2) The department.

8 (h) The department shall prescribe a form that is the equivalent
9 of Form WH-347. The form must require that an agent of the
10 contractor completing the form certify the information on the form
11 under the penalties for perjury. The department may provide that
12 payroll records normally maintained by a contractor satisfy the
13 requirement of this section if those records contain the information
14 required under this section.

15 SECTION 2. IC 22-2-19 IS ADDED TO THE INDIANA CODE AS
16 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2023]:

18 **Chapter 19. Wage Reporting on Tax Advantaged Construction**
19 **Projects**

20 **Sec. 1. This chapter applies to a tax advantaged construction**
21 **project funded in whole or in part through a tax advantage granted**
22 **after June 30, 2023.**

23 **Sec. 2. As used in this chapter, "contractor" refers generally to**
24 **a contractor in any contractor tier.**

25 **Sec. 3. As used in this chapter, "contractor tier" has the**
26 **meaning set forth in IC 5-16-13-4.**

27 **Sec. 4. As used in this chapter, "construction" includes any of**
28 **the following:**

29 (1) The alteration of a structure.

30 (2) The building of a structure.

31 (3) The reconstruction of a structure.

32 (4) The renovation of a structure.

33 (5) The expansion of a structure.

34 (6) The demolition of a structure.

35 (7) The improvement of a structure.

36 (8) The repair of a structure.

37 (9) The maintenance of a structure.

38 **Sec. 5. As used in this chapter, "department" refers to the**
39 **department of labor created by IC 22-1-1-1.**

40 **Sec. 6. As used in this chapter, "Form WH-347" refers to the**
41 **weekly report of wages and hours of individuals employed on**
42 **construction projects prescribed by the Wage and Hour Division**



1 of the United States Department of Labor.

2 Sec. 7. As used in this chapter, "political subdivision" has the
3 meaning set forth in IC 36-1-2-13.

4 Sec. 8. As used in this chapter, "public entity" refers to any of
5 the following:

- 6 (1) The state.
- 7 (2) A political subdivision.
- 8 (3) An instrumentality of the state or a political subdivision
9 (including a nonprofit corporation).
- 10 (4) A body corporate and politic established by law.
- 11 (5) An entity for a tax increment financing area described in
12 section 10(1) of this chapter.

13 Sec. 9. As used in this chapter, "tax advantage" refers to any of
14 the benefits described in section 10 of this chapter granted by a
15 public entity.

16 Sec. 10. As used in this chapter, "tax advantaged construction"
17 refers to the following:

- 18 (1) Construction in a geographic area including:
 - 19 (A) an economic development area;
 - 20 (B) a sports development area;
 - 21 (C) a community revitalization area;
 - 22 (D) a certified technology park;
 - 23 (E) a tax increment financing district; and
 - 24 (F) other similar areas or districts;

25 designated by a public entity as an allocation area or in which
26 tax increment property tax, adjusted gross income tax, or
27 gross retail and use tax revenue is dedicated to provide
28 improvements or to retire bonds issued to pay for
29 improvements.

- 30 (2) Construction for which an exemption, deduction, credit,
31 preferential rate, or other tax benefit is granted under
32 IC 6-1.1-12.1, IC 6-1.1-12.4, IC 6-1.1-12.5, IC 6-1.1-12.6, or
33 IC 6-3.1.

- 34 (3) Construction financed in any part with the proceeds of
35 bonds exempt from state taxation or issued by a public entity.

- 36 (4) Construction in an enterprise zone (IC 5-28-15).

- 37 (5) A rail project (as defined in IC 5-1.3-2-14 or IC 8-5-15-1).

38 Sec. 11. As used in this section, "report" refers to either of the
39 following:

- 40 (1) Form WH-347.
- 41 (2) A form prescribed by the department that is the equivalent
42 of Form WH-347.



1 **Sec. 12. Any agreement between a person and public entity**
 2 **granting a tax advantage must provide that:**

3 **(1) the tax advantage is conditioned on and subject to the**
 4 **provisions of this chapter;**

5 **(2) all construction contracts at every contractor tier:**

6 **(A) entered into; and**

7 **(B) financed in whole or in part through the tax advantage;**
 8 **must provide that the provisions and requirements of this**
 9 **chapter are incorporated into the contract.**

10 **Sec. 13. Each week, a contractor shall complete and maintain in**
 11 **its files a report.**

12 **Sec. 14. At the request of any of the following, a contractor shall**
 13 **produce the report for inspection and verification:**

14 **(1) The public entity that has:**

15 **(A) contracted directly for the tax advantaged**
 16 **construction; or**

17 **(B) granted the tax advantage through which the tax**
 18 **advantaged construction is financed in whole or in part.**

19 **(2) The department.**

20 **Sec. 15. (a) If a public entity suspects that a violation of section**
 21 **13 of this chapter has occurred, the public entity shall require the**
 22 **contractor to remedy the violation not later than thirty (30) days**
 23 **after the public entity notifies the contractor of the violation. The**
 24 **notification to the contractor must be signed by the chief executive**
 25 **officer of the public entity and sent by a method that enables the**
 26 **public entity to verify receipt of the notice by the contractor.**

27 **(b) During the thirty (30) day period described in subsection (a),**
 28 **the contractor may continue to work on the construction project.**
 29 **If the contractor fails to remedy the violation within the thirty (30)**
 30 **day period, the public entity shall find the contractor not**
 31 **responsible and determine the length of time the contractor is**
 32 **considered not responsible by the public entity.**

33 **(c) In making the determination of the length of time a**
 34 **contractor is not responsible under subsection (b), the public entity**
 35 **shall consider the severity of the violation. The period during**
 36 **which a contractor is considered not responsible:**

37 **(1) may not exceed forty-eight (48) months; and**

38 **(2) begins on the date of substantial completion of the**
 39 **construction project.**

40 **Sec. 16. The department shall prescribe a form that is the**
 41 **equivalent of Form WH-347. The form must require that an agent**
 42 **of the contractor completing the form certify the information on**



1 **the form under the penalties for perjury. The department may**
2 **provide that payroll records normally maintained by a contractor**
3 **satisfy the requirement of this chapter if those records contain the**
4 **information required under this chapter.**

