

IC 5-16-7

Chapter 7. Wage Scale of Contractors' and Subcontractors' Employees

IC 5-16-7-1

Sec. 1. (a) Any firm, individual, partnership, limited liability company, or corporation that is awarded a contract by the state, a political subdivision, or a municipal corporation for the construction of a public work, and any subcontractor of the construction, shall pay for each class of work described in subsection (c)(1) on the project a scale of wages that may not be less than the common construction wage.

(b) For the purpose of ascertaining what the common construction wage is in the county, the awarding governmental agency, before advertising for the contract, shall set up a committee of five (5) persons as follows:

(1) One (1) person representing labor, to be named by the president of the state federation of labor.

(2) One (1) person representing industry, to be named by the awarding agency.

(3) A third member to be named by the governor.

(4) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The owner of the project shall make the appointment under this subdivision.

(5) One (1) taxpayer who pays the tax that will be the funding source for the project and resides in the county where the project is located. The legislative body (as defined in IC 36-1-2-9) for the county where the project is located shall make the appointment under this subdivision.

(c) As soon as appointed, the committee shall meet in the county where the project is located and determine in writing the following:

(1) A classification of the labor to be employed in the performance of the contract for the project, divided into the following three (3) classes:

(A) Skilled labor.

(B) Semiskilled labor.

(C) Unskilled labor.

(2) The wage per hour to be paid each of the classes.

The committee is not required to consider information not presented to the committee at the meeting. IC 5-14-1.5 (open door law) applies to a meeting of the committee.

(d) The rate of wages determined under subsection (c) shall not be less than the common construction wage for each of the three (3) classes of wages described in subsection (c) that are currently being paid in the county where the project is located.

(e) The provisions of this chapter shall not apply to contracts let by the Indiana department of transportation for the construction of highways, streets, and bridges. IC 8-23-9 applies to state highway projects.

(f) A determination under subsection (c) shall be made and filed with the awarding agency at least two (2) weeks prior to the date fixed

for the letting, and a copy of the determination shall be furnished upon request to any person desiring to bid on the contract. The schedule is open to the inspection of the public.

(g) If the committee appointed under subsection (b) fails to act and to file a determination under subsection (c) at or before the time required under subsection (f), the awarding agency shall make the determination, and its finding shall be final.

(h) It shall be a condition of a contract awarded under this chapter that the successful bidder and all subcontractors shall comply strictly with the determination made under this section.

(i) The provisions of this chapter do not apply to public projects in this state that would otherwise be subject to the provisions of this chapter that are to be paid for in whole or in part with funds granted by the federal government, unless the department of the federal government making the grant shall consent in writing that the provisions of this chapter are applicable to the project.

(j) Notwithstanding any other law, the provisions of this chapter apply to projects that will be:

- (1) owned entirely; or
- (2) leased with an option to purchase;

by the state or a political subdivision (as defined in IC 36-1-2-13).

(k) Notwithstanding any other law, this chapter does not apply to projects in which the actual construction costs less than one hundred fifty thousand dollars (\$150,000).

(Formerly: Acts 1935, c.319, s.1.) As amended by Acts 1980, P.L.74, SEC.12; Acts 1981, P.L.41, SEC.3; P.L.18-1990, SEC.14; P.L.8-1993, SEC.65; P.L.25-1995, SEC.8; P.L.81-1995, SEC.1.

IC 5-16-7-2

Sec. 2. The state or any municipal corporation thereof letting any such contracts shall require any contractor or subcontractor performing such public work to file a schedule of the wages to be paid to such laborers, workmen, or mechanics thereon with the state or with such municipal corporation. Such schedule shall be filed before any work is performed on such contract or subcontract; provided, such scale shall not be less than the scale determined as provided in section 1 of this chapter; provided further, that nothing in this chapter provided shall prevent such contractor or subcontractor from paying a higher rate of wages than set out in the schedule of wages filed by him.

(Formerly: Acts 1935, c.319, s.2.) As amended by P.L.25-1986, SEC.92.

IC 5-16-7-3

Sec. 3. A contractor or subcontractor who knowingly fails to pay the rate of wages determined under this chapter commits a Class B misdemeanor. If the contractor or subcontractor has committed a prior offense under this section, the contract on which the instant offense occurred shall be forfeited and the contractor or subcontractor may not receive any further payment on the contract nor may the state or the municipal corporation making the contract make any further payments on the contract from any of the funds under its charge or control.

(Formerly: Acts 1935, c.319, s.3.) As amended by Acts 1978, P.L.2, SEC.519.

IC 5-16-7-4

Sec. 4. The definitions in this section apply throughout this chapter:

(1) "Common construction wage" means a scale of wages for each class of work described in section 1(c)(1) of this chapter that is not less than the common construction wage of all construction wages being paid in the county where a project is located, as determined by the committee described in section 1(b) of this chapter after having considered:

(A) reports from the department of workforce development; and

(B) any other information submitted by any person to the committee established under section 1(b) of this chapter.

(2) "State of Indiana" includes any officer, board, commission, or other agency authorized by law to award contracts for the performance of public work on behalf of the state, excepting as otherwise provided in this chapter.

(3) "Municipal corporation" includes any county, city, town, or school corporation, as well as any officer, board, commission, or other agency authorized by law to award contracts for the performance of public work on behalf of any such municipal corporation. The term also includes a redevelopment commission established under IC 36-7-14-3.

(4) "Public work" includes any public building, highway, street, alley, bridge, sewer, drain, improvement, or any other work of any nature or character whatsoever which is paid for out of public funds, excepting as otherwise provided in this chapter.

(Formerly: Acts 1935, c.319, s.4.) As amended by P.L.25-1986, SEC.93; P.L.35-1990, SEC.6; P.L.25-1995, SEC.9; P.L.81-1995, SEC.2.

IC 5-16-7-5

Sec. 5. (a) This chapter does not apply to contractors or subcontractors performing public work for Purdue University on agricultural or forestry land owned or occupied by the university and used by it for educational or research purposes if the cost of the work is estimated to be less than fifty thousand dollars (\$50,000).

(b) Except as provided in IC 5-23, this chapter does not apply to a person that has entered into an operating agreement with the state, a municipal corporation, or another political subdivision for the management or operation of a public facility under IC 5-23.

As added by Acts 1977, P.L.250, SEC.6. Amended by P.L.82-1995, SEC.1; P.L.49-1997, SEC.30.