

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1154

AN ACT to amend the Indiana Code concerning labor and safety.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 22-4-18-1, AS AMENDED BY P.L.171-2016, SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) There is created a department under IC 22-4.1-2-1 which shall be known as the department of workforce development.

(b) The department of workforce development may **do the following:**

- (1) Administer the unemployment insurance program.
- (2) Enter into agreements with the United States government that may be required as a condition of obtaining federal funds related to activities of the department under this article.
- (3) Enter into contracts or agreements and cooperate with local governmental units or corporations, including profit or nonprofit corporations, or combinations of units and corporations to carry out the duties of the department imposed by this article, including contracts for the delegation of the department's administrative, monitoring, and program responsibilities and duties set forth in this article.

(c) The payment of unemployment insurance benefits must be made in accordance with 26 U.S.C. 3304.

(d) The department of workforce development may do all acts and things necessary or proper to carry out the powers expressly granted

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under this article, including the adoption of rules under IC 4-22-2.

(e) The department of workforce development may not charge any claimant for benefits for providing services under this article, except as provided in IC 22-4-17-12.

(f) The department of workforce development shall do the following:

(1) Submit a report to the general assembly in an electronic format under IC 5-14-6 and to the governor before December 1 of each year concerning the status of the unemployment compensation system, including the following:

(A) Recommendations for maintaining the solvency of the unemployment insurance benefit fund established under IC 22-4-26-1.

(B) Information regarding expenditures from the special employment and training services fund.

(C) Information regarding money released under IC 22-4-25-1(c).

(2) Make a presentation **before November 1 of each year** to the ~~budget committee at each meeting of the budget committee held before November 1, 2016;~~ **interim study committee on employment and labor (established under IC 2-5-1.3-4)** concerning the status of the unemployment compensation system, including the following:

(A) Recommendations for maintaining the solvency of the unemployment insurance benefit fund established under IC 22-4-26-1.

(B) Information regarding expenditures from the special employment and training services fund.

(C) Information regarding money released under IC 22-4-25-1(c).

(D) Any other information requested by the ~~budget committee;~~ **interim study committee on employment and labor.**

(g) In addition to the duties prescribed in subsections (a) through (f), the department of workforce development shall establish, implement, and maintain a training program in the nature and dynamics of domestic and family violence for training of all employees of the department who interact with a claimant for benefits to determine whether the claim of the individual for unemployment benefits is valid and to determine that employment separations stemming from domestic or family violence are reliably screened, identified, and adjudicated and that victims of domestic or family violence are able to take advantage of the full range of job services provided by the department. The



training presenters shall include domestic violence experts with expertise in the delivery of direct services to victims of domestic violence, including using the staff of shelters for battered women in the presentation of the training. The initial training shall consist of instruction of not less than six (6) hours. Refresher training shall be required annually and shall consist of instruction of not less than three (3) hours.

SECTION 2. IC 22-4-19-6, AS AMENDED BY P.L.110-2010, SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6. (a) Each employing unit shall keep true and accurate records containing information the department considers necessary. These records are:

- (1) open to inspection; and
- (2) subject to being copied;

by an authorized representative of the department at any reasonable time and as often as may be necessary. The department, the review board, or an administrative law judge may require from any employing unit any verified or unverified report, with respect to persons employed by it, which is considered necessary for the effective administration of this article.

(b) Except as provided in subsections (d) and (f), information obtained or obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits is confidential and may not be published or be open to public inspection in any manner revealing the individual's or the employing unit's identity, except in obedience to an order of a court or as provided in this section.

(c) A claimant or an employer at a hearing before an administrative law judge or the review board shall be supplied with information from the records referred to in this section to the extent necessary for the proper presentation of the subject matter of the appearance. ~~The department may make the information necessary for a proper presentation of a subject matter before an administrative law judge or the review board available to an agency of the United States or an Indiana state agency.~~

- (d) The department may release the following information:
- (1) Summary statistical data may be released to the public.
 - (2) Employer specific information known as **ES 202 Quarterly Census of Employment and Wages** data and data resulting from enhancements made through the business establishment list improvement project may be released to the Indiana economic development corporation only for the following purposes:



- (A) The purpose of conducting a survey.
- (B) The purpose of aiding the officers or employees of the Indiana economic development corporation in providing economic development assistance through program development, research, or other methods.
- (C) Other purposes consistent with the goals of the Indiana economic development corporation and not inconsistent with those of the department, including the purposes of IC 5-28-6-7.
- (3) Employer specific information known as ~~ES 202~~ **Quarterly Census of Employment and Wages** data and data resulting from enhancements made through the business establishment list improvement project may be released to:
- (A) the budget agency and the legislative services agency only for aiding the employees of the budget agency or the legislative services agency in forecasting tax revenues; **and**
- (B) **the Indiana department of labor for the purpose of conducting a survey and reporting to the United States Department of Labor or the federal Bureau of Labor Statistics.**
- (4) Information obtained from any person in the administration of this article and the records of the department relating to the unemployment tax or the payment of benefits for use by the following governmental entities:
- (A) ~~department of state revenue;~~ **an agency of the United States; or**
- (B) ~~state or local law enforcement agencies;~~ **an agency of the state; or**
- (C) **a public official for use in the performance of the public official's duties;**
- only if there is an agreement that the information will be kept confidential and used for legitimate governmental purposes.
- (e) The department may make information available under subsection ~~(d)(1); (d)(2); or (d)(3)~~ **(d)** only:
- (1) if:
- (A) data provided in summary form cannot be used to identify information relating to a specific employer or specific employee; or
- (B) there is an agreement that the employer specific information released ~~to the Indiana economic development corporation; the budget agency; or the legislative services agency~~ will be treated as confidential and will be released only in summary form that cannot be used to identify information



relating to a specific employer or a specific employee; and
 (2) after the cost of making the information available to the person requesting the information is paid under IC 5-14-3.

(f) In addition to the confidentiality provisions of subsection (b), the fact that a claim has been made under IC 22-4-15-1(c)(8) and any information furnished by the claimant or an agent to the department to verify a claim of domestic or family violence are confidential. Information concerning the claimant's current address or physical location shall not be disclosed to the employer or any other person. Disclosure is subject to the following additional restrictions:

(1) The claimant must be notified before any release of information.

(2) Any disclosure is subject to redaction of unnecessary identifying information, including the claimant's address.

(g) An employee:

(1) of the department who recklessly violates subsection (a), (c), (d), (e), or (f); or

(2) of any governmental entity listed in subsection (d)(4) who recklessly violates subsection (d)(4);

commits a Class B misdemeanor.

(h) An employee of the Indiana economic development corporation, the budget agency, or the legislative services agency who violates subsection (d) or (e) commits a Class B misdemeanor.

(i) An employer or agent of an employer that becomes aware that a claim has been made under IC 22-4-15-1(c)(8) shall maintain that information as confidential.

(j) The department may charge a reasonable processing fee not to exceed two dollars (\$2) for each record that provides information about an individual's last known employer released in compliance with a court order under subsection (b).

SECTION 3. IC 22-4-19-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 13. (a) **An employer that is required to be provided a notice or report under this section is entitled to delivery of the notice or report by the United States Postal Service using first class mail. If an employer wants to receive notices and reports by mail, the employer shall notify the department on a form provided by the department.**

(b) Where an employer makes an offer of employment directly to a claimant, promptly giving written notice to the department of such offer, or when any such employer makes such offer of employment in writing through the department, the commissioner, the deputy, or an authorized representative of the state or the United States employment



service, which offer shall specify such claimant by name, and when such claimant thereafter fails to register subsequent to the receipt of such offer of employment by the department, the commissioner, the deputy, or an authorized representative of the state or the United States employment service, then a notice in writing shall promptly be mailed to such employer of such claimant's said failure to return and to register. If such claimant thereafter, in the claimant's benefit period, again registers or renews and continues the claimant's claim for benefits, such employer shall promptly be ~~mailed~~ **provided with** notice of such fact in order that the employer may have an opportunity to renew and remake an offer of employment to such claimant.

~~(b)~~ **(c)** Upon the filing by an individual of an additional claim for benefits, a notice ~~in writing or a carbon copy of such additional claim~~ shall be ~~mailed~~ promptly **provided** to the ~~base period employer or employers and to the employing unit including~~ an employer from whose employ the individual claims to have been last separated.

~~(c)~~ **(d)** Upon the filing by an individual of an initial claim for benefits, a notice ~~in writing or a carbon copy of such initial claim~~ shall be ~~mailed~~ promptly **provided** to the ~~base period employer or base period employers and to the~~ employing ~~unit~~ **units** including an employer from whose employ the individual claims to have been last separated. The computation of the benefit rights of such individual shall be made as promptly as possible and, if such claim is deemed valid, then a notice of benefit liability shall be ~~mailed~~ **provided** to each employer whose experience account is potentially chargeable with benefits to be paid to such individual. Such notice shall contain the date, the name and social security number of the individual, the ending date of the individual's base period, and the week ending date of the first week of the individual's benefit year. Such notice shall further contain information as to the proportion of benefits chargeable to the employer's experience account in ratio to the earnings of such individual from such employer and shall advise such employer of the employer's right to protest such claim and the payment of any benefits thereon and of the place and time within which protest must be made and the form and contents thereof.

~~(d)~~ **(e)** Whenever a determination is made with respect to the validity of any claim for benefits, or the eligibility of any claimant for benefits, which involves the cancellation of wage credits or benefit rights, the imposition of any disqualification, period of ineligibility or penalty, or the denial thereof, a notice ~~in writing~~ shall promptly be ~~mailed~~ **provided** to such claimant and to each employer directly involved or connected with the issue raised as to the validity of such



claim, the eligibility of such claimant for benefits, or the imposition of a disqualification period of ineligibility or penalty, or the denial thereof. Such employer or such claimant may protest any such determination within such time limits and in such manner as provided in IC 22-4-17-2 and upon said protest shall be entitled to a hearing as provided in IC 22-4-17-2 and IC 22-4-17-3.

(~~e~~) (f) Every employer shall be ~~mailed~~ **provided with** a monthly report of benefit charges which shall contain an itemized statement showing the names of individuals to whom benefits were paid and charged to the experience account of such employer, the weeks with respect to which each such individual received benefits, the amount thereof, and the total amount of benefits charged to such employer's said account during the period covered by such report.

(~~f~~) (g) Following the computation of rates of contribution for employers for each calendar year, each employer shall be ~~mailed~~ **provided with notice** not later than ninety (90) days after the effective date of such rates, ~~a notice in writing~~ setting out the employer's rate of contribution for such year, computed by the department as of the preceding June 30, together with sufficient information for such employer to determine and compute the amount of a voluntary payment required from such employer in order to qualify for and obtain a lower rate of contribution for such year and also advising such employer of the length of time within which or last date upon which said voluntary payment will be received or can be made.

SECTION 4. IC 22-4-25-1, AS AMENDED BY P.L.171-2016, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) There is created in the state treasury a special fund to be known as the special employment and training services fund. All interest on delinquent contributions and penalties collected under this article, together with any voluntary contributions tendered as a contribution to this fund, shall be paid into this fund. The money shall not be expended or available for expenditure in any manner which would permit their substitution for (or a corresponding reduction in) federal funds which would in the absence of said money be available to finance expenditures for the administration of this article, but nothing in this section shall prevent said money from being used as a revolving fund to cover expenditures necessary and proper under the law for which federal funds have been duly requested but not yet received, subject to the charging of such expenditures against such funds when received. The money in this fund shall be used by the department for the payment of refunds of interest on delinquent contributions and penalties so collected, for the payment of costs of



administration which are found not to have been properly and validly chargeable against federal grants or other funds received for or in the employment and training services administration fund, on and after July 1, 1945. Such money shall be available either to satisfy the obligations incurred by the department directly, or by transfer by the department of the required amount from the special employment and training services fund to the employment and training services administration fund. The department shall order the transfer of such funds or the payment of any such obligation or expenditure and such funds shall be paid by the treasurer of state on requisition drawn by the department directing the auditor of state to issue the auditor's warrant therefor. Any such warrant shall be drawn by the state auditor based upon vouchers certified by the commissioner. The money in this fund is hereby specifically made available to replace within a reasonable time any money received by this state pursuant to 42 U.S.C. 502, as amended, which, because of any action or contingency, has been lost or has been expended for purposes other than or in amounts in excess of those approved by the ~~bureau of employment security~~. **United States Department of Labor.** The money in this fund shall be continuously available to the department for expenditures in accordance with the provisions of this section and for the prevention, detection, and recovery of delinquent contributions, penalties, and improper benefit payments, and shall not lapse at any time or be transferred to any other fund, except as provided in this article. **Except as provided in subsection (e)**, after making the grants required under subsection (c), the department may expend an amount not to exceed five million dollars (\$5,000,000) in a state fiscal year for the purposes described in this subsection, unless an additional amount is approved by the budget committee. Nothing in this section shall be construed to limit, alter, or amend the liability of the state assumed and created by IC 22-4-28, or to change the procedure prescribed in IC 22-4-28 for the satisfaction of such liability, except to the extent that such liability may be satisfied by and out of the funds of such special employment and training services fund created by this section. **Each state fiscal year, the commissioner shall make the training grants required under subsection (c) before amounts are expended from the fund in accordance with this section for any other purpose.**

(b) ~~Whenever~~ **If on December 31** the balance in the special employment and training services fund exceeds eight million five hundred thousand dollars (\$8,500,000), the department shall order, **not later than thirty (30) days after December 31**, payment of the amount that exceeds eight million five hundred thousand dollars



(\$8,500,000) into the unemployment insurance benefit fund.

(c) Subject to the availability of funds, on July 1 each year the commissioner shall release **the following amounts before expenditures are made in accordance with this section for any other purpose:**

(1) One million dollars (\$1,000,000) to the state educational institution established under IC 21-25-2-1 for training provided to participants in apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training.

(2) Four million dollars (\$4,000,000) to the state educational institution instituted and incorporated under IC 21-22-2-1 for training provided to participants in joint labor and management apprenticeship programs approved by the United States Department of Labor, Bureau of Apprenticeship and Training.

(3) Two hundred fifty thousand dollars (\$250,000) for journeyman upgrade training to each of the state educational institutions described in subdivisions (1) and (2).

(4) Four hundred thousand dollars (\$400,000) annually for training and counseling assistance:

(A) provided by Hometown Plans under 41 CFR 60-4.5; and

(B) approved by the United States Department of Labor, Bureau of Apprenticeship and Training;

to individuals who have been unemployed for at least four (4) weeks or whose annual income is less than twenty thousand dollars (\$20,000). ~~and~~

(5) Three hundred thousand dollars (\$300,000) annually for training and counseling assistance provided by the state institution established under IC 21-25-2-1 to individuals who have been unemployed for at least four (4) weeks or whose annual income is less than twenty thousand dollars (\$20,000) for the purpose of enabling those individuals to apply for admission to apprenticeship programs offered by providers approved by the United States Department of Labor, Bureau of Apprenticeship and Training.

(d) Each state educational institution described in subsection (c) is entitled to keep ten percent (10%) of the funds released under subsection (c) for the payment of costs of administering the funds. On each June 30 following the release of the funds, any funds released under subsection (c) not used by the state educational institutions under subsection (c) shall be returned to the special employment and training services fund.



(e) For the state fiscal year beginning July 1, 2017, and the state fiscal year beginning July 1, 2018, the five million dollar (\$5,000,000) maximum on expenditures by the department from the fund in a state fiscal year described in subsection (a) does not apply.

SECTION 5. IC 22-4-25-2 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 2: (a) As used in this section, "fund" refers to the special employment and training services fund created under section 1 of this chapter.

(b) The commissioner may allocate an amount not to exceed two million dollars (\$2,000,000) annually from the fund to establish reemployment training accounts to provide training and reemployment services to department employees dislocated by:

- (1) a reduction of funding for;
- (2) a centralization or decentralization of; or
- (3) the implementation of a more efficient technology or service delivery method in connection with;

the programs and services provided under this article.



Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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