

Adopted	Rejected
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COMMITTEE REPORT

YES:	14
NO:	3

MR. SPEAKER:

*Your Committee on Ways and Means, to which was referred House Bill 1072, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 3, delete lines 19 through 22, begin a new paragraph and insert:
- 2 "**(c) For taxes due and payable for an assessment date after**
- 3 **January 15, 2012, the department may not approve an**
- 4 **appropriation or a property tax levy that is associated with a debt**
- 5 **unless the debt issuance report for the debt has been submitted to**
- 6 **the department.**"
- 7 Page 4, delete lines 10 through 13, begin a new paragraph and insert:
- 8 "**(c) For taxes due and payable for an assessment date after**
- 9 **January 15, 2012, the department may not approve an**
- 10 **appropriation or a property tax levy that is associated with a debt**
- 11 **unless the debt issuance report for the debt has been submitted to**
- 12 **the department.**"
- 13 Page 4, between lines 35 and 36, begin a new paragraph and insert:
- 14 "**SECTION 6. IC 5-11-1-4, AS AMENDED BY P.L.172-2011,**
- 15 **SECTION 11, IS AMENDED TO READ AS FOLLOWS**

1 [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) The state examiner shall
 2 require from every municipality and every state or local governmental
 3 unit, entity, or instrumentality financial reports covering the full period
 4 of each fiscal year. These reports shall be prepared, verified, and filed
 5 with the state examiner not later than sixty (60) days after the close of
 6 each fiscal year. ~~The reports must be filed electronically, in a manner~~
 7 ~~prescribed by the state examiner that is compatible with the technology~~
 8 ~~employed by the political subdivision. The reports must be in the~~
 9 **form and content prescribed by the state examiner and filed**
 10 **electronically in the manner prescribed under IC 5-14-3.8-7.**

11 (b) The department of local government finance may not approve the
 12 budget of a political subdivision or a supplemental appropriation for a
 13 political subdivision until the political subdivision files an annual report
 14 under subsection (a) for the preceding calendar year.

15 SECTION 7. IC 5-11-13-1, AS AMENDED BY P.L.172-2011,
 16 SECTION 14, IS AMENDED TO READ AS FOLLOWS
 17 [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Every state, county, city,
 18 town, township, or school official, elective or appointive, who is the
 19 head of or in charge of any office, department, board, or commission of
 20 the state or of any county, city, town, or township, and every state,
 21 county, city, town, or township employee or agent who is the head of,
 22 or in charge of, or the executive officer of any department, bureau,
 23 board, or commission of the state, county, city, town, or township, and
 24 every executive officer by whatever title designated, who is in charge
 25 of any state educational institution or of any other state, county, or city
 26 institution, shall during the month of January of each year prepare,
 27 make, and sign a ~~written or printed~~ certified report, correctly and
 28 completely showing the names and business addresses of each and all
 29 officers, employees, and agents in their respective offices, departments,
 30 boards, commissions, and institutions, and the respective duties and
 31 compensation of each, and shall forthwith file said report in the office
 32 of the state examiner of the state board of accounts. **The report must**
 33 **also indicate whether the political subdivision offers a health plan,**
 34 **a pension, and other benefits to full-time and part-time employees.**
 35 However, no more than one (1) report covering the same officers,
 36 employees, and agents need be made from the state or any county, city,
 37 town, township, or school unit in any one year. **The certification must**
 38 **be filed electronically in the manner prescribed under**

1 **IC 5-14-3.8-7.**

2 (b) The department of local government finance may not approve the
3 budget of a county, city, town, or township or a supplemental
4 appropriation for a county, city, town, or township until the county,
5 city, town, or township files an annual report under subsection (a) for
6 the preceding calendar year.

7 SECTION 8. IC 5-14-3.8-7, AS ADDED BY P.L.172-2011,
8 SECTION 18, IS AMENDED TO READ AS FOLLOWS
9 [EFFECTIVE UPON PASSAGE]: Sec. 7. The department may require
10 that prescribed forms be submitted in an electronic format. **The**
11 **department, working with the office of technology established by**
12 **IC 4-13.1-2-1 or another organization that is part of a state**
13 **educational institution, shall develop and maintain a secure,**
14 **web-based system that facilitates electronic submission of the forms**
15 **under this section. Political subdivisions shall submit forms under**
16 **this section through the web-based system as prescribed by the**
17 **department.**

18 SECTION 9. IC 5-22-15-20.9, AS ADDED BY P.L.172-2011,
19 SECTION 22, IS AMENDED TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2012]: Sec. 20.9. (a) ~~This section applies only~~
21 ~~to a contract awarded by a political subdivision:~~

22 ~~(b)~~ As used in this section, "affected county" refers to a county:
23 (1) in which the political subdivision awarding a contract under
24 this article is located; or
25 (2) that is adjacent to the county described in subdivision (1).

26 ~~(c)~~ **(b)** As used in this section, "local Indiana business" refers to any
27 of the following:

28 (1) A business whose principal place of business is located in an
29 affected county.
30 (2) A business that pays a majority of its payroll (in dollar
31 volume) to residents of affected counties.
32 (3) A business that employs residents of affected counties as a
33 majority of its employees.
34 (4) A business that makes significant capital investments in the
35 affected counties as defined in rules adopted by the political
36 subdivision.
37 (5) A business that has a substantial positive economic impact on
38 the affected counties as defined by criteria in rules adopted by the

1 political subdivision.

2 ~~(d)~~ **(c)** ~~There are~~ **A political subdivision may apply** the following
3 price preferences for supplies purchased from a local Indiana business:

4 (1) Five percent (5%) for a purchase expected by the purchasing
5 agency to be less than fifty thousand dollars (\$50,000).

6 (2) Three percent (3%) for a purchase expected by the purchasing
7 agency to be at least fifty thousand dollars (\$50,000) but less than
8 one hundred thousand dollars (\$100,000).

9 (3) One percent (1%) for a purchase expected by the purchasing
10 agency to be at least one hundred thousand dollars (\$100,000).

11 **However, to apply a price preference authorized by this subsection**
12 **to a purchase of supplies, the political subdivision must state in the**
13 **solicitation for supplies that the political subdivision will apply this**
14 **section.**

15 ~~(e)~~ **(d)** Notwithstanding subsection ~~(d)~~; **(c)**, a purchasing agency
16 may award a contract to the lowest responsive and responsible offeror,
17 regardless of the preference provided in this section, if the lowest
18 responsive and responsible offeror is a local Indiana business.

19 ~~(f)~~ **(e)** A business that wants to claim a preference provided under
20 this section must do all the following:

21 (1) State in the business's bid that the business claims the
22 preference provided by this section.

23 (2) Provide the following information to the purchasing agency:

24 (A) The location of the business's principal place of business.
25 If the business claims the preference as a local Indiana
26 business described in subsection ~~(e)(1)~~; **(b)(1)**, a statement
27 explaining the reasons the business considers the location
28 named as the business's principal place of business.

29 (B) The amount of the business's total payroll and the amount
30 of the business's payroll paid to residents of affected counties.

31 (C) The number of the business's employees and the number of
32 the business's employees who are residents of affected
33 counties.

34 (D) If the business claims the preference as a local Indiana
35 business described in subsection ~~(e)(4)~~; **(b)(4)**, a description of
36 the capital investments made in the affected counties and a
37 statement of the amount of those capital investments.

38 (E) If the business claims the preference as a local Indiana

1 business described in subsection ~~(c)(5)~~; **(b)(5)**, a description of
 2 the substantial positive economic impact the business has on
 3 the affected counties.

4 SECTION 10. IC 5-28-16-3, AS ADDED BY P.L.4-2005,
 5 SECTION 34, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An application requesting
 7 a grant or loan from the fund must be targeted to one (1) or more of the
 8 areas listed in section 2 of this chapter.

9 (b) A successful applicant for a grant or loan from the fund must
 10 meet the requirements of this section and be approved by the board. An
 11 application for a grant or loan from the fund must be made on an
 12 application form prescribed by the board. An applicant shall provide all
 13 information that the board finds necessary to make the determinations
 14 required by this chapter.

15 (c) All applications for a grant or loan from the fund must include
 16 the following:

17 (1) A fully elaborated technical research or business plan,
 18 whichever applies, that is appropriate for review by outside
 19 experts as provided in this chapter.

20 (2) A detailed financial analysis that includes the commitment of
 21 resources by other entities that will be involved in the project.

22 (3) A statement of the economic development potential of the
 23 project, such as:

24 (A) a statement of the way in which support from the fund will
 25 lead to significantly increased funding from federal or private
 26 sources and from private sector research partners; or

27 (B) a projection of the jobs to be created.

28 (4) The identity, qualifications, and obligations of the applicant.

29 (5) Any other information that the board considers appropriate.

30 An applicant for a grant or loan from the fund may request that certain
 31 information that is submitted by the applicant be kept confidential.

32 **However, an applicant's projection of the jobs to be created by a**
 33 **project may not be kept confidential.** The board shall make a
 34 determination of confidentiality as soon as is practicable. If the board
 35 determines that the information should not be kept confidential, the
 36 applicant may withdraw the application, and the board must return the
 37 information before making it part of any public record.

38 (d) An application for a grant or loan from the fund submitted by an

1 academic researcher must be made through the office of the president
 2 of the researcher's academic institution with the express endorsement
 3 of the institution's president. An application for a grant or loan from the
 4 fund submitted by a private researcher must be made through the office
 5 of the highest ranking officer of the researcher's institution with the
 6 express endorsement of the institution. Any other application must be
 7 made through the office of the highest ranking officer of the entity
 8 submitting the application. In the case of an application for a grant or
 9 loan from the fund that is submitted jointly by one (1) or more
 10 researchers or entities, the application must be endorsed by each
 11 institution or entity as required by this subsection.

12 SECTION 11. IC 5-28-16-6, AS ADDED BY P.L.4-2005,
 13 SECTION 34, IS AMENDED TO READ AS FOLLOWS
 14 [EFFECTIVE UPON PASSAGE]: Sec. 6. The board shall submit ~~an~~
 15 ~~annual a~~ report to **the budget committee and** the legislative council
 16 before ~~September 1~~. **February 1 and August 1 of each year that**
 17 **covers the six (6) month period that ends one (1) month before the**
 18 **report is due.** The report must be in an electronic format under
 19 IC 5-14-6 and must contain the following information concerning fund
 20 activity in the preceding ~~state fiscal year~~: **six (6) month period:**

- 21 (1) The name of each entity receiving a grant from the fund.
 22 (2) The location of each entity sorted by:
 23 (A) county, in the case of an entity located in Indiana; or
 24 (B) state, in the case of an entity located outside Indiana.
 25 (3) The amount of each grant awarded to each entity.
 26 **(4) The projection of the number of jobs to be created by the**
 27 **entity's project.**

28 SECTION 12. IC 5-28-28-2, AS ADDED BY P.L.222-2007,
 29 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 UPON PASSAGE]: Sec. 2. As used in this chapter, "grant" refers to a
 31 grant given by the corporation, **including a grant from the Indiana**
 32 **twenty-first century research and technology fund.**

33 SECTION 13. IC 5-28-28-3, AS ADDED BY P.L.222-2007,
 34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 3. As used in this chapter, "loan":

- 36 (1) refers to a loan made by the corporation, regardless of whether
 37 the loan is forgivable; ~~and~~
 38 (2) includes a loan guarantee made by the corporation; **and**

1 **(3) includes a loan from the Indiana twenty-first century**
 2 **research and technology fund.**

3 SECTION 14. IC 5-28-28-5, AS ADDED BY P.L.222-2007,
 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 UPON PASSAGE]: Sec. 5. (a) Beginning February 1, 2008, the
 6 corporation shall:

7 (1) submit an economic incentives and compliance report to:
 8 (A) the governor; ~~and~~
 9 **(B) the budget committee; and**
 10 ~~(B) (C)~~ (C) the legislative council in an electronic format under
 11 IC 5-14-6; and

12 (2) publish the report on the corporation's Internet web site;
 13 on the schedule specified in subsection (b).

14 ~~(b) Before August 2, 2009,~~ The corporation shall submit and publish
 15 before February 1 and August 1 of each year an incentives and
 16 compliance report that covers the six (6) month period that ends one (1)
 17 month before the report is due. ~~After August 1, 2009, the corporation~~
 18 ~~shall submit and publish before August 1 of each year an incentives and~~
 19 ~~compliance report that covers the twelve (12) month period that ends~~
 20 ~~one (1) month before the report is due."~~

21 Page 5, delete lines 8 through 42.

22 Page 6, delete lines 1 through 12.

23 Page 16, line 23, after "subdivision" insert "**or appropriate fiscal**
 24 **body, if the political subdivision is subject to section 20 of this**
 25 **chapter,"**.

26 Page 16, line 29, reset in roman "political subdivision".

27 Page 16, line 29, before "appropriate" insert "**or**".

28 Page 16, line 30, after "at which the" insert "**political subdivision**
 29 **or appropriate**".

30 Page 16, line 31, before "appropriate" insert "**political subdivision**
 31 **or**".

32 Page 22, delete lines 21 through 42, begin a new paragraph and
 33 insert:

34 "SECTION 18. IC 6-1.1-17-20, AS AMENDED BY P.L.113-2010,
 35 SECTION 29, IS AMENDED TO READ AS FOLLOWS
 36 [EFFECTIVE JULY 1, 2012]: Sec. 20. (a) This section applies to each
 37 governing body of a taxing unit that

38 ~~(1)~~ is not comprised of a majority of officials who are elected to

1 serve on the governing body. and

2 (2) either:

3 (A) is:

4 (i) a conservancy district subject to IC 14-33-9;

5 (ii) a solid waste management district subject to IC 13-21; or

6 (iii) a fire protection district subject to IC 36-8-11-18; or

7 (B) has a percentage increase in the proposed budget for the
8 taxing unit for the ensuing calendar year that is more than the
9 result of:

10 (i) the assessed value growth quotient determined under
11 IC 6-1.1-18.5-2 for the ensuing calendar year; minus

12 (ii) one (1):

13 For purposes of this section, an individual who qualifies to be appointed
14 to a governing body or serves on a governing body because of the
15 individual's status as an elected official of another taxing unit shall be
16 treated as an official who was not elected to serve on the governing
17 body.

18 (b) As used in this section, "taxing unit" has the meaning set forth
19 in IC 6-1.1-21, except that the term does not include:

20 (1) a school corporation; or

21 **(1) a public library whose levies are subject to review and
22 modification under section 20.3 of this chapter; or**

23 (2) an entity whose tax levies are subject to review and
24 modification by a city-county legislative body under IC 36-3-6-9.

25 (c) If:

26 (1) the assessed valuation of a taxing unit is entirely contained
27 within a city or town; or

28 (2) the assessed valuation of a taxing unit is not entirely contained
29 within a city or town but the taxing unit was originally established
30 by the city or town;

31 the governing body shall submit its proposed budget and property tax
32 levy to the city or town fiscal body. The proposed budget and levy shall
33 be submitted at least thirty (30) days before the city or town fiscal body
34 is required to hold budget approval hearings under this chapter.
35 However, in the case of a public library that is subject to this section
36 and is described in subdivision (2), the public library shall submit its
37 proposed budget and property tax levy to the county fiscal body in the
38 manner provided in subsection (d); rather than to the city or town fiscal

1 body; if more than fifty percent (50%) of the parcels of real property
 2 within the jurisdiction of the public library are located outside the city
 3 or town. **to the city or town fiscal body in the manner prescribed by**
 4 **the department of local government finance before September 2 of**
 5 **a year.**

6 (d) If subsection (c) does not apply, the governing body of the taxing
 7 unit shall submit its proposed budget and property tax levy to the
 8 county fiscal body in the county where the taxing unit has the most
 9 assessed valuation. The proposed budget and levy shall be submitted at
 10 least thirty (30) days before the county fiscal body is required to hold
 11 budget approval hearings under this chapter. **to the county fiscal body**
 12 **in the manner prescribed by the department of local government**
 13 **finance before September 2 of a year.**

14 (e) The fiscal body of the city, town, or county (whichever applies)
 15 shall review each budget and proposed tax levy and adopt a final
 16 budget and tax levy for the taxing unit. The fiscal body may reduce or
 17 modify but not increase the proposed budget or tax levy.

18 (f) If a taxing unit fails to file the information required in subsection
 19 (c) or (d), whichever applies, with the appropriate fiscal body by the
 20 time prescribed by this section, the most recent annual appropriations
 21 and annual tax levy of that taxing unit are continued for the ensuing
 22 budget year.

23 (g) If the appropriate fiscal body fails to complete the requirements
 24 of subsection (e) before the adoption deadline in section 5 of this
 25 chapter for any taxing unit subject to this section, the most recent
 26 annual appropriations and annual tax levy of the city, town, or county,
 27 whichever applies, are continued for the ensuing budget year.

28 SECTION 19. IC 6-1.1-17-20.3 IS ADDED TO THE INDIANA
 29 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 30 [EFFECTIVE JULY 1, 2012]: **Sec. 20.3. (a) This section applies to**
 31 **each governing body of a public library that:**

32 **(1) is not comprised of a majority of officials who are elected**
 33 **to serve on the governing body; and**

34 **(2) has a percentage increase in the proposed budget for the**
 35 **taxing unit for the ensuing calendar year that is more than the**
 36 **result of:**

37 **(A) the assessed value growth quotient determined under**
 38 **IC 6-1.1-18.5-2 for the ensuing calendar year; minus**

1 **(B) one (1).**
 2 **For purposes of this section, an individual who qualifies to be**
 3 **appointed to a governing body or serves on a governing body**
 4 **because of the individual's status as an elected official of another**
 5 **taxing unit shall be treated as an official who was not elected to**
 6 **serve on the governing body.**

7 **(b) This section does not apply to:**
 8 **(1) a school corporation;**
 9 **(2) an entity whose tax levies are subject to review and**
 10 **modification by a fiscal body under section 20 of this chapter;**
 11 **or**
 12 **(3) an entity whose tax levies are subject to review and**
 13 **modification by a city-county legislative body under**
 14 **IC 36-3-6-9.**

15 **(c) If:**
 16 **(1) the assessed valuation of a public library is entirely**
 17 **contained within a city or town; or**
 18 **(2) the assessed valuation of a public library is not entirely**
 19 **contained within a city or town but the public library was**
 20 **originally established by the city or town;**

21 **the governing body shall submit its proposed budget and property**
 22 **tax levy to the city or town fiscal body. The proposed budget and**
 23 **levy shall be submitted at least thirty (30) days before the city or**
 24 **town fiscal body is required to hold budget approval hearings**
 25 **under this chapter. However, the governing body shall submit its**
 26 **proposed budget and property tax levy to the county fiscal body in**
 27 **the manner provided in subsection (d), rather than to the city or**
 28 **town fiscal body, if more than fifty percent (50%) of the parcels of**
 29 **real property within the jurisdiction of the public library are**
 30 **located outside the city or town.**

31 **(d) If subsection (c) does not apply, the governing body of the**
 32 **public library shall submit its proposed budget and property tax**
 33 **levy to the county fiscal body in the county where the public library**
 34 **has the most assessed valuation. The proposed budget and levy**
 35 **shall be submitted at least thirty (30) days before the county fiscal**
 36 **body is required to hold budget approval hearings under this**
 37 **chapter.**

38 **(e) The fiscal body of the city, town, or county (whichever**

1 applies) shall review each budget and proposed tax levy and adopt
2 a final budget and tax levy for the public library. The fiscal body
3 may reduce or modify but not increase the proposed budget or tax
4 levy.

5 (f) If a public library fails to file the information required in
6 subsection (c) or (d), whichever applies, with the appropriate fiscal
7 body by the time prescribed by this section, the most recent annual
8 appropriations and annual tax levy of that public library are
9 continued for the ensuing budget year.

10 (g) If the appropriate fiscal body fails to complete the
11 requirements of subsection (e) before the adoption deadline in
12 section 5 of this chapter for any public library subject to this
13 section, the most recent annual appropriations and annual tax levy
14 of the city, town, or county, whichever applies, are continued for
15 the ensuing budget year."

16 Delete page 23.

17 Page 24, delete lines 1 through 5.

18 Page 25, line 36, after "The" insert "following".

19 Page 25, line 36, after "definitions" delete "in".

20 Page 25, line 36, strike "this".

21 Page 25, line 36, delete "subsection".

22 Page 37, between lines 34 and 35, begin a new paragraph and insert:

23 "SECTION 31. IC 6-3-2-2.1 IS ADDED TO THE INDIANA
24 CODE AS A NEW SECTION TO READ AS FOLLOWS
25 [EFFECTIVE JANUARY 1, 2012 (RETROACTIVE)]: Sec. 2.1. (a)
26 This section applies only to a covered taxpayer that has receipts
27 attributable to Indiana under both subsections (c) and (d).

28 (b) As used in this section, "covered taxpayer" refers to the
29 following:

30 (1) Designated contract markets, swap execution facilities, or
31 derivatives clearing organizations primarily regulated by the
32 United States Commodity Futures Trading Commission.

33 (2) Securities exchanges and securities clearing agencies
34 primarily regulated by the United States Securities and
35 Exchange Commission.

36 For purposes of this section, a designated contract market, swap
37 execution facility, or derivatives clearing organization is considered
38 to be primarily regulated by the United States Commodity Futures

1 **Trading Commission if more than fifty percent (50%) of the**
 2 **enterprise's total gross receipts are attributable to activities subject**
 3 **to regulation by the United States Commodity Futures Trading**
 4 **Commission or the United States securities exchanges.**

5 **(c) Notwithstanding section 2 of this chapter or any other law,**
 6 **receipts received by a covered taxpayer, in respect of trade**
 7 **execution (electronic or otherwise) and clearing, are in Indiana as**
 8 **follows:**

9 **(1) If the receipts are attributable to transactions executed on**
 10 **a physical trading floor located in Indiana, one hundred**
 11 **percent (100%) of the receipts are attributable to Indiana.**

12 **(2) If the receipts are attributable to transactions executed by**
 13 **means of an electronic transaction system, the receipts are**
 14 **attributable to Indiana based on a percentage determined by**
 15 **dividing the total Indiana population by the total United**
 16 **States population.**

17 **(3) If the receipts are attributable to the clearing of**
 18 **over-the-counter transactions, the receipts are attributable to**
 19 **Indiana based on a percentage determined by dividing the**
 20 **total Indiana population by the total United States population.**

21 **(d) Notwithstanding section 2 of this chapter or any other law,**
 22 **market data service revenue is sourced based on the billing address**
 23 **of a covered taxpayer's direct customers or the user location of**
 24 **direct customers and location of the customers of the covered**
 25 **taxpayer's distributors."**

26 Page 38, line 36, delete "." and insert "**or in an electronic format**
 27 **approved by the director of the budget agency."**

28 Page 46, line 38, delete "." and insert "**or in an electronic format**
 29 **approved by the director of the budget agency."**

30 Page 47, line 18, delete "." and insert "**or in an electronic format**
 31 **approved by the director of the budget agency."**

32 Page 50, line 19, delete "." and insert "**or in an electronic format**
 33 **approved by the director of the budget agency."**

34 Page 52, line 37, delete "." and insert "**or in an electronic format**
 35 **approved by the director of the budget agency."**

36 Page 57, line 38, delete "." and insert "**or in an electronic format**
 37 **approved by the director of the budget agency."**

38 Page 60, line 2, delete "." and insert "**or in an electronic format**

- 1 **approved by the director of the budget agency."**
- 2 Page 66, line 9, delete "." and insert "**or in an electronic format**
- 3 **approved by the director of the budget agency."**
- 4 Page 66, line 29, delete "." and insert "**or in an electronic format**
- 5 **approved by the director of the budget agency."**
- 6 Page 67, line 17, delete "." and insert "**or in an electronic format**
- 7 **approved by the director of the budget agency."**
- 8 Page 67, line 40, delete "." and insert "**or in an electronic format**
- 9 **approved by the director of the budget agency."**
- 10 Page 68, line 20, delete ".".
- 11 Page 68, line 21, after "adopted." insert "**or in an electronic format**
- 12 **approved by the director of the budget agency."**
- 13 Page 72, line 14, after "mail" delete "." and insert "**or in an**
- 14 **electronic format approved by the director of the budget agency."**
- 15 Page 73, line 40, after "mail" delete "." and insert "**or in an**
- 16 **electronic format approved by the director of the budget agency."**
- 17 Page 74, line 37, delete "." and insert "**or in an electronic format**
- 18 **approved by the director of the budget agency."**
- 19 Page 80, line 12, delete "." and insert "**or in an electronic format**
- 20 **approved by the director of the budget agency."**
- 21 Page 82, line 22, delete "." and insert "**or in an electronic format**
- 22 **approved by the director of the budget agency."**
- 23 Page 86, line 21, after "mail" delete "." and insert "**or in an**
- 24 **electronic format approved by the director of the budget agency."**
- 25 Page 89, line 9, delete "." and insert "**or in an electronic format**
- 26 **approved by the director of the budget agency."**
- 27 Page 93, line 41, delete "." and insert "**or in an electronic format**
- 28 **approved by the director of the budget agency."**
- 29 Page 94, line 12, delete "." and insert "**or in an electronic format**
- 30 **approved by the director of the budget agency."**
- 31 Page 119, line 13, delete "." and insert "**or in an electronic format**
- 32 **approved by the director of the budget agency."**
- 33 Page 122, between lines 9 and 10, begin a new paragraph and insert:
- 34 "SECTION 86. IC 36-1-12-4, AS AMENDED BY P.L.139-2011,
- 35 SECTION 6, AND AS AMENDED BY P.L.172-2011, SECTION 139,
- 36 IS CORRECTED AND AMENDED TO READ AS FOLLOWS
- 37 [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) This section applies whenever
- 38 the cost of a public work project will be:

- 1 *(1) at least seventy-five thousand dollars (\$75,000) in:*
- 2 *(A) a consolidated city or second class city;*
- 3 *(B) a county containing a consolidated city or second class*
- 4 *city; or*
- 5 *(C) a regional water or sewage district established under*
- 6 *IC 13-26; or*
- 7 *(2) at least fifty thousand dollars (\$50,000) in a political*
- 8 *subdivision or an agency not described in subdivision (1)-*
- 9 *(1) except as provided in subdivision (2), at least one hundred fifty*
- 10 *thousand dollars (\$150,000); or*
- 11 *(2) in the case of a board of aviation commissioners or an airport*
- 12 *authority board, at least one hundred thousand dollars*
- 13 *(\$100,000).*
- 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 project
- 18 involves the resurfacing (as defined by IC 8-14-2-1) of a road,
- 19 street, or bridge, the specifications must show how the weight or
- 20 volume of the materials will be accurately measured and verified.
- 21 (2) The board shall file the plans and specifications in a place
- 22 reasonably accessible to the public, which shall be specified in the
- 23 notice required by subdivision (3).
- 24 (3) Upon the filing of the plans and specifications, the board shall
- 25 publish notice in accordance with IC 5-3-1 calling for sealed
- 26 proposals for the public work needed.
- 27 (4) The notice must specify the place where the plans and
- 28 specifications are on file and the date fixed for receiving bids.
- 29 (5) The period of time between the date of the first publication and
- 30 the date of receiving bids shall be governed by the size of the
- 31 contemplated project in the discretion of the board. The period of
- 32 time between the date of the first publication and receiving bids
- 33 may not be more than:
- 34 (A) six (6) weeks if the estimated cost of the public works
- 35 project is less than twenty-five million dollars (\$25,000,000);
- 36 and
- 37 (B) ten (10) weeks if the estimated cost of the public works
- 38 project is at least twenty-five million dollars (\$25,000,000).

1 (6) *If the cost of a project is one hundred thousand dollars*
2 *(\$100,000) or more,* The board shall require the bidder to submit
3 a financial statement, a statement of experience, a proposed plan
4 or plans for performing the public work, and the equipment that
5 the bidder has available for the performance of the public work.
6 The statement shall be submitted on forms prescribed by the state
7 board of accounts.

8 (7) The board may not require a bidder to submit a bid before the
9 meeting at which bids are to be received. The meeting for
10 receiving bids must be open to the public. All bids received shall
11 be opened publicly and read aloud at the time and place
12 designated and not before. *Notwithstanding any other law, bids*
13 *may be opened after the time designated if both of the following*
14 *apply:*

15 (A) *The board makes a written determination that it is in the*
16 *best interest of the board to delay the opening.*

17 (B) *The day, time, and place of the rescheduled opening are*
18 *announced at the day, time, and place of the originally*
19 *scheduled opening.*

20 (8) Except as provided in subsection (c), *or (after June 30, 2011)*
21 *section 22 of this chapter,* the board shall:

22 (A) award the contract for public work or improvements to the
23 lowest responsible and responsive bidder; or

24 (B) reject all bids submitted.

25 (9) If the board awards the contract to a bidder other than the
26 lowest bidder, the board must state in the minutes or memoranda,
27 at the time the award is made, the factors used to determine which
28 bidder is the lowest responsible and responsive bidder and to
29 justify the award. The board shall keep a copy of the minutes or
30 memoranda available for public inspection.

31 (10) In determining whether a bidder is responsive, the board may
32 consider the following factors:

33 (A) Whether the bidder has submitted a bid or quote that
34 conforms in all material respects to the specifications.

35 (B) Whether the bidder has submitted a bid that complies
36 specifically with the invitation to bid and the instructions to
37 bidders.

38 (C) Whether the bidder has complied with all applicable

- 1 statutes, ordinances, resolutions, or rules pertaining to the
- 2 award of a public contract.
- 3 (11) In determining whether a bidder is a responsible bidder, the
- 4 board may consider the following factors:
- 5 (A) The ability and capacity of the bidder to perform the work.
- 6 (B) The integrity, character, and reputation of the bidder.
- 7 (C) The competence and experience of the bidder.
- 8 (12) The board shall require the bidder to submit an affidavit:
- 9 (A) that the bidder has not entered into a combination or
- 10 agreement:
- 11 (i) relative to the price to be bid by a person;
- 12 (ii) to prevent a person from bidding; or
- 13 (iii) to induce a person to refrain from bidding; and
- 14 (B) that the bidder's bid is made without reference to any other
- 15 bid.
- 16 (c) Notwithstanding subsection (b)(8), a county may award sand,
- 17 gravel, asphalt paving materials, or crushed stone contracts to more
- 18 than one (1) responsible and responsive bidder if the specifications
- 19 allow for bids to be based upon service to specific geographic areas and
- 20 the contracts are awarded by geographic area. The geographic areas do
- 21 not need to be described in the specifications.
- 22 SECTION 87. IC 36-1-12-4.7, AS AMENDED BY P.L.172-2011,
- 23 SECTION 140, IS AMENDED TO READ AS FOLLOWS
- 24 [EFFECTIVE JULY 1, 2012]: Sec. 4.7. (a) This section applies
- 25 whenever a public work project is estimated to cost:
- 26 (1) except as provided in subdivision (2), at least fifty thousand
- 27 dollars (\$50,000) and less than one hundred fifty thousand dollars
- 28 (\$150,000); or
- 29 (2) in the case of a board of aviation commissioners or an airport
- 30 authority board, at least fifty thousand dollars (\$50,000) and less
- 31 than one hundred thousand dollars (\$100,000).
- 32 (b) The board must proceed under the following provisions:
- 33 (1) The board shall invite quotes from at least three (3) persons
- 34 known to deal in the class of work proposed to be done by mailing
- 35 them a notice stating that plans and specifications are on file in a
- 36 specified office. The notice must be mailed not less than seven (7)
- 37 days before the time fixed for receiving quotes.
- 38 (2) The board may not require a person to submit a quote before

1 the meeting at which quotes are to be received. The meeting for
2 receiving quotes must be open to the public. All quotes received
3 shall be opened publicly and read aloud at the time and place
4 designated and not before.

5 (3) ~~Except as permitted in section 22 of this chapter after June 30,~~
6 ~~2011,~~ The board shall award the contract for the public work to
7 the lowest responsible and responsive quoter.

8 (4) The board may reject all quotes submitted.

9 SECTION 88. IC 36-1-12-5, AS AMENDED BY P.L.172-2011,
10 SECTION 141, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2012]: Sec. 5. (a) This section applies whenever
12 a public work project is estimated to cost less than fifty thousand
13 dollars (\$50,000). Except as provided in subsection (g) for local boards
14 of aviation commissioners and local airport authorities, if a contract is
15 to be awarded, the board may proceed under section 4 of this chapter
16 or under subsection (b) or (c).

17 (b) The board must proceed under the following provisions:

18 (1) The board shall invite quotes from at least three (3) persons
19 known to deal in the class of work proposed to be done by mailing
20 them a notice stating that plans and specifications are on file in a
21 specified office. The notice must be mailed not less than seven (7)
22 days before the time fixed for receiving quotes.

23 (2) The board may not require a person to submit a quote before
24 the meeting at which quotes are to be received. The meeting for
25 receiving quotes must be open to the public. All quotes received
26 shall be opened publicly and read aloud at the time and place
27 designated and not before.

28 (3) ~~Except as permitted in section 22 of this chapter,~~ The board
29 shall award the contract for the public work to the lowest
30 responsible and responsive quoter.

31 (4) The board may reject all quotes submitted.

32 (5) If the board rejects all quotes under subdivision (4), the board
33 may negotiate and enter into agreements for the work in the open
34 market without inviting or receiving quotes if the board
35 establishes in writing the reasons for rejecting the quotes.

36 (c) The board may not proceed under subsection (b) for the
37 resurfacing (as defined in IC 8-14-2-1) of a road, street, or bridge,
38 unless:

- 1 (1) the weight or volume of the materials in the project is capable
2 of accurate measurement and verification; and
3 (2) the specifications define the geographic points at which the
4 project begins and ends.
- 5 (d) For the purposes of this section, if contiguous sections of a road,
6 street, or bridge are to be resurfaced in a calendar year, all of the work
7 shall be considered to comprise a single public work project.
- 8 (e) The board may purchase or lease supplies in the manner provided
9 in IC 5-22 and perform the public work by means of its own workforce
10 without awarding a public work contract.
- 11 (f) Before the board may perform any work under this section by
12 means of its own workforce, the political subdivision or agency must
13 have a group of employees on its staff who are capable of performing
14 the construction, maintenance, and repair applicable to that work.
- 15 (g) This subsection applies to local boards of aviation
16 commissioners operating under IC 8-22-2 and local airport authorities
17 operating under IC 8-22-3. If the contract is to be awarded by a board
18 to which this subsection applies, or to a designee of the board under
19 subsection (h), the board or its designee may proceed under section 4
20 of this chapter or under the following provisions. The board or its
21 designee may invite quotes from at least three (3) persons known to
22 deal in the class of work proposed to be done by mailing the persons a
23 copy of the plans and specifications for the work not less than seven (7)
24 days before the time fixed for receiving quotes. If the board or its
25 designee receives a satisfactory quote, the board or its designee shall
26 award the contract to the lowest responsible and responsive quoter for
27 the class of work required. ~~except as permitted in section 22 of this~~
28 ~~chapter.~~ The board or its designee may reject all quotes submitted and,
29 if no valid quotes are received for the class of work, contract for the
30 work without further invitations for quotes.
- 31 (h) The board may delegate its authority to award a contract for a
32 public works project that is estimated to cost less than fifty thousand
33 dollars (\$50,000) to the airport personnel in charge of airport public
34 works projects.
- 35 (i) Quotes for public works projects costing less than twenty-five
36 thousand dollars (\$25,000) may be obtained by soliciting at least three
37 (3) quotes by telephone or facsimile transmission. The seven (7) day
38 waiting period required by subsection (b)(1) does not apply to quotes

1 solicited under this subsection.

2 SECTION 89. IC 36-1-12-22 IS REPEALED [EFFECTIVE JULY

3 1, 2012]. Sec. 22: (a) The definitions in IC 5-22-15, including the

4 definitions in IC 5-22-15-20.9, apply in this section:

5 (b) The procedures described in IC 5-22-15 for determining adjusted

6 offers, price preference percentage, and total adjusted offers apply in

7 this section:

8 (c) The price preferences stated in IC 5-22-15-20.9 apply in this

9 section:

10 (d) Notwithstanding provisions of this chapter that require the award

11 of a contract to the lowest responsive and responsible bidder or the

12 lowest responsive and responsible quoter, but subject to subsection (e),

13 a contract shall be awarded to the lowest responsive and responsible

14 local Indiana business that claims the preference provided by this

15 section:

16 (e) Notwithstanding subsection (d), a contract shall be awarded to

17 the lowest responsive and responsible bidder or quoter, regardless of

18 the preference provided in this section, if the lowest responsive and

19 responsible bidder or quoter is a local Indiana business:

20 (f) A bidder or quoter that wants to claim the preference under this

21 section must claim the preference in the same manner that a business

22 claims the preference under IC 5-22-15-20.9(f)."

23 Page 122, line 24, delete "15" and insert "16".

24 Renumber all SECTIONS consecutively.

(Reference is to HB 1072 as introduced.)

and when so amended that said bill do pass.

Representative Espich