

# HOUSE BILL No. 1337

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 22-2-18; IC 22-9-1-3; IC 25-16-1-11; IC 27-16-2-13.

**Synopsis:** Benefits for independent workers. Requires one or more independent workers who want to establish a benefit group (group) to provide work-related benefits to group members to register with the department of labor (department) and file annual reports with the department commissioner summarizing the group's activities. Requires the group to establish an hourly rate or rates for payment of services performed by a group member, including in each hourly rate an amount attributable to each work-related benefit chosen by a group member, plus an amount, not to exceed 0.5%, attributable to the cost of administering that work-related benefit, unless the members approve a greater amount. Provides that amounts paid for work-related benefits and associated administrative costs are payable only from earned income. Provides that an independent worker who resigns membership in a group may not be required to sign a noncompete agreement. Establishes a benefit group council, consisting of a representative of each group, to recommend and administer the work-related benefits offered by the groups, including the receipt and remittance of amounts attributable to the work-related benefits and associated costs. Requires the council to file annual reports with the department commissioner summarizing the council's activities.

**Effective:** July 1, 2018.

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## DeLaney

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January 16, 2018, read first time and referred to Committee on Employment, Labor and Pensions.

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Second Regular Session of the 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

# HOUSE BILL No. 1337



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

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

1 SECTION 1. IC 22-2-18 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2018]:  
4 **Chapter 18. Benefits for Independent Workers**  
5 **Sec. 1. As used in this chapter, "benefit group" refers to an**  
6 **organization registered under section 10 of this chapter.**  
7 **Sec. 2. As used in this chapter, "commissioner" refers to the**  
8 **commissioner of labor appointed under IC 22-1-1-2.**  
9 **Sec. 3. As used in this chapter, "council" refers to the benefit**  
10 **group council established under section 13 of this chapter.**  
11 **Sec. 4. As used in this chapter, "department" refers to the**  
12 **department of labor created by IC 22-1-1-1.**  
13 **Sec. 5. As used in this chapter, "earned income" means cash or**  
14 **other compensation not earned as a full-time employee.**  
15 **Sec. 6. As used in this chapter, "independent worker" means a**  
16 **worker who is not a full-time employee of the person hiring the**  
17 **worker and includes an independent contractor, contract worker,**



1 self-employed individual, freelance worker, temporary worker, or  
2 contingent worker.

3 **Sec. 7. As used in this chapter, "member" means an**  
4 **independent worker who maintains membership in a benefit group**  
5 **established under this chapter.**

6 **Sec. 8. As used in this chapter, "person" means an individual, a**  
7 **corporation, a limited liability company, a partnership, or other**  
8 **legal entity.**

9 **Sec. 9. As used in this chapter, "work-related benefits" means**  
10 **benefits commonly provided to full-time employees, including the**  
11 **following:**

12 (1) **Worker's compensation and occupational diseases**  
13 **compensation.**

14 (2) **Unemployment insurance.**

15 (3) **Disability coverage.**

16 (4) **Health insurance coverage and related health savings**  
17 **accounts.**

18 (5) **Retirement savings.**

19 (6) **Short-term savings.**

20 (7) **Income tax and other withholding.**

21 (8) **Skills training and continuing education, including**  
22 **certifications.**

23 (9) **Options for repayment of student loans.**

24 (10) **Transportation services.**

25 (11) **Financial education regarding budgeting, savings,**  
26 **consumer credit and loans, home ownership, and other**  
27 **related topics.**

28 (12) **Other benefits as determined by the council in**  
29 **consultation with benefit groups.**

30 **Sec. 10. (a) One (1) or more independent workers who want to**  
31 **establish a benefit group in Indiana shall file a registration**  
32 **application for the benefit group with the department.**

33 **(b) The registration application under subsection (a) must**  
34 **include the following:**

35 (1) **The names and addresses of the individuals establishing**  
36 **the benefit group.**

37 (2) **The address where the benefit group's office will be**  
38 **maintained.**

39 (3) **The name and contact information of the individual who**  
40 **will be in charge of the benefit group's office and records.**

41 (4) **Requirements for a worker's membership in the benefit**  
42 **group.**



- 1           **(5) The work-related benefits to be offered to members of the**  
 2           **benefit group.**
- 3           **(6) The hourly rate or rates at which a member of the benefit**  
 4           **group will be paid, including that part of each hourly rate**  
 5           **attributable to:**
- 6               **(A) each work-related benefit chosen by the member; and**  
 7               **(B) the administrative costs associated with that**  
 8               **work-related benefit.**
- 9           **(7) Other information determined necessary by the**  
 10           **commissioner.**
- 11           **(c) After receiving a registration application under subsection**  
 12           **(a) and the information required under subsection (b), the**  
 13           **commissioner shall issue to the proposed benefit group a notice**  
 14           **that states that the benefit group has registered as provided under**  
 15           **this chapter.**
- 16           **(d) A benefit group established under this chapter may not be**  
 17           **organized or operate as a for-profit entity.**
- 18           **Sec. 11. (a) A benefit group established under this chapter shall**  
 19           **file an annual report.**
- 20           **(b) An annual report filed under this section must include at**  
 21           **least:**
- 22               **(1) a summary of the benefit group's activities during the**  
 23               **year; and**
- 24               **(2) other information requested by the commissioner.**
- 25           **(c) An annual report required by this section must be filed with**  
 26           **the commissioner not later than twelve (12) months after the date**  
 27           **the commission first issues a registration notice to the benefit**  
 28           **group under section 10(c) of this chapter and on that date each**  
 29           **year thereafter.**
- 30           **Sec. 12. (a) A benefit group established under section 10 of this**  
 31           **chapter shall do all the following:**
- 32               **(1) Establish the hourly rate or rates for payment of services**  
 33               **performed by a member, including in each hourly rate:**
- 34                   **(A) the amount determined under section 13(a)(1) of this**  
 35                   **chapter as attributable to each work-related benefit chosen**  
 36                   **by the member; plus**
- 37                   **(B) the amount determined under section 13(a)(1) of this**  
 38                   **chapter and subdivision (2) as the administrative costs**  
 39                   **incurred by the council and the member's benefit group to**  
 40                   **administer each work-related benefit.**
- 41               **(2) Establish the benefit group's administrative cost for each**  
 42               **work-related benefit provided by the benefit group. This**



1 amount is determined by a majority of the benefit group's  
2 members.

3 **(3) Screen individuals for membership in the benefit group,**  
4 **based on qualifications and experience as determined by the**  
5 **members of the benefit group, and offer membership to**  
6 **qualified individuals.**

7 **(4) Determine which work-related benefits the benefit group**  
8 **will offer to its members. The work-related benefits offered by**  
9 **the benefit group are determined by a majority of the**  
10 **members of the benefit group from benefits offered by the**  
11 **council established under section 13 of this chapter.**

12 **(5) Work with the council to establish and administer the**  
13 **work-related benefits and other benefits offered to members**  
14 **and the administrative costs for those benefits.**

15 **(6) Determine the rules or policies for scheduling services**  
16 **performed by a member.**

17 **(b) The total administrative cost charged to a member of a**  
18 **benefit group for a work-related benefit may not exceed one-half**  
19 **of one percent (0.5%) of the amount described in subsection**  
20 **(a)(1)(A) for that benefit, unless a greater amount is approved by**  
21 **a majority of the members of the benefit group.**

22 **(c) Amounts paid for work-related benefits and associated**  
23 **administrative costs are payable only from earned income received**  
24 **by the member for the performance of services as a member of the**  
25 **benefit group.**

26 **(d) A member may perform services for persons other than, and**  
27 **in addition to, a person for whom the member performs services as**  
28 **a member of the benefit group.**

29 **(e) A benefit group may not discriminate based on race, religion,**  
30 **color, sex, disability, national origin, sexual orientation, gender**  
31 **identity, veteran status, or ancestry against any individual who**  
32 **meets the qualifications for membership in the benefit group and**  
33 **is available to perform services as an independent worker.**

34 **(f) A benefit group may not:**

35 **(1) enter into a referral agreement with a person to refer**  
36 **members to positions covered by or subject to a collective**  
37 **bargaining agreement;**

38 **(2) act as an employment agency as defined under 42 U.S.C.**  
39 **2000e(c), IC 22-9-1-3(k), or IC 25-16-1-11; or**

40 **(3) act as a professional employer organization as defined**  
41 **under IC 27-16-2-13.**

42 **(g) A benefit group may not require an independent worker who**



1 resigns membership in the benefit group to sign a noncompete  
2 agreement.

3 **Sec. 13. (a) A benefit group council, consisting of one (1)**  
4 **representative of each benefit group registered under section 10 of**  
5 **this chapter, is established to do the following:**

6 **(1) For the work-related benefits offered by the benefit groups**  
7 **registered under section 10 of this chapter:**

8 **(A) recommend to the benefit groups:**

9 **(i) work-related benefits that the benefit groups might**  
10 **offer to the groups' members;**

11 **(ii) the cost on a per-member basis for each work-related**  
12 **benefit recommended; and**

13 **(iii) the benefit council's administrative cost on a**  
14 **per-member basis attributable to each benefit**  
15 **recommended; and**

16 **(B) administer the work-related benefits recommended**  
17 **under clause (A) and approved by a majority of the benefit**  
18 **groups whose members comprise at least fifty percent**  
19 **(50%) of the total membership of all benefit groups**  
20 **registered under section 10 of this chapter.**

21 **(2) Receive from each person for whom a member of a benefit**  
22 **group performs services a portion of the amount that would**  
23 **otherwise be withheld for state income taxes from the hourly**  
24 **rate paid to the member to pay:**

25 **(A) the cost of the work-related benefits chosen by that**  
26 **member; and**

27 **(B) the administrative cost incurred by the council and the**  
28 **member's benefit group to administer the benefits**  
29 **described in clause (A).**

30 **(3) Remit to the appropriate state department, state agency,**  
31 **or third-party administrator that part of the amount received**  
32 **under subdivision (2) that is attributable to the work-related**  
33 **benefit administered by that state department, state agency,**  
34 **or third-party administrator.**

35 **(4) Distribute to the council and each benefit group that part**  
36 **of the amount received under subdivision (2) that is**  
37 **attributable to the administrative cost of each work-related**  
38 **benefit.**

39 **(5) Enter into an agreement with the Indiana public**  
40 **retirement system (established by IC 5-10.5-2-1) to offer**  
41 **pension or retirement plans to members of benefit groups.**

42 **(6) Facilitate training for members of benefit groups to**



1 increase the members' job skills and work readiness.

2 (7) Enter into agreements with third parties to administer the  
3 work-related benefits and other benefits provided to members  
4 of benefit groups.

5 (8) Establish other services and provide other programs to  
6 members as determined by the council in consultation with  
7 benefit groups, including determining a method to fund the  
8 cost of those services and programs.

9 (b) The benefit group council may not:

10 (1) enter into a referral agreement with a person to refer  
11 members to positions covered by or subject to a collective  
12 bargaining agreement;

13 (2) act as an employment agency as defined under 42 U.S.C.  
14 2000e(c), IC 22-9-1-3(k), or IC 25-16-1-11; or

15 (3) act as a professional employer organization as defined  
16 under IC 27-16-2-13.

17 (c) The total administrative cost charged to a member of a  
18 benefit group for a work-related benefit may not exceed one-half  
19 of one percent (0.5%) of the amount described in subsection  
20 (a)(1)(A)(ii) for that benefit, unless a greater amount is approved  
21 by a majority of the benefit groups whose members comprise at  
22 least fifty percent (50%) of the total membership of all benefit  
23 groups registered under section 10 of this chapter.

24 Sec. 14. (a) The council established by section 13 of this chapter  
25 shall file an annual report with the commissioner.

26 (b) An annual report filed under this section must include at  
27 least:

28 (1) a summary of the council's activities during the year; and

29 (2) other information requested by the commissioner.

30 SECTION 2. IC 22-9-1-3, AS AMENDED BY P.L.213-2016,  
31 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2018]: Sec. 3. As used in this chapter:

33 (a) "Person" means one (1) or more individuals, partnerships,  
34 associations, organizations, limited liability companies, corporations,  
35 labor organizations, cooperatives, legal representatives, trustees,  
36 trustees in bankruptcy, receivers, and other organized groups of  
37 persons.

38 (b) "Commission" means the civil rights commission created under  
39 section 4 of this chapter.

40 (c) "Director" means the director of the civil rights commission.

41 (d) "Deputy director" means the deputy director of the civil rights  
42 commission.



1 (e) "Commission attorney" means the deputy attorney general, such  
 2 assistants of the attorney general as may be assigned to the  
 3 commission, or such other attorney as may be engaged by the  
 4 commission.

5 (f) "Consent agreement" means a formal agreement entered into in  
 6 lieu of adjudication.

7 (g) "Affirmative action" means those acts that the commission  
 8 determines necessary to assure compliance with the Indiana civil rights  
 9 law.

10 (h) "Employer" means the state or any political or civil subdivision  
 11 thereof and any person employing six (6) or more persons within the  
 12 state, except that the term "employer" does not include:

13 (1) any nonprofit corporation or association organized exclusively  
 14 for fraternal or religious purposes;

15 (2) any school, educational, or charitable religious institution  
 16 owned or conducted by or affiliated with a church or religious  
 17 institution; or

18 (3) any exclusively social club, corporation, or association that is  
 19 not organized for profit.

20 (i) "Employee" means any person employed by another for wages or  
 21 salary. However, the term does not include any individual employed:

22 (1) by the individual's parents, spouse, or child; or

23 (2) in the domestic service of any person.

24 (j) "Labor organization" means any organization that exists for the  
 25 purpose in whole or in part of collective bargaining or of dealing with  
 26 employers concerning grievances, terms, or conditions of employment  
 27 or for other mutual aid or protection in relation to employment.

28 (k) "Employment agency" means any person undertaking with or  
 29 without compensation to procure, recruit, refer, or place employees.

30 **The term does not include a benefit group registered under**  
 31 **IC 22-2-18-10 or a benefit group council established under**  
 32 **IC 22-2-18-13.**

33 (l) "Discriminatory practice" means:

34 (1) the exclusion of a person from equal opportunities because of  
 35 race, religion, color, sex, disability, national origin, ancestry, or  
 36 status as a veteran;

37 (2) a system that excludes persons from equal opportunities  
 38 because of race, religion, color, sex, disability, national origin,  
 39 ancestry, or status as a veteran;

40 (3) the promotion of racial segregation or separation in any  
 41 manner, including but not limited to the inducing of or the  
 42 attempting to induce for profit any person to sell or rent any





1 dwelling by representations regarding the entry or prospective  
 2 entry in the neighborhood of a person or persons of a particular  
 3 race, religion, color, sex, disability, national origin, or ancestry;  
 4 (4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is  
 5 committed by a covered entity (as defined in IC 22-9-5-4);  
 6 (5) the performance of an abortion solely because of the race,  
 7 color, sex, disability, national origin, or ancestry of the fetus; or  
 8 (6) a violation of any of the following statutes protecting the right  
 9 of conscience regarding abortion:

10 (A) IC 16-34-1-4.

11 (B) IC 16-34-1-5.

12 (C) IC 16-34-1-6.

13 Every discriminatory practice relating to the acquisition or sale of real  
 14 estate, education, public accommodations, employment, or the  
 15 extending of credit (as defined in IC 24-4.5-1-301.5) shall be  
 16 considered unlawful unless it is specifically exempted by this chapter.

17 (m) "Public accommodation" means any establishment that caters  
 18 or offers its services or facilities or goods to the general public.

19 (n) "Complainant" means:

20 (1) any individual charging on the individual's own behalf to have  
 21 been personally aggrieved by a discriminatory practice; or

22 (2) the director or deputy director of the commission charging that  
 23 a discriminatory practice was committed against a person (other  
 24 than the director or deputy director) or a class of people, in order  
 25 to vindicate the public policy of the state (as defined in section 2  
 26 of this chapter).

27 (o) "Complaint" means any written grievance that is:

28 (1) sufficiently complete and filed by a complainant with the  
 29 commission; or

30 (2) filed by a complainant as a civil action in the circuit or  
 31 superior court having jurisdiction in the county in which the  
 32 alleged discriminatory practice occurred.

33 The original of any complaint filed under subdivision (1) shall be  
 34 signed and verified by the complainant.

35 (p) "Sufficiently complete" refers to a complaint that includes:

36 (1) the full name and address of the complainant;

37 (2) the name and address of the respondent against whom the  
 38 complaint is made;

39 (3) the alleged discriminatory practice and a statement of  
 40 particulars thereof;

41 (4) the date or dates and places of the alleged discriminatory  
 42 practice and if the alleged discriminatory practice is of a



1 continuing nature the dates between which continuing acts of  
2 discrimination are alleged to have occurred; and

3 (5) a statement as to any other action, civil or criminal, instituted  
4 in any other form based upon the same grievance alleged in the  
5 complaint, together with a statement as to the status or disposition  
6 of the other action.

7 No complaint shall be valid unless filed within one hundred eighty  
8 (180) days from the date of the occurrence of the alleged  
9 discriminatory practice.

10 (q) "Sex" as it applies to segregation or separation in this chapter  
11 applies to all types of employment, education, public accommodations,  
12 and housing. However:

13 (1) it shall not be a discriminatory practice to maintain separate  
14 restrooms;

15 (2) it shall not be an unlawful employment practice for an  
16 employer to hire and employ employees, for an employment  
17 agency to classify or refer for employment any individual, for a  
18 labor organization to classify its membership or to classify or refer  
19 for employment any individual, or for an employer, labor  
20 organization, or joint labor management committee controlling  
21 apprenticeship or other training or retraining programs to admit  
22 or employ any other individual in any program on the basis of sex  
23 in those certain instances where sex is a bona fide occupational  
24 qualification reasonably necessary to the normal operation of that  
25 particular business or enterprise; and

26 (3) it shall not be a discriminatory practice for a private or  
27 religious educational institution to continue to maintain and  
28 enforce a policy of admitting students of one (1) sex only.

29 (r) "Disabled" or "disability" means the physical or mental condition  
30 of a person that constitutes a substantial disability. In reference to  
31 employment under this chapter, "disabled or disability" also means the  
32 physical or mental condition of a person that constitutes a substantial  
33 disability unrelated to the person's ability to engage in a particular  
34 occupation.

35 (s) "Veteran" means:

36 (1) a veteran of the armed forces of the United States;

37 (2) a member of the Indiana National Guard; or

38 (3) a member of a reserve component.

39 SECTION 3. IC 25-16-1-11, AS AMENDED BY P.L.145-2006,  
40 SECTION 160, IS AMENDED TO READ AS FOLLOWS  
41 [EFFECTIVE JULY 1, 2018]: Sec. 11. (a) The term "employment  
42 agency", as used in this chapter, means any person, firm, limited



1 liability company, or corporation, who for hire or with a view to profit,  
 2 shall undertake or offer to secure employment or help through the  
 3 medium of card, circular, pamphlet, or any medium whatsoever, or  
 4 through the display of a sign or bulletin, offer to secure employment or  
 5 help, or give information as to where employment or help may be  
 6 secured.

7 **(b) The term does not include a benefit group registered under**  
 8 **IC 22-2-18-10 or a benefit group council established under**  
 9 **IC 22-2-18-13.**

10 ~~(b)~~ (c) Nothing in this chapter shall apply to the business and  
 11 vocation of babysitting.

12 ~~(c)~~ (d) Nothing in this chapter shall apply to charitable and  
 13 benevolent organizations and associations approved by the division of  
 14 family resources. All charitable and benevolent organizations and  
 15 associations approved by the division of family resources shall, before  
 16 being authorized to conduct such employment agency or department,  
 17 secure a permit from the department of state revenue by filing an  
 18 application giving such information as may be required. No charge  
 19 shall be made for the issuance of such permit, which may be revoked  
 20 on the same terms as a license is revocable.

21 SECTION 4. IC 27-16-2-13, AS ADDED BY P.L.245-2005,  
 22 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 23 JULY 1, 2018]: Sec. 13. (a) "Professional employer organization" or  
 24 "PEO" means a person engaged in the business of providing  
 25 professional employer services.

26 (b) The term does not include the following:

27 (1) An arrangement through which a person:

28 (A) whose principal business activity is an activity other than  
 29 entering into professional employer agreements; and

30 (B) that does not hold the person out as a professional  
 31 employer organization;

32 shares employees with a commonly owned company within the  
 33 meaning of Section 414(b) and 414(c) of the Internal Revenue  
 34 Code of 1986, as amended.

35 (2) An independent contractor arrangement through which a  
 36 person:

37 (A) assumes responsibility for a product produced or a service  
 38 performed by the person or the person's agent; and

39 (B) retains and exercises primary direction and control over  
 40 the work performed by an individual whose services are  
 41 supplied under the independent contractor arrangement.

42 (3) The provision of temporary help services.



- 1           **(4) A benefit group registered under IC 22-2-18-10 or a**
- 2           **benefit group council established under IC 22-2-18-13.**

