



February 14, 2001

HOUSE BILL No. 1338

DIGEST OF HB 1338 (Updated February 13, 2001 12:06 PM - DI 96)

Citations Affected: IC 22-4; noncode.

Synopsis: Admissibility of unemployment findings. Eliminates the prohibition against using a finding of fact, judgment, conclusion, or final order in an unemployment proceeding in a proceeding between an individual and the individual's present or prior employer.

Effective: July 1, 2001.

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January 9, 2001, read first time and referred to Committee on Labor and Employment.
February 13, 2001, reported — Do Pass.

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HB 1338—LS 7003/DI 51+



February 14, 2001

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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HOUSE BILL No. 1338

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

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

1 SECTION 1. IC 22-4-17-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) Any decision of
3 the review board shall be conclusive and binding as to all questions of
4 fact. Either party to the dispute or the commissioner may, within thirty
5 (30) days after notice of intention to appeal as provided in this section,
6 appeal the decision to the court of appeals of Indiana for errors of law
7 under the same terms and conditions as govern appeals in ordinary civil
8 actions.
9 (b) In every appeal the review board shall be made a party appellee,
10 and the review board shall, at the written request of the appellant and
11 after payment of the uniform average fee required in subsection (c) is
12 made, prepare a transcript of all the proceedings had before the
13 administrative law judge and review board, which shall contain a
14 transcript of all the testimony, together with all objections and rulings
15 thereon, documents and papers introduced into evidence or offered as
16 evidence, and all rulings as to their admission into evidence. The
17 transcript shall be certified by the chairman of the review board and

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1 shall constitute the record upon appeal.

2 (c) All expenses incurred in the preparation of the transcript shall
3 be charged to the appellant. The fee for a transcript shall be the actual
4 cost of preparation that may include the cost of materials, reproduction,
5 postage, handling, and hours of service rendered by the preparer. The
6 commissioner shall establish a uniform average fee to be paid by the
7 appellant before the transcript is prepared. After the transcript is
8 completed, the actual cost shall be determined and the appellant shall
9 either pay the amount remaining above the uniform average fee or be
10 refunded the amount the uniform average fee exceeds the actual cost
11 of preparation. The commissioner shall establish the procedure by
12 which transcript fees are determined and paid.

13 (d) Notwithstanding subsections (b) and (c), the appellant may
14 request that a transcript of all proceedings had before the
15 administrative law judge and review board be prepared at no cost to the
16 appellant by filing with the review board, under oath and in writing, a
17 statement:

- 18 (1) declaring that the appellant is unable to pay for the preparation
19 of the transcript because of the appellant's poverty;
- 20 (2) setting forth the facts that render the appellant unable to pay
21 for the preparation of the transcript; and
- 22 (3) declaring that the appellant is entitled to redress on appeal.

23 Upon finding that the appellant is unable to pay for the preparation of
24 the transcript because of the appellant's poverty, the review board shall
25 prepare a transcript at no cost to the appellant.

26 (e) The review board may, upon its own motion, or at the request of
27 either party upon a showing of sufficient reason, extend the limit within
28 which the appeal shall be taken, not to exceed fifteen (15) days. In
29 every case in which an extension is granted, the extension shall appear
30 in the record of the proceeding filed in the court of appeals.

31 (f) The appellant shall attach to the transcript an assignment of
32 errors. An assignment of errors that the decision of the review board is
33 contrary to law shall be sufficient to present both the sufficiency of the
34 facts found to sustain the decision and the sufficiency of the evidence
35 to sustain the findings of facts. In any appeal under this section, no
36 bond shall be required for entering the appeal.

37 (g) All appeals shall be considered as submitted upon the date filed
38 in the court of appeals, shall be advanced upon the docket of the court,
39 and shall be determined without delay in the order of priority. Upon the
40 final determination of the appeal, the review board shall enter an order
41 in accordance with the determination, and the decision shall be final.
42 The court of appeals may in any appeal remand the proceeding to the

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1 review board for the taking of additional evidence, setting time limits
2 therefor, and ordering the additional evidence to be certified by the
3 review board to the court of appeals to be used in the determination of
4 the cause.

5 (h) Any finding of fact, judgment, conclusion, or final order made
6 by a person with the authority to make findings of fact or law in an
7 action or proceeding under this article is not conclusive or binding ~~and~~
8 ~~shall not~~ **but may** be used as evidence in a separate or subsequent
9 action or proceeding between an individual and the individual's present
10 or prior employer in an action or proceeding brought before an
11 arbitrator, a court, or a judge of this state or the United States
12 regardless of whether the prior action was between the same or related
13 parties or involved the same facts.

14 **SECTION 2. [EFFECTIVE JULY 1, 2001] IC 22-4-17-12, as**
15 **amended by this act, applies to the admission of a finding of fact,**
16 **judgment, conclusion, or final order into evidence after June 30,**
17 **2001, regardless of when the finding of fact, judgment, conclusion,**
18 **or final order was made.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Labor and Employment, to which was referred House Bill 1338, 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 8, nays 5.

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