

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 239 be amended to read as follows:

- 1 Page 57, between lines 36 and 37, begin a new paragraph and insert:
- 2 "SECTION 33. IC 36-1-12-4, AS AMENDED BY P.L.169-2006,
- 3 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2010]: Sec. 4. (a) This section applies whenever the cost of a
- 5 public work project will be:
- 6 (1) at least seventy-five thousand dollars (\$75,000) in:
- 7 (A) a consolidated city or second class city;
- 8 (B) a county containing a consolidated city or second class
- 9 city; or
- 10 (C) a regional water or sewage district established under
- 11 IC 13-26; or
- 12 (2) at least fifty thousand dollars (\$50,000) in a political
- 13 subdivision or an agency not described in subdivision (1).
- 14 (b) The board must comply with the following procedure:
- 15 (1) The board shall prepare general plans and specifications
- 16 describing the kind of public work required, but shall avoid
- 17 specifications which might unduly limit competition. If the
- 18 project involves the resurfacing (as defined by IC 8-14-2-1) of a
- 19 road, street, or bridge, the specifications must show how the
- 20 weight or volume of the materials will be accurately measured
- 21 and verified.
- 22 (2) The board shall file the plans and specifications in a place
- 23 reasonably accessible to the public, which shall be specified in the
- 24 notice required by subdivision (3).

- 1 (3) Upon the filing of the plans and specifications, the board shall
2 publish notice in accordance with IC 5-3-1 calling for sealed
3 proposals for the public work needed.
- 4 (4) The notice must specify the place where the plans and
5 specifications are on file and the date fixed for receiving bids.
- 6 (5) The period of time between the date of the first publication
7 and the date of receiving bids shall be governed by the size of the
8 contemplated project in the discretion of the board. ~~but it~~ **The**
9 **period of time between the date of the first publication and**
10 **receiving bids** may not be more than:
- 11 (A) six (6) weeks **if the estimated cost of the public works**
12 **project is less than twenty-five million dollars**
13 **(\$25,000,000); and**
- 14 (B) **ten (10) weeks if the estimated cost of the public works**
15 **project is at least twenty-five million dollars (\$25,000,000).**
- 16 (6) If the cost of a project is one hundred thousand dollars
17 (\$100,000) or more, the board shall require the bidder to submit
18 a financial statement, a statement of experience, a proposed plan
19 or plans for performing the public work, and the equipment that
20 the bidder has available for the performance of the public work.
21 The statement shall be submitted on forms prescribed by the state
22 board of accounts.
- 23 (7) The board may not require a bidder to submit a bid before the
24 meeting at which bids are to be received. The meeting for
25 receiving bids must be open to the public. All bids received shall
26 be opened publicly and read aloud at the time and place
27 designated and not before.
- 28 (8) Except as provided in subsection (c), the board shall:
- 29 (A) award the contract for public work or improvements to the
30 lowest responsible and responsive bidder; or
- 31 (B) reject all bids submitted.
- 32 (9) If the board awards the contract to a bidder other than the
33 lowest bidder, the board must state in the minutes or memoranda,
34 at the time the award is made, the factors used to determine which
35 bidder is the lowest responsible and responsive bidder and to
36 justify the award. The board shall keep a copy of the minutes or
37 memoranda available for public inspection.
- 38 (10) In determining whether a bidder is responsive, the board may
39 consider the following factors:
- 40 (A) Whether the bidder has submitted a bid or quote that
41 conforms in all material respects to the specifications.
- 42 (B) Whether the bidder has submitted a bid that complies
43 specifically with the invitation to bid and the instructions to
44 bidders.
- 45 (C) Whether the bidder has complied with all applicable
46 statutes, ordinances, resolutions, or rules pertaining to the

- 1 award of a public contract.
- 2 (11) In determining whether a bidder is a responsible bidder, the
- 3 board may consider the following factors:
- 4 (A) The ability and capacity of the bidder to perform the work.
- 5 (B) The integrity, character, and reputation of the bidder.
- 6 (C) The competence and experience of the bidder.
- 7 (12) The board shall require the bidder to submit an affidavit:
- 8 (A) that the bidder has not entered into a combination or
- 9 agreement:
- 10 (i) relative to the price to be bid by a person;
- 11 (ii) to prevent a person from bidding; or
- 12 (iii) to induce a person to refrain from bidding; and
- 13 (B) that the bidder's bid is made without reference to any other
- 14 bid.
- 15 (c) Notwithstanding subsection (b)(8), a county may award sand,
- 16 gravel, asphalt paving materials, or crushed stone contracts to more
- 17 than one (1) responsible and responsive bidder if the specifications
- 18 allow for bids to be based upon service to specific geographic areas and
- 19 the contracts are awarded by geographic area. The geographic areas do
- 20 not need to be described in the specifications."
- 21 Renumber all SECTIONS consecutively.
 (Reference is to ESB 239 as printed February 22, 2010.)

Representative Barnes