

January 29, 1998

HOUSE BILL No. 1374

DIGEST OF HB1374 (Updated January 28, 1998 11:42 am - DI 96)

Citations Affected: IC 4-15-2-32; IC 4-15-2-47.

Synopsis: State merit employment. Provides that the state may not lay off an employee in the classified service in order to provide an employment position for a welfare to work participant. Provides that the state may not terminate a regular employee for the purpose of creating and filling the resulting vacancy with a welfare to work participant. Provides that the state may not create or fill an established employment position with a welfare to work participant by displacement of any type, interference with the return to work by an employee from any type of leave, replacement of an employee on layoff, or the filling of an established position in a manner other than already provided by law. Provides that the state may not create or fill
(Continued next page)

Effective: July 1, 1998.

Porter

January 13, 1998, read first time and referred to Committee on Labor and Employment.
January 28, 1998, reported — Do Pass.

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Digest Continued

an established employment position with a welfare to work participant so that an existing contract for services is impaired or that a labor dispute or violation of an existing collective bargaining agreement results. Requires that the state director of personnel provide to the union bargaining unit representatives written notification within 30 days after assignment to an employment location of a welfare to work participant. Requires the written notification to the union bargaining unit representatives to include the complaint and appeal procedure provided in this chapter.

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January 29, 1998

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

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HOUSE BILL No. 1374

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

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

1 SECTION 1. IC 4-15-2-32 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 32. (a) An appointing
3 authority may lay off employees in the classified service whenever it
4 is deemed necessary, due to shortage of work or funds, or the
5 abolishment of a position, or other material change in duties or
6 organization. For purposes of this section, offices and positions of
7 employment in each county where the division of service operates is
8 considered one autonomous unit and layoff procedures will apply
9 within the county affected by the layoff. When a layoff is necessary, the
10 appointing authority will determine in which class or classes the layoff
11 or layoffs will occur, the number of employees to be laid off within
12 each affected class, the county or counties where layoffs are to occur,
13 and give written notice to the director a reasonable time before the
14 effective date of the layoff. The director, in accordance with the rules,
15 shall compute retention points to determine the order of layoff within

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1 each county. The retention points will be computed as of the effective
 2 date of the layoff and will reflect systematic consideration of seniority,
 3 service ratings, veterans' preference status, and employment status. The
 4 director shall provide the appointing authority with a written notice
 5 containing the names and retention points of employees to be laid off
 6 in each county, and such orders relating to the layoff as deemed
 7 necessary to secure compliance with this section.

8 (b) Any employee in the classified service who has been notified of
 9 pending layoff and who has permanent status in a lower class has the
 10 right, provided they have more retention points, to displace within the
 11 same affected county, the employee with the least retention points in
 12 that lower class. Any employee in the classified service who has
 13 permanent status in a lower class and is displaced by another employee
 14 has the right, provided they have more retention points, to displace
 15 within the same affected county the employee with the least retention
 16 points in that lower class. This procedure shall continue until the
 17 employee with the least retention points in the lowest class, in the same
 18 affected county, of the same appointing authority has been reached, and
 19 if necessary, laid off. Should a layoff result in the closing of all offices
 20 in a county, any employee in the classified service who has been
 21 notified of pending layoff and who has permanent status in the class
 22 from which they are laid off may, provided they have more retention
 23 points, displace within the division of service in any contiguous county
 24 the employee with the least retention points in that class.

25 (c) Employees who have been reduced or laid off will be placed on
 26 appropriate reemployment lists in accordance with rules established by
 27 the director. Those employees with the highest retention points in each
 28 affected class will be placed at the top of the list followed by
 29 employees ranked in descending order. An employee who is laid off
 30 will retain reemployment rights for a period of one (1) year from the
 31 layoff date. During this one (1) year period, the appointing authority,
 32 for the division of service affected, shall not hire nor promote anyone
 33 into a class affected by the layoff until all laid off employees on the
 34 reemployment list for that class have been reinstated or decline the
 35 position when it is offered. Employees who fail to respond within five
 36 (5) days, to a written offer sent to their last known address, will be
 37 deemed to have declined. Even though a layoff applies only to affected
 38 counties, reemployment rights extend to all counties, and at the request
 39 of the laid off or reduced employee, their name will be placed on the
 40 appropriate reemployment list for any or all counties.

41 (d) **An employee in the classified service may not be laid off in**
 42 **order to provide an employment position for a welfare to work**



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1 participant, as provided by section 47 of this chapter.

2 SECTION 2. IC 4-15-2-47 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 1998]: Sec. 47. (a) An appointing authority shall not create a new
5 classified service position for, or fill an existing classified service
6 position with, a welfare to work participant (as defined in 42 U.S.C.
7 603 (a)), if to do so would result in any of the following:

8 (1) Displacement, including partial displacement, of a current
9 employee or position resulting from the reduction of:

- 10 (A) hours of work;
11 (B) nonovertime work;
12 (C) wages; or
13 (D) benefits of employment.

14 (2) Infringement of the promotional opportunities of a current
15 employee.

16 (3) Interference with the return to work of a regular employee
17 who is on:

- 18 (A) temporary leave of absence;
19 (B) sick leave;
20 (C) vacation leave;
21 (D) personal leave;
22 (E) family and medical leave;
23 (F) military leave;
24 (G) emergency conditional leave;
25 (H) parental absence leave;
26 (I) court leave; or
27 (J) funeral leave.

28 (4) The impairment of existing contracts for service.

29 (5) A strike, lockout, other labor dispute, or violation of an
30 existing collective bargaining agreement.

31 (b) An appointing authority shall not do the following:

32 (1) Fill a classified service position with a welfare to work
33 participant if the effect of filling the position is to fill a
34 vacancy caused by the layoff of a regular employee from the
35 same or substantially equivalent position.

36 (2) Terminate a regular employee for the purpose of creating
37 and filling the resulting vacancy in a classified service position
38 with a welfare to work participant.

39 (3) Fill the vacancy of an established unfilled classified service
40 position by a participant in the welfare to work program in a
41 manner other than as provided by section 12 of this chapter.
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1 (c) For each location or work activity of the state covered by a
2 collective bargaining agreement, the director shall notify the
3 bargaining unit representatives of the labor union that a welfare to
4 work participant has been placed under the welfare to work
5 program. The notice must:
6 (1) be in writing;
7 (2) be given not later than thirty (30) days after the welfare to
8 work participant has been placed in the work assignment; and
9 (3) describe the complaint and appeal procedure provided by
10 section 35 of this chapter.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1374, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

LIGGETT, Chair

Committee Vote: yeas 9, nays 4.

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